

VIRTUAL MEMBERSHIP AGREEMENT:

Kivett Kinetic Solutions, LLC Terms and Conditions of Use For Residents of the United States and Canada

Last Updated: March 4, 2022

Kivett Kinetic Solutions, LLC and its affiliates, subsidiaries and parent companies (collectively, “KKS”, “us”, “we” or “our”) are pleased to provide you with access to and use of our websites, mobile and device applications, content, streaming services, products, services, goods, equipment, equipment interfaces, promotions, software, technology and any other materials (collectively, “Kivett Kinetic Solutions, LLC Services”) that we may provide.

PLEASE READ CAREFULLY: THESE TERMS AND CONDITIONS CONTAIN A BINDING ARBITRATION PROVISION AND CLASS ACTION WAIVER (SECTION 9) WHICH AFFECT YOUR RIGHTS RELATED TO DISPUTES YOU MAY HAVE WITH KIVETT KINETIC SOLUTIONS, LLC EXCEPT WHERE PROHIBITED BY LAW AND AS SET FORTH IN SECTION 9, BY PURCHASING, ENGAGING WITH OR OTHERWISE USING ANY KIVETT KINETIC SOLUTIONS, LLC, LLC SERVICES, YOU EXPRESSLY AGREE THAT DISPUTES BETWEEN YOU AND KIVETT KINETIC SOLUTIONS, LLC WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION, AND YOU HEREBY WAIVE YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR CLASS-WIDE ARBITRATION. IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, PLEASE IMMEDIATELY CEASE USE OF ANY KIVETT KINETIC SOLUTIONS, LLC SERVICES.

The Kivett Kinetic Solutions, LLC Services are not intended for anyone under the age of 13. IF YOU ARE 13 TO 17 YEARS OF AGE, YOU MAY ONLY ACCESS AND/OR USE ANY Kivett Kinetic Solutions, LLC SERVICES WITH THE INVOLVEMENT AND APPROVAL OF YOUR PARENT OR GUARDIAN.

1. Contract Between You and Kivett Kinetic Solutions, LLC; Privacy Policy.

These Terms and Conditions of Use (“Terms”) and our Privacy Policy (available on the homepage of our website) form a legally binding agreement between you and Kivett Kinetic Solutions, LLC, and govern your access and use, and our provision of, the Kivett Kinetic Solutions, LLC Services and any other technology, content, items or other materials provided by or through Kivett Kinetic Solutions, LLC, or otherwise on which these Terms are provided (including via links). BY ACCESSING OR USING ANY Kivett Kinetic Solutions, LLC SERVICE, YOU AGREE TO BE BOUND AND ABIDE BY THESE TERMS (INCLUDING WITHOUT LIMITATION [SECTION 9](#) BELOW), OUR PRIVACY POLICY AND ANY AMENDMENTS THERETO, AND YOU AGREE YOU ARE AT LEAST 13 YEARS OF AGE.

Supplemental terms and conditions may apply to certain Kivett Kinetic Solutions, LLC Services, such as rules for a particular contest, sweepstakes, competition, or other activity, or terms that may accompany certain content, software or other materials accessible through the Kivett Kinetic Solutions, LLC Services, such as terms related to Kivett Kinetic Solutions, LLC streaming services (e.g., Codes of Conduct, etc.) (“Supplemental Terms”). Any Supplemental Terms will be disclosed to you in connection with those other activities and will apply and govern specifically over such activities.

2. Changes to These Terms.

We may in our sole and absolute discretion change these Terms or our Privacy Policy from time to time to comply with laws or to meet our changing business requirements. These revisions shall be effective for new users immediately upon being posted to the Kivett Kinetic Solutions, LLC Services; however, for existing customers, the applicable revisions shall be effective 30 days after posting unless otherwise stated. If you do not agree with any of the changes, you must discontinue using any and all Kivett Kinetic Solutions, LLC Services. By continuing to use any Kivett Kinetic Solutions, LLC Services after the 30-day period referenced above in this Section, you expressly accept any applicable changes. Please note our employees, customer service representatives, or other agents are not authorized to modify any provision of these Terms, either verbally or in writing.

3. Kivett Kinetic Solutions, LLC Intellectual Property; Limited License to Kivett Kinetic Solutions, LLC Services.

- Ownership.

