

TERMS OF USE

Effective date: 15 March 2024

Introduction

CloudFit is an AI-powered health app designed to create personalised wellness plans and a result-oriented health programme.

These Terms of Use (“Terms”) apply to your access and use of our website <https://www.cloudfit.io> (and related pages) and our application CloudFit (the “App” and collectively with the website – the “Services”) provided by CLOUDFIT ENTERPRISE LIMITED (“Company” or “we”). The Terms are not entered into with Apple Inc., any of its subsidiaries, Google Inc., any of its subsidiaries, or any other entity as may apply.

If you have any questions about the Terms or our Services, please contact us at info@cloudfit.io.

Please read the Terms carefully. By accessing or using our Services, you acknowledge that you accept and agree to be bound by these Terms.

IF YOU DO NOT AGREE TO THE TERMS, INCLUDING THE MANDATORY ARBITRATION PROVISION AND CLASS ACTION WAIVER IN SECTION 17, DO NOT ACCESS OR USE OUR SERVICES.

1. Registration and Eligibility

Minimum Age. You must be at least 18 years old to use and access the App. Our Services are not directed at or intended for children under 18 years old. If you are aware of anyone under 18 using the Services, please contact us at info@cloudfit.io and we will take the required steps to delete such information and/or delete the account.

Registration. You must provide accurate and complete information to register for an account to use our Services. You may not share your account credentials or make your account available to anyone else and are responsible for all activities that occur under your account. If you create an account or use the Services on behalf of another person or entity, you must have the authority to accept these Terms on their behalf.

2. Important Disclaimers

When you use our Services, you acknowledge and agree with the below disclaimers.

a. General disclaimer Exercise and health are matters that vary from person to person. Our Services are not intended as a substitute for the medical advice and supervision of your physician.

If you are over 35 or have been inactive for a few years, see your physician before beginning any exercise programme. This is especially important if your family has a history of heart disease, high blood pressure, high cholesterol, diabetes, arthritis, obesity, cigarette smoking, or other health conditions. If you have any doubts whatsoever, consult your physician. Do not start any fitness programme if your physician or health care provider advises against it.

If you are pregnant, nursing, diabetic, on medication, have a medical condition, or are beginning a weight control programme, consult your physician before starting to exercise/train or making any dietary changes. Discontinue use if adverse events occur.

If you experience faintness, dizziness, pain, or shortness of breath at any time while exercising, you should stop immediately.

b. Exercise disclaimer The workouts provided via our Services are for educational purposes only and are not to be interpreted as a recommendation for a specific treatment plan, product, or course of action.

Exercise is not without its risks, and this or any other exercise programme may result in injury. The risks include but are not limited to:

- Risk of injury
- Aggravation of a pre-existing condition
- Adverse effect of over-exertion such as muscle strain, abnormal blood pressure, fainting, disorders of heartbeat, and very rare instances of heart attack.

To reduce the risk of injury before beginning this or any exercise programme, please consult a healthcare provider for appropriate exercise prescription and safety precautions. The exercise instruction and advice presented are in no way intended as a substitute for medical consultation. We disclaim any liability from and in connection with this programme.

c. Information disclaimer The information provided via our Services is for educational purposes only and is not to be interpreted as a recommendation for a specific treatment plan, product, or course of action.

Information on the Services does not replace consultation with a qualified health or medical professional who sees you in person for your health and your medical needs. Please see a physician or health professional immediately if you suspect you may be ill or injured.

You acknowledge your use of our Services and the content thereon is at your own risk, including any and all risks associated with your use of any workouts set out there.

