TERMS OF SERVICE

Welcome to ClubReady!

These Terms of Service ("**Terms**"), together with your Service Order and other Addenda, form a legally-binding "**Agreement**" between you, our subscriber ("**you**" or "**your**"), and ClubReady, LLC (together with our affiliates, subsidiaries, successors and assigns, "**ClubReady**," "**we**," "**us**" or "**our**"). Please read these Terms carefully.

BY SIGNING A SERVICE ORDER, BY CLICKING "I ACCEPT" (OR SIMILAR WORDING) TO THESE TERMS OR A SERVICE ORDER, BY ACCESSING OR USING THE CLUBREADY SYSTEM, OR BY ACCEPTING THE BENEFITS OF OUR SERVICES, YOU ACCEPT THESE TERMS ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT. YOU REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, AUTHORITY AND CAPACITY TO ACCEPT THE AGREEMENT ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT (AND ITS AFFILIATES). IF YOU DO NOT AGREE TO BE BOUND BY THESE TERMS, YOU WILL NOT BE ALLOWED TO USE THE SERVICES OR ACCESS THE CLUBREADY SYSTEM.

1. DEFINED TERMS. The definitions below will help you better understand the Agreement. Bolded terms not defined below will have the meanings set forth elsewhere in the Agreement.

"Addendum" or **"Addenda"** means any document(s) which provide new or supplemental terms to the Agreement. Addenda include, but are not limited to, the Sub-Merchant Agreement, Service Level Agreement, Terms for Add-On Services, or a schedule, exhibit, appendix or amendment to the Agreement.

"Affiliate" or "**Affiliates**" mean(s) any entity that directly or indirectly controls, or is controlled by, or is under common control with a party. "Control" means control of greater than 50% of the voting rights or equity interests of a party.

"Cardholder Data" means the information relating to an End User's bankcard. Cardholder Data includes the cardholder's name, billing address, credit card number, card expiration data and CVV code.

"ClubReady System" means ClubReady's proprietary technologies commonly known as "ClubReady." The ClubReady System includes (a) the hosted club-management software platform and related add-ons, components, hardware, mobile applications, functionalities, modules and features (the "**Platform**"); (b) ClubReady's websites (including www.clubready.club and www.ikizmet.com) (each, a "**Site**"); and (c) all documentation associated with the ClubReady System, including manuals, guides, FAQs, written policies and training materials (collectively, "**Documentation**").

"**Confidential Information**" means information that one party or its Affiliate ("**Disclosing Party**") discloses to the other party ("**Receiving Party**") under the Agreement, and that is marked as confidential or would normally be considered confidential under the circumstances. All information provided by us to you with respect to the ClubReady System, and the terms and conditions of the Agreement (including the pricing that we have offered to you), will be deemed Confidential Information of ClubReady without any marking or further designation. Subscriber Data will be considered

Confidential Information of Subscriber without any marking or further designation. Confidential information does not include information that is independently developed by the Receiving Party, is shared with the Receiving Party by a third party without confidentiality obligations or is or becomes public through no fault of the Receiving Party.

"End User Agreements" or **"EUAs"** mean(s) the contract(s) entered into by a Subscriber's End Users. Examples of End User Agreements include membership agreements, personal training services agreements, and agreements for group or functional training services.

"End User" or "**End Users**" are the individuals that a Subscriber authorizes to use the Services and access the ClubReady System through the End User's own ClubReady account. End Users are the members, customers or clients who purchase your products and services.

"End User Data" means the data in the ClubReady System related to a particular End User.

"Exit File" means the encrypted computer file containing Subscriber Data as tied to a particular club or studio location owned or controlled by a Subscriber.

"**Fees**" mean all fees, charges and other amounts associated with our Services or permitted by the Agreement. Fees could include fees for software, Payment Services, Professional Services, or any other fee, charge, tax or amount permitted by the Agreement. Fees are described in the Service Order and may be charged on a one-time or recurring basis.

"**Hardware**" means the computer equipment, point-of-sale terminals, or other technical hardware distributed by us or a reseller on our behalf. Hardware may contain firmware or software.

"**Initial Term**" means your initial term for Services. The Initial Term is described in the Service Order.

"**Intellectual Property Rights**" means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, moral rights, rights in Confidential Information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

"Payment Services" mean our payment and billing-related services, whether provided on a "fully-managed" or "club-managed" basis. "**Fully Managed**" mean ClubReady is acting as the payment facilitator and proving Payment Services to Subscriber as a sub-merchant to ClubReady's primary merchant account. "**Club-Managed**" means the Subscriber is receiving Payment Services through its own, or a third party's, primary merchant account.

"Presale" means the sale of products or services to End Users before a Subscriber officially opens its club or studio for business.

"**Professional Services"** mean professional services provided by ClubReady outside the scope of Services described in the Service Order. Professional Services may include, but are not limited to, business consulting, technical support, custom development, and supplemental or onsite training.

"Service Order" means the order form executed by Subscriber, or Subscriber's Affiliate, and ClubReady specifying the Services to be provided under the Agreement, the Fees associated with Services, and any supplemental terms, as applicable.

"Services" mean the products and services that ClubReady agrees to provide to you as described in the Service Order.

"Sub-Merchant Agreement" means the agreement that governs ClubReady's provision of Payment Services. The Sub-Merchant Agreement is comprised of the Sub-Merchant Application and Agreement ("SMAA") and the Payment Terms and Conditions.

"Subscriber" means the ClubReady client or customer that has contracted to receive Services. The Subscriber is identified in the Service Order and includes Subscriber's Affiliates.

"Subscriber Data" is the content, information and other data entered into the ClubReady System by a Subscriber and Subscriber's End Users. Subscriber Data is typically tied to a particular Subscriber club or studio location in the ClubReady System. Subscriber Data includes End User Data (which, in turn, may also include Cardholder Data).