You acknowledge and agree that the Kivett Kinetic Solutions, LLC Services, and any logos, names, designs, text, graphics, software, content, files, materials, and any other intellectual property rights contained therein, including without limitation any copyrights, patents, trademarks, proprietary or other rights contained therein, related thereto, or otherwise arising therefrom are owned by Kivett Kinetic Solutions, LLC or its affiliates, subsidiaries, parent companies, licensors or suppliers. Furthermore, you acknowledge and agree that the source and object code of certain Kivett Kinetic Solutions, LLC Services (such as our mobile applications and online tools) and the format, directories, queries, algorithms, structure and organization of the same are the intellectual property, proprietary and confidential information of Kivett Kinetic Solutions, LLC and/or its affiliates, licensors and suppliers. You expressly agree that you will do nothing inconsistent with Kivett Kinetic Solutions, LLC ownership of the Kivett Kinetic Solutions, LLC Services, and that you gain no rights, title, or interest in or to any Kivett Kinetic Solutions, LLC Services or any goodwill associated therewith, except as stated in these Terms or any executed written agreement between you and Kivett Kinetic Solutions, LLC. In addition, except as expressly set forth in these Terms, you are not conveyed any right or license by implication, estoppel, or otherwise in or under any patent, trademark, copyright, or other proprietary right of Kivett Kinetic Solutions, LLC or any third party. Any and all goodwill arising from your use of any Kivett Kinetic Solutions, LLC Services shall inure solely to the benefit of Kivett Kinetic Solutions, LLC.

- Limited License.

For any Kivett Kinetic Solutions, LLC Services which enable you to use any software, content, or other materials owned or licensed by us only after you become validly authorized by us, we grant you a limited, revocable, non-exclusive, non-sublicensable, non-transferable license solely to access and use the specific Kivett Kinetic Solutions, LLC Services, and any related software, content, or other materials FOR YOUR PERSONAL, NON-COMMERCIAL USE ONLY.

- Restrictions.

You are prohibited from, and expressly agree that you will not: (i) circumvent or disable any content protection system, digital rights management technology, user and/or country limitations or any other technology used with any Kivett Kinetic Solutions, LLC Services; (ii) decompile, reverse engineer, disassemble or otherwise reduce any Kivett Kinetic Solutions, LLC Services to a human-readable form; (iii) remove identification, warnings, disclaimers, disclosures, copyright or other proprietary notices in or on the Kivett Kinetic Solutions, LLC Services; (iv) access or use any Kivett Kinetic Solutions, LLC Services in an unlawful or unauthorized manner or in a manner that suggests an association with our content, products, services or brands, unless you have an executed agreement with us that allows for such activity; (v) use, alter, copy, modify, store, sell, reproduce, distribute, republish, download, publicly perform, display, post, transmit, create derivative works of, or exploit any Kivett Kinetic Solutions, LLC Services or any part thereof, except as expressly authorized in these Terms or as part of the Kivett Kinetic Solutions, LLC Services provided to you; (vi) introduce a virus or other harmful component, or otherwise tamper with, impair or damage any Kivett Kinetic Solutions, LLC Services or connected network, or interfere with any person or entity's use or enjoyment of any Kivett Kinetic Solutions, LLC Services; (vii) access, monitor, or copy any element of the Kivett Kinetic Solutions, LLC Services using a robot, spider, scraper or other automated means or manual process without our express written permission; or (viii) sell, resell, or make commercial use of the Kivett Kinetic Solutions, LLC Services, unless you have an executed agreement with us that expressly allows for such activity. You may not access or use any Kivett Kinetic Solutions, LLC Service in violation of United States export control and economic sanctions requirements. By accessing or otherwise using any services, content or software through any Kivett Kinetic Solutions, LLC Services, you represent and warrant that: (ix) your access to and use of the Kivett Kinetic Solutions, LLC Services, or any content or software therein, will comply with any and all requirements in these Terms; (x) you are not located in a country that is subject to a U.S. government embargo, or that has been designated by the U.S. government as a terrorist supporting country, and that you are not listed on any U.S. government list of prohibited or restricted parties; and (xi) you will comply with all applicable local, national, and international laws, rules, regulations and ordinances in connection with your use of any Kivett Kinetic Solutions, LLC Services and our websites.

- Third Party Services and Content.

Certain Kivett Kinetic Solutions, LLC Services may integrate, be integrated into, or be provided in connection with third-party websites, services, applications, tools, interfaces, content, and/or materials (“Third-Party Services”). We do not review or control any Third-Party Services. We additionally make no claim or representation regarding, and accept no responsibility for, the quality, content, nature, or reliability of Third-Party Services accessible from our websites, apps, software or any other element of the Kivett Kinetic Solutions, LLC Services. There is no implied affiliation, endorsement or adoption by Kivett Kinetic Solutions, LLC of these Third-Party Services and we shall not be responsible for any content provided on or through these Third-Party Services. You should read the terms of use and privacy policies that separately apply to these Third-Party Services.

