

TERMS OF USE AGREEMENT

Last Updated: **September 19, 2019**

Welcome to www.IQBody.com, a website that features the WAVE5® Muscle Hydration System. This website (“Website”) is owned and operated by IQBody LLC (“Company”). These terms of use agreement (“Agreement”) contain important information regarding the use of the Website, the WAVE5®: Compass (“Application”), and your responsibilities in using the same. You should review this Agreement carefully.

THIS AGREEMENT IS A LEGALLY BINDING CONTRACT AND YOU HAVE A DUTY TO READ THIS AGREEMENT BEFORE USING THE WEBSITE. THROUGH YOUR USE OF THE WEBSITE YOU MANIFEST YOUR ASSENT TO THE TERMS AND CONDITIONS CONTAINED WITHIN THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, YOU MUST IMMEDIATELY CEASE YOUR USE OF THE WEBSITE AND THE APPLICATION.

COMPANY RESERVES THE RIGHT TO SUSPEND, REPLACE, MODIFY, AMEND, OR TERMINATE THIS AGREEMENT AT ANY TIME AND WITHIN ITS SOLE AND ABSOLUTE DISCRETION. IN THE EVENT COMPANY REPLACES, MODIFIES, OR AMENDS THIS AGREEMENT, YOUR CONTINUED USE OF THE WEBSITE AFTER A CHANGE IN THE EFFECTIVE DATE ABOVE WILL CONSTITUTE YOUR MANIFESTATION OF ASSENT TO AND AGREEMENT WITH ANY REPLACEMENT, MODIFICATION, OR AMENDMENT CONTAINED WITHIN THIS AGREEMENT.

1. User Warranties

By using the Website, you warrant that you are of sound mind and have the capacity to agree to and uphold the terms and conditions contained within this Agreement. If you use the Website on behalf of a business entity or other third party, you warrant that you have actual authority to act as an agent of that business entity and third party and, as a component of that agency, have the right and ability to agree to the terms of this Agreement on behalf of that third party or business entity and bind that third party or business entity to the terms of this Agreement.

You warrant that your use of the Website does not violate any law, regulation, ordinance, statute, or treaty that is applicable to individuals or business entities located in the jurisdiction in which you live. You further warrant that you are not prohibited from entering into this Agreement by the terms of any preexisting agreement.

2. Services Provided

Company provides “how to” videos via the WAVE5®: Compass to its customers, which in turn permits customers to perform self-muscle care services unique to the specific customer’s needs. Subject to the terms of this Agreement, participating customers are offered the ability to hydrate muscles and joints throughout their bodies.

3. Billing

After this Agreement is accepted and your credit card information is processed, you will be charged at the rate stated at the time of purchase on a monthly basis until you cancel. The monthly payment amount required is subject to change, but advanced notification of any changes will be provided.

4. Cancellation

You may cancel this Agreement and cease using the Website and Application at any time without penalty. To cancel, you must provide a cancellation notice in writing to Support@IQBody.com. Your cancellation will become effective as of the last date in the billing cycle for the month in which the cancellation notice was received. No pro-rata billing is permitted and no refunds will be provided.

5. User Account

Participating customers must create a User Account in order to participate in the services provided in association with the Application. These accounts are subject to the Privacy Policy, incorporated in full into this Agreement and available here <https://iqbody.com/privacy-policy/>. Participating customers are solely responsible for maintaining the security and confidentiality of the User Account and responsible for any unauthorized access to the same. Participating customers agree to notify Company immediately if the User Account is accessed without the participating customers' permission. Company reserves the right to restrict access to, suspend, disable, or delete a User Account at any time, at its sole discretion, and without prior warning.

6. Limited License

You acknowledge and agree that the Website is the property of, or is licensed by, Company and is protected under United States and international law, including, but not limited to, intellectual property laws and other personal and proprietary rights. You acknowledge and agree that your use of the Website is limited by the license granted under the terms of this Agreement, and you expressly agree that you will not use the Website in any manner not expressly authorized under the terms of this Agreement. Company reserves all of its rights not expressly granted through this Agreement.

Company provides you with limited, non-exclusive, non-sublicensable, non-assignable, revocable, and royalty-free license to use the Website for its customary and intended purposes. You are expressly prohibited from reproducing, preparing derivative works of, distributing copies of, publicly performing, and publicly displaying the Website. Additionally, you are expressly prohibited from scraping, framing, hacking, reverse engineering, crawling, or aggregating the Website, whether in whole or in part, without the prior written consent of Company. The foregoing prohibition on crawling or aggregating does not apply to search engines that appropriately comply with Company robots.txt file.

This license is revocable at any time, and any rights not expressly granted herein are reserved to Company.

