

Online Services Agreement

This Online Services Agreement ("Agreement") is dated as of the purchase date ("Purchase Date") specified in the purchase order that incorporates this Agreement by reference ("Purchase Order") and is between Body & Brain Yoga and Health Centers, Inc., an Arizona corporation ("Facilitator") and the customer specified in the Purchase Order, including such customer's parent or legal guardian if such customer is a minor ("Customer," "you," "your," or "yours"). Facilitator and Customer are each referred to herein as a "Party" and collectively as "Parties." You represent and warrant that you have the legal capacity to enter into this Agreement and the Purchase Order (collectively, "Contract") because you are an adult or because you are a minor and such minor's parent or legal guardian acting on behalf of such minor and the parent or legal guardian.

1. Definitions

The term "Online Service(s)" shall mean the online class(es), online workshop(s), online program(s), and other online service(s) specified in the Purchase Order, which are provided through Facilitator's distribution system. The term "Platform" means any Internet site, web-based service, app, online medium, or other platform through which any Online Service(s) are provided. The terms "we," "us," "our," "ours," and other first person personal pronouns and "Body & Brain" shall mean and refer to Facilitator, its affiliates, subsidiaries, or business licensors, persons or entities that referred you to Facilitator, persons or entities to whom Facilitator referred or will refer you, persons or entities claimed to control or act in concert with Facilitator, persons or entities providing or participating in the delivery of the Online Service(s), owners or creators of any training methods or intellectual property used in the Online Service(s), and owners or operators of Platforms and their respective employees, agents, principals, contractors, managers, officers, directors, founders, shareholders, owners, successors, and assigns.

2. Limitations on Use

- a. *For Use Only in United States of America.* The Online Service(s) are intended for use and access by individuals residing in the United States of America only.
- b. *Proprietary Content.* The text, graphics, images, video, metadata, design, organization, compilation, look and feel, advertising, materials, concepts, and all other content presented in, through, and with the Online Service(s) ("Content") are the property of Body & Brain or its advertisers or licensors. Customer may only access the Content personally and for a non-commercial purpose. Customer must not either directly or through the use of any device, software, Internet site, web-based service, or other means remove, alter, bypass, avoid, interfere with, or circumvent any notices of copyright, trademark, or other proprietary notices marked on the Content or any digital rights management mechanism, device, or other content protection or access control measure associated with the Content. Customer must not either directly or through the use of any device, software, Internet site, web-based service, or other means copy, download, stream capture, record, reproduce, duplicate, archive, distribute, upload, publish, modify, translate, broadcast, perform, display, sell, transmit, or retransmit the Content unless expressly permitted by Body & Brain in writing. Customer must not incorporate the Content into or stream or retransmit the Content via any hardware or software application or make it available via frames or in-line links unless expressly permitted by Body & Brain in writing. Furthermore, Customer must not create, recreate, distribute, or advertise an index of any significant portion of the Content unless authorized by Body & Brain. Customer must not post any Content to weblogs,

newsgroups, mail lists, or electronic bulletin boards unless expressly permitted by Body & Brain in writing. Customer must not build a business utilizing the Content, whether or not for profit. In addition, Customer is strictly prohibited from creating derivative works or materials that otherwise are derived from or based on, in any way, the Content, including montages, mash-ups and similar videos, wallpaper, desktop themes, greeting cards, and merchandise, unless it is expressly permitted by Body & Brain in writing. This prohibition applies even if you intend to give away the derivative materials free of charge.

c. *No Unlawful Use.* You agree not to access or use the Online Service(s) for any unlawful purpose. We reserve the right to terminate or restrict your access to or use of any Online Service(s) or remove or request that you be removed from any Online Service(s) and/or from any Platform(s) being used for any Online Service(s) at any time if, in our opinion, your access to or use of any Online Service may violate any laws, regulations, or rulings, infringe upon another person's rights, or violate any agreement between you and Body & Brain.

d. *Policies and Rules of Online Service(s).* You agree to follow the policies and rules of the Online Service(s). We reserve the right to terminate or restrict your access to or use of any Online Service(s) or remove or request that you be removed from such Online Service(s) and/or from the Platform being used for such Online Service(s) at any time for your failure to follow any of the policies and rules of such Online Service(s).

