

Terms of Use

These Terms of Use are updated and effective as of February 26, 2021.

Thank you for using our products and services. By using or visiting BodyNBrain.com (the "Website") or any software, data feeds, and services provided to you on, from, or through the Website (collectively, the "Services"), or by accessing any products through the Website (collectively, the "Products"), you signify your agreement to these terms of use (the "Terms"). Please read them carefully.

1. Definitions of Parties and Related Persons

The terms "we," "us," "our," "ours," and other first person personal pronouns, and "Body & Brain" shall mean and refer to Body & Brain Yoga and Health Centers, Inc. operating the website BodyNBrain.com, and its affiliates, subsidiaries, business licensors, persons or entities that referred you to the Website, persons or entities to whom you have been or will be referred by the Website, persons or entities claimed to control or act in concert with the creators, producers and operators of the Website, persons or entities participating in the creation, operation and management of the Website, creators and owners of any training methods or intellectual property used or presented on the Website, and their respective employees, agents, principals, contractors, managers, officers, directors, founders, shareholders, successors and assigns. The terms "you", "your", "yours", and other second person personal pronouns mean and refer to all persons who use or visit the Website, or any products, software, data feeds, and services provided by Body & Brain.

2. Changes to Terms of Use

We may change these Terms at any time by notifying you of the change in writing or electronically (including without limitation, by email or by posting a notice on the Website that these Terms have been "updated"). The changes also will appear in this document, which you can access at any time by going to the link to these Terms at the bottom of every page. You signify that you agree to be bound by such changes by using a Service after changes are made to these Terms.

3. Limitations on Use

- a. In order to use the Website and access any Product or Service, you must reside in the United States. You also promise that any registration information that you submit to Body & Brain is true, accurate, and complete, and you agree to keep it that way at all times.
- b. Only one individual may access or use a Product or Service at the same time using the same user name or password, unless we agree otherwise.

c. The text, graphics, images, video, metadata, design, organization, compilation, look and feel, advertising and all other protectable intellectual property (the "Content") available through and with the Products and Services are our property or the property of our advertisers and licensors and are protected by copyright and other intellectual property laws. You may only access and view the Content personally and for a non-commercial purpose in compliance with these Terms. You may 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. You may not either directly or through the use of any device, software, Internet site, web-based service, or other means copy, download, stream capture, 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. You may 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, you may not create, recreate, distribute or advertise an index of any significant portion of the Content unless authorized by Body & Brain. You agree not to post any Content (other than headlines from our RSS feed with active links back to the full article on our Website) to Weblogs, newsgroups, mail lists or electronic bulletin boards, without our written consent. You may not build a business utilizing the Content, whether or not for profit. In addition, you are 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.

d. You agree not to access or use the Products or Services for any unlawful purpose. We reserve the right to terminate or restrict your access to or use of a Product or a Service if, in our opinion, your access to or use of the Product or Service may violate any laws, regulations or rulings, infringe upon another person's rights or violate these Terms. Also, we may refuse to grant you a user name that impersonates someone else, is protected by trademark or other proprietary right law, or is vulgar or otherwise offensive.

4. Your Account

In order to access or use certain selections or features of our Products and Services, you may have to create a Body & Brain account. You must not use another's account without permission. When creating your account, you must provide accurate and complete information. You are solely responsible for the activity that occurs on your account, and you must keep your account password secure. You must notify Body & Brain immediately of any breach of security or unauthorized use of your account. Although Body & Brain will

not be liable for your losses caused by any unauthorized use of your account, you may be liable for the losses of Body & Brain or others due to such unauthorized use.

5. Collection and Use of Personal Information

For information about Body & Brain's policies and practices regarding the collection and use of your personally identifiable information, please read the [BodyNBrain.com Privacy Policy](#) ("Privacy Policy"). Our Privacy Policy is incorporated by reference and made part of these Terms. Thus, by agreeing to these Terms, you agree that your use of or access to the Products and the Services is governed by the Privacy Policy in effect at the time of your use.