"Renewal Term(s)" mean(s) one or more periods immediately following the expiration of the Initial Term, or any Renewal Term. The Renewal Term is described in the Service Order.

"Team" means our employees, officers, directors, owners, attorneys (both internal and external), agents and representatives.

"Term" means the term of the Agreement and includes both the Initial Term and any Renewal Terms.

2. ELIGIBILITY. To access the ClubReady System and to be eligible to use Services, you must: (a) be at least 18 years old and able to enter into contracts; (b) consent to these Terms; and (c) provide true, complete and up-to-date contact and billing information. If you access the ClubReady System or use Services, you acknowledge that you have met these eligibility requirements.

3. CLUBREADY SERVICES.

3.1 Licensed Rights. We will provide you with the products and services specified in the Service Order and will make Subscriber Data available to you in the ClubReady System in accordance with the terms of the Agreement, including, without limitation, these Terms, your Service Order, and any applicable Addenda. Beginning on the Effective Date (or such other Service start date as specified in the Service Order), and subject to your timely payment of Fees and remaining in compliance with the Agreement, we grant you a limited term, non-exclusive, non-transferrable, non-assignable license to use Services, including permitted access to the ClubReady System, during the Term solely for the lawful operation of your business. The licensed rights described herein shall be limited to your authorized account administrators and staff members, and authorized End Users associated with your club or studio

location who have a legitimate right to access and use your products and services. These licensed rights do not constitute a sale and do not convey to you or any third party any right of owner in or to the Services, the ClubReady System, or any of our Intellectual Property Rights. All rights not specifically granted under the Agreement are expressly reserved.

3.2 Customer Support. As part of Services, we will provide to you, at no additional charge, our standard customer support. Additional details about our customer support may be described in our Documentation, as revised from time to time. You may contact our Customer Support team by email, live chat, or voicemail. Core support hours are Monday through Friday, 8:00 am CST to 7:00 pm CST. Core support is defined as our complete suite of support services (i.e., escalation teams, phone calls scheduled and/or returned, remote support sessions). Extended support hours for live chat are Monday through Friday, 6 AM CST to 9 PM CST, and Saturday and Sunday, 8:00 am CST to 5:00 pm CST. Customers may leave a voice message for support at (800) 405-4818. Return phone calls can be requested via chat or ticket during regular support hours. Phone support (callbacks or scheduled calls) is provided Monday through Friday, 8:00 am CST to 7:00 pm CST. Customer support via email, at support@clubready.com, is available 24/7; we will respond to your customer support requests within 48 hours. All times listed are subject to change, in our sole discretion. Support hours may be different for subscribers receiving Add-On Services only. Standard customer support does not include any onsite training, technical troubleshooting, system administration, data manipulation, configuration projects, custom development work, or EUA preparation, drafting or mapping.

3.2 Professional Services. Unless documented as an Addendum to the Agreement or included in the Service Order, our Professional Services will require and be subject to a separate Statement of Work. The Statement of Work defines the scope of Professional Services and any related terms. An engagement for Professional Services will be considered separate from Services provided under the Agreement; provided, however, that we may consider the fees associated with Professional Services to be part of the Fees covered by the Agreement. Professional Services include, without limitation, any request for custom development work. We reserve the right to decline any specific request for Professional Services. During the course of our business relationship with you, any information, recommendations, best practices or advice that we might share with you should be considered for informational purposes only and shall not be considered as legal, tax and accounting advice.

3.3 Payment Services. If you are receiving fully-managed Payment Services from us, we require that you pass risk underwriting and enter int a separate Sub-Merchant Agreement for specific Payment Services. The Sub-Merchant Agreement will be considered an Addendum to the Agreement. If you are receiving club-managed Payment Services, your Payment Services will be provided through a third party payments company that may have an integration with the ClubReady System. We consider club-managed Payment Services to be Third Party Services for which we are not liable.

3.4 Add-On Services. Any products or services that you may add to your Service Order after the Effective Date ("**Add-On Services**") will also be subject to these Terms and any supplemental terms and conditions included in an Addendum related to such Add-On Services. Add-On Services could include, but are not limited to, performance and data tracking (Performance IQ™), business intelligence (iKizmet™) advanced business automation, gift cards and staffing support (Aurora™).

3.5 Training; Set-Up. As part of our Services, we offer your staff a basic training in the use of the ClubReady System. This basic training is included at no additional charge and includes: (a) set-up and

provisioning of your Services; (b) access to an online library of training resources and instructional videos, all of which can be accessed through the ClubReady System; and (c) a virtual foundations training for you and your staff in the basic features and functionalities of the ClubReady System. In addition to this basic training, we publish new or recurring training focused on a particular use of the ClubReady System. We may, in our discretion, offer on-site or supplemental training at an additional cost (normally a day or hourly rate). If we provide additional training on-site (at your business location), then in addition to the cost of training you will also be responsible for our costs of travel, including transportation and lodging. Additional terms and conditions for on-site or supplemental training may apply.

3.6 Third-Party Services. We may, from time to time, make available certain features or functionalities that allow you to integrate with or use the Services with products or services offered and provided by third parties (i.e., third parties with no affiliation to ClubReady) (collectively, "**Third-Party Services**"). ALL THIRD-PARTY SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT ANY WARRANTY OF ANY KIND. WE DISCLAIM ALL OBLIGATION AND LIABILITY UNDER THE AGREEMENT FOR ANY HARM OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH THIRD PARTY SERVICES, INCLUDING THE LOSS OF SUBSCRIBER DATA ARISING FROM OR RELATED TO THIRD-PARTY SERVICES.

