

Mixfit™ Terms of Service

PLEASE READ THESE TERMS OF SERVICE (“TERMS”) CAREFULLY BEFORE USING THE WEBSITES AND OFFERINGS PROVIDED BY US, MIXFIT, INC., A DELAWARE CORPORATION (“MIXFIT”) THROUGH OUR WEBSITES, APPLICATION, DISPENSING DEVICE (COLLECTIVELY, “OFFERINGS”). THIS AGREEMENT GOVERNS YOUR RELATIONSHIP WITH MIXFIT AND USE OF THE OFFERINGS PROVIDED THROUGH THE WEBSITES AND OFFERINGS.

THESE TERMS INCLUDES OUR PRIVACY POLICY LOCATED AT http://www.gomixfit.com/legal/terms_of_service.pdf WHICH IS INCORPORATED HEREIN AND MADE A PART OF THESE TERMS.

Content; Acceptance of Terms of Service

Mixfit makes Offerings, including all content, information, graphics, documents, text, products, and all other elements and products offered through the Offerings (collectively, the “**Content**”) available for your use subject to the terms and conditions provided in our Terms. By accessing and using the Offerings you agree to be bound by and to accept these Terms and all terms and conditions contained and/or referenced here, as well as any additional terms and conditions set forth on the Websites and/or Offerings.

If you do **NOT** agree to all the terms and conditions in these Terms, you should **NOT** use the Websites or Offerings. If you do **NOT** agree to any additional specific terms that apply to particular Content or to a particular transaction conducted through the Offerings, then you should **NOT** use the part of the Websites and/or Offerings that contains such Content or through which such transactions are concluded.

Mixfit, from time to time, may make changes to these Terms. Upon notice given by one or more of the following means: your Account (please see the explanation about setting up and using the Account in the Account Information section) or by email communication to the email address provided by you when you setup your Account or otherwise on record for your Account.

By using our Offerings and providing us with your contact information, you agree that we can send you communications about our Offerings. You will be given the opportunity to opt-out, provided that if you choose to opt-out all or part of the Offerings may no longer be available to you.

Account Information

When beginning to use the Offerings, you will be given an opportunity to set up your account (“Account”). When creating or updating your Account, you may be required to provide Mixfit with certain personal information, including but not limited to your name, mobile phone number, e-mail address, mailing addresses, and location.

We may also ask you to provide your gender, age, weight, height genetic data, bioenergy and nutrients consumption, bioenergy and nutrients intake, and other health data. In some cases, we would ask you to include levels of physical activity and physical fitness data. It is completely optional for you to engage in these activities, and therefore to provide us with your information.

This information will be held and used in accordance with Mixfit's Privacy Policy at: http://www.gomixfit.com/legal/privacy_policy.pdf. You agree that you will supply accurate and complete information to Mixfit, and that you will update such information as needed. The following rules govern the security of your Account:

- a. You shall not share the Account with any third party, let anyone else access or use your Account, or do anything else that might jeopardize the security of your Account;
- b. In the event you become aware of or reasonably suspect any breach of security of your Account, you must immediately notify Mixfit; and
- c. You are solely responsible for any unauthorized use of your Account.

User Obligations

You agree to use the Offerings only for purposes permitted by these Terms as well as any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions.

You agree not to access (or attempt to access) the Offerings by any means other than those provided by Mixfit or its authorized partners. You agree not to access (or attempt to access) the Offerings by way of automated means and that you will not engage in any activity that interferes with or disrupts the Website, Offerings or Offerings (or the servers and networks which are connected to the Website, Offerings or Offerings).

Further, you agree:

- not to disrupt or interfere with any other user's enjoyment of the Website, Offerings or Offerings or affiliated or linked sites;
- not to upload, post, or otherwise transmit through the Website, Offerings or Offerings any viruses or other harmful, disruptive, or destructive files;
- not to access or attempt to access any Content, which you are not authorized to access under the terms herein; and
- not to disrupt or interfere with the security of, or otherwise cause harm to the Websites, Offerings, Content, User Content, system resources, accounts, passwords, servers, or networks connected to or accessible through the Websites or Offerings or any affiliated or linked sites.