6. Community; User-Generated Content

a. *User Name.* Where applicable, we require you to register to have access to our community area. We reserve the right to disclose any information about you, including registration data, in order to comply with any applicable laws and/or requests under legal process, to operate our systems properly, to protect our property or rights, and to safeguard the interests of others.

b. *User-Generated Content.*

i. User Content. We offer you the opportunity to comment on and engage in discussions regarding articles, companies and various topics. Any content, information, graphics, audio, images, and links you submit as part of creating your profile or in connection with any of the foregoing activities is referred to as "User Content" in these Terms and is subject to various terms and conditions as set forth below.

ii. Cautions Regarding Other Users and User Content. You understand and agree that User Content includes information, views, opinions, and recommendations of many individuals and organizations and is designed to help you gather the information you need to help you make your own decisions. Importantly, you are responsible for your own decisions and for properly analyzing and verifying any information you intend to rely upon. We do not endorse any recommendation or opinion made by any user. You should also be aware that other users may access or use our Products or Services for personal gain. As a result, please approach messages with appropriate skepticism. User Content may be misleading, deceptive, or in error.

iii. Grant of Rights and Representations by You. If you upload, post or submit any User Content in connection with a Product or Service, you represent to us that you have all the necessary legal rights to upload, post or submit such User Content and that it will not violate any law or the rights of any person. You agree that upon uploading, posting or submitting

information in connection with your access to the Products or Services, you grant Body & Brain a non-exclusive, transferable, worldwide, fully paid-up, royalty-free, perpetual, irrevocable right and license to use, distribute, publicly perform, display, reproduce, and create derivative works from your User Content in any and all media, in any manner, in whole or part, without any duty to compensate you. You also grant us the right to authorize the use of User Content, or any portion thereof, by users and other users in accordance with these Terms, including the rights to feature your User Content specifically on the Services and to allow other users to request access to your User Content, such as for example through an RSS feed.

iv. Monitoring User Content. We may also monitor or remove any User Content for any reason and without notice to you. This includes all materials related to your access to or use of the Products or the Services or membership, including email accounts, postings, profiles or other personalized information you have created while accessing or using the Products or Services.

v. Rules of Conduct. Users must not post material that is offensive, contains personal attacks, is misleading or demonstrably false or is solely (or overwhelmingly) self-promotional.

7. Linked Destinations and Advertising

a. *Third Party Destinations.* If we provide links or pointers to other websites or destinations, you should not infer or assume that Body & Brain operates, controls, or is otherwise connected with these other websites or destinations. When you click on a link within or related to the Products or Services, we will not warn you that you have left the Products or Services and are subject to the terms and conditions (including privacy policies) of other websites or destinations. In some cases, it may be less obvious than others that you have left the Products or Services and reached another website or destination. Please be careful to read the terms of use and privacy policy of any other website or destination before you provide any confidential information or engage in any transactions. You should not rely on these Terms to govern your use of another website or destination.

Body & Brain is not responsible for the content or practices of any website or destination other than the BodyNBrain.com site, even if it links to the BodyNBrain.com site and even if the website or destination is operated by a company affiliated or otherwise connected with Body & Brain. By accessing or using the Products or Services, you acknowledge and agree that Body & Brain is not responsible or liable to you for any content or other materials hosted and served from any website or destination other than the BodyNBrain.com site.

b. *Advertisements.* Body & Brain takes no responsibility for advertisements or any third party material, nor does it take any responsibility for the products or services

provided by advertisers. Any dealings you have with advertisers found while accessing or using the Products and Services are between you and the advertiser, and you agree that Body & Brain is not liable for any loss or claim that you may have against an advertiser.

8. Disclaimers

a. *Disclaimers of Warranties and Limitations on Liability.* You agree that your access to and use of the Products, the Services and related Content is on an "as-is," "as available" basis and we specifically disclaim any representations or warranties, express or implied, including, without limitation, any representations or warranties of merchantability or fitness for a particular purpose. Body & Brain will not be liable (jointly or severally) to you or any other person as a result of your access to or use of the Products and the Services for indirect, consequential, special, incidental, punitive, or exemplary damages, including, without limitation, lost profits and lost revenues (collectively, the "Excluded Damages"), whether or not characterized in negligence, tort, contract, or other theory of liability, even if the 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.* If the BodyNBrain.com site provides health-related or medical information, no such information is intended to treat or cure any disease or to offer any specific diagnosis to any individual as we do not give medical advice, nor do we provide medical or diagnostic services. We assume no responsibility for injuries suffered while practicing these techniques. We strongly recommend that you obtain professional medical advice before you apply any techniques presented on our Website.

c. *Activities Disclaimer.* You acknowledge and agree that the participation in our classes or other programs may involve the risk of injury. You further acknowledge and agree that such risks include injuries resulting from overexertion, improper or negligent use of recommended equipment or training tools or failure to follow trainer instructions. Accordingly, you understand and voluntarily agree to accept these risks and agree that you are solely responsible for selecting classes and activities that are appropriate for your skill and ability level.