7. Acceptable Use Policy

You are expressly prohibited from using the Website to violate any law, statute, ordinance, regulation, or treaty, whether local, state, provincial, national or international, or to violate the rights of a third party, including, but not limited to, intellectual property rights, privacy rights, rights of publicity, or other personal or proprietary rights. Additionally, you are expressly prohibited from scraping, crawling, framing, posting unauthorized links to, aggregating, hacking, performing denial of service attacks on, reverse engineering, or circumventing technological protection measures of the Website. You are also prohibited from using the Website to transmit unsolicited commercial emails to third parties or users of the Website, including stored information provided through the website's search function and database, obtaining or mining the personal data of third parties or users of the Website, harassing or defaming third parties or users of the Website, posting obscene, sexually explicit, or pornographic content to the Website, or using the Website to promote bodily harm or emotional distress to third parties or users of the Website.

8. User-Generated Content

Company may provide you with the ability to upload or transmit user-generated content to or through the Website and/or Application, including, but not limited to, photographs, images, text, comments, videos, audio files, profile information, name, likeness, advertisements, listings, information, and designs (collectively "User-Generated Content"). Except as otherwise provided herein, you own all rights in and to the User-Generated Content. By submitting User-Generated Content to the Website and/or Application, you grant Company a non-exclusive, irrevocable, royalty-free, worldwide, and perpetual license to use your User-Generated Content for the customary and intended purposes of the Website and/or Application. These purposes may include, but are not limited to, providing you or third parties with the Website and/or Application or its associated services and archiving or making backups of the Software. You agree to waive all moral rights in and to your User-Generated Content across the world, whether you have or have not asserted moral rights in or to your User-Generated Content. By submitting User-Generated Content to the Website and/or Application, you further agree to waive all rights of publicity or privacy with respect to the User-Generated Content submitted. You warrant that any User-Generated Content that you submit to the Website and/or Application will not violate the rights of third parties, including, but not limited to, trademark rights, copyright rights, and rights of publicity and privacy, or violation any applicable law, statute, ordinance, treaty, or regulation, whether local, state, provincial, national, or international. Though Company undertakes commercially reasonable efforts to ensure that communications through the Website and/or Application are secure, Company makes no guarantee or warranty that your use of the Website and/or Application will be secure. You acknowledge and agree that all messages or content posted or transmitted by you or others in any enabled chat will be deemed to be readily accessible to the general public and consequently should not be considered private, confidential, or proprietary. Consequently, you should not use the Website and/or Application for any communication that you intend only you and the intended recipient(s) to read.

9. Privacy Policy

Company hereby incorporates its **Privacy Policy** (<https://iqbody.com/privacy-policy/>) by reference as if fully restated herein.

10. Trademarks

You acknowledge and agree that any and all trademarks, trade names, design marks, or logos displayed on the Website by Company, are common law or registered trademarks owned by or licensed to Company. You are expressly prohibited from using the trademarks of Company to cause confusion in, to cause mistake in, or to deceive consumers, or from falsely designating the origin of, the source of, or the sponsorship of your goods or services. You are further prohibited from using the trademarks of Company in domain names, in keyword advertisements, to trigger keyword advertisements, or in meta tags. All other trademarks, trade names, design marks, or logos are the property of their respective owners.

11. Copyright Policy

The Website is copyright 2019 Company. Company will expeditiously respond to all duly issued notifications of copyright infringement that are sent to Company's designated copyright agent pursuant to 17 U.S.C. § 512.

All notices of copyright infringement must contain the following:

- a. The physical or electronic signature of a person authorized to act on behalf of the copyright owner;
- b. Specific identification of the copyrighted works alleged to have been infringed;
- c. The location of the copyrighted works on the Company Website;
- d. The contact information of the notifying person(s) or entity, such as an address, telephone number, fax number, or email address;
- e. A statement that the notifying person(s) or entity has a good faith belief that the use of the allegedly infringing content is not authorized by the copyright owner, its agent, or the law; and
- f. A statement, under penalty of perjury, that the information in the notification is accurate and that the notifying person(s) or entity is authorized to act on behalf of the copyright owner.

Upon receipt of a notice of infringement, Company will undertake reasonable steps to contact the poster of the allegedly infringing content so that the poster may issue a counter-notification. All counter-notifications must contain the following:

- g. Identification of the specific materials that have been removed from the Website;
- h. The contact information of the notifying person(s) or entity, such as an address, telephone, fax number, or email address;
- i. A statement, under penalty of perjury, that the notifying person(s) or entity has a good faith belief that the content was removed as a result of mistake or misidentification;
- j. A statement that the notifying person(s) or entity has consent to the jurisdiction of the federal district court in which the notifying person(s) or entity address is located or, if outside of the United States, that the notifying person(s) or entity has consent to the jurisdiction of the federal courts where your service provider is located;

- k. A statement that the notifying person(s) or entity will accept service of process from the notified party; and
- l. The notifying person's(s) or entity's physical or electronic signature.

All notices of infringement and counter-notifications may be sent to Support@[insert.com]

12. Compliance with Communications Decency Act

You acknowledge and agree that Company is an interactive computer service provider under Section 230 of the Communications Decency Act. Though Company may edit, remove, or control the content displayed through the Website and/or Application, you agree that Company will not be considered an information content provider and will not be held liable for the republication of tortious content created by third parties, whether through Company or otherwise. You expressly acknowledge and agree that, as a component of Company's services, you may receive objectionable information or content through Company's transmission of User Profile information or through Company's transmission of electronic communications. You warrant that you will not attempt to hold Tusker responsible or liable for these third party communications.