Certain opinions, advice, statements, or other information, including without limitation, food, nutrition and exercise data, may be made available by third parties through or in connection with the Kivett Kinetic Solutions, LLC Services (“Third-Party Content”). This Third-Party Content belongs to the respective authors or providers of the applicable Third-Party Content and these authors and providers are solely responsible for the Third-Party Content they provide in connection with the Kivett Kinetic Solutions, LLC Services. Kivett Kinetic Solutions, LLC DOES NOT: (i) GUARANTEE THE ACCURACY, COMPLETENESS, OR USEFULNESS OF ANY THIRD-PARTY CONTENT ON ANY Kivett Kinetic Solutions, LLC SERVICE; OR (ii) ADOPT, ENDORSE OR ACCEPT RESPONSIBILITY FOR THE ACCURACY OR RELIABILITY OF ANY OPINION, ADVICE OR STATEMENT MADE BY A THIRD-PARTY as part of any Third-Party Content. UNDER NO CIRCUMSTANCES WILL Kivett Kinetic Solutions, LLC BE RESPONSIBLE FOR ANY LOSS OR DAMAGE RESULTING FROM YOUR RELIANCE ON THIRD-PARTY CONTENT POSTED ON THE Kivett Kinetic Solutions, LLC SERVICES OR TRANSMITTED TO OR BY ANY THIRD-PARTY in connection with the Kivett Kinetic Solutions, LLC services.

- App Providers.

If you access any Kivett Kinetic Solutions, LLC Service using an Apple iOS or other third party device, you acknowledge that each of those third party companies, such as Apple Inc. (each, “App Provider”), will not be responsible for any damages arising out of the failure of a Kivett Kinetic Solutions, LLC Service to operate as intended.

When accessing any Kivett Kinetic Solutions, LLC Services by or through an App Provider, you acknowledge and agree that: (i) these Terms are concluded between you and Kivett Kinetic Solutions, LLC, and not with the App Provider, and that we are solely responsible for any Kivett Kinetic Solutions, LLC Services (such as mobile applications), and not the App Provider; (ii) the App Provider has no obligation to furnish any maintenance and support services with respect to any Kivett Kinetic Solutions, LLC Services; (iii) in the event of any failure of the Kivett Kinetic Solutions, LLC Services to conform to any applicable warranty: (a) you may notify the App Provider and the App Provider will refund the purchase price for the Kivett Kinetic Solutions, LLC Services to you (if applicable); (b) to the maximum extent permitted by applicable law, the App Provider will have no other warranty obligation whatsoever with respect to the Kivett Kinetic Solutions, LLC Services; and (c) any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be our responsibility; (iv) the App Provider is not responsible for addressing any claims you have or any claims of any third party relating to any Kivett Kinetic Solutions, LLC Services or your possession and use of the Kivett Kinetic Solutions, LLC Services, including without limitation: (d) product liability claims; (e) any claim that the Kivett Kinetic Solutions, LLC Service fails to conform to any applicable legal or regulatory requirement; and (f) claims arising under consumer protection or similar legislation; (v) in the event of any third party claim that the Kivett Kinetic Solutions, LLC Service or your possession and use of the same infringes that third party’s intellectual property rights, we will be responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by these Terms; (vi) the App Provider and its subsidiaries, are third party beneficiaries of these Terms as it relates to your license of the Kivett Kinetic Solutions, LLC Services, and that, upon your acceptance of these Terms, the App Provider will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third party beneficiary thereof; and (vii) you must also comply with all applicable third party terms of service when using the Kivett Kinetic Solutions, LLC Services. As also mentioned in these Terms, you represent and warrant that you are not located in a country that is subject to a U.S. government embargo, or that has been designated by the U.S. government as a terrorist supporting country, and that you are not listed on any U.S. government list of prohibited or restricted parties.

- Disclaimer of Warranties.

