

Terms & Conditions

PLEASE READ THESE TERMS OF USE CAREFULLY

These Terms of Use and the Privacy Policy contain important information about your use of this website (the “Site”). By using the Site, you signify your acceptance of these Terms of Use and the Privacy Policy. If you do not agree to all of these Terms of Use, and the Privacy Policy, please do not use this Site.

Knockout Performance LLC (“Knockout!”) may revise these Terms of Use at any time without prior notice. Your continued use of this Site will mean that you accept those changes, and that you will comply with all applicable laws and regulations. The materials provided on this Site are protected by law, including, but not limited to, United States copyright laws and international treaties.

Grant of Rights

Subject to your compliance with the Terms of Use in all material respects, Knockout Performance grants you a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to: (a) access and view pages from the Site for your personal, non-commercial use only; and (b) print a reasonable number of such pages for your personal, non-commercial use only.

Use Restrictions

All content on this Site, such as text, graphics, images, photographs, illustrations, music, sounds, videos, trademarks, trade names, service marks, logos, data, software, scripts, tags, information, and other materials (“Contents”) are the intellectual property of Knockout!, its affiliates or their licensors. Such Contents are protected by intellectual property laws under both United States and foreign laws and treaties. Title to the Contents remains with Knockout Performance and its licensors.

Any use of the Contents not expressly permitted by these Terms of Use is a breach of these Terms of Use and may violate copyright, trademark, and other laws. Except as expressly permitted herein, none of the Contents may be used, copied, reproduced, distributed, republished, downloaded, publicly performed, publicly displayed, posted, transmitted, modified, translated, compiled, or used to prepare derivative works in any form or by any means without the prior written permission of Knockout Performance or its licensors. Knockout! authorizes you to view and download a single copy of the Contents solely for your own lawful, personal, non-commercial use if you retain all copyright and proprietary rights notices in the Contents. You also may not: (a) frame or utilize any framing technique to enclose any portion of the Site or Contents; (b) decompile, decode, disassemble, reverse engineer, reverse assemble or otherwise attempt to discover any source code or the architectural framework for any software within or associated with the Site; or (c) access the Site for the purpose of developing, marketing, selling or distributing any product or service that competes with or includes features substantially similar to the Site or any products or services offered by Knockout!. Any special rules for the use of other items provided on the Site may be included elsewhere within the Site and are incorporated into these Terms of Use by reference. The use of the Contents on any other site or in a networked computer environment for any purpose is prohibited. All rights not expressly granted herein are reserved to Knockout! and its licensors.

You may not, without Knockout Performance written permission, “mirror” any Contents contained in this Site or any other server. You may not use the Site for any purpose that is unlawful or prohibited by these Terms of Use.

You may not use the Site in any manner that could damage, disable, overburden, or impair the Site, or interfere with any other party's use and enjoyment of the Site. You may not attempt to gain unauthorized access to the Site through hacking, password mining or any other means. Knockout! reserves the right, in its sole discretion, to terminate access to the Site, or any portion thereof, at any time, for any reason or for no reason at all, without notice. Your access to and use of the Site must further comply in all material respects with any usage guidelines posted by Knockout!

Promotions

All offers, or promotions advertised are void where prohibited, and are subject to the posting of any official rules to such offers or promotions.

Membership Types

Knockout Performance offers either *unlimited* membership (which allow access to unlimited group classes) or a *no-commitment agreement* (which allows access to limited number of classes month-to-month or based on package).

Purchase of Memberships

Knockout! unlimited memberships are 6-month and 12-month agreements. You may cancel the agreement within the first year by giving notice and paying a buyout fee.

The buyout fee and number of days' notice required for cancellation varies by membership:

6-month unlimited memberships: \$490 and 45 days' notice

12-month unlimited memberships: \$654 and 60 days' notice

Payment Of Membership Fees. All payments to **Knockout Performance** are final and can be made by one of the following options:

Payment in Full: Under this option, payment is based on membership level

Monthly Automatic Draft Payment: Under this option, payment is based on membership level.

