

Effective as of November 15, 2017

GLOSSARY OF TERMS

Term	Definition:
“Affiliate”	means any entity that directly or indirectly controls, is controlled by, or is under common control with Client (or you as the context might require). “Control” means the power to direct or cause the direction of the management and policies of an entity, whether through equity ownership, a credit arrangement, franchise agreement or other contractual arrangement. “Affiliate” also includes any studios and/or business locations of Client, which have been designated to receive Services under this Agreement.
“Aggregator Data”	means Consumer Data that is captured by an Aggregator’s API Application.
“Aggregator Reservation Fees”	means those fees payable by a Aggregator to zingFit in set forth in the API Fee Schedule.
“Aggregator”	means a Person who (i) is not a Client, (ii) uses the API or accesses the zingFit System through something similar to an application programming interface to make a Reservation, and (iii) is compensated directly or indirectly by either the Consumer or the Client for the service of making the Reservation or otherwise monetizes the use of the API.
“API Account”	means an account that is registered and maintained on behalf of any user of the API (as required under the API Agreement).
“API Agreement”	means that agreement containing the terms for anyone who uses or accesses the API (including the supporting documents incorporated therein by reference), the terms of which can be found here: http://www.zingfit.com/legal-docs/API-agreement-terms-and-conditions/ unless you have executed a separate contract to use and/or access the API and in which the “API Agreement” shall mean such agreement relating to the use of and/or access to the API (including the supporting documents incorporated therein by reference).
“API Application”	means any application that You (as “You” is defined in the API Agreement) develop (i) to access or use the zingFit API or the zingFit System, and/or (ii) to use, search, display, upload, and/or modify zingFit Content, Client Data, Consumer Data or Your API Data.
“API Fee Schedule”	means the schedule of fees that zingFit charges a user of the API as agreed to by anyone who uses (e.g., “you” as defined in) the API Agreement. The API Fee Schedule can be found here:

	<p>http://www.zingfit.com/legal-docs/API-Fee_schedule/.</p> <p>Notwithstanding the foregoing, if you have executed a separate contract to use and/or access the API, then the “API Fee Schedule” shall mean the schedule of fees attached as an exhibit to such separate agreement relating to the use of and/or access to the API.</p>
“API Fees”	collectively means all of those fees that a user of the API is responsible for paying under the API Fee Schedule.
“API Service Level Agreement” or “API–SLA”	means that agreement that specifies the availability of the API over the Internet to users of the API, which can be found at this URL: http://www.zingfit.com/legal-docs/API-service-level-agreement/ . Note that the API SLA only applies to persons who have executed and API agreement directly with the zingFit and does not apply to persons (e.g., the general public) who access and/or use the API so as to be bound by the API agreement posted on zingFit’s website as result of such access and/or/usage (e.g., the general public has no service level agreement with zingFit for the use of the API).
“API User”	means any person who in any manner accesses or uses the API.
“API”	means zingFit’s application programming interface that allows third-party software to access the zingFit System, and includes any updates as those are made.
“App Hosting Agreement”	means the App Hosting Agreement between Client and zingFit, which includes the terms for the provision of Services and Client's access to the zingFit System. The term “App Hosting Agreement” collectively refers to the App Hosting Agreement and all supporting documents, the terms of which are incorporated by reference into the App Hosting Agreement, including but not limited to the zingFit Policies and these User Terms & Conditions.
“Arbitrators”	means three arbitrators who are appointed by JAMS (Judicial Arbitration and Mediation Services) to resolve any disputes as set forth in the User Terms & Conditions.