YOU ACKNOWLEDGE AND AGREE THE KIVETT KINETIC SOLUTIONS, LLC SERVICES, INCLUDING WITHOUT LIMITATION, ANY PRODUCTS, GOODS, SERVICES, WEBSITES, APPLICATIONS, HEALTH, FITNESS, NUTRITION AND WELLNESS CONTENT AND ADVICE, OR ANY OTHER INFORMATION PROVIDED THEREIN ARE PROVIDED “AS IS” AND “AS AVAILABLE”, WITH ALL FAULTS, ERRORS AND OMISSIONS, AND WITHOUT ANY PERFORMANCE ASSURANCES OR GUARANTEES OF ANY KIND. WE EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES, CONDITIONS, AND REPRESENTATIONS, EXPRESS OR IMPLIED, REGARDING THE KIVETT KINETIC SOLUTIONS, LLC SERVICES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, SATISFACTORY QUALITY, UPTIME, ACCESSIBILITY, AND WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE. WE MAKE NO GUARANTEE OR WARRANTY THAT THE KIVETT KINETIC SOLUTIONS, LLC SERVICE WILL MEET YOUR REQUIREMENTS OR THAT THEY WILL BE UNINTERRUPTED OR ERROR-FREE. WE FURTHER MAKE NO GUARANTEE OR WARRANTY AS TO THE PARTICULAR HEALTH AND WELLNESS GOALS, RESULTS, BENEFITS OR OUTCOMES THAT MAY BE ACHIEVED OR OBTAINED THROUGH USE OF ANY KIVETT KINETIC SOLUTIONS, LLC SERVICES. YOU AGREE TO USE THE KIVETT KINETIC SOLUTIONS, LLC SERVICES AT YOUR SOLE RISK.

YOU WILL NOT HOLD KIVETT KINETIC SOLUTIONS, LLC OR ITS THIRD-PARTY SERVICE PROVIDERS, LICENSORS AND SUPPLIERS, AS APPLICABLE, RESPONSIBLE FOR ANY LOSS OR DAMAGE THAT RESULTS FROM YOUR ACCESS TO OR USE OF THE KIVETT KINETIC SOLUTIONS, LLC SERVICES, INCLUDING WITHOUT LIMITATION ANY LOSS OR DAMAGE TO ANY OF YOUR COMPUTERS OR DATA, AS THE KIVETT KINETIC SOLUTIONS, LLC SERVICES MAY CONTAIN BUGS, ERRORS, PROBLEMS OR OTHER LIMITATIONS.

YOU ACKNOWLEDGE THAT WE DO NOT CONTROL ANY ADVERTISEMENTS, PRODUCT DESCRIPTIONS, PRODUCTS, OR CONTENT OFFERED BY THIRD PARTIES ON OR THROUGH OUR WEBSITES, INCLUDING WITHOUT LIMITATION, INFORMATION OR PRODUCTS PROVIDED BY LICENSE TO US FROM THIRD PARTIES. CERTAIN WARRANTIES WITH RESPECT TO PARTICULAR PRODUCTS/SERVICES ACCESSED FOR SALE THROUGH OUR WEBSITES MAY BE AVAILABLE THROUGH MANUFACTURERS' WARRANTIES, THOUGH NOT THROUGH KIVETT KINETIC SOLUTIONS, LLC; PLEASE READ THE WARRANTIES INCLUDED IN THE DOCUMENTATION PROVIDED ALONG WITH THOSE PRODUCTS/SERVICES FOR FURTHER DETAILS. EXCEPT AS OTHERWISE AGREED IN WRITING, WE ASSUME NO RESPONSIBILITY FOR AND MAKE NO WARRANTY OR REPRESENTATION AS TO THE ACCURACY, CURRENCY, COMPLETENESS, RELIABILITY, OR USEFULNESS OF THIRD-PARTY CONTENT, THIRD-PARTY SERVICES, OR THIRD-PARTY PRODUCTS (INCLUDING PRODUCT DESCRIPTIONS) DISTRIBUTED OR MADE AVAILABLE BY THIRD PARTIES THROUGH OUR WEBSITES.

- Mobile Networks; Texting.

When you access any Kivett Kinetic Solutions, LLC Services through a mobile network, such as one of our mobile applications, or you sign up for our text message programs, your network or roaming provider's messaging, data and other rates and fees may apply. Not all Kivett Kinetic Solutions, LLC Services may work with your network provider or device.

When you sign up to receive text messages from us, you acknowledge and agree you will receive such text messages using an autodialer to the number you provide, and that your consent for us to send you text messages is not a condition of purchasing any Kivett Kinetic Solutions, LLC Services. Not all carriers may be included within our text messaging programs. You are free to opt-out of receiving text messages from us at any time. Please see any additional instructions provided to you at the time you sign up.

4. Your Content and Account.

- User Generated Content.