Should client select the Monthly Draft Payment option, client agrees to pay the then-current monthly Membership Fee, plus applicable taxes, each month thereafter through automatic withdrawals from an account maintained by client in a financial institution, pursuant to a debit authorization form signed by Client.

Purchase of Class & Personal Training Packs

All studio class (packs and month-to-month) are nonrefundable as are all Personal training packs. Month-to-month and packs expire, and future prices are subject to change. Note that purchases may be processed by third-party vendors. All packs are NOT for resale. Any person, site or service deemed to be reselling class and or personal training credits will forfeit all credits and no refund shall be given. Knockout! reserves the right to ban any person and or entity deemed to have violated the aforementioned and sole determination of such violation is at the complete discretion of Knockout Performance and its affiliates.

Term

All memberships of **Knockout Performance** are either 6-month or 12-month and payments are due in advance, on the 1st of the month. Automatic drafts will not be cancelled without written notice, either by certified mail, hand-delivery to the management of **Knockout Performance**, or by electronic means (*i.e.*, email). No refunds will apply.

Default/Remedies

Any monthly payment received more than ten (10) days after the due date shall be subject to a late charge of ten percent (10%) of the amount due or Twenty Dollars (\$20.00), whichever is greater.

To cancel your membership, either talk to a *Client Relations Associate* at Knockout Performance studio or send a certified letter to:

Knockout Member Services
145 Kenilworth Pl #CA-CF
Brooklyn, NY 11210

No other means of cancellation (including by phone or verbal) are acceptable. If you have any billing questions, please email us at admin@knockoutbk.com.

When will I be billed?

The credit or debit card you provided when you joined will be charged on the 1st of each month. This will pay for each month's membership dues. **Knockout Performance does not accept American Express Cards.**

Book a Bag

In order to book a bag, you must first purchase a membership, month-to-month access, or a multiple class pack. Bag reservations can be canceled with 8 hours to retain the class credit. Cancellations made less than 8 hours before the start of class will forfeit one class credit. Clients with unlimited membership options who fail to cancel within 8 hours and/or fail to show for class on two (2) occasions within any given month will be charged the per class fee based on their membership level after the second absence. For all reservations, we ask that you sign in no later than six minutes before the class begins, after that point we'll have to release your bag, so walk-ins can take the class. If there are open bags, you can join the class. If you are running late, call the front desk and we'll hold your bag for up to eight minutes after the class begins. After that, it becomes unsafe and disruptive to the other clients.

Links and External Materials

The Site or users of the Site may provide links to other websites or resources. You acknowledge and agree that Knockout! does not endorse and is not responsible for any content, advertising, products, services or other materials on or available through such sites or resources ("External Materials"). These sites are subject to different terms of use and privacy policies, which you are responsible for reviewing. You further acknowledge and agree

that Knockout Performance shall not be liable for any damage or loss caused by or resulting from use of or reliance on any External Materials.

Modifications to the Site

Knockout Performance reserves the right at any time to modify or discontinue, temporarily or permanently, the Site (or any portion thereof) with or without notice. You agree that Knockout! shall not be liable to you or any third party for any modification, suspension or discontinuance of the Site (or any portion thereof).

Indemnification

You agree to indemnify and hold Knockout Performance its agents, affiliates, parent and subsidiary companies, partners, licensors, contractors, unaffiliated third parties, and all of its and their respective officers, directors, owners and employees (collectively, "Releasees") harmless from and against any claim, demand, loss, damage, cost, liability and expense, including reasonable attorneys' fees, resulting from or arising out of your: (a) access to or use of the Site; (b) violation of the Terms of Use or any law or regulation; or (c) violation of any rights of another party.

DISCLAIMER OF WARRANTIES

The use of the Site or the Contents is at your own risk. The Contents in this Site could include technical inaccuracies or typographical errors. Knockout! may make changes or improvements at any time.