3.7 Gift Cards. While the ClubReady System supports the use of gift cards as a form of payment, you are ultimately responsible for the procedures and legalities of the gift card program offered at your club or studio. You are responsible for the development, production and distribution of all documents, terms and procedures necessary to administer gift cards at your business location. This responsibility may include, but is not limited to, handling the amounts loaded onto gift cards, depositing amounts loaded onto gift cards into escrow or a separate account, or handling amounts loaded onto gift cards that may constitute unclaimed, abandoned or similar property. We grant you a limited, non-exclusive, non-transferable, non-assignable, non-sublicensable, revocable license to access and use features and functionalities of the ClubReady System which support the use of gift cards for your own internal business purposes and subject to any and all limitations imposed by us. Additional gift card terms and conditions apply, see Gift Card Addendum.

3.8 Beta Services. We may, from time to time, offer services identified as beta, pilot, developer preview, evaluation or by a similar description (**"Beta Services"**). We will never force you to use Beta Services; it will always be your choice. Beta Services are provided only for non-production, evaluation purposes. We may discontinue Beta Services at any time in our sole discretion and may never make Beta Services generally available. ALL BETA SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT ANY WARRANTY OF ANY KIND. WE DISCLAIM ALL OBLIGATION AND LIABILITY UNDER THE AGREEMENT FOR ANY HARM OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH A BETA SERVICE. ANY CONFIGURATIONS OR SUBSCRIBER DATA ENTERED INTO BETA SERVICES, AND ANY CUSTOMIZATIONS MADE TO BETA SERVICES MAY BE PERMANENTLY LOST.

3.9 API Integration. Access to or use of the ClubReady API platform ("**ClubReady APIs**") will be subject to ClubReady's API Terms of Use. If you access Third Party Services through the ClubReady APIs, we reserve the right to charge you a monthly API Use Fee as described in the Service Order.

4. SUBSCRIBER OBLIGATIONS.

4.1 Club Site; Account Management. With respect to your unique club site and associated ClubReady account, you agree to keep your access credentials (such as passwords, API keys or other information required to access Services) secure and confidential. You must immediately notify us of any unauthorized use (or suspected unauthorized use) of your access credentials. You are solely responsible for all activity on your ClubReady account including, without limitation, the acts or omissions of employees, staff or End Users associated with your club or studio. Your access credentials to your ClubReady account will remain our property and may be revoked if you share them with any third party (other than as permitted by these Terms), if they are compromised, if your Franchisor (as applicable) requires that we revoke them, or if you violate the Agreement or applicable law, as we reasonably determine.

4.2 Prohibited Use. You will not, and will not allow End Users associated with your club or studio to, access the ClubReady System or use our Services: (a) in violation of applicable law including, without limitation, the CAN-SPAM Act, the Telephone Consumer Protection Act, the Do-Not-Call Implementation Act, state health club or health spa statutes, or consumer protection statutes; (b) to intentionally bypass a security mechanism in the ClubReady System; (c) to reverse-engineer the ClubReady System, or any component thereof, regardless of the reason why; (d) in a way that adversely impacts the availability, reliability or stability of the ClubReady System, or any component thereof; (e) to intentionally transmit material using the ClubReady System which contains viruses, Trojan horses, worms or some other harmful computer program; (f) to send unsolicited advertising, marketing or promotional materials by SMS/text without first obtaining the recipient's legally-valid consent; (g) to harvest information about others, including their email addresses, credit card information or phone number; (h) to commit fraud; (i) to transmit material that infringes on the intellectual property right of others; (j) to transmit material that is harassing, discriminatory, defamatory, vulgar, pornographic, or harmful to others; or (k) in violation of this Agreement. Engaging in the prohibited use of our Services may result in immediate suspension of Services or termination of the Agreement. In extreme cases, violation may result in civil damages or criminal punishment.

4.3 End User Agreements. You are solely responsible for the content of your own EUAs, even if a member of our Team helps you write them, provides guidance or other information related to state law compliance, or uploads or maps your EUAs in the ClubReady System. Most states have specific legal and regulatory requirements that apply to operation of a fitness business including, without limitation, requirements related to specific wording or provisions that must be included in a health club or fitness studio contract. Failure to comply with these legal or regulatory requirements could have serious legal and/or financial repercussions. We strongly recommend that you speak with an attorney licensed in the jurisdiction where your club or studio operates for appropriate guidance about how to prepare your EUAs. We expressly disclaim any and all liability associated with your EUAs, and you hereby grant us a general release from any such liability. You further agree to defend, indemnify and hold ClubReady and its Team harmless from and against any third-party claims or liability arising under or related to your EUAs.

4.4 Technical Equipment; Hardware; Minimum System Requirements. You are solely responsible for setting up, maintaining and paying for your own technical equipment and Hardware needed to use and operate the Services. Technical equipment and Hardware may include, but is not limited to, your internet connection, modems, payment terminals, peripherals, tablets, mobile devices and/or workstations, and any third-party services related to such technical equipment and Hardware. We

consider technical equipment and/or Hardware to be part of Third-Party Services for which we are not liable.

4.5 Business Closure or Transfer. You are solely responsible for letting us know in advance of your intention to close your club or studio, or transfer ownership of the business to another party. In either event, you must let us know as soon as possible, but in no event less than 30 days prior to closure or your transfer of ownership to another party. If you plan to close the club or studio, you must immediately discontinue your sale of products or services at the business location (whether prepaid or recurring). If you plan to transfer ownership, you must provide us relevant details about the transferee by completing our Transfer Authorization Form ("**TAF**") or similar documentation. We reserve the right to deny Services to the transferee for any reason or require the transferee to enter into a separate agreement with us for the continuation of Services at the club or studio.

4.6 Change in Management Control. You must let us know in advance of any changes in control for Subscriber. You must let us know as soon as possible, but in no event less than 30 days prior to a change in control. A "change in control" means any change in Subscriber control where 50% or more of the equity interest in the business is transferred to another party. We may consider your failure to promptly disclose changes in management control to be a material breach of the Agreement.