3. Body & Brain Account

In order to access or use certain selections or features of online services provided through Facilitator's distribution system, it may be necessary to create a Body & Brain account. Customer must not use another's Body & Brain account without permission. When creating a Body & Brain account, you must provide true, accurate, and complete information, and you agree to keep it that way at all times. You are solely responsible for the activity that occurs on your Body & Brain account, and you must keep your Body & Brain account password secure. You must notify Body & Brain immediately of any breach of security or unauthorized use of your Body & Brain account. Although Body & Brain will not be liable for your losses caused by any unauthorized use of your Body & Brain account, you may be liable for the losses of Body & Brain or others due to such unauthorized use.

4. Platforms

The online services distributed through Facilitator's distribution system are provided on various platforms, and such platforms may be owned, operated, or controlled by Facilitator or by other persons or entities. You understand and agree that the Platform used for any given Online Service(s) may be changed at any time. You also understand that when you access the Online Service(s) on a given Platform, you will be subject to the terms and conditions, including any privacy policies, governing the use of such Platform. You should be careful to read the terms of use and privacy policy of any Platform before providing any confidential information or engaging in any transactions on such Platform.

5. External Content and Independent Service Providers

a. *External Content.* You understand and agree that if there are any materials or content, including advertisements and Online Service(s) content, not produced or provided by Facilitator or its affiliates that are found while accessing or using the Online Service(s) ("External Content"), only the persons and entities producing and/or providing such External Content, and no other persons or entities encompassed by the term "Body & Brain" (including Facilitator and its affiliates), are responsible or liable for such External Content. You also understand and agree that any dealings you may have for any products or services in connection with any External Content are direct

transactions with only the persons and entities producing and/or providing such products, services, and/or External Content.

b. *Offerings by Independent Service Providers.* Facilitator's distribution system involves persons and entities providing online services through such distribution system who are independent from Facilitator or its affiliates, such as franchisees of Facilitator or its affiliates (each an "Independent Service Provider"). When an online service is provided through Facilitator's distribution system by an Independent Service Provider, such Independent Service Provider is solely and independently responsible for preparing and providing the online service. You understand and agree that your purchase of, access to, or use of any Online Service(s) provided by an Independent Service Provider is a direct transaction with such Independent Service Provider and only such Independent Service Provider, and no other person or entity encompassed by the term "Body & Brain" (including Facilitator and its affiliates), has any responsibility arising out of or related to any Online Service(s) provided by such Independent Service Provider. Before providing any confidential information to or engaging in any transactions with any Independent Service Provider, you should carefully review any terms of use and privacy policy of such Independent Service Provider.

6. Disclaimers

a. *Disclaimers of Warranties and Limitations on Liability.* You agree that your access to, use of, or participation in the Online Service(s) and related Content is on an "as-is," "as available" basis, and Body & Brain specifically disclaims any representations or warranties, express or implied, including, without limitation, any representations or warranties of merchantability or fitness for a particular purpose. You further agree that Body & Brain will not be liable (jointly or severally) to you or any other person as a result of your access to, use of, or participation in the Online Service(s) for indirect, consequential, special, incidental, punitive, or exemplary damages, including, without limitation, lost profits and lost revenues (collectively, "Excluded Damages"), whether or not characterized in negligence, tort, contract, or other theory of liability, even if Body & Brain has been advised of the possibility of or could have foreseen any of the Excluded Damages and irrespective of any failure of an essential purpose of a limited remedy.

b. *Medical Disclaimer.* You understand that Body & Brain does not provide medical, psychiatric, or other professional health care, advice, diagnosis, or treatment. You represent that you are not accessing, using, or participating in the Online Service(s) and related activities to address any physical, mental, or emotional illness, and you are clear that no portion of the Online Service(s) and related activities are delivered or supervised by health professionals. You understand that Body & Brain is not responsible for providing medical advice with respect to your physical or mental condition and ability to access, use, or participate in the Online Service(s) and related activities. You acknowledge that you have consulted or have had an opportunity to consult with a qualified medical professional before purchasing the Online Service(s). You represent that you are in good physical and mental condition and have no medical reason or impairment that might prevent you from accessing, using, or participating in the Online Service(s) and related activities.

7. Voluntary Engagement

You represent that your accessing, using, participating in, and/or paying for the Online Service(s) and related activities is voluntary and based on your free will, and not as a result of undue influence, coercion, pressure, or a condition of employment or to satisfy anyone other than you. You understand that you have the option to refrain from or discontinue the Online Service(s) and related activities at any time.