Information and Materials Provided By You

All materials, documents, communications, or information submitted to, sent through, or stored on the Websites or on one or more Offerings by you ("User Submission") will be

subject to these Terms and Privacy Policy http://www.gomixfit.com/legal/privacy_policy.pdf. The security of such information is very important to us, but Mixfit does not assume liability for any User Submissions provided by you or any third party. We do not monitor or control the User Submissions posted via the Offerings and, we do not take responsibility for such User Submissions.

When you provide User Submission via our Offerings, you hereby grant to Mixfit a non-exclusive, worldwide, perpetual, irrevocable, fully paid, royalty-free, and fully sub-licensable and transferable license under any and all intellectual property rights that you own or control to publish, reproduce, distribute, perform, display, adapt, modify and prepare derivative works of, and otherwise use your User Submission in connection with our Offerings. We will not pay you or otherwise compensate you for any User Submission you provide to Mixfit.

You can remove User Submission that you posted by specifically deleting it. In certain instances, however, some User Submission (such as posts or comments you make) may not be completely removed on the Offering and copies of your User Submission may continue to exist on the Offering and/or elsewhere. We are not responsible or liable for the removal or deletion of (or the failure to remove or delete) any User Submission on the Offering.

Links to Other Sites; Third Party Materials and Transactions

The Website, Offerings and Offerings may include links to other Websites and/or third party products or materials and that are not under Mixfit's control (collectively, "Third Party Materials"). Mixfit is not responsible in any way for such Third Party Materials. Mixfit provides such links only for the convenience of the users of the Website, Offerings and Offerings, and the inclusion of any link to any Third Party Materials does not imply endorsement by Mixfit of the content, products and/ or Offerings of such Third Party Materials.

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Intellectual Property

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Warranties and Disclaimers

ALL CONTENT AND/OR OFFERINGS ARE PROVIDED "AS IS" AND "AS AVAILABLE." MIXFIT HEREBY EXPRESSLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, NON-INFRINGEMENT, OR AS TO THE OPERATION OF THIS WEBSITE, OFFERINGS OR THE CONTENT. MIXFIT DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS AS TO THE SECURITY OF THE OFFERINGS, WEBSITE, OR CONTENT. YOU ACKNOWLEDGE THAT ANY INFORMATION SENT MAY BE INTERCEPTED IN TRANSMISSION OR OTHERWISE. MIXFIT DOES NOT WARRANT THAT THE OFFERINGS, WEBSITES, CONTENT, OR THE SERVERS WHICH MAKE THIS OFFERINGS OR WEBSITES AVAILABLE OR ELECTRONIC COMMUNICATIONS SENT BY MIXFIT ARE FREE FROM VIRUSES OR ANY OTHER HARMFUL ELEMENTS. Except as agreed by Mixfit in writing, contractors, agents, dealers or distributors of Mixfit or any other third party shall not have a right to modify this limited warranty, nor to make any additional warranties.

THE USE OF THE WEBSITE, OFFERINGS OR OFFERINGS OR THE DOWNLOADING OR OTHER USE OF ANY PRODUCTS THROUGH THE WEBSITE OR OFFERINGS IS DONE AT YOUR OWN DISCRETION AND RISK AND WITH YOUR AGREEMENT THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM, LOSS OF DATA, OR OTHER HARM THAT RESULTS FROM SUCH ACTIVITIES. MIXFIT ASSUMES NO LIABILITY FOR ANY COMPUTER VIRUS OR OTHER SIMILAR SOFTWARE CODE THAT IS DOWNLOADED TO YOUR COMPUTER FROM THE WEBSITE, OFFERINGS OR IN CONNECTION WITH ANY OFFERINGS OR PRODUCTS OFFERED THROUGH THE WEBSITE AND/OR OFFERINGS. NO ADVICE OR INFORMATION WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM MIXFIT OR FROM THE WEBSITE AND/OR OFFERINGS SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TERMS.