You acknowledge that there are inherent risks of injury with any physical activity and you hereby release us and all of our employees, directors, officers, and representatives and other parties involved in the creation, maintenance, and distribution of the content on our Services from any and all liability arising as a result of your use of the Services or the content thereon including without limitations any direct, special, incidental, indirect, or consequential damages or other damages of any kind including but not limited to physical injury, illness, death, loss of profits, loss

of data, whether in an action in contract, tort (including but not limited to negligence), or otherwise.

d. Medical Disclaimer In using our Services, you affirm that either your physician has approved your use of the Service or that all of the following statements are true:

- No physician has ever informed you that you have a heart condition or that you should only do physical activities recommended by a physician
- You have never felt chest pain when engaging in physical activity
- You have not experienced chest pain when not engaged in physical activity at any time within the past month
- You have never lost your balance because of dizziness and you have never lost consciousness as a result of exertion
- You do not have a bone or joint problem that could be made worse by a change in your physical activity
- Your physician is not currently prescribing drugs for your blood pressure or heart condition
- You do not have a history of high blood pressure and
- You do not know of any other reason you should not exercise.

You are responsible for providing accurate information and disclosing any health or medical issues.

3. Your Use of our Services

Privacy. Please refer to our Privacy Policy for information about how we collect, use, and disclose information about you. The Privacy Policy constitutes an integral part of the Terms. To the extent there is an inconsistency between the Terms and the Privacy Policy, the Terms shall govern.

What you can and cannot do. While using our Services, you agree not to violate any applicable law, contract, intellectual property, or other third-party right or commit a tort and that you are solely responsible for your conduct while accessing or using our Services.

Specifically, you shall not:

- Resell, rent, lease, loan, sublicense, distribute, or otherwise transfer rights to the App
- Engage in any harassing, threatening, intimidating, predatory, or stalking conduct
- Use our Services in any manner that could interfere with, disrupt, negatively affect, or inhibit other users from fully enjoying our Services or that could damage, disable, overburden, or impair the functioning of our Services in any manner
- Modify, reverse engineer, decompile, or disassemble any part of our Services or do anything that might discover source code or bypass or circumvent measures employed to prevent or limit access to any part of our Services

- Copy, adapt, alter, modify, translate, or create derivative works of the Services without the written authorisation of the Company
- Circumvent or disable any technological features or measures in the App for the protection of intellectual property rights
- Attempt to circumvent any content-filtering techniques we employ or attempt to access any feature or area of our Services that you are not authorised to access
- Develop or use any third-party applications that interact with our Services without our prior written consent, including any scripts designed to scrape or extract data from our Services
- Use or access the Services to compile data in a manner that is used or usable by a competitive product or service
- Use our Services for any illegal or unauthorised purpose or engage in, encourage, or promote any activity that violates the Terms
- Use data, content, or features from the App and the website to diagnose, treat, or mitigate any health conditions.

Our use of your content. We may use your conversations with AI Assistant (de-identified) as well as the photos you upload for Body Scan (subject to your consent) to provide, maintain, develop, and improve our Services, comply with applicable law, enforce the Terms and other policies, and keep our Services safe.

4. Licence

We grant you a personal, worldwide, revocable, non-transferable, and non-exclusive licence to access and use our Services for personal and non-commercial purposes in accordance with the Terms.

You may not copy, store, modify, distribute, transmit, perform, reproduce, publish, licence, create derivative works from, transfer, or sell any text, graphics, logos, and other source-identifying symbols, designs, icons, images, or other information, software, or code obtained from the App without prior express written permission from the Company, which may be withheld for any or no reason.

We own all the rights, title, and interest in and to the Services (“Company’s Content”). If you wish to use our software title, trade name, trademark, service mark, logo, domain name, and/or any other identification with notable brand features or other content owned by the Company, you must obtain written permission from us. You shall send permission requests to info@cloudfit.io.

Except as expressly and unambiguously provided in the Terms, we do not grant you any express or implied rights and all rights in and to the Services and the Company’s Content are retained by us.

5. Indemnification

You agree to defend, indemnify, and hold the Company, its officers, directors, employees, agents, licensors, and suppliers harmless from and against any claims, actions, or demands, liabilities, and settlements, including without limitation reasonable legal and accounting fees resulting from or alleged to result from your violation of the Terms.