8. Assumption of Risks

You understand that the Online Service(s) and related activities may include, but not be limited to, meditative tapping of your own body parts and holding certain postures for an extended period of time, that access to, use of, or participation in the Online Service(s) and related activities could cause you physical or other injury and/or damage your property, and that as you progress and advance through the Online Service(s) and related activities, physical and mental demands may increase and at times be extremely strenuous and exhausting both physically and mentally. You recognize that there are risks associated with the Online Service(s) and related activities, including local bruising, fainting, pain, discomfort, possible aggravation of pre-existing symptoms, death, and other physical or mental damage or injury. Unless prohibited by law, you knowingly, freely, and willingly agree to assume all these risks.

9. Waiver and Release of Liability

Unless prohibited by law, you hereby forever and expressly release, to the greatest extent allowed by law, Body & Brain from any and all claims, demands, suits, judgments, damages, actions, and liabilities of every name and nature whatsoever, whenever occurring, whether known or unknown, contingent or fixed, at law or in equity, that you may suffer from or in connection with the Online Service(s) and related activities, including any injury or harm to you or loss or theft of or damage to your property, whether or not such injury, harm, loss, or theft was caused by negligence, carelessness, or any other cause. Unless prohibited by law, you agree that you will not bring or be a party to any legal action or claim against Body & Brain based upon or arising out of your access to, use of, or participation in the Online Service(s) and related activities on any legal theory, including, but not limited to, personal injury, undue influence, and infliction of emotional distress.

10. Photo/Audio/Video/Testimonial Release

You authorize Body & Brain to record your likeness, voice, statements or other expressive input, and/or performance during any Online Service by audio, video, photo camera, or other means and grant Body & Brain the right to copyright, use, re-use, modify, publish, and republish such recordings and your name, written comments, testimonial or other submissions, and biographical information for any commercial or non-commercial purpose in perpetuity and worldwide. If you do not want to give us such authorization and if the Platform being used for the Online Service allows, you may turn off your camera, mute your microphone, and/or otherwise restrict your input.

11. Paid Online Services

a. *Acceptance of Paid Online Services Conditions.* Sometimes there are online services provided through Facilitator's distribution system for which a fee is charged ("Paid Online Services"). You acknowledge and agree that a Paid Online Service is for individual use only and is limited to only one simultaneous stream at a time. You agree to pay the fees and any applicable taxes for your Paid Online Services at the rates in effect when the charges are incurred.

b. *Account Information Changes.* In order to purchase certain Paid Online Services, it may be necessary to provide a current, valid, accepted method of payment, as may be updated from time to time and which may include payment through a third party ("Payment Method"). If there is a change in your Payment Method(s) or you want to use different Payment Method(s), you must update your Payment Method(s) in your Paid Online Services account. We may also update your Payment Method(s) using information provided by the payment service provider(s). If the email address associated with your Paid Online Services account subsequently changes, you must notify Body & Brain by using the contact information in the Purchase Order, which Facilitator sent to

you by electronic mail at or around the time the relevant Paid Online Service(s) were purchased, or you must change such email address in your Paid Online Services account.

c. *Online Subscriptions.* A subscription for Paid Online Service(s) ("Online Subscription") will continue and automatically renew for the subscription period specified in the Purchase Order with fees at the then-current rates until the Online Subscription is cancelled. After cancellation, Customer will have access to the Online Subscription only through the end of the subscription period for which payment has already been made. To access and use an Online Subscription, you must provide one or more Payment Methods. Fees for an Online Subscription are charged at the beginning of each subscription period. However, the date of charge may change if all Payment Methods associated with your Online Subscriptions account are declined for payment of such fees or if the day of charge is not contained in a given month. You authorize us to charge you through any Payment Method associated with your Online Subscriptions account for the then-current fees and any applicable taxes for any of your Online Subscriptions unless and until you cancel the Online Subscription.

d. *Paid Online Services Offered by Independent Service Providers.* In accordance with the Refund Policy section of this Agreement, Facilitator may, at its discretion, provide assistance to you with respect to a question or concern about a refund on a Paid Online Service purchased from an Independent Service Provider. However, this does not negate the understanding that only such Independent Service Provider, and no other person or entity encompassed by the term "Body & Brain" (including Facilitator and its affiliates), has any responsibility, including for any refund, arising out of or related to any Online Service(s) provided by such Independent Service Provider, as specified in the External Content and Independent Service Providers section of this Agreement.