IN NO EVENT SHALL MIXFIT OR ANY OF ITS AFFILIATES BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, PUNITIVE, SPECIAL OR INCIDENTAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS, CONTRACT, REVENUE, DATA, INFORMATION OR BUSINESS

INTERRUPTION), UNDER ANY THEORY OF LIABILITY, RESULTING FROM, ARISING OUT OF OR IN CONNECTION WITH THE USE OF, OR INABILITY TO USE THE WEBSITE OR OFFERINGS OR THE CONTENT, PRODUCTS, OFFERINGS, STATEMENTS OR ACTIONS OF ANY THIRD PARTY ON OR THROUGH THE WEBSITE, OFFERINGS OR OFFERINGS, ANY UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSION OR DATA, ANY INFORMATION THAT IS SENT OR RECEIVED, OR NOT SENT OR RECEIVED, ANY FAILURE TO STORE DATA, ANY LOSS OF DATA, LOSS OR DAMAGE TO FILES, LOSS OR DAMAGE TO THE CONTENT, ANY OFFERINGS AVAILABLE THROUGH THE WEBSITE AND/OR OFFERINGS THAT ARE DELAYED OR INTERRUPTED, EVEN IF MIXFIT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ANY ACTION BROUGHT AGAINST MIXFIT PERTAINING TO OR IN CONNECTION WITH THE WEBSITE, OFFERINGS AND OFFERINGS MUST BE COMMENCED AND NOTIFIED TO MIXFIT IN WRITING WITHIN ONE (1) YEAR AFTER THE DATE THE CAUSE FOR ACTION AROSE.

Some jurisdictions do not allow the exclusion of implied warranties or limitations, so the above limitations may not apply to you.

Your Warranties

YOU HEREBY WARRANT THAT: (i) ALL INFORMATION PROVIDED BY YOU TO MIXFIT IN CONNECTION WITH THE OFFERINGS IS TRUE, ACCURATE, CORRECT, AND UP TO DATE; (ii) YOU HAVE FULL POWER AND AUTHORITY TO ENTER INTO THESE TERMS; (iii) YOU ARE OF LEGAL AGE TO FORM A BINDING CONTRACT WITH MIXFIT; (iv) YOU WILL SEEK ALL NECESSARY GOVERNMENTAL APPROVALS REQUIRED TO EFFECTUATE THESE TERMS; (v) YOU SHALL PERFORM ALL OF YOUR OBLIGATIONS UNDER THESE TERMS IN ACCORDANCE WITH APPLICABLE LAWS, RULES, AND REGULATIONS; AND (vi) YOUR EDITORIAL, TEXT, GRAPHIC, AUDIOVISUAL, AND OTHER CONTENT THAT IS AVAILABLE TO USERS OF THIS WEBSITE AND/OR OFFERINGS AND THAT IS NOT PROVIDED BY MIXFIT DO NOT (1) INFRINGE ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY, (2) CONSTITUTE DEFAMATION, LIBEL OR OBSCENITY, (3) RESULT IN ANY CONSUMER FRAUD, PRODUCT LIABILITY, BREACH OF CONTRACT TO WHICH YOU ARE A PARTY OR CAUSE INJURY TO ANY THIRD PARTY, (4) PROMOTE VIOLENCE OR CONTAIN HATE SPEECH, (5) VIOLATE ANY APPLICABLE LAW, STATUTE, ORDINANCE, OR REGULATIONS, OR (6) CONTAIN ADULT CONTENT OR PROMOTE ILLEGAL ACTIVITIES.

Feedback

You may from time to time provide suggestions, comments or other feedback to Mixfit with respect to any product, material, software or information provided by Mixfit (hereinafter "Feedback"). You agree that all Feedback is and shall be entirely voluntary and shall not, absent separate agreement, create any confidentiality obligation for Mixfit. Mixfit will not disclose the source of any feedback without notice to the providing party.

However, Mixfit shall be free to disclose and use such Feedback as it sees fit, entirely without obligation of any kind to you. The foregoing shall not, however, affect either party's obligations hereunder with respect to the information protected pursuant to Mixfit' Privacy Policy posted on this Website or Offerings.

Indemnification

You hereby agree to indemnify and hold harmless Mixfit, its affiliates, officers, directors, agents, and employees, from any expense, loss, claim, damage, fine, penalty or liability, including reasonable fees for attorneys and other professionals, payable under any judgment, verdict, court order or settlement, to the extent resulting from any claim, demand, action, suit, arbitration, or other proceeding initiated by any third party, including the assessment, claim or demand by a governmental agency or entity, arising out of your breach of these Terms.

Privacy

Mixfit respects your privacy and the use and protection of your personal and other information. Users may not collect personal data from the Websites or Offerings, and any non-compliance with this or any other provision of these Terms may result in the termination of the user's Account. Please see our Privacy Policy for important information and disclosures relating to the collection and use of your personal information in connection with your use of the Websites and/or Offering.