4.7 Presale. You must let us know in advance about your plans to run a Presale at your club or studio. We reserve the right to deny Payment Services, if applicable, during any Presale period. We may request that you provide us with proof-of-concept, or similar documentation in a form reasonably acceptable to us, to demonstrate your ability to open the club or studio for business. If Services during Presale are allowed, we reserve the right to hold Presale funds in escrow for the duration of the Presale period, unless such practice is prohibited by applicable state law.

4.8 SMS Marketing. By using our standard or premium SMS marketing module, you represent and warrant that any recipient of promotional SMS sent by you via the ClubReady System has provided their prior express written consent to such communications, as "prior express written consent" is defined by the Telephone Consumer Protection Act and its implementing regulations adopted by the Federal Communications Commission (collectively, the "**TCPA**"). ClubReady makes no claim that the ClubReady System will not be considered an autodialer or automated telephone dialing system within the meaning of the TCPA. You will be solely responsible for the content of any promotional SMS that you sent to End Users via the ClubReady System and will honor all requests by End Users (or any individual who is the intended recipient of a promotional SMS) to opt-out from such communications, or revoke their consent, where prior express written consent had previously been provided. You can update the communication preferences for all End Users associated with your club or studio through your ClubReady account by selecting the End User and opting them out from future promotional SMS communications. Because promotional SMS are transmitted through the ClubReady System via major telecommunications companies and mobile network operators, ClubReady is not responsible for, and cannot guarantee, the successful or timely transmission of any SMS communication to an intended recipient. ClubReady, as a neutral host and the provider of a technology platform, shall have no obligation to screen, review or edit promotional SMS sent by you using the Platform. ClubReady shall not be liable to you or any party for or in connection with your use of the SMS marketing module, and you will defend, indemnify hold ClubReady harmless for any loss, liability or claim (including, without limitation, attorneys' fees and court costs) related to or arising out of your use of the SMS marketing module.

4.9 Collections. ClubReady does not offer or provide collection services. You may seek collection services through a third-party firm of your choosing. We reserve the right to deny any third-party firm from integrating with the ClubReady System. We expressly disclaim all liability for collection activities associated with your club or studio including, without limitation, violation of the Fair Debt Collections Practices Act. We consider collections to be part of Third-Party Services for which we are not liable.

4.10 Past Due Communications. Past due communications ("**PDC**") is not collections but is considered a form of late-stage customer service. Unlike collections, PDC is only available on active, non-defaulted End User accounts with a valid EUA on file. It shall be your responsibility to set the default date on the EUAs associated with your club or studio and updating those settings in the ClubReady System. In the absence of clear communication from you about default terms and dates, we will set the EUA default date at 90 days without some form of End User payment on an open invoice. We consider PDC to be part of Third-Party Services for which we are not liable.

5. CHANGES

5.1 Changes to the Terms. We shall have the right to modify these Terms at any time to reflect changes in our policies, industry requirements or applicable law. We may post Minor Changes to the Site or ClubReady System without notifying you in advance. A "**Minor Change**" is any modification in the Terms that does not reduce your legal rights under the Agreement. We will, however, notify you at least 10 days in advance of any Material Change to the Terms by emailing you at the contact address associated with your ClubReady account. A "**Material Change**" is any modification in the Terms that does reduce your legal rights under the Agreement. If you object to a Material Change within 10 days of being noticed, then the Material Change will not apply to you and you will continue to be subject to the previous, unmodified version of the Terms; provided, however, that the Material Change will automatically take effect at the start of a Renewal Term. The most current version of the Terms can always be accessed at our Site.

5.2 Changes to the Service Order. During the Term of the Agreement, you may add or remove Services from the Service Order provided we consent to such expansion or reduction in Services in writing (which may be reflected in a revised Service Order, in an email, or through an invoice).

5.3 Other Changes to the Agreement. Except as described in this Section 5, no modification of the Agreement will be binding unless in writing and signed by an authorized representative of the parties.

5.4 Changes to the ClubReady System. Our goal is to continually improve the quality of our Services and the usefulness of the ClubReady System. As a result, we may from time to time update the ClubReady System or our Services to include enhancements, add new features or functionalities, or upgrade the ClubReady System (collectively, "**Enhancements**"). Whenever possible, we will provide you with advance notice of the release of any Enhancements. Unless otherwise noted in the Agreement, you will not be required to pay additional Fees for use of Enhancements.

5.5 Changes Required by Law. You acknowledge and agree that changes required by law must be made by us immediately and will not require your advance knowledge or consent.

6. TERM; TERMINATION; SUSPENSION.

6.1 Term; Automatic Renewal. The Term of the Agreement is effective from the Effective Date (or such other start date as referenced in the Service Order) until it is terminated in accordance with its terms. If no Term is described, then the Agreement will be considered month-to-month, terminable by either party with a 30-day written notice. Unless you provide us with written notice of your intent to terminate the Agreement at least 30 days prior to the expiration of the Initial Term or any Renewal Term, as applicable, then the Agreement will continue to automatically renew for successive Renewal Terms until properly terminated in accordance with its terms.

6.2 Termination for Cause. Either party may terminate this Agreement (including all related Service Orders) if the other party: (a) fails to cure any material breach of the Agreement (including a failure to pay Fees) within 30 days after written notice; (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors' arrangement, composition, or comparable proceeding, or if any such proceeding is instituted against that party and is not dismissed within 60 days. We may terminate the Agreement for cause and without penalty if, after the Effective Date, we discover that providing Services (or some part of Services) is prohibited by law or has become impractical or unfeasible due to a legal or regulatory reason. Except where an exclusive remedy is specified, the exercise of either party of any remedy under this Agreement, including termination, will be without prejudice to any other remedies it may have under this Agreement, by law or otherwise.