12. Refund Policy

No refund will be granted for an Online Service unless you have been charged a fee for the Online Service, you make a refund request for the Online Service ("Refund Request") by notifying Body & Brain as directed in the Purchase Order, which Facilitator sent to you by electronic mail at or around the time such Online Service was purchased, and any such refund shall be subject to the following:

a. *If the Type of the Online Service is an Online Group Class.* Online Group Class fees will be fully refundable if the Refund Request is received within 30 days after the Purchase Date.

b. *If the Type of the Online Service is an Online 1-on-1 Class.* No refund for an Online 1-on-1 Class shall be available if Customer either starts and completes the Online 1-on-1 Class, starts and leaves it early for any reason, or fails to attend it as scheduled without prior notice. All the remaining value of Online 1-on-1 Class eligibility will be refunded if the Refund Request is received within 1 year from the Purchase Date, and after such time, no service, credit, or refund shall be provided for the Online 1-on-1 Class.

c. *If the Type of the Online Service is an Online Workshop.* All Remaining Value of Eligibility (as defined below) for an Online Workshop will be refunded if the Refund Request is received within 1 year after the Purchase Date, and after such time, no service, credit, or refund shall be provided for the Online Workshop. The "Remaining Value of Eligibility" for an Online Workshop will be equal to the fees paid for the Online Workshop; provided, however, that: (i) if the Online Workshop is composed of a single session or of multiple sessions of varying duration, the Remaining Value of Eligibility for that Online Workshop will be zero if Customer completes any Online Workshop session led by the head trainer of the Online Workshop ("Main Session"), starts and leaves any Main Session early for any reason, or does not show up to any Main Session as scheduled without at least 48 hours' notice; and (ii) if the Online Workshop is composed of

multiple sessions of equal duration, the Remaining Value of Eligibility for that Online Workshop will be the fees paid for the Online Workshop minus the value of any Online Workshop session(s) that Customer either starts and completes, starts and leaves early for any reason, or fails to attend as scheduled without prior notice.

d. *If the Type of the Online Service is an Online Subscription.* Online Subscription fees are nonrefundable. Such fees are fully earned upon payment, so no refund shall be available for any subscription period for which payment has already been made, regardless of whether the Online Subscription has been accessed or used during the subscription period. You can, however, cancel an Online Subscription at any time, as provided in the Paid Online Services section of this Agreement.

e. *If the Purchase Order has terms or conditions concerning refund or cancellation of the Online Service.* The terms or conditions concerning refund or cancellation of the Purchase Order shall prevail in the event they conflict with any terms or conditions concerning refund or cancellation, including this Refund Policy section, of this Agreement.

If you cannot obtain an answer to a question or concern about the Refund Request by using the contact information in the Purchase Order, which Facilitator sent to you by electronic mail at or around the time the Online Service was purchased, you may contact Facilitator's customer service by electronic mail at customerservice@bodynbrain.com.

13. Change to Online Service(s)

You understand and agree that the Online Service(s) may be discontinued or changed or their availability to you may be changed at any time for any reason and without notice, provided that no Paid Online Service will be discontinued without giving you an opportunity to seek a refund for any unused portion of such Paid Online Service in accordance with the Refund Policy section of this Agreement.

14. Parent/Guardian Consent

If you are a parent or legal guardian acting on behalf of the customer specified in the Purchase Order for the purposes of the Contract, you hereby accept and agree to all of the terms and conditions of the Contract for yourself and on behalf of such customer, including, but not limited to, Platforms, External Content and Independent Service Providers, Disclaimers, Voluntary Engagement, Assumption of Risks, Waiver and Release of Liability, Photo/Audio/Video/Testimonial Release, Refund Policy, and Dispute Resolution sections of this Agreement.