13. Third Party Links

You acknowledge and agree that the Website may contain links to third party websites or content that Company does not own or control. You are advised to review the terms and conditions of any third party websites or content linked to through the Website, and you agree that Company will not be responsible for websites not under the ownership or control of Company. Company specifically disclaims any responsibility for the content available on any other websites linked to the Website. Your use of or access to any other websites linked to the Website is at your own risk.

You acknowledge and agree any People Search data displayed on the Website is not owned or controlled by Company.

14. Term and Termination

The term of this Agreement will begin upon your first accessing of the Website and will continue until the earlier of the following: (i) Company terminates your access to the Website; or (ii) you cease using the Website. Company reserves the right to terminate the Website or your access to the Website in its sole and absolute discretion and without prior notice.

15. Disclaimer of Warranties and Limitation of Liability

YOU ACKNOWLEDGE AND AGREE THAT THE WEBSITE IS PROVIDED ON AN "AS-IS" BASIS AND WITHOUT WARRANTY OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE, MERCHANTABILITY, ACCURACY, FITNESS FOR A PARTICULAR PURPOSE, SECURITY, AND NON-INFRINGEMENT. WHEREVER PERMITTED BY LAW, YOU ACKNOWLEDGE THAT COMPANY WILL NOT BE HELD RESPONSIBLE OR LIABLE FOR ANY CLAIMS, DAMAGES, JUDGMENTS, CHARGES, OR FEES ARISING OUT OF OR RELATED TO YOUR USE OF OR ACCESS TO THE WEBSITE, INCLUDING, BUT NOT

LIMITED TO, COMPENSATORY DAMAGES, CONSEQUENTIAL DAMAGES, SPECIAL DAMAGES, INCIDENTAL DAMAGES, PUNITIVE DAMAGES, EXEMPLARY DAMAGES, COSTS AND ATTORNEYS' FEES, DAMAGES ARISING OUT OF ERRORS OR OMISSIONS, AND DAMAGES ARISING OUT OF THE UNAVAILABILITY OF THE WEBSITE OR DOWNTIME. YOU ACKNOWLEDGE THAT YOUR USE OF THE WEBSITE IS AT YOUR SOLE RISK AND THAT COMPANY'S LIABILITY IS LIMITED TO THE AMOUNT THAT YOU PAID TO USE THE WEBSITE OR \$1,000, WHICHEVER IS LESS.

16. Indemnification

You agree to indemnify, defend, and hold harmless Company, its officers, shareholders, directors, employees, subsidiaries, affiliates, and representatives from any and all losses, including, but not limited to, costs and attorneys' fees, arising out of or related to (i) your use of the Website, (ii) your violation of any term or condition of this Agreement; (iii) your violation of the rights of third parties, including, but not limited to, intellectual property rights or other personal or proprietary rights; and (iv) violation of any law, statute, ordinance, regulation, or treaty, whether local, state, provincial, national or international. Your obligation to defend Company will not provide you with the ability to control Company' defense, and Company reserves the right to control its defense, including its choice of counsel and whether to litigate or settle a claim subject to indemnification.

17. State Laws

Company is not responsible for your illegal use of the Website and/or Application pursuant to the laws of your jurisdiction. If you reside in the states of Arizona or Illinois, or any other state that bans all skill-based contests with monetary awards, you agree not to qualify for receipt of monetary awards for any use of the Website and/or Application. Company is not responsible for your illegal use of the Website and/or Application pursuant to the laws of your jurisdiction.

18. Venue

The exclusive forum for any disputes arising out of or relating to this Agreement shall be an appropriate federal court or state court sitting in the County of San Diego in the State of California.

19. Force Majeure

Company will not be responsible for any delay or failure in performance of the Website arising out of any cause beyond Company' control, such as acts of God, war, riots, fire, terrorist attacks, power outages, severe weather, or other accidents.

20. Survivability

The representations, warranties, duties, and covenants made by you under this Agreement will survive the termination of this Agreement or the Website, including, but not limited to, your duty to indemnify and defend Company.

21. Severability

In the event any term or condition of this Agreement is deemed invalid or unenforceable, the remaining terms and conditions of this Agreement will remain in full force and effect.

22. Interpretation

This Agreement will be deemed to have been drafted by both parties, and the terms and conditions of this Agreement will not be interpreted against its drafter.

23. Assignment

You are expressly prohibited from assigning your rights and duties under this Agreement. Company reserves the right to assign its rights and duties under this Agreement, including in a sale of Company or its Website.

24. Waiver

No term or condition of this Agreement or breach of this Agreement will be deemed to have been waived or consented to unless said waiver is in writing and signed by the party to be charged.

25. Integration

This Agreement is the entire agreement between the parties and supersedes all previous agreements or representations between the parties.