The Kivett Kinetic Solutions, LLC Services may allow you and users of our websites to communicate, submit, upload or otherwise make available text, reviews, stories, images, photos, audio, video, media, chats, personally identifiable information (including health, wellness and nutritional data), feedback about our products and services, testimonials, success stories, or other content (“User Generated Content”). User Generated Content that you submit through any Kivett Kinetic Solutions, LLC account or any other Kivett Kinetic Solutions, LLC Services will be stored, maintained

and used by Kivett Kinetic Solutions, LLC in accordance with our Privacy Policy. You acknowledge certain types of User Generated Content that you submit, such as chats, photos, reviews, and message board entries, may be accessed and viewed by the public.

You may not submit or upload User Generated Content that is illegal, infringing, false, defamatory, harassing, threatening, bigoted, hateful, violent, vulgar, obscene, pornographic, negative or otherwise offensive or that harms or can reasonably be expected to harm any person or entity, whether or not such material is protected by law, as determined by Kivett Kinetic Solutions, LLC in its sole and absolute discretion. We have the right, but not the obligation, to monitor, screen, post, remove, modify, store and review User Generated Content or communications you submit, at any time and for any or no reason, including to ensure that the User Generated Content or communication conforms to these Terms, without prior notice to you.

You represent and warrant that your User Generated Content conforms to these Terms and that you own or have the necessary rights and permissions, without the need for payment to or consent from any other person or entity, to use and exploit, and you fully and unconditionally authorize us to use and exploit, your User Generated Content in all manners and mediums (including commercial use) desired by Kivett Kinetic Solutions, LLC, including as contemplated by these Terms. You agree to indemnify and hold us and our affiliates, parent companies, and subsidiaries, and each of their respective employees, officers, and directors harmless from any demands, loss, liability, claims or expenses (including attorneys' fees), made against us by any third party arising out of or in connection with our use and exploitation of your User Generated Content. You also agree not to enforce any moral rights, ancillary rights or similar rights in or to the User Generated Content against us or our licensees, distributors, agents, representatives and other authorized users, and agree to procure the same agreement not to enforce from others who may possess such rights. You waive any right to injunction or other equitable relief in connection with Kivett Kinetic Solutions, LLC use or exploitation of User Generated Content.

We will not be responsible or liable to any third party for any User Generated Content. We are not responsible for, and do not endorse or guarantee, the opinions, views, advice or recommendations posted or sent by other users of the Kivett Kinetic Solutions, LLC Services, or any authors, experts, celebrity trainers or otherwise. User Generated Content shall not state or reflect the attitudes and opinions of Kivett Kinetic Solutions, LLC, and any views and opinions expressed on our websites shall not be attributed to or otherwise endorsed by Kivett Kinetic Solutions, LLC.

- License to Your User Generated Content.

We do not claim ownership to your User Generated Content; however, you grant us a perpetual, fully paid-up, non-exclusive, sublicensable, irrevocable and royalty-free worldwide license under all copyrights, trademarks, patents, trade secrets, privacy and publicity rights and other intellectual property rights to use, reproduce, transmit, print, publish, publicly display, exhibit, distribute, redistribute, copy, index, comment on, modify, adapt, translate, create derivative works of, publicly perform, make available and otherwise exploit such User Generated Content, in whole or in part, in any and all media and channels now known or hereafter devised (including in connection with the Kivett Kinetic Solutions, LLC Services and on third-party sites and platforms such as Facebook, YouTube and Twitter), in any number of copies and without limit as to time, manner and frequency of use, without further notice to you, with or without attribution, and without the requirement of permission from or payment to you or any other person or entity. This includes without limitation our use of your User Generated Content in connection with any advertising, product packaging, printed publications, presentations, promotional materials, events and associated marketing materials, television and digital commercials, videos, social media websites, applications, or on our websites or in any other commercial manner. We are not, however, obligated to use your User Generated Content.

To the extent that we authorize you to create, post, upload, distribute, publicly display or publicly perform User Generated Content that requires the use of our copyrighted works, we grant you a limited, non-transferable, non-exclusive license to create a derivative work using our copyrighted works as required for the sole purpose of creating the materials, provided that such license shall be conditioned upon your assignment to us of all rights in the work you create. If such rights are not assigned to us, your license to create derivative works using our copyrighted works shall be null and void.

- Public Forums.

Certain Kivett Kinetic Solutions, LLC Services include public forums, which include without limitation, discussion forums, message boards, blogs, chat rooms or instant messaging features. You acknowledge these public forums are for public and not private communications. You further acknowledge that any User Generated Content you upload, submit, post, transmit, communicate, share or exchange by means of any public forum may be viewed on the Internet by the general public, and therefore, you have no expectation of privacy with regard to any such submission or posting. You are, and shall remain, solely responsible for the User Generated Content you upload, submit, post, transmit, communicate, share or exchange by means of any public forum and for the consequences of submitting or posting same. You acknowledge and agree Kivett Kinetic Solutions, LLC is not responsible for any content posted on public forums by any third parties, including without limitation any content which you may find illegal, infringing, false, defamatory, harassing, threatening, bigoted, hateful, violent, vulgar, obscene, pornographic, negative, offensive or harmful.