6.3 Suspension Rights. In addition to any of our other rights and remedies (including, without limitation, any termination rights), we reserve the right to suspend Services or your access to the ClubReady System: (a) if you are 10 days or more overdue in paying our Fees; (b) if you are, or if we have reason to believe you are, engaged in a prohibited use of the Services; (c) if you are in material breach of the Agreement; (d) if we deem the suspension necessary to protect the availability, integrity, resilience or security of the ClubReady System; or (e) as required by law, by judicial authority, or, as requested, by your franchisor (where applicable). We shall have no liability for any damages, liability, loss (including any loss of Subscriber Data or profits), or any other consequences that you may incur if we suspend Services or your access to the ClubReady System for any reason described in this Section.

6.4 Effect of Termination. Upon expiration or earlier termination of the Agreement, your licensed right to use Services and access the ClubReady System shall automatically terminate and all Subscriber Data associated with your ClubReady account may be deleted after the Retrieval Period.

6.5 Retrieval of Subscriber Data. Unless otherwise agreed, upon expiration or earlier termination of the Agreement, you will have 30 calendar days to retrieve Subscriber Data through our standard off-boarding procedures (as may be revised from time and time) and subject to your payment of our then-current Exit File fee ("**Retrieval Period**"). If you provide us with less than eight (8) days advance notice of your intention to migrate off the ClubReady System, then we reserve the right to charge an additional fee for expedited off-boarding services ("**Expedite Fees**"). Once the Retrieval Period ends, we may but shall have no obligation to keep a copy of your Subscriber Data for archival purposes at our cost.

6.6 Survival. The terms of this Section 6 and the terms of the following Sections will survive the expiration or termination of the Agreement: Sections 3.6 (Third-Party Services), 4.2 (Prohibited Use), 4.3 (End User Agreements), 7.6 (Taxes), 8 (Ownership Rights), 10 (Confidentiality), 11 (Limited Warranties), 12 (Indemnities), 13 (Limitation of Liability), 14 (Dispute Resolution), 15 (Waiver of Class or Consolidated Claims) and 17 (General Terms).

7. PAYMENT TERMS.

7.1 Fees. You agree to pay all Fees permitted by the Agreement, including those Fees described in your Service Order. You hereby provide your express authorization to automatically debit our Fees directly from the EFT/ACH draft associated with your club or studio. Otherwise, by providing us with a credit card or designated account information, you hereby provide your express authorization to charge your credit card or designated account. Fees charged are based on Services provided and not your actual usage. Unless set forth elsewhere in the Agreement, all Fees are non-refundable. We reserve the right to increase our Fees at the beginning of each Renewal Term upon at least 30 days prior written notice.

7.2 Remit Report. Fees for Services will be included in a remit report sent to you at the conclusion of each remit or billing cycle. Each remit report will itemize the amount of Fees we have collected from you for the corresponding remit/billing cycle, along with other financial information about your club or studio. If we have agreed to send you invoices, then payment is due net-30 days following your receipt of an invoice.

7.3 Late Fees; Interest. Failure to pay Fees when due will result in a $100 late charge for each instance of late payment. Unpaid balances associated with your account will continue to accrue interest at the rate of 1.5% per month or the maximum amount permitted by applicable law, whichever is less.

7.4 Fee Disputes. If you have a good faith dispute about any of our Fees, then you agree to cooperate with us in resolving the dispute, which will include paying us any undisputed portion of Fees. You agree that after 30 days from your first receipt for Fee notice (whether via remit report or invoice), our Fees will be presumed valid and you waive your right to challenge Fees.

7.6 Taxes. Our Fees are exclusive of any applicable sales tax, VAT taxes, use taxes, excise taxes, any other business and occupations taxes, and franchise fees imposed on or with respect to our Services, whether these taxes are imposed directly on you or on us (collectively, "**Taxes**"). If any Services, or payments for any Services, under the Agreement are subject to Taxes, or in any country or jurisdiction and you have not remitted the applicable Taxes to us, you will be responsible for the payment of such Taxes and any related penalties or interest to the relevant tax authority, and you will indemnify us for any liability or expense we may incur in connection with such Taxes. For purposes of this Section, "**Sales Tax**" shall mean any sales or use tax, and any other tax measured by sales proceeds, that we are permitted to pass to our Subscribers, that is the functional equivalent of a sales tax where the applicable taxing jurisdiction does not otherwise impose a sales or use tax. Taxes do not include any taxes that are imposed on or measured by our net income, property tax or payroll taxes.

8. OWNERSHIP RIGHTS.

8.1 What You Own. As between you and us, you (or your franchisor, as applicable) shall retain ownership rights in and to all Subscriber Data processed by us under the Agreement. You hereby irrevocably grant to us all rights and permissions in or relating to Subscriber Data as we determine necessary or useful to the perform the Services, to enforce these Terms or otherwise exercise our rights and perform our obligations under the Agreement. You expressly acknowledge that your End Users own the rights to their own End User Data. Notwithstanding your ownership rights in Subscriber

Data, we may collect, develop, create, extract, compile, synthesize and analyze statistics, benchmarks, measures and other information based on Aggregated Data (collectively "**Blind Data**"). Blind Data will be owned solely by us and may be used for any lawful business purpose. "**Aggregated Data**" means Subscriber Data that is: (a) anonymized and not identifiable to any person or entity; (b) combined with the data of other Subscribers or additional data sources; and (c) presented in a way that does not reveal a Subscriber's or End User's identity.

8.2 What We Own. As between you and us, we are and will remain the sole and exclusive owner of all rights, title and interest in and to our Services and the ClubReady System, including all associated Intellectual Property Rights (but excluding your Subscriber Data).