Ending Your Relationship with Mixfit

These Terms will continue to apply until terminated by either you or Mixfit or as otherwise provided by the applicable agreement between you and Mixfit. Mixfit reserves the right to terminate these Terms with you at its own discretion at any time, upon notice, and without any liability to Mixfit whatsoever.

You are solely responsible for cancelling your Account, which you may do by emailing Mixfit at: support@gomixfit.com.

Assignment

Mixfit may assign or delegate these Terms, in whole or in part, to any person or entity at any time with or without your consent. You, however, may not assign or delegate any rights or obligations under these Terms without Mixfit's prior written consent, and any unauthorized assignment and delegation by you is void and ineffective.

Offering Access

If the Websites and/or Offerings are not available for any period or any time, Mixfit shall not be liable. Mixfit gives no warranties as to the accessibility, performance, or availability of the Websites or Offerings. Temporary suspension of access to the

Websites and/or Offerings may occur without notice at our discretion including without limitation in the case of repair, maintenance, system failure, or for reasons beyond our control. Mixfit reserves the right to suspend the operation of the Websites or Offerings.

Force Majeure

Mixfit will not be liable for any nonperformance, delay, error, data loss or other loss caused by any events or conditions that are beyond the reasonable control of Mixfit.

Agreement to Deal Electronically

All transactions with or through the Websites or Offerings may, at Mixfit's option, be conducted and executed electronically. We may keep records of any type of communication conducted via the Websites and/or Offerings. All electronic records are deemed sent when they are properly addressed to the recipient and the record enters an information processing system outside the control of the sender or the record enters a region of an information processing system under the recipient's control. All electronic records are received when the record enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent, in a form capable of being processed by that system, and from which the recipient is able to retrieve the electronic record.

Injunctive Relief

You acknowledge and agree that any violation or breach of these Terms may cause Mixfit immediate and irreparable harm and damages. As a result, Mixfit has the right to, and may in its discretion, immediately obtain preliminary injunctive relief (including, without limitation, temporary restraining orders) and seek permanent injunctive relief regarding any violation or breach of these Terms. In addition to any and all other remedies available to Mixfit in law or in equity, Mixfit may seek specific performance of any term in these Terms.

Severability

These Terms will be enforced to the fullest extent permitted by applicable law. If for any reason any provision of these Terms are held to be invalid or unenforceable under applicable law to any extent, then (a) such provision will be interpreted, construed or reformed to the extent reasonably required to render the same valid, enforceable and consistent with the original intent underlying such provision and (b) such invalidity or unenforceability will not affect any other provision of this Agreement.

Governing Law

These Terms shall be governed by and construed and enforced in accordance with the laws of the State of New York without reference to conflicts of law rules and principles. You agree that these Terms are to be performed in the State of New York and that any action, dispute, controversy, or claim that may be instituted based on these Terms, or

arising out of or related to these Terms or any alleged breach thereof, shall be prosecuted exclusively in the courts of the State of New York and you, to the extent permitted by applicable law, hereby waive the right to change venue to any other state, county, district or jurisdiction; provided, however, that Mixfit, as claimant, shall be entitled to initiate proceedings in any court of competent jurisdiction.

Any proceedings to resolve or litigate any dispute in any forum in connection with these Terms shall be conducted solely on an individual basis. Neither you nor Mixfit shall seek to have any dispute or controversy in connection with these Terms heard as a class action or in any other proceeding in which either party acts or proposes to act in a representative capacity. Parties further agree that no proceeding shall be combined with another proceeding without the prior written consent of the other party.

No action, regardless of form, arising out of the transactions under these Terms, may be brought by either party hereto more than one (1) year after the cause of action has occurred, or was discovered to have occurred, except that an action for infringement of intellectual property rights may be brought within the maximum applicable statutory period.

Mixfit does not bear any responsibility nor assumes any risks if by any reason a product or an Offering made available through the Websites breaches national law of any country. Those who access the Website or Offerings do so at their own initiative and are responsible for compliance with their national laws.

Questions may be submitted at: support@gomixfit.com. Please also read our Privacy Policy at http://www.gomixfit.com/legal/privacy_policy.pdf.

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