15. Dispute Resolution

a. *Agreement to Arbitrate.* You understand and agree that any claim or dispute arising out of or relating in any way to the Contract, the access to, use of, or participation in the Online Service(s) and related activities, other products and/or services provided by Body & Brain, or the relationship between you and Body & Brain except for small claims court cases that qualify ("Dispute") shall be resolved by final and binding arbitration, rather than in court. Disputes subject to arbitration include, but are not limited to: (i) claims based in contract, tort, statute, and/or any other legal theory (including, but not limited to, personal injury, misrepresentation, fraud, negligence, undue influence, infliction of emotional distress, unfair business practice, consumer protection law violation, and RICO violation); (ii) claims that arose before the Contract or any prior agreement (including, but not limited to, claims relating to advertising); and (iii) claims that may arise after the termination or expiration of the Contract. The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any claims or

disagreements relating to the interpretation, applicability, enforceability, or formation of the Contract including, but not limited to, the arbitrability of any Dispute and any claim that all or any part of the Contract is invalid, void, or voidable. There is no judge or jury in arbitration. However, an arbitrator can award the same damages and relief as a court.

b. *No Class Actions.* Any arbitration, lawsuit, or other proceedings to resolve a Dispute will be conducted on an individual basis and not in a class, consolidated, collective, or private attorney general action.

c. *No Jury Trial.* If for any reason, a Dispute proceeds in court rather than in arbitration, each Party waives any right to a jury trial.

d. *Arbitration Rules.* The arbitration process may be initiated by either Party upon written notice sent to the other by certified mail or, if we do not have a physical address on file for you, by us upon written notice sent to you by electronic mail. The arbitration shall be administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules and Supplementary Procedures for Consumer Related Disputes ("AAA Rules"), which are available at www.adr.org or 1-800-778-7879. The arbitration will be conducted by a single, neutral arbitrator and will take place in the county where you reside or at another mutually agreed location. You understand that for claims of \$10,000 or less, you can choose whether the arbitration is carried out based only on written submissions, by a hearing in-person, or by phone. The arbitrator shall be bound by the terms of the Contract.

e. *Confidentiality.* Except as may be permitted or required by law, neither you, the arbitrator, nor Facilitator may disclose the existence, content, or results of the arbitration without the prior written consent of all parties to the arbitration. Nothing from the arbitration may be introduced in any form in future arbitrations, court actions, or any other proceedings except to enforce the arbitration award.

f. *Exceptions to Agreement to Arbitrate.* Either you or Body & Brain has the right to seek relief in the appropriate court to prevent any actual or threatened breach of the Confidentiality provision in this section or the Proprietary Content provision in the Limitations on Use section of this Agreement.

g. *Fees and Costs.* Each party to the arbitration shall bear his, her, or its own attorneys' fees and costs. The AAA Rules will govern payment of all filing, administration, and arbitrator fees. Facilitator will reimburse the filing, administration, and arbitrator fees incurred by you for claims against Facilitator totaling less than \$10,000 unless the arbitrator determines the claims are frivolous.

h. *Stay of Certain Disputes.* If the arbitrator or a court determines that any part of the dispute is not subject to arbitration, the part of the dispute not subject to arbitration shall be stayed pending resolution of the arbitration.

16. General Provisions

a. *Severability.* If any provision of the Contract or its application is invalid, void, or unenforceable, the remainder of the Contract will not be impaired or affected and will remain in full force and effect.

b. *Entire Agreement.* The Contract contains the final and entire agreement between the Parties with respect to the subject matter of the Contract and supersedes all previous and contemporaneous oral or written agreements with respect to the matters contemplated in the Contract. The Contract may not be changed, modified or discharged except by written instrument duly executed by the Parties.

c. *Waiver.* Unless otherwise specified in the Contract, the failure by a Party to require performance of any provision shall not affect that Party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of the Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

d. *No Assignment by You.* The Contract is personal to you, which means that rights or obligations under the Contract are not assignable by you to anyone. No third party is your beneficiary under the Contract.

e. *Governing Law.* The Federal Arbitration Act, applicable federal law, and the laws of the state of Arizona, without regard to principles of conflict of laws, will govern the Contract and any Dispute of any sort.

f. *Titles and Captions.* All section or paragraph titles or captions contained in this Agreement are for convenience only and are not deemed part of the context thereof.

g. *Survival of Termination.* The following provisions will survive expiration or termination of the Contract: Platforms, External Content and Independent Service Providers, Disclaimers, Voluntary Engagement, Assumption of Risks, Waiver and Release of Liability, Photo/Audio/Video/Testimonial Release, Refund Policy, Dispute Resolution, and General Provisions sections of this Agreement and other provisions that by their nature are intended to survive termination of the Contract.