THE CONTENTS AND SERVICES ON THIS SITE ARE PROVIDED "AS IS" AND WITHOUT WARRANTIES, REPRESENTATIONS OR CONDITIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED. TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, Knockout! DISCLAIMS ALL WARRANTIES, REPRESENTATIONS AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED OR ARISING FROM STATUTE, COURSE OF DEALING, USAGE OF TRADE OR OTHERWISE, INCLUDING, BUT, NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. Knockout! DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS THAT THE USE OF THE SITE WILL BE UNINTERRUPTED OR ERROR FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THIS SITE OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. KNOCKOUT! DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OF OR THE RESULT OF THE USE OF THE CONTENTS IN THIS SITE IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE. YOU (AND NOT KNOCKOUT!) ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION.

LIMITATION OF LIABILITY

YOU AGREE TO RELEASE KNOCKOUT PERFORMANCE, ITS AGENTS, AFFILIATES, PARENT AND SUBSIDIARY COMPANIES, PARTNERS, CONTRACTORS, UNAFFILIATED THIRD PARTIES, AND ALL OF ITS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, OWNERS AND EMPLOYEES (COLLECTIVELY, "RELEASEES") FROM ANY AND ALL LIABILITY, WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER LEGAL THEORY, FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING (WITHOUT LIMITATION) DAMAGES FOR LOSS OF ANTICIPATED PROFITS OR REVENUE OR OTHER ECONOMIC LOSS THAT RESULTS OR ARISES FROM ANY USE OR INABILITY TO USE THE SITE OR ITS CONTENTS, OR THAT RESULTS OR ARISES FROM ANY ACT OR OMISSION BY THE RELEASEES IN FULFILLMENT OF OR IN BREACH OF THESE TERMS OF USE OR THE PRIVACY POLICY. IN NO EVENT SHALL THE RELEASEES' TOTAL LIABILITY TO YOU FOR ALL CLAIMS ARISING FROM OR RELATING TO THE TERMS OF USE OR YOUR ACCESS TO OR USE OF THE SITE OR CONTENTS EXCEED THE GREATER

OF US\$50 OR THE AMOUNT (IF ANY) PAID DIRECTLY BY YOU TO KNOCKOUT! FOR THE PURCHASE OF ANY PRODUCTS OR SERVICES FROM KNOCKOUT! IN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH ANY SUCH CLAIM AROSE.

Governing Law

The Terms of Use shall be governed by and construed and enforced in accordance with the United States Federal Arbitration Act, other applicable federal laws and the laws of the State of New York, without regard to conflict of laws principles.

BINDING ARBITRATION AND CLASS ACTION WAIVER

ANY DISPUTE OR CLAIM RELATING IN ANY WAY TO THE TERMS OF USE OR YOUR ACCESS TO OR USE OF THE SITE, INCLUDING, BUT NOT LIMITED TO, THE VALIDITY, APPLICABILITY OR INTERPRETATION OF THE TERMS OF USE, SHALL BE RESOLVED BY BINDING ARBITRATION RATHER THAN IN COURT, EXCEPT THAT YOU MAY ASSERT CLAIMS IN SMALL CLAIMS COURT IF YOUR CLAIMS QUALIFY. THERE IS NO JUDGE OR JURY IN ARBITRATION, AND COURT REVIEW OF AN ARBITRATION AWARD IS LIMITED.

The arbitration will be conducted by the American Arbitration Association (AAA) under its then-applicable rules, including (as appropriate) its Supplementary Procedures for Consumer-Related Disputes. The AAA's rules are available at <http://www.adr.org/>. Payment of all filing, administration and arbitrator fees will be governed by the AAA's rules.

The arbitration shall be conducted in the English language by a single independent and neutral arbitrator. For any hearing conducted in person as part of the arbitration, you agree that the hearing will be conducted in the New York County, New York or the city within the United States in which you reside. The decision of the arbitrator shall be final and binding. Judgment on the arbitral award may be entered in any court of competent jurisdiction.