6. Use at Your Own Risk

Our goal is to help make the information more readily available and useful to you. However, the Services cannot and do not guarantee health-related improvements or outcomes. Your use of the Services and any information, predictions, or suggestions provided in the Services are at your sole risk. We make no representation or warranty of any kind as to the accuracy of data, information, estimates, and predictions that we may provide to you through the Services, and you agree and understand that the Services are not intended to match or serve the same purpose as a medical or scientific device or healthcare provider.

7. Warranty Disclaimer

The Company controls and operates the Services from various locations and makes no representation that the Services are appropriate or available for use in all locations. The Services or certain features of it may not be available in your location or may vary across locations.

The Services are provided “as is,” “as available,” and are provided without any representations or warranties of any kind, express or implied, including but not limited to the implied warranties of title, non-infringement, merchantability, and fitness for a particular purpose and any warranties implied by any course of performance or usage of trade, all of which are expressly disclaimed save to the extent required by law.

Neither the Company nor any of its officers, directors, employees, agents, affiliates, representatives, suppliers, partners, advertisers, or content providers warrants, and each of them hereby expressly disclaims that:

- The Services will be secure or available at any particular time or location
- Any defects or errors will be corrected
- Any content or software available through the Services is free of viruses or other harmful components
- The results of using the Services will meet your requirements
- The accuracy, reliability, or completeness of the content, text, images, software, graphics, or communications provided by third parties on or through the Services.

CONVERSATIONS WITH AI COACH. YOU ACCEPT AND AGREE THAT ANY USE OF OUTPUTS FROM OUR SERVICE IS AT YOUR SOLE RISK AND YOU WILL

NOT RELY ON OUTPUT AS A SOLE SOURCE OF TRUTH OR FACTUAL INFORMATION OR AS A SUBSTITUTE FOR PROFESSIONAL ADVICE.

Your use of the Services is solely at your own risk. Some states/countries do not allow limitations on implied warranties, so some or all of the above limitations may not apply to you.

8. Limitation of Liability

In no event shall the Company, its officers, directors, agents, affiliates, employees, advertisers, or data providers be liable for any indirect, special, incidental, consequential, or punitive damages (including but not limited to loss of use, loss of profits, or loss of data), whether in an action in contract, tort (including but not limited to negligence), equity, or otherwise, arising out of or in any way connected with the use of our Services.

In no event will the Company's total liability arising out of or in connection with these Terms or from the use of or inability to use the App exceed the amounts you have paid to the Company for use of the App or one hundred dollars (\$100) if you have not had any payment obligations to the Company, as applicable.

Some jurisdictions do not allow the exclusion or limitation of liability, so the above limitations may not apply to you. The Company or any third parties mentioned on our Services are not liable for any personal injury, including death, caused by your use or misuse of the App.

Notwithstanding the foregoing, nothing in these Terms will (a) limit or exclude our liability for death or personal injury resulting from negligence; (b) limit or exclude our liability for fraud or fraudulent misrepresentation; (c) limit any of our liabilities in any way that is not permitted under applicable law; or (d) exclude any of our liabilities that may not be excluded under applicable law.

9. Export and Economic Sanctions Control

The software that supports the Services may be subject to U.S. export and re-export control laws and regulations, including the Export Administration Regulations maintained by the U.S. Department of Commerce, trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control, and the International Traffic in Arms Regulations maintained by the Department of State. You represent and warrant that you are (1) not located in any country or region that is subject to a U.S. government embargo and (2) are not a denied party as specified in the regulations listed above.

You agree to comply with all U.S. and foreign export laws and regulations to ensure that neither the Services nor any technical data related thereto nor any direct product thereof is exported or re-exported directly or indirectly in violation of or used for any purposes prohibited by such laws and regulations.

10. Third-Party Services and Links

The Services may give you access to links to third-party websites, apps, or other products or services ("Third-Party Services"). We do not control Third-Party Services in any manner and accordingly do not assume any liability associated with such Third-Party Services. You need to take appropriate steps to determine whether accessing a Third-Party Service is appropriate and to protect your personal information and privacy in using any such Third-Party Services.