“Branding Requirements”	means those requirements of how a person may refer to zingFit or use the zingFit Marks as set forth in a document which can be found here http://www.zingfit.com/legal-docs/brand-requirements/
“Call Volume Fees”	means those fees as defined in the API Fee Schedule.
“Claim(s)”	means any present or future direct or indirect indebtedness, liability, settlement, judgment or judicial compromise (whether voluntary or involuntary), loss, damage, interest charge, penalty, deficiency, obligation or responsibility, whether known or unknown, fixed or unfixed, conditional or unconditional, choate or inchoate, liquidated or unliquidated, secured or unsecured, accrued, absolute, contingent or otherwise (including reasonable costs and reasonable attorneys’ or consultants’ fees and expenses). The term, “Claims” also includes any court costs and reasonable attorney fees in defending any legal action or assertions whether brought (or raised) by a Party or a third party.
“Client Content Pages”	means those pages of the Client’s website that are not related to scheduling, reserving or purchasing health classes (e.g., spinning classes, yoga classes, etc.) or other related merchandise or items.
“Client Data”	means all content, data or information provided directly by Client to zingFit or that Client employs in conjunction with the zingFit System. Client Data excludes Consumer Data and/or zingFit Data.
“Client Responsibilities”	Means any of the responsibilities and/or liabilities of Client as set forth in the User Terms & Conditions.
“Client Software”	means any software code or application – except for the zingFit System or Third-Party Applications – that Licensee incorporates into its applications, products and services.
“Client”	For the purposes of the App Hosting Agreement, “Client” has such meaning as set forth on page 1 of the App Hosting Agreement. For the purposes of any document or agreement (other than the App Hosting Agreement) “Client” means any person that has executed an App Hosting Agreement or who has engaged

	zingFit in any capacity for Services or products.
“CMS”	means zingFit’s proprietary content management system.
“Confidential Information”	With respect to the App Hosting Agreement has such meaning as set forth in Paragraph 11 of the User Terms & Conditions. with respect to the API Agreement, “Confidential Information” is defined directly therein.
“Consumer Data”	means any data that is input by a Consumer into the zingFit System.
“Consumer”	means a business or individual that interacts with a Client or schedules or purchases products or services from a Client through the zingFit System.
“Correspondent Reservation”	means a Reservation made and/or facilitated by a Correspondent.
“Correspondent”	means a third party other than an Aggregator that (i) uses the API or accesses the zingFit System through something similar to an application programming interface to make a Reservation, and (ii) is NOT compensated directly by either the Consumer or the Client for making the Reservation.
“Credit Card Processor”	means a third party – regardless of whether such third-party is unrelated to zingFit or an Affiliate of the zingFit – who provides credit card processing of transactions for the benefit of Client.
“Customization Estimate”	means zingFit’s estimate of customization expenses, which is to be provided to Client only after Client has provided zingFit with a Web Design, Room Design and/or Other Design.
“Customization Review & Analysis”	is an Integration Add-on and is the process whereby zingFit reviews and analyzes Client’s requested features to the zingFit System (e.g. in addition to the Standard Integration and/or other Integration Add-ons). Client is billed for this process of reviewing and determining the required Customization as an Integration Add-on, according to the Integration Pricing Table.
“Customization”	means those requests by Client requiring customization, which is in addition to Integration, as indicated on the Integration Plan.

“Dispute”	means any dispute, controversy, or claim arising under or relating to the App Hosting Agreement or the API Agreement.
“Effective Date”	For the App Hosting Agreement, “Effective Date” has such meaning as set forth on page 1 of the App Hosting Agreement. For the API Agreement, “Effective Date” means the date that a user (e.g., you) receives access to the API or to subscriber data.
“End User”	means any and/or each person who in any manner accesses or uses the zingFit System, the API, or the zingFit website.
“Force Majeure Event”	Means the occurrence of any event, the cause of which is beyond a Party’s reasonable control and occurring without that Party’s fault or negligence, including, but not limited to, acts of God, acts of government, flood, fire, civil unrest, acts of terror, strikes or other labor problems, computer attacks (by government/nation entities or otherwise) or malicious acts, such as attacks on or through the Internet, any Internet service provider, telecommunications or hosting facility.
“Fully Trained”	means those personnel of Client who have completed three sessions of the zingFit training per the App Hosting Agreement.
“Glossary”	means this glossary, which provides definitions for capitalized terms, which are to be incorporated into zingFit’s various contracts, schedules, appendices, policies, guidelines etc.
“HIPAA”	means the Health Insurance Portability and Accountability Act that was passed by Congress, including any updates or amendments.
“Hosted Webpages”	per the Subscription Plan means the zingFit Scheduling Pages and any Client Content Pages if selected as a Service Tier Add-On under the Subscription Plan.
“Integration Add-Ons”	means those additional Integration work or features (e.g., in addition to Standard Integration) as indicated on the Integration Plan.
“Integration Content”	means all text, writings, graphic content and/or digital content that Client desires to enter into the CMS – including but not limited to pictures, images, articles, blogs, etc.