WE EACH AGREE THAT ANY DISPUTE RESOLUTION PROCEEDINGS RELATING IN ANY WAY TO THE TERMS OF USE OR YOUR ACCESS TO OR USE OF THE SITE WILL BE CONDUCTED ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS, CONSOLIDATED OR REPRESENTATIVE ACTION. IF FOR ANY REASON A CLAIM PROCEEDS IN COURT RATHER THAN IN ARBITRATION, WE EACH WAIVE ANY RIGHT TO A JURY TRIAL AND AGREE THAT SUCH CLAIM SHALL BE BROUGHT ONLY IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK OR, IF FEDERAL JURISDICTION IS NOT AVAILABLE, IN A COURT OF COMPETENT JURISDICTION IN NEW YORK COUNTY, NEW YORK. YOU HEREBY SUBMIT TO THE PERSONAL JURISDICTION AND VENUE OF SUCH COURTS AND WAIVE ANY OBJECTION ON THE GROUNDS OF VENUE, FORUM NON-CONVENIENS OR ANY SIMILAR GROUNDS WITH RESPECT TO ANY SUCH PROCEEDING.

Notwithstanding anything to the contrary, you and Knockout! may seek injunctive relief and any other equitable remedies from any court of competent jurisdiction to protect our intellectual property rights, whether in aid of, pending or independently of the resolution of any dispute pursuant to the arbitration procedures set forth above.

General

Except as expressly provided in a particular notice or disclaimer posted by or on behalf of Knockout! on this Site, these Terms of Use, and Privacy Policy, constitute the entire agreement between you and Knockout! with respect to the access to and use of the Site and Contents. The Terms of Use supersedes all prior or contemporaneous oral or written negotiations and agreements between you and Knockout! with respect to such subject matter. The failure of Knockout Performance to exercise or enforce any right or provision of the Terms of Use shall not constitute a waiver of such right or provision. If any provision of the Terms of Use is held to be invalid or unenforceable under applicable law, then such provision shall be construed, limited, modified or, if necessary, severed to the extent necessary to eliminate its invalidity or unenforceability, without in any way affecting the remaining parts of the Terms of Use.

Knockout Performance makes no claims that the Contents are appropriate or may be downloaded outside of the United States of America. Access to the Contents by certain persons in certain countries may not be legal. If you access the Site from outside the United States, you do so at your own risk and are responsible for compliance with the laws of your jurisdiction.

Any provision that, by its terms, is intended to survive the expiration or termination of the Terms of Use shall survive such expiration or termination for any reason whatsoever including, but not limited to, Binding Arbitration and Class Action Waiver, Disclaimer of Warranties, Limitation of Liability, Indemnification, General, Use Restrictions, Governing Law, Links and External Materials and Modifications to the Site.

Privacy Policy

Revised November_1_,2017

This website ("Site") is owned and operated by Knockout Performance LLC ("Knockout Performance," "we," "us" or "our"). This Privacy Policy describes how Knockout Performance may use, disclose and protect information collected through your access to and use of the Site.

1. CONSENT

By accessing or using the Site, you consent to the collection, use, disclosure, storage and processing of your information and other information received by Knockout Performance in accordance with this Privacy Policy, the Terms of Use, and as permitted or required by applicable law.

