

## THE TERMS OF USE FOR THE SOFTWARE AND THE SERVICE

Please read the terms of use for the software and the service (THE TERMS OF USE) carefully before using THE SOFTWARE or THE SERVICE. Accepting THE TERMS OF USE or using THE SOFTWARE or THE SERVICE indicates that THE USER has read and understood THE TERMS OF USE, accepts them, and commits to complying them.

THE COMPANY may amend these TERMS OF USE and reserve the right to do so. THE COMPANY encourages THE USER to review the contents of THE TERMS OF USE for possible amendments regularly, on your own initiative and whenever using THE SOFTWARE or THE SERVICE. If THE USER continues to use THE SOFTWARE or THE SERVICE after the changes, THE USER commits to complying with changes to THE TERMS OF USE.

### 1. General

These TERMS OF USE concern the HEATHILL software (SOFTWARE) and the HEATHILL system (SERVICE) which FITNER Inc. (COMPANY) offers to its customers (USER). THE USER refers to a private person, a company or any other party that uses THE SOFTWARE or THE SERVICE.

All rights (including, but not limited to, the copyright and all intellectual property rights) and the ownership of THE SOFTWARE and THE SERVICE belong to THE COMPANY. THE SOFTWARE and THE SERVICE is protected by copyright and other intellectual property laws and international treaties.

### 2. Using THE SOFTWARE and THE SERVICE

THE USER can use THE SOFTWARE and/or THE SERVICE only after accepting THE TERMS OF USE and registering for THE SERVICE. Upon registration, THE USER is granted a limited, non-exclusive, non-transferable, non-sublicensable and revocable right to use THE SOFTWARE and/or THE SERVICE.

THE SOFTWARE is freely available for planning group exercise classes (hereinafter "THE PROGRAM"). However, the public presentation of THE PROGRAM is subject to a fee. It is possible to purchase usage time from THE COMPANY's online store. THE PROGRAM will be charged according to per-minute usage. THE USER has the option to make use of the purchased usage time for one year from the date of purchase.

THE USER may not share, distribute, rent, lease, sublicense, assign, transfer or sell THE SOFTWARE or THE SERVICE. THE USER must not charge anybody for using or showing THE SOFTWARE or THE SERVICE in order to profit financially without a written permission from THE COMPANY. THE COMPANY has full rights to all the financial benefits made by THE USER. However, this does not restrict THE COMPANY's right to claim additional compensation.

THE USER may not present and/or publish THE PROGRAM made with THE SOFTWARE other than by using THE SOFTWARE for presentation and/or publishing.

Filming and/or other recordings of the presentation of A PROGRAM is prohibited if the purpose is to present and/or share videos and/or recordings online, on social media, through applications, or otherwise, whether THE PROGRAM is performed privately or publicly or whether it is a live performance or a recording of THE PROGRAM.

THE USER may not copy, publish, adapt, redistribute, attempt to derive source code, modify, reverse engineer, decompile, or disassemble any of THE SOFTWARE or THE SERVICE. THE USER may not bypass, modify, defeat, or circumvent any of the functions or protections of THE SOFTWARE or THE SERVICE, or any mechanisms operatively linked to THE SOFTWARE or THE SERVICE .

**THE USER commits to comply with all the laws, agreements, and/or regulations applicable to the use of THE SOFTWARE or THE SERVICE regardless of where and how THE USER is utilizing THE SOFTWARE or THE SERVICE. THE USER is specifically responsible for ensuring that the use of THE SOFTWARE or THE SERVICE does not infringe the copyright of any third party, other intellectual property right or any other right. Such content may be protected by copyright, other intellectual property laws, agreements, and/or regulations. THE USER commits to use THE SOFTWARE or THE SERVICE only in compliance with all such laws, agreements, and/or regulations that apply to such content.**

THE USER is solely responsible for any and all obligations, including, but not limited to, any fees, indemnities, licenses, and/or permissions required to download, copy, store, and/or publicly perform music acquired by THE USER and used in THE PROGRAM. THE USER commits to use THE SOFTWARE or THE SERVICE only in compliance with all such laws, agreements, and/or regulations that apply to such content.

THE USER is solely responsible for any and all claims made by the authorities or any other third party arising out of the use of THE SOFTWARE or THE SERVICE or inability to use them.