- User Conduct.

You must only use the Kivett Kinetic Solutions, LLC Services for lawful purposes and in compliance with any applicable Codes of Conduct, and you must not use them in a way that infringes the rights of anyone else or that restricts or inhibits anyone else's enjoyment of any Kivett Kinetic Solutions, LLC Services. In using any Kivett Kinetic Solutions, LLC Services, and in particular, our websites, you expressly acknowledge you are prohibited from, and agree that you will not without our prior express written consent:

- Copy, reproduce, or improperly use, post or access any content on the Kivett Kinetic Solutions, LLC Services;
- Modify, distribute, or re-post any content on the Kivett Kinetic Solutions, LLC Services for any purpose;
- Use the content on the Kivett Kinetic Solutions, LLC Services for any commercial exploitation whatsoever;
- Disrupt or interfere with the security of, or otherwise abuse, the Kivett Kinetic Solutions, LLC Services, or any services, system resources, accounts, servers, or networks connected to or accessible through the Kivett Kinetic Solutions, LLC Services or affiliated or linked sites;
- Access content, data or portions of the Kivett Kinetic Solutions, LLC Services which are not intended for you, or log onto a server or account that you are not authorized to access;
- Attempt to probe, scan, or test the vulnerability of the Kivett Kinetic Solutions, LLC Services, including websites, applications, or any associated system or network, or breach security or authentication measures without proper authorization;
- Access any Kivett Kinetic Solutions, LLC Services or our websites through any automated means, such as "robots," "spiders," or "offline readers";
- Interfere or attempt to interfere with the use of the Kivett Kinetic Solutions, LLC Services by any other user, host or network, including, without limitation by means of submitting a virus, overloading, "flooding," "spamming," "mail bombing," or "crashing";
- Use any data mining, "scraping", web crawling, robots, or similar data gathering and extraction methods on the Kivett Kinetic Solutions, LLC Services;
- Harass, "stalk", disrupt or interfere with any other user's enjoyment of the Kivett Kinetic Solutions, LLC Services or affiliated or linked sites;
- Upload, post, or otherwise transmit through or on the Kivett Kinetic Solutions, LLC Services any viruses or other harmful, disruptive, or destructive files;
- Use, frame, or utilize framing techniques to enclose any Kivett Kinetic Solutions, LLC trademark, logo, or other proprietary information (including the images found at our websites, the content of any text, or the layout/design of any page or form contained on a page) without Kivett Kinetic Solutions, LLC express written consent;

- Use meta tags or any other "hidden text" utilizing a Kivett Kinetic Solutions, LLC name, trademark, or product name without Kivett Kinetic Solutions, LLC express written consent;
 - Create or use a false identity on the Kivett Kinetic Solutions, LLC Services, share your account information, use another individual's account information, or allow any person besides yourself to use your account to access the Kivett Kinetic Solutions, LLC Services;
 - Harvest or otherwise collect information about Kivett Kinetic Solutions, LLC users, including email addresses and phone numbers;
 - Download, "rip," or otherwise attempt to obtain unauthorized access to any Kivett Kinetic Solutions, LLC Services, content or other materials; and
 - Post any copyrighted material unless the copyright is owned by you.
- Your Account; Passwords.

Certain Kivett Kinetic Solutions, LLC Services permit or require you to create an account to enjoy the services and benefits that we provide. You agree to provide and maintain accurate, current and complete information for your accounts, including as applicable, your name, contact, and payment information. You agree not to impersonate or misrepresent your affiliation with any person or entity, including using another person's username, password or other account information, or another person's name, image, photo or likeness, or if applicable, provide false details for a parent or guardian. You agree that we may take steps to verify the accuracy of information you provide.

We have adopted and implemented a policy that provides for the suspension or termination, in appropriate circumstances and in our sole and absolute discretion, of the accounts of users who violate these Terms, are repeat infringers of copyright, or engage in, encourage or advocate for offensive, abusive, or illegal conduct.