“Integration Deposit”	means the amount of payment required upon execution of the App Hosting Agreement for Integration (including Standard Integration and Integration Add-Ons), which equals 50% of the Integration fees as set forth in the Integration pricing table of the Integration Plan.
“Integration Plan”	means the terms governing the Integration to be performed by zingFit as specified in the App Hosting Agreement and labeled as the, “Integration Plan.”
“Integration”	Means the development work, which is required so as to integrate the zingFit System with Client's existing webpages and/or Client Software in order for Client to use the zingFit System.
“Network Access Fee”	Is the monthly fee charged to users of the API, according to the API Fee Schedule, solely in exchange for such user’s access to the API. For added clarity, the API Monthly Access Fee does not include any other fees as listed in the API Fee Schedule that a user of the API might be responsible for paying (e.g., you must still pay the Aggregator Reservation Fees, the Call Volume Fees and the Spot Scheduling Fees).
“Other Design”	means such additional features or work, which are different and distinct from Integration and which Client is requesting from zingFit under the Customization section of the Integration Plan.
“Paragraph”	means any of the numbered paragraphs in a particular contract, agreement, policy, guideline, etc., including any underlying subparagraphs or divisions.
“Party/Parties”	<p>In reference to (or in the context of) the App Hosting Agreement, “Party/Parties” means zingFit and the Client collectively (e.g., as the Parties), or individually either zingFit or Client (e.g. as a Party).</p> <p>In reference to (or in the context of) the API Agreement, “Party/Parties” means zingFit and the API User collectively (e.g., as the Parties), or individually either zingFit or API User (e.g. as a Party).</p>
“Payment	is the authorization provided by Client in the App Hosting Agreement to process fees and charges as set forth in the App

Authorization”	Hosting Agreement, the Subscription Plan and the Integration Plan.
“PCI DSS”	means the Payment Card Industry Data Security Standard (PCI DSS), which is a proprietary information security standard for organizations that handle branded credit cards from the major card schemes including Visa, MasterCard, American Express, Discover, and JCB.
“Person” or “person”	means any individual person and/or any particular company or entity as the case may be.
“Personal Health Information” or “PHI”	Has such meaning as defined under HIPAA.
“PII” or “Personally Identifiable Information”	means all data and information about Consumers or the Parties' end users, which is used in connection with the API or the zingFit System, including but not limited to such Consumer's or end-user's name, address, email address, phone numbers, emergency contact information, reservation history and tendencies and financial transaction data, including but not limited to credit card permission, debit card information and/or bank account information.
“Privacy Policy”	means the zingFit Privacy Policy as may be updated by zingFit from time to time, which is accessible at the following URL (or such other URL specified by zingFit): http://www.zingfit.com/legal-docs/privacy-policy/
“Private Integration Reservation”	means a Reservation that is made through an API Application developed by a Client that Client uses on its own behalf to make a Reservation for a studio, which the Client owns.
“Public Integration Reservation”	means a Reservation that is made through the API or an API Application and that does not constitute a Private Integration Reservation.
“Reservation”	means a transaction through the zingFit System or API that reserves attendance in a class or session that (i) a Consumer makes with a Client, and (ii) that is actually charged to the Consumer without a possibility of refund – either because the Consumer actually attends such class or session or fails to

	cancel or reschedule such class or session according to the Client’s policies so as to entitle the Consumer to a refund.
“Room Design”	means a Client’s proposed room design – including any graphics, media assets or instructions as required by zingFit – for a particular Hosted Webpage wherein a Consumer would order or reserve a class from Client.
“Security Policy”	http://www.zingfit.com/security-policy/ Means that policy that addresses security issues and requirements and which can be found here: http://www.zingfit.com/legal-docs/security-policy/ .
“SEO”	means search engine optimization.
“Service Level Agreement” or “SLA”	<p>With respect to the App Posting Agreement means that agreement that specifies the availability of the Hosted Webpages over the Internet as set forth in the App Hosting Agreement, which can be found at this URL: http://www.zingfit.com/legal-docs/app-hosting-agreement-service-level-agreement/.</p> <p>There is no SLA with respect to the API made generally available to the public over zingFit’s website. However, if You have executed an API Agreement directly with zingFit (e.g., so that the API agreement on the zingFit’s website is replaced by the API Agreement directly executed between you and zingFit) then “Service Level Agreement” or “SLA” means that agreement that specifies the availability of the Hosted Webpages over the Internet as set forth Exhibit C attached to Your API Agreement.</p>
“Service Marks”	means (a Person’s) business name(s), trademarks, service marks or logos (collectively, “Service Marks”).
“Service Tier Add-ons”	means those Services in addition to the Service Tier, for which Client is subscribing, as specified under the Subscription plan.
“Service Tier”	means the level of Service that Client subscribes to receive under the Subscription the Plan – e.g., Studio Level, Boutique Level, or Enterprise Level.
“Services”	means any services performed by zingFit or any rights granted by zingFit under the App Hosting Agreement, the API Agreement or otherwise, including but not limited to the License, Integration, Customization, the availability of (or access to) the API, the