8.3 Feedback. At your option, you may provide us with feedback and suggestions about the Services or the ClubReady System (collectively, "**Feedback**"). If you provide Feedback, then we and our Affiliates may use that Feedback without restriction and without obligation to you.

8.4 Use of Subscriber Marks. By entering into an Agreement with us, you hereby authorize us to use your company name and logo ("**Marks**") to indicate the existence of a business relationship in our marketing or other promotions including, without limitation, posting such Marks on our Site, in a press release, or in any other marketing or promotional materials. You may withdraw your content to our use of your Marks by sending us a written notice.

9. PRIVACY; SECURITY. Our privacy policies and practices related to your Subscriber Data are described in the Privacy Policy. The Privacy Policy is expressly incorporated into the Agreement.

10. CONFIDENTIALITY.

10.1 Use and Disclosure of Confidential Information. Receiving Party will only use the Disclosing Party's Confidential Information to exercise its rights and fulfill its obligations under the Agreement and will use reasonable care to protect against the disclosure of the Disclosing Party's Confidential Information. Notwithstanding any other provision in this Agreement, the Receiving Party may disclose the Disclosing Party's Confidential Information (a) to its delegates or representatives who have a need to know and who are bound by confidentiality obligations at least as protective as those in this Section 10 (Confidentiality); (b) with the Disclosing Party's written consent; or (c) subject to Section 10.2 (Legal Process), as strictly necessary to comply with Legal Process.

10.2 Legal Process. If Receiving Party receives Legal Process for the Disclosing Party's Confidential Information, the Receiving Party will: (a) promptly notify the Disclosing Party prior to such disclosure unless the Receiving Party is legally prohibited from doing so; (b) attempt to redirect the third party to request it from the Disclosing Party directly; (c) comply with the Disclosing Party's reasonable requests to oppose disclosure of its Confidential Information; and (d) use commercially reasonable efforts to object to, or limit or modify, any Legal Process that the Receiving Party reasonably determines is overbroad, disproportionate, incompatible with applicable law, or otherwise unlawful. To facilitate the request in 10.2(b), the Receiving Party may provide the Disclosing Party's basic contact information to the third party.

11. LIMITED WARRANTIES.

11.1 Limited Warranties. We represent and warrant that we own the appropriate rights to license and/or sub-license the Services and that the ClubReady System will be provided, to the best of our knowledge, free of any viruses, malware, spyware, ransomware or other harmful code. Your sole and exclusive remedy if we breach these limited warranties is, at our option, the ability to reperform the affected Services or to issue you a refund on Fees actually paid for the affected Service.

11.2 Warranty Disclaimer. EXCEPT AS EXPRESSLY SET FORTH ABOVE, THE SERVICES AND THE CLUBREADY SYSTEM ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND. WE, TO THE FULLEST EXTENT PERMITTED BY LAW, EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. WE DO NOT WARRANT THAT THE USE OF OUR SERVICES WILL BE UNINTERRUPTED OR THAT THE CLUBREADY SYSTEM WILL BE BUG, VIRUS OR ERROR-FREE. WE ALSO DO NOT WARRANT THAT WE WILL INDEPENDENTLY REVIEW YOUR SUBSCRIBER DATA FOR ACCURACY AND MAKE NO REPRESENTATIONS ABOUT THE CONTENT OR INFORMATION AVAILABLE THROUGH THE SERVICES. WE EXPRESSLY DISCLAIM ALL WARRANTIES WITH RESPECT TO HARDWARE AND THIRD-PARTY SERVICES.

12. INDEMNITIES.

12.1 Indemnification by ClubReady. We will defend you against any claim by a third party alleging that the Services, when used in accordance with this Agreement, infringe on the intellectual property right of such third party and will indemnify and hold you harmless from and against any damages and costs awarded against you or agreed in settlement by us (including reasonable attorneys' fees) resulting from such claim. If your use of our Services results (or, in our reasonable opinion, is likely to result) in an infringement claim, we may either: (a) substitute functionally similar products or services; (b) procure for you the right to continue using the part of our Services alleged to be in violation of a third party's intellectual property rights; or, if (a) and (b) are not commercially reasonable, then (c) terminate the Agreement, or the applicable part of the Services, and refund to you the balance of your unused prepaid Fees for Services (or the applicable part of Services). The foregoing indemnification obligation will not apply to the extent the applicable claim is attributable to: (i) the modification of the Service by any party other than ClubReady; (ii) the combination of the Service with products or processes not provided by ClubReady; (iii) any use of the Service in violation of the Agreement; or (iv) any action arising as the result of Subscriber Data. This Section sets forth your sole remedy with respect to any claim of intellectual property infringement.

12.2 Indemnification by Subscriber. You agree to defend, indemnify and hold us, our Affiliates and our Team harmless for any losses, including legal fees and expenses, that directly or indirectly result from: (a) your Subscriber Data; (b) your EUAs; (c) your breach of the Agreement (including, without limitation, your prohibited use of the Services or ClubReady System); (d) your violation of applicable law; (e) your infringement on the intellectual property rights of a third party; or (f) any other indemnifiable event discussed elsewhere in the Agreement.

12.3 Indemnification Procedure. In the event of a potential indemnity obligation under this Section 12, the indemnifying party will: (a) promptly notify the indemnifying party in writing of the claim; (b) allow the indemnifying party the right to control the investigation, defense and settlement (if applicable) of such claim at the indemnifying party's sole cost and expense; and (c) upon request of the indemnifying party, provide all necessary cooperation at the indemnifying party's expense. Failure by the indemnified party to notify the indemnifying party of a claim shall not relieve the indemnifying party of its obligations, however the indemnifying party shall not be liable for any litigation expenses that the indemnified party incurred prior to the time when notice is given or for any damages and/or costs resulting from any material prejudice caused by the delay or failure to provide notice to the indemnifying party. The indemnifying party may not settle any claim that would bind the indemnified party to any obligation (other than payment covered by the indemnifying party or ceasing to use infringing materials) or require any admission of fault by the indemnified party, without the indemnified party's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed. Any indemnification obligation will not apply if the indemnified party settles or makes any admission with respect to a claim without the indemnifying party's prior written consent.