9. Disputes and Jurisdiction

Resolving Disputes. Since we always prefer to find ways to satisfy you as quickly and efficiently as possible, we want to address your concerns without resorting to formal legal proceedings. Before filing a claim against Body & Brain, you agree to try to resolve any dispute or claim relating to these Terms, your relationship with Body & Brain or your access to or use of the Products and Services ("Dispute") informally by contacting us at CustomerService@BodyNBrain.com. We will also try to resolve Disputes informally by

contacting you by email. If a Dispute is not resolved within 30 days of submission, you or Body & Brain may bring a formal proceeding.

We Both Agree to Arbitrate. You and Body & Brain agree to resolve any and all Disputes through final and binding arbitration, except as set forth under the "Exceptions to Agreement to Arbitrate" paragraph below. The Federal Arbitration Act and federal arbitration law apply to these Terms. There is no judge or jury in arbitration, and court review of an arbitration award is limited. However, an arbitrator can award on an individual basis the same damages and relief as a court (including injunctive and declaratory relief or statutory damages), and must follow these Terms as a court would.

Arbitration Rules. The arbitration will be conducted by the American Arbitration Association (AAA) under its rules, including the AAA's Supplementary Procedures for Consumer-Related Disputes. The AAA's rules are available at www.adr.org or by calling 1-800-778-7879. Payment of all filing, administration and arbitrator fees will be governed by the AAA's rules. We will reimburse those fees for claims totaling less than \$10,000 unless the arbitrator determines the claims are frivolous. Likewise, Body & Brain will not seek attorneys' fees and costs in arbitration unless the arbitrator determines the claims are frivolous. You may choose to have the arbitration conducted by telephone, based on written submissions, or in person in the county where you live or at another mutually agreed location.

No Class Actions. You agree that you will only resolve Disputes with us on an individual basis, and will not bring a claim as a plaintiff or a class member in a class, consolidated, or representative action. You further agree not to participate in class arbitrations, class actions, private attorney general actions, and consolidation with other arbitrations.

No Jury Trial. If for any reason a Dispute proceeds in court rather than in arbitration, we each waive any right to a jury trial. We also both agree that you or we may bring suit in court to enjoin infringement or other misuse of intellectual property rights.

Exceptions to Agreement to Arbitrate. Either you or Body & Brain may assert claims, if they qualify, in small claims court in Maricopa County, Arizona or any United States county where you live or work. Either party may bring a lawsuit solely for injunctive relief to stop unauthorized use or abuse of the Products or Services, or intellectual property infringement (for example, trademark, trade secret, copyright, or patent rights) without first engaging in arbitration or the informal dispute-resolution process described above.

Jurisdiction. You agree that these Terms, as well as any and all claims arising from these Terms will be governed by and construed in accordance with the laws of the State of Arizona, United States of America, without regard to any conflict or choice of law principles. The sole jurisdiction and venue for any litigation arising out of these Terms will be an appropriate federal or state court located in Maricopa County, Arizona. These Terms will not be governed by the United Nations convention on contracts for the international sale of goods.

10. General Provisions

a. *Site Policies.* Please review our other policies posted on this Website. These policies also govern your visit to BodyNBrain.com. We reserve the right to make changes to our Website, policies, and these Terms at any time.

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

c. *Entire Agreement.* These Terms contains the final and entire agreement between us regarding your use of and access to the Products and the Services and supersedes all previous and contemporaneous oral or written agreements regarding your use of and access to the Products and the Services.

d. *Waiver.* Unless otherwise specified in these Terms, 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 these Terms constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

e. *Change to Services.* We may discontinue or change the Services, or their availability to you, at any time for any reason and without notice to you.

f. *No Assignment.* These Terms are personal to you, which means that you may not assign your rights or obligations under these Terms to anyone. No third party is a beneficiary of these Terms.

g. *Survival of Termination.* The following provisions will survive expiration or termination of these Terms: Collection and Use of Personal Information, Community, User-Generated Content, Linked Destinations and Advertising, Disclaimers, Disputes and Jurisdiction, and General Provisions Sections of these Terms and other provisions that by their nature are intended to survive termination of these Terms.