11. Your Feedback

We welcome your feedback about the App. Unless otherwise expressly declared, any communications you send to us or publish in app stores are deemed to be submitted on a non-confidential basis. You agree that we may decide to publicise such contents at our own discretion. You agree to authorise us to make use of such contents for free and revise, modify, adjust, and change it contextually or make any other changes in each case as we deem appropriate.

12. Changes to the Services

We may modify the Terms from time to time. If the changes affect your rights, we will notify you in advance by email or through the Services or by presenting you with a new version of the Terms for you to accept. Your continued use of the Services after the effective date of an updated version of the Terms will indicate your acceptance of the Terms as modified.

We reserve the right to introduce minor changes to the Terms that do not materially affect your rights (e.g., technical corrections or description of a new feature) without notice.

13. Changes to the Terms

We may make changes to the Terms from time to time. If we make changes, we will post the amended Terms to our Services and update the "Effective Date" section above. We may also attempt to notify you by providing notice through our Services. Unless we say otherwise in our notice, the amended Terms will be effective immediately and your continued access to and use of our Services after we provide notice will confirm your acceptance of the changes. If you do not agree to the amended Terms, you must stop accessing and using our Services.

14. Termination

We reserve the right, without notice and in our sole discretion, to terminate your right to access or use our Services. We are not responsible for any loss or harm related to your inability to access or use our Services.

15. Severability

If any provision or part of a provision of the Terms is unlawful, void, or unenforceable, that provision or part of the provision is deemed severable from the Terms and does not affect the validity and enforceability of any remaining provisions.

16. Copyright Claims

If you believe any materials accessible through our Services infringe your copyright, you may request removal of those materials (or access thereto) from the Services by contacting the Company at info@cloudfit.io and providing the following information:

a. Identification of the copyrighted work that you believe to be infringed. Please describe the work and where possible include a copy or the location of an authorised version of the work. b. Identification of the material that you believe to be infringing and its location. Please describe the material and provide us with its URL or any other pertinent information that will allow us to locate the material. c. Your name, address, telephone number, and e-mail address. d. A statement that you have a good faith belief that the complained use of the materials is not authorised by the copyright owner, its agent, or the law. e. A statement that the information that you have supplied is accurate and indicating that “under penalty of perjury” you are the copyright owner or are authorised to act on the copyright owner’s behalf. f. A signature or the electronic equivalent from the copyright holder or authorised representative.

17. Dispute Resolution by Binding Arbitration

Governing Law. If you are a resident of any European country or the United Kingdom, Switzerland, Norway, or Iceland, the governing law and forum shall be the laws of your usual place of residence.

If you reside in the United States, the arbitration agreement in this Section applies to you. Please read it carefully.

If you do not reside in the United States and you nevertheless attempt to bring any legal claim against the Company in the United States, this arbitration agreement will apply for determination of the threshold issue of whether this Section applies to you and all other threshold determinations including residency, arbitrability, venue, and applicable law.

Arbitration. You agree that any dispute, claim, or controversy arising out of or relating to the Terms or the breach, termination, enforcement, interpretation, or

validity thereof, or the use of the Services (collectively “Disputes”) will be settled by binding arbitration between you and the Company, except that each party retains the right to bring an individual action in small claims court and the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation, or violation of a party’s copyrights, trademarks, trade secrets, patents, or other intellectual property rights. You acknowledge and agree that you and the Company are each waiving the right to a trial by jury or to participate as a plaintiff or class in any purported class action or representative proceeding. Further, unless both you and the Company otherwise agree in writing, the arbitrator may not consolidate more than one person’s claims and may not otherwise preside over any form of any class or representative proceeding. If this specific paragraph is held unenforceable, then the entirety of this “Dispute Resolution” section will be deemed void. Except as provided in the preceding sentence, this “Dispute Resolution” section will survive any termination of the Terms.