You are responsible for maintaining the confidentiality of your username and password, and you are responsible for all activities under your account that you can reasonably control. You may not share your password or other login information with any person; any use of your account by any person other than yourself is grounds for suspension or termination of your account. You agree to promptly notify us of any unauthorized use of your username, password or other account information, or of any other breach of security that you become aware of involving your account or the Kivett Kinetic Solutions, LLC Services. You agree not to use the account, username or password of any other account holder at any time. Kivett Kinetic Solutions, LLC will not be liable for any loss that you incur as a result of someone else using your password, either with or without your knowledge.

- Member Public Profiles.

When you create an account with us, you may be asked to provide certain personal information, such as your name and e-mail address. Some of this information may be publicly viewable by others, such as other Kivett Kinetic Solutions, LLC members or account holders.

Kivett Kinetic Solutions, LLC relies on its members to provide current and accurate information, and we do not, and cannot, investigate information contained in member public profiles. Kivett Kinetic Solutions, LLC does not represent, warrant or guarantee the accuracy of public profile information, and hereby disclaims all responsibility or liability for any information provided by members by means of public profiles or otherwise.

You are solely responsible for your interactions with other members. You acknowledge and agree that Kivett Kinetic Solutions, LLC does not (i) screen its members; (ii) inquire into the backgrounds of its members; or (iii) review or verify the statements of its members, including without limitation, information or representations contained in public profiles. Kivett Kinetic Solutions, LLC does not warrant, endorse or guarantee the conduct of its members or their compatibility with you, and you agree to exercise all precautions in your interactions with other members. Like all open forums on the Internet or social media, you should always be careful about what you share in a public forum, and in particular, you should never share your password, social security number or any other personal information.

5. Kivett Kinetic Solutions, LLC Products/Services; Websites; Orders.

- [Our Guarantee.](#)

Some of our products and services may carry a specific money back guarantee, return and/or exchange policy starting from the date that the product or service is delivered or supplied to you. Please review the information provided with your product/service for details regarding the terms that apply to your product or service. For more information, please visit your profile or account settings within the Kivett Kinetic Solutions, LLC Services to utilize self-service options available to you.

Products that come with a money back guarantee will receive a refund of the purchase price, less applicable shipping and handling, unless stated otherwise. In some cases, you may also be responsible for paying to ship any products back to us. We will not be responsible for any loss or damage to returned products that occur in transit. If returned products are lost or damaged in transit, we reserve the right to charge you for, or not refund any amounts attributable to, any such lost or damaged products. Should you experience any difficulty or delay in returning a product and securing the proper refund, please visit your profile or account settings within the Kivett Kinetic Solutions, LLC Services to contact our friendly Customer Service.

- [Product and Service Descriptions, Price and Other Information.](#)

We have taken reasonable precautions to ensure that all product descriptions, prices and other information shown on our websites are correct and fairly described. However, when ordering products or services through our websites, please note that:

- Kivett Kinetic Solutions, LLC reserves the right to not accept any orders if there is a material error in the description of the product or service, or if the price advertised is incorrect;
- Kivett Kinetic Solutions, LLC reserves the right to refuse or discontinue the supply of any product or service to any customer, or change, suspend or discontinue any aspect of our websites at any time in our sole and absolute discretion;
- All prices are displayed in United States Dollars, unless expressly indicated otherwise;
- Packaging and contents may vary from that shown on our websites;
- any weights, dimensions, and capacities shown on our websites are approximate only;
- When you place an order, we estimate the tax applicable to your order and include that estimate in the total for your convenience (the final tax amount will be based on the then-current rate as established by the applicable taxing authority, charged to your payment card, and reflected in the order confirmation and package invoice we provide to you); and
- All items are subject to availability and we will inform you as soon as reasonably possible if any product or service you ordered is not available and whether we may offer you an alternative of equal or higher quality and value.

Please also note that we may be required to change the terms of any products, goods or services that we offer and/or you purchase. This includes without limitation changes to prices, taxes, shipping and handling amounts, specifications, delivery times, and/or package contents. We will provide you with prior notice of any changes, by posting a notice on our websites, sending an e-mail to you at the address you provided at the time of purchase, or by including a notice in any products you receive on an automatic recurring or subscription basis. Kivett Kinetic Solutions, LLC will not incur any obligation as a result of such change. As a valued customer, you are always free to cancel future orders at any time by visiting your profile or account settings within the Kivett Kinetic Solutions, LLC Services or contacting our friendly Customer Service. By continuing to accept products, goods and/or services after we have notified you of a change to any terms, you will be deemed to have accepted the change.

- Order Processing.