THE COMPANY reserves the right not to fix or compensate for problems, expenses or any errors which have been caused by THE USER's own actions, such as abuse, careless or incorrect use of THE SOFTWARE or THE SERVICE.

### 3. User ID and password for accessing THE SOFTWARE or THE SERVICE

THE USERS are responsible for their user IDs and passwords and for the use of them. THE USERS agree not to release their user IDs or passwords to a third party.

In order to prevent misuse of THE SOFTWARE or THE SERVICE, THE USER acknowledges and agrees to change the user ID or password immediately and without prompting if THE USER has a reason to suspect that the user ID or password have been obtained by a third party.

### 4. Interruptions, limitations and/or modifications to THE SOFTWARE and/or THE SERVICE

THE COMPANY uses reasonable expertise and care to keep THE SOFTWARE or THE SERVICE operational. THE COMPANY aims to update, develop, and improve THE SOFTWARE or THE SERVICE constantly. However, decisions regarding these measures are solely at the discretion of the company.

THE COMPANY has the right to interrupt providing THE SOFTWARE or THE SERVICE without any liability for compensation or refund to THE USER if the interruption is necessary for carrying out repair, update, alteration, or maintenance work in technical or operational matters of THE SOFTWARE or THE SERVICE (including, but not limited to, actions required to comply with appropriate laws, regulations and/or regulatory requirements). The situations described in this paragraph may cause changes and/or loss of information and/or data contained in THE SOFTWARE or THE SERVICE. THE USER acknowledges and agrees that THE COMPANY has no liability for compensation or refund to THE USER in the above-mentioned situations.

THE COMPANY will aim to keep the interruptions as short as possible so that it will cause THE USER as little inconvenience as possible. THE COMPANY will inform THE USER of any interruptions as early as it can.

THE COMPANY may change, suspend, or terminate (permanently or temporarily) providing THE SOFTWARE and/or THE SERVICE in whole or in part. The availability of THE SOFTWARE and/or THE SERVICE may also change, be interrupted, or terminate (permanently or temporarily) due to, for example, but not limited to, applicable laws, regulations and/or regulatory requirements. THE USER may also stop the use of THE SOFTWARE and/or THE SERVICE on its own initiative. The situations described in this paragraph may cause changes and/or loss of information and/or data contained in THE SOFTWARE or THE SERVICE. THE USER acknowledges and agrees that THE COMPANY has no liability for compensation or refund to THE USER in the above-mentioned situations.

## **5. The terms for THE SERVICE and for the online store included in THE SERVICE**

### **5.1. Registering**

THE USER can register for THE SERVICE only after accepting THE TERMS OF USE. Registered users are able to manage their personal data after logging into THE SERVICE under the item *My profile*.

When registering, THE USER commits to providing their own information truthfully and accurately. THE USER also acknowledges and agrees to maintain and update any changes occurring in the information.

### **5.2. Customer Register**

The information given by THE USER during the registration process is stored in the customer register of THE COMPANY. How the information given by THE USER is used, can be viewed in the Privacy Statement of our website (CONTACT US – Privacy Statement).

### **5.3. Shopping at the online store**

THE USER can buy usage time from the online store only after accepting THE TERMS OF USE and registering for THE SERVICE.

Shopping can be paid for at the online store by credit card. All payments take place through a secure connection. THE COMPANY does not handle, store, or keep the credit card information of THE USER.

After the successful completion of the purchase transaction, THE COMPANY will deliver the purchased usage time to THE USER immediately. Since the usage time is delivered to THE USER immediately, the purchase transaction is irreversible and final. THE USER has the option to make use of the purchased usage time for one year from the date of purchase.

## 6. Rights and responsibilities

THE USER acknowledges and agrees that the use of THE SOFTWARE or THE SERVICE is entirely at THE USER's own risk, and that THE USER is solely responsible for the use of THE SOFTWARE or THE SERVICE.