2. HOW WE COLLECT AND USE INFORMATION

- a. Information That You Provide Directly. We may ask for certain information such as your name, postal address, email address, telephone number, password and other information. We may retain any messages you send through the Site, and we may also retain other information you voluntarily provide to us. We use this information to operate, maintain and provide to you the features and functionality of the Site, and as further detailed below.
- b. Information Collected or Received From Third Parties. We may receive information about you from third parties. You should always review and, if necessary, adjust your privacy settings on third-party services before linking or connecting them to the Site. We may also collect information about you from our third-party business associates, such as Clubworx Pty Ltd (Clubworx), our class booking service provider, and publicly-available sources. Please be aware that Clubworx's collection, processing, use and disclosure of information is subject to its privacy policy at <https://www.clubworx.com/clubworx-privacy-policy/>
- c. Analytics information. We may collect, measure and analyze traffic and usage trends for the Site, and we may use third-party analytics tools to help us ("Analytics Tools"). This allows us to understand, among other things, who is using the Site, how they are using it, and ways to improve the Site. Analytics Tools may use cookies and persistent device identifiers to collect and store information such as time of visit, pages visited, time spent on each page, IP address, and type of operating system used.
- d. Cookies. When you visit the Site, we may send one or more cookies (small text files containing a string of alphanumeric characters) to your computer that uniquely identify your browser and enhance your navigation on the Site. A cookie may also convey information to us about how you use the Site (e.g., the pages you view, the links you click and other actions you take), and allow us or our third-party business associates to track your usage of the Site. There are at least two different types of cookies: persistent and session cookies. A persistent cookie remains on your hard drive after you close your browser. Persistent cookies may be used by your browser on subsequent visits to the Site. Persistent cookies can be removed by following your web browser's directions for removal of cookies. A session cookie is temporary and disappears after you close your browser. You can reset your web browser to refuse all cookies or to notify you

when a cookie is being sent. However, some features of the Site may not function properly if cookies are disabled.

- e. Log File. Log file information is automatically reported by your browser each time you access a web page. When you access or use the Site, our servers may automatically record certain log file information, such as your web request, Internet Protocol address, browser type, referring/exit pages and URLs, number of clicks and how you interact with links on the Site, domain names, landing pages, and pages viewed.
- f. Clear GIFs/Web Beacons. Clear GIFs (also known as web beacons) allow for the tracking of a user's response to an email or usage of a website in a manner that does not reveal personally identifiable information. We may use clear GIFs or similar technologies to assess responses to emails and usage of the Site. For example, we may use clear GIFs to track when emails are opened, and which links are clicked by recipients. You can disable the ability of clear GIFs to capture information by blocking cookies.
- g. Device Identifiers. When you access or use the Site using a mobile device, we may access, collect, monitor and/or remotely store one or more "device identifiers," such as a universally unique identifier ("UUID"). Device identifiers are small data files or similar data structures stored on or associated with your device that uniquely identify your device. A device identifier may consist of data stored in connection with the device hardware, operating system or other software, or data sent to the device by us. A device identifier may convey information to us about how you browse and use the Site. A device identifier may remain persistently on your device to enhance your navigation on the Site. Some features of the Site may not function properly if use or availability of device identifiers is impaired or disabled.
- h. Advertising Identifiers. Advertising identifiers are unique strings associated with your mobile device that are provided by the operating system. Advertising identifiers may be modified or disabled by users in the operating system's settings.
- i. Location Data. When you access or use the Site using a mobile device, we may access, collect, monitor and/or remotely store "location data," which may include GPS coordinates (e.g. latitude and/or longitude) or similar information regarding the location of your device. Location data may convey to us information about how you browse and use the Site. Some features of the site, particularly location-based services, may not function properly if use or availability of location data is impaired or disabled.
- j. Commercial Communications. We may use the information we collect or receive to communicate directly with you. For example, we may use the information to send you emails containing newsletters, promotions and special offers. We may also use the information to send you service-related notices (e.g., account verification, technical and security notices).
- k. Use of Certain Service-Type Information. We may use information from cookies, log files, device identifiers, location data and clear GIFs to: (i) remember information so that you will not have to re-enter it during your visit or the next time you visit the site; (ii) provide custom, personalized content or information; (iii) monitor the effectiveness of the Site; (iv) monitor aggregate metrics, such as total number of visitors, traffic and demographic patterns; (v) diagnose or fix technology

problems; (vi) provide advertising to your browser or device; and (vii) conduct research or surveys.

- I. Use of Information with Your Consent. We may use your information for any other purpose for which you provide consent.
- m. Combining Information. We may combine any of the information we collect from or about you, from one or multiple sources, and use it in the manner described in this Privacy Policy.