12.4 Sole Rights and Obligations. Without affecting either party's termination or suspension rights, this Section 12 states the parties' sole and exclusive remedy under this Agreement for any third-party allegations of Intellectual Property Rights covered by this Section 12.

13. LIMITATION OF LIABILITY. EXCEPT FOR EACH PARTY'S INDEMNITY OBLIGATIONS, OR FOR LIABILITY WHICH, BY LAW, CANNOT BE LIMITED (COLLECTIVELY, "EXCLUDED CLAIMS"), TO THE MAXIMUM EXTENT PERMITTED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT:

13.1 IN NO EVENT SHALL WE, OUR AFFILIATES OR ANY MEMBER OF OUR TEAM BE LIABLE OR RESPONSIBLE TO YOU FOR LOST PROFITS, LOST SALES OR BUSINESS, LOST DATA (WHERE SUCH DATA IS LOST IN THE COURSE OF TRANSMISSION FROM YOUR SYSTEMS OR OVER THE INTERNET THROUGH NO FAULT OF CLUBREADY), BUSINESS INTERRUPTION, LOSS OF GOODWILL, COSTS OF COVER OR REPLACEMENT, OR FOR ANY OTHER TYPE OF INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE LOSS OR DAMAGES, OR FOR ANY OTHER INDIRECT LOSS OR DAMAGES INCURRED BY YOU OR YOUR AFFILIATES IN CONNECTION WITH THIS AGREEMENT REGARDLESS OF WHETHER YOU OR YOUR AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN SUCH DAMAGES.

13.2 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, OUR TOTAL AGGREGATE LIABILITY TO YOU, ANY AFFILIATE, OR ANY THIRD PARTY ARISING OUT OF THE AGREEMENT OR ANY OF OUR SERVICES (INCLUDING, WITHOUT LIMITATION, OUR PAYMENT SERVICES OR PROFESSIONAL SERVICES) SHALL IN NO EVENT EXCEED THE TOTAL AMOUNT OF FEES PAID BY YOU IN THE LAST FULL MONTH IMMEDIATELY PRECEDING THE OCCURRENCE GIVING RISE TO SUCH LIABILITY. THE LIABILITY CAP DESCRIBED HEREIN WILL APPLY IN AGGREGATE TO ANY AND ALL CLAIMS BY YOU AND YOUR AFFILIATES AND SHALL NOT BE CUMULATIVE.

13.3 YOU ACKNOWLEDGE AND AGREE THAT THE ESSENTIAL PURPOSE OF PART 13 IS TO ALLOCATE THE RISKS UNDER THE AGREEMENT BETWEEN THE PARTIES AND LIMIT

POTENTIAL LIABILITY GIVEN THE FEES CHARGED, WHICH WOULD HAVE BEEN SUBSTANTIALLY HIGHER IF WE WERE TO ASSUME ANY FURTHER LIABILITY OTHER THAN AS SET FORTH HEREIN. THE PARTIES AGREE THAT THE LIABILITY LIMITS SET FORTH HEREIN ARE A MATERIAL BASIS OF THE BARGAIN AND ARE INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THE AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.

13.4 TIME LIMITATION. YOU FURTHER AGREE THAT ANY CLAIM WHICH YOU MAY HAVE AGAINST US MUST BE FILED WITHIN ONE (1) YEAR AFTER SUCH CLAIM AROSE, OTHERWISE THE CLAIM SHALL BE PERMANENTLY BARRED.

14. DISPUTE RESOLUTION. You and we agree that before either party seeks any form of legal relief (except for a provisional remedy as explicitly set forth below) it shall provide written notice to the other party of the specific issue in dispute and reference the relevant provisions of the Agreement which are allegedly being breached. Within 30 days after such notice, knowledgeable executives of the parties shall hold at least one meeting (in person or by video-or-tele-conference) for the purpose of attempting in good faith, to resolve the dispute. You and we agree to maintain the confidential nature of all disputes and disagreements between the parties, including, but not limited to, informal negotiations, mediation or arbitration, except as may be necessary to prepare for or conduct these dispute resolution procedures or unless otherwise required by law or judicial decision. These dispute resolution procedures shall not apply to claims: (a) subject to indemnification under Section 12; (b) prior to a party seeking a provisional remedy related to claims of misappropriation or ownership of Intellectual Property Rights, trade secrets or Confidential Information; (c) for claims that involve equitable or injunctive relief; or (d) for claims that involve non-payment of our Fees.

15. LIQUIDATED DAMAGES. Upon the occurrence of an event of default by you, we may at any time thereafter terminate this Agreement by giving you written notice thereof. If, prior to the date on which the then current term of this Agreement is scheduled to expire, either this Agreement is terminated by us as specifically permitted by this Agreement, or you for any reason discontinue receiving the services from us (except as may be specifically permitted by this Agreement), you shall be liable to us for liquidated damages in an amount equal to the average monthly amounts payable to us as a result of the Agreement for the three calendar months in which such amount was the highest during the preceding 12 calendar months multiplied by the number of months remaining during the then current term of this Agreement. You recognize and agree that the liquidated damages are fair and reasonable because it is not possible to establish the actual increase in volume and activity during the term of this Agreement. You shall also reimburse us for any damage or expense incurred by us as a result of a breach by you. All such amounts shall be due and payable upon demand.