	Hosted Webpages, support and/or training.
“Spot Scheduling Fees”	means those fees as defined in the API Fee Schedule.
“Spot Scheduling Reservation”	means a reservation of attendance in one or more classes or sessions that a Consumer makes with a Client, where the Consumer can (i) specify either the particular equipment used in any of the classes/sessions or the particular position or assigned place in any of the classes or sessions, or (ii) view any graphical representation of equipment or position of place for any of the classes or sessions.
“Standard Integration”	Is defined in the Integration Plan.
“Subscription License”	means the license as provided for in the App Hosting Agreement for the duration of the Subscription Term to use the zingFit System as specified in the Subscription Plan.
“Subscription Plan”	means the terms governing the Services to be provided by zingFit as specified in the App Hosting Agreement and labeled as the, “Subscription Plan.”
“Subscription Term”	means that term for which Client is contracting to receive Services as specified the Subscription Plan.
“Support Plan”	means the level of support that zingFit will provide to Client as indicated in the Service Tier, for which Client is subscribing under the Subscription Plan – e.g., the Support Plan specifies the amount of email and telephone support (if any) to which Client is entitled to receive.
“Termination Date”	means the date on which App Hosting Agreement terminates as specified in the paragraph titled, “Term, Termination & Suspension” of the App Hosting Agreement.
“Third Party Application”	means any third-party products, software, applications, websites, implementations or services, including loyalty programs, that the zingFit System links to or is used in conjunction with the zingFit System or Services.
“Third Party”	independent contractors, agents or third-party service providers

Provider(s)”	who work on behalf of another person (e.g., such as a Client or You in the case of the API Agreement).
“Third Party Services”	third-party products or services that if zingFit makes available to the zingFit System or the API to a user of the API.
“User Terms & Conditions”	Means those user terms and conditions (as updated from time to time), which can be found the following URL: http://www.zingfit.com/legal-docs/user-terms/
“Web Code”	means the website HTML, CSS and/or JavaScript for a particular website.
“Web Design”	means the design for a Client’s website as provided by a Client to zingFit.
“You” or “Your”	means a user of the API in the context of the API Agreement.
“Your API Data”	for the purposes of the API Agreement, means (i) all data and information provided directly by a Client or Consumer to you, which you in turn supply to or use in connection with the zingFit system through the API, but only if (ii) such data and/or information is not already in zingFit’s possession or is not also provided directly to zingFit from a Client.
“zingFit Content”	means any content on the zingFit’s website and any data associated with such content.
“zingFit Data”	any data or information collected by zingFit independently and without access to, reference to or use of any of Client Data.
“zingFit Marks”	means zingFit’s service marks, logos, product names, service names URLs, and/or domain names (e.g., for any of zingFit’s websites).
“zingFit Parties”	collectively means ZingFit and its Affiliates and their respective shareholders, directors, officers, employees, agents, representatives, contractors, licensors, suppliers and service providers (collectively, the “zingFit Parties”).
“zingFit Policies”	include the following: (i) the Branding Requirements, (ii) the Service Level Agreement, (iii) the Privacy Policy, and (iv) any other policy developed by zingFit that is posted under its legal

	page on its website, which can be found here http://www.zingfit.com/legal-docs/ .
“zingFit Scheduling Pages”	Means the reserve schedule, customer account, reservation, series purchase pages and other scheduling pages as currently provided by zingFit in its Standard Integration.
“zingFit System”	collectively means (i) any and all hardware and/or software code used to provide any Services to Client under the App Hosting Agreement, including but not limited to the Web Code, the Web Design, zingFit’s servers, etc., and (ii) the zingFit Data.
“zingFit”	means ZINGFIT LLC, a Delaware Limited Liability Company.