3. HOW WE MAY SHARE YOUR INFORMATION

- a. Business Associates and Service Providers. We may share information about you with third-party business associates and service providers that perform services on our behalf in connection with the Site, such as our class booking service provider, Clubworx. We may also share information about you with any of our subsidiaries or affiliates for purposes consistent with this Privacy Policy.
- b. Business Change. If we become involved in a merger, consolidation, acquisition, sale of assets, joint venture, securities offering, bankruptcy, reorganization, liquidation, dissolution or other transaction, or if the ownership of all or substantially all of our business otherwise changes, we may share or transfer your information to a third party or parties in connection with such transaction or change in ownership.
- c. Necessary Disclosure: Regardless of the choices you make regarding your information and to the extent permitted or required by applicable law, we may disclose information about you to third parties to: (i) enforce or apply the Terms of Use, this Privacy Policy or any applicable end user license agreement; (ii) comply with laws, subpoenas, warrants, court orders, legal processes or requests of government or law enforcement officials; (iii) protect our rights, reputation, safety or property, or that of our users or others; (iv) protect against legal liability; (v) establish or exercise our rights to defend against legal claims; or (vi) investigate, prevent or take action regarding known or suspected illegal activities; fraud; our rights, reputation, safety or property, or those of our users or others; violation of the Terms of Use, our policies or agreements; or as otherwise required by law.
- d. Sharing Information. We may share certain service-type information, including information obtained through tools such as cookies, log files, device identifiers, location data and clear GIFs (such as anonymous usage data, referring/exit pages and URLs, platform types, number of clicks, etc.) with our third-party business associates for the purposes described in the section titled "How We Collect and Use Information." We may also aggregate or otherwise strip data of all personally identifying characteristics and may share that aggregated, anonymized data with third parties.

4. HOW WE PROTECT YOUR INFORMATION

We take physical, technological and administrative measures to protect the information you provide through the Site against loss, theft, and unauthorized access, use, disclosure or modification. However, we cannot ensure or warrant the security of any information you transmit to us or guarantee that information on the Site may not be accessed, disclosed, altered or destroyed. Email sent to or from the

Site may not be secure. You should use caution whenever submitting information online and take special care in deciding what information you send to us via email.

5. **YOUR CHOICES ABOUT YOUR INFORMATION**

- a. Controlling Your Settings. You can limit your browser or mobile device from providing certain information by adjusting the settings in the browser, operating system or device. Please consult the documentation for the applicable browser, operating system or device for the controls available to you. You can also stop receiving promotional emails from us by following the unsubscribe instructions in those emails. Note that unsubscribe is not available for certain emails concerning your relationship or dealings with us.
- b. Do Not Track. At this time, we do not recognize “do not track” signals sent from web browsers. Third-party services that we use may collect personal information about individual users and their activities over time and across different websites. In some cases, you may be able to disable tracking mechanisms, but doing so may disable certain features of the Site. To disable tracking, please consult the documentation for your browser, operating system or mobile device. For some devices, it may not be possible to disable tracking mechanisms.

6. **HOW LONG WE KEEP YOUR INFORMATION**

We will retain your information as long as necessary for the purposes outlined in this Privacy Policy, and for a commercially reasonable time thereafter for backup, archival, fraud prevention or detection, or audit purposes, or as otherwise required by law.

7. **CHILDREN'S PRIVACY**

The Site is not directed to children and is intended for use by adults only. We do not knowingly collect personal information from individuals under 13 years of age. If you are under the age of 13, please do not submit any personal information through the Site.

8. **THIRD-PARTY SITES AND SERVICES**

The Site may reference or provide links to other websites or resources. If you access any website or resources provided by a third party, our Privacy Policy will not apply. Your interactions with such websites and resources are subject to the privacy policies of the third parties that operate them. Please review those policies carefully to understand how those parties will treat your information.

9. **UPDATES TO THIS PRIVACY POLICY**

We may update this policy from time to time, and the updated version of this policy will be effective upon posting. Please check this page to review the most up-to-date version of this policy. By continuing to use the Site after an updated version has been posted, you agree that the new policy will apply to you.