16. WAIVER OF CLASS OR CONSOLIDATED CLAIMS. THE PARTIES AGREE TO RESOLVE ANY DISPUTE IN AN INDIVIDUAL CAPACITY, AND NOT ON BEHALF OF, OR AS PART OF, ANY PURPORTED CLASS, CONSOLIDATED OR REPRESENTATIVE PROCEEDING. NO ARBITRATION OR PROCEEDING CAN BE COMBINED WITH ANOTHER WITHOUT THE PRIOR WRITTEN CONSENT OF ALL PARTIES TO THE ARBITRATION OR PROCEEDINGS.

17. NOTICES

17.1 Notices to Subscriber. All notices provided by us to you under the Agreement will be delivered: (a) in writing by nationally recognized overnight delivery service or U.S. mail to the contact mailing address listed in your Service Order; or (ii) by email to the email address for the primary contact associated with your ClubReady account.

17.2 Notices to ClubReady. All legal notices provided by you to us under the Agreement must be delivered: (a) in writing by Courier or U.S. mail to ClubReady, LLC, Attn: Legal Department, 14515 North Outer Forty, Ste. 300, Chesterfield, MO 63017; or (b) by email to legal@clubready.com. All other notices provided by you to us under the Agreement must be delivered to support@clubready.com.

17.3 Delivery of Notices. All notices shall be deemed to have been given immediately upon delivery by email, or, otherwise if delivered upon the earlier of receipt or two (2) business days after being deposited in the mail or with a Courier as permitted above.

18. GENERAL TERMS

18.1 Compliance with Laws. You shall comply with all applicable federal, state, and local laws ("Laws") and any and all third-party rules and regulations ("Rules") related to your receipt or use of the Services hereunder. Notwithstanding anything to the contrary, you shall be solely liable for (i) compliance with any and all Laws or Rules, (ii) any and all fees and charges arising out of or related to noncompliance with any Laws or Rules, (iii) fees and charges assessed by any third party for communications services, including but not limited to any telecommunication providers or carriers (collectively, "Communications Charges"). You will pay all Communications Charges in connection with your use of the Services. Further, you will pay all costs, fines, or penalties that are imposed on ClubReady by a government or regulatory body or a telecommunications provider as a result of your receipt or use of the Services hereunder.

18.2 Assignment. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Neither party may assign this Agreement without the advance written consent of the other party, except that either party may assign this Agreement in its entirety in connection with a merger, reorganization, acquisition, or other transfer of all or substantially all of such party's assets or voting securities to such party's successor. We may assign this Agreement in its entirety to any of our Affiliates. Each party shall promptly provide notice of any such assignment. Any other attempt to assign is void. The Agreement does not confer any rights or benefits to any third party unless it expressly states that it does.

18.3 Severability; Interpretation. If any part of this Agreement is invalid, illegal, or unenforceable, the rest of this Agreement will remain in effect. Section headings are inserted for convenience only and shall not affect the construction of the agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in the construction or interpretation of the Agreement. Wherever the context requires, the singular shall include the plural, the masculine gender shall include the feminine and neuter gender, and "and" shall include "or."

18.4 No Waiver. Neither party will be treated as having waived any rights by not exercising (or delaying the exercise of) any rights under this Agreement.

18.5 Governing Law; Venue. The Agreement shall be governed by the laws of the State of Missouri, without reference to conflict of laws principles. Any disputes under the Agreement shall be resolved in a court of general jurisdiction in St. Louis County, Missouri. You hereby expressly agree to submit to the exclusive personal jurisdiction of this jurisdiction for the purpose of resolving any dispute relating to the Agreement, your use of the Services, or your access to the ClubReady System.

18.6 Relationship. The parties will be considered independent contractors in the performance of each and every part of the Agreement. Nothing in the Agreement is intended to create or shall be construed as creating an employer-employee relationship or a partnership, agency, joint venture, or franchise. Each party will be solely responsible for their respective employees and agents and respective labor costs and expenses arising in connection with those employees and agents.

18.7 Export Controls. The software supporting the ClubReady System may be subject to U.S. Export Control Laws and Regulations and other applicable export laws and regulations ("**Export Control Laws**"). Export Control Laws have been set up by the U.S. government to keep certain goods and services from reaching other countries, usually because of security concerns or trade agreements. None of our software may be downloaded or otherwise exported (or re-exported) in violation of Export Control Laws. You agree that you will not, directly or indirectly through a third party, allow your ClubReady account or the software supporting the ClubReady System to be accessed or generated from within, or distributed or sent to, any prohibited or embargoed country as mentioned in any Export Control Laws. In addition, you certify that neither you nor any of your principals, officers, directors or any person or entity you know to be directly involved with your use of the Services or access to the ClubReady System is designated on any U.S. government list of prohibited or restricted persons.

18.8 Force Majeure. We shall not be in default under any provision of the Agreement or be liable for any delay, failure of performance or interruption in our Services or the ClubReady System resulting from any cause beyond our reasonable control, including but not limited to earthquake, lightning or other acts of God, fire or explosion, electrical faults, vandalism, cable cut, hurricanes, fire, flooding, severe weather conditions, actions of governmental or military authorities, national emergency, volcanic eruptions, insurrection, riots or war, terrorism or civil disturbance, global pandemics, strikes, lock-outs, work stoppages or other labor difficulties, supplier failure, or telecommunication or other internet provider failure (each, a "**Force Majeure Event**").

18.9 Entire Agreement. These Terms, together with your Service Order and any applicable Addenda, make up the entire Agreement between you and us in relation to its subject matter and supersede all prior agreements, representations and understandings between the parties. Any Addenda will be considered incorporated into the Agreement at the time the parties accept them in accordance with the Agreement. Any direct conflict in terms will be resolved in favor of the later-signed Addenda.

18.10 Counterparts; Electric Signatures. The Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but such counterparts together shall constitute one and the same instrument. Delivery of executed counterparts by email, .PDF, or other electronic delivery method shall be effective as delivery. The parties consent to electronic signatures.

Last Revised: April, 2024