THE SOFTWARE and THE SERVICE are provided "as is" without any warranty or guarantees of faultless operation or suitability for a specific use. THE COMPANY does not guarantee either uninterrupted or faultless operation of THE SOFTWARE or THE SERVICE. THE COMPANY does not guarantee or provide any assurance (a) that the functions encompassed by THE SOFTWARE or THE SERVICE correspond to the USER's requirements or that they will be updated, (b) that the operation of any of THE SOFTWARE or THE SERVICE will be correct or error-free or that any defects will be corrected, (c) that THE SOFTWARE or THE SERVICE will not damage any other software, hardware or data, or (d) that any software, network services (including the internet) or products (other than THE SOFTWARE or THE SERVICE) on which the operation of THE SOFTWARE or THE SERVICE depends will remain available, uninterrupted, or unchanged. No oral or written information or advice given by THE COMPANY, or an authorized representative of THE COMPANY shall create a warranty, duty or condition or in any way increase the scope of this warranty.

THE SOFTWARE and THE SERVICE are optimized for use on a laptop. THE COMPANY recommends THE USER to use the Chrome browser with it. Because of this optimizing, some features of THE SOFTWARE or THE SERVICE may not work properly on tablets or mobile devices. THE COMPANY cannot guarantee that THE SOFTWARE or THE SERVICE is fully compatible with THE USER's device and/or browser.

THE USER is solely responsible for any and all consequences arising out of the use of THE SOFTWARE or THE SERVICE or inability to use them. THE COMPANY is not liable in any way or in any situation for any indirect, direct, special, incidental, consequential, or punitive damages or any losses, claims and damages whatsoever, regardless of cause (even if THE COMPANY had been advised of the possibility of loss, claim or damages), including, but not limited to, losses, claims and damages (a) resulting from loss of use, data, goodwill, profits or business interruptions, whether or not foreseeable; (b) based on any theory of liability, including breach of contract, negligence or other tortious action; or (c) arising from any other claim that ensues from the use of THE SOFTWARE or THE SERVICE or inability to use them.

THE USER acknowledges and agrees to indemnify and defend THE COMPANY against any and all costs, charges, claims, damages and/or proceedings taken against THE COMPANY due to THE USER's violation of the rights of third parties and/or THE USER's violation of THE TERMS FOR THE SOFTWARE AND THE SERVICE and/or the use of THE SOFTWARE or THE SERVICE or inability to use them.

If the law applied to this contract does not allow limiting the responsibility of THE COMPANY for direct or indirect damages or financial losses, the responsibility of THE COMPANY towards THE USER involving all damages and losses will never exceed the amount which THE USER has paid for downloading THE SOFTWARE or registering into THE SERVICE. In any matter the maximum liability of THE COMPANY is limited to 50 euros. This limitation will apply regardless of the form or source of claim or loss, whether the claim or loss was foreseeable, and whether the party had been advised of the possibility of the claim or loss.

THE COMPANY is not responsible for any delays, damages or losses facing THE USER due to obstacles occurring beyond the influence of THE COMPANY, obstacles that THE COMPANY could not have foreseen, or consequences of which it could not have avoided. Such cases of force majeure are considered to include, but not be limited to, fire, industrial actions, wars, natural disasters, interventions or decisions by government, authorities or courts, non-performance of third parties, power or usage downtime, disorders with subcontractors, equipment, software or network connections.

THE COMPANY reserves the right not to fix or compensate for problems, expenses or any errors which have been caused by THE USER's own actions, such as abuse, careless or incorrect use of THE SOFTWARE or THE SERVICE.

THE COMPANY has the right to remove THE USER from THE SERVICE without a previous notice and without any liability for compensation or refund to THE USER and to prevent the use of THE SOFTWARE or THE SERVICE if THE USER is in breach of any of these TERMS FOR THE SOFTWARE AND THE SERVICE.

When THE USER's usage time has expired or run out and at least six months have elapsed from that moment, THE COMPANY has the right to remove THE USER from THE SERVICE without a previous notice and without any liability for compensation or refund to THE USER.

THE COMPANY may assign any or all of these TERMS OF USE, and may assign or delegate, in whole or in part, any of its rights or obligations under these TERMS OF USE. THE USER may not assign nor transfer or sub-license these TERMS OF USE, in whole or in part, to any third party.

## 7. The applicable law and resolving conflicts

This agreement follows the Finnish law. Disagreements regarding the use of THE SOFTWARE or THE SERVICE, as well as THE TERMS OF USE, will be attempted to be solved by negotiations between the two agreeing parties. If negotiations do not lead to a solution which satisfies both parties, disagreements will be solved in the local district court of THE COMPANY in Finland.

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