Arbitration rules and governing law. The arbitration will be administered by the American Arbitration Association (“AAA”) in accordance with the Commercial Arbitration Rules and the Supplementary Procedures for Consumer-Related Disputes (the “AAA Rules”) then in effect, except as modified by this “Dispute Resolution” section. The Federal Arbitration Act will govern the interpretation and enforcement of this Section.

Arbitration process. A party who desires to initiate arbitration must provide the other party with a written Demand for Arbitration as specified in the AAA Rules. The arbitrator will be either a retired judge or an attorney licensed to practise law in the state of California and will be selected by the parties from the AAA’s roster of consumer dispute arbitrators. If the parties are unable to agree upon an arbitrator within 7 days of delivery of the Demand for Arbitration, then the AAA will appoint the arbitrator in accordance with the AAA Rules.

Arbitration location and procedure. Unless you and the Company agree otherwise, the arbitration will be conducted in the State of Delaware (unless the arbitrator selects another one if the selected place is unreasonably burdensome to either party). If your claim does not exceed \$10,000, then the arbitration will be conducted solely on the basis of documents you and the Company submit to the arbitrator unless you request a hearing or the arbitrator determines that a hearing is necessary. If your claim exceeds \$10,000, your right to a hearing will be determined by the AAA Rules. Subject to the AAA Rules, the arbitrator will have the discretion to direct a reasonable exchange of information by the parties consistent with the expedited nature of the arbitration.

Arbitrator’s decision. The arbitrator will render an award within the time frame specified in the AAA Rules. The arbitrator’s decision will include the essential findings and conclusions upon which the arbitrator based the award. Judgement on the arbitration award may be entered in any court having jurisdiction thereof. The arbitrator’s awarded damages must be consistent with the terms of the “Limitation of liability” section above as to the types and the amounts of damages for which a party may be held liable. The arbitrator may award declaratory or injunctive relief only in favour of the claimant and only to the extent necessary to provide relief warranted by the claimant’s individual claim. If you prevail in arbitration, you will be entitled to an award of attorneys’ fees and expenses to the extent provided under applicable law.

Fees. Your responsibility to pay any AAA filing, administrative, and arbitrator fees will be solely as set forth in the AAA Rules.

Changes. Notwithstanding the provisions of the modification-related provisions above, if the Company changes this “Dispute Resolution” section after the date you first accepted the Terms (or accepted any subsequent changes to the Terms), you may reject any such change by providing the Company written notice of such rejection by email to: info@cloudfit.io within 30 days of the date such change became effective as indicated in the “Effective date” above. In order to be effective, the notice must include your full name and clearly indicate your intent to reject changes to this “Dispute Resolution” section. By rejecting changes, you are agreeing that you will arbitrate any Dispute between you and the Company in accordance with the provisions of this “Dispute Resolution” section as of the date you first accepted the Terms (or accepted any subsequent changes to the Terms).

18. Miscellaneous

Entire Agreement. The Terms constitute the entire agreement between you and the Company relating to your access to and use of our Services.

No Waiver. The failure of the Company to exercise or enforce any right or provision of the Terms will not operate as a waiver of such right or provision.

Titles. The section titles in the Terms are for convenience only and have no legal or contractual effect.

Third-Party Rights. Except as otherwise provided herein, the Terms are intended solely for the benefit of the parties and are not intended to confer third-party beneficiary rights upon any other person or entity.

Governing Law. Any dispute arising from the Terms shall be governed by the laws of the State of Delaware without regard to its conflict of law provisions. Sole and exclusive jurisdiction for any action or proceeding arising out of or related to the Terms shall be in the State of Delaware, and the parties unconditionally waive their respective rights to a jury trial.

Cause of Action. Any cause of action you may have with respect to your use of the Services must be commenced within one year after the claim or cause of action arises.

19. Contact Details

If you have any questions or comments on any part of the Services or any part of the Terms, require support, or have any claims, please contact us at info@cloudfit.io.