We reserve the right to refuse or cancel any order prior to delivery. Some situations that may result in your order being cancelled include system or typographical errors, inaccuracies in product or pricing information or product availability, fairness among customers where supplies are limited, or problems identified by our credit or fraud departments. We also may require additional verification or information before accepting an order. We will contact you if any portion of your order is cancelled or if additional information is required to accept your order. If your order is cancelled after we have processed your payment but prior to delivery, we will of course refund your payment.

- Taxes.

For purchases where sales or transaction tax is applicable you will see the tax calculated on the checkout page before you are asked to confirm the purchase. Tax shown at checkout is an estimate and the actual tax collected may differ once we process the order. We use commercially reasonable efforts to calculate and remit the correct amount of tax required on each taxable purchase, but we do not guarantee the accuracy of the amount of the tax represented as owed. Minor errors may occur owing to the inability to accurately track multiple taxing districts, state and local "tax holidays," and timing of rate changes or the application of certain taxes to categories of items we sell. As a result of any error, we may overcollect or undercollect your tax. In consideration of our allowing you access to the use of the Kivett Kinetic Solutions, LLC Services, and in collecting and remitting taxes required on your purchases, you hereby waive your right to claim that the tax collected on any purchase is incorrect in any respect and you agree to hold us, our officers, directors, employees, agents and representatives, harmless from and against any claim, action, demand, loss, suit, or damages (including attorneys' fees) made or incurred as a result of our error in calculating the taxes you owe for your purchases.

If you purchase any Kivett Kinetic Solutions, LLC Services on third party platforms, such as Apple, those third parties may be responsible for collecting and remitting applicable taxes to the taxing authorities.

- Your Personal and Payment Information.

When you provide any information to us for any reason, such as to sign up for an offer, use our mobile applications, or purchase our Kivett Kinetic Solutions, LLC Services, you agree to only provide true, accurate, current, and complete information. By providing any credit card or other payment card information to us, you represent that such payment information is correct, and belongs to you or you have the authority to use such payment card. In the case of e-mail, you must provide an accurate e-mail address that is registered to you. You are responsible for promptly updating your information with any changes, especially to keep your billing information current. You must promptly notify us if your payment card is cancelled (for example, for loss or theft). To help keep your account current and prevent service interruption, you acknowledge Kivett Kinetic Solutions, LLC may update your payment card information on file when it is set to expire or based on updates it receives from the bank that issues your payment card. You agree that your placement of an electronic order on our websites is sufficient to satisfy any applicable Statute of Frauds, and no further writing is required. If you are accessing, using and/or purchasing any Kivett Kinetic Solutions, LLC Services on behalf of a company, you represent you have sufficient authority to bind that company to these Terms.

- Shipping.

We will take commercially reasonable efforts to ship your products within the timeframe we provided to you at the time of purchase. Please see the tracking information provided with your order confirmation for approximate delivery timeframes.

Please note that any timeframes we provide are good faith estimates and may be subject to change. We will take commercially reasonable steps to inform you in writing of any shipping delays that extend beyond the timeframe we provided at the time of purchase. Product availability may be limited in some cases and not available for immediate shipment. In that case, products may be delivered in separate shipments depending on availability. For example, if your purchase included two or more items, we may ship those products which are in stock, and later ship the other products to you when they become available. You may always cancel or modify your order due to a delay in

shipping by visiting your profile or account settings within the Kivett Kinetic Solutions, LLC Services or contacting our friendly Customer Service. We will not be liable beyond refunding your purchase price if there is a delay in delivering your product(s). We are not responsible for shipping delays due to factors outside of our reasonable control, such as bad weather, natural disasters, strikes, protests, government disruptions, etc.

Since we are not authorized to sell our products in all jurisdictions, we may reject certain purchases based on the shipping address provided. Please note we reserve the right to set appropriate shipping terms for shipments to certain foreign jurisdictions that are fulfilled from U.S. warehouse locations.

- IMPORTANT AUTOMATIC RENEWAL AND SUBSCRIPTION-BASED PRODUCTS.

We offer certain products and services on an automatic or subscription basis, so you can enjoy all the benefits of our products or services on a continuous basis. If you choose this option at the time of your purchase, you agree such products/services will automatically renew at the frequency disclosed to you at the time of your initial purchase (i.e., monthly, quarterly or annual basis, etc.). By choosing the automatic subscription option, you acknowledge and agree your subscription will automatically renew, and unless and until you cancel, you authorize us to charge your payment card for the products/services you continue to purchase, plus applicable shipping and handling, and taxes. If you purchased a subscription with a free trial period, you authorize us to charge your payment card when the free trial period ends, unless you cancel your subscription before the free trial period ends, and you will not receive a notice from us that your free trial period has ended. The charges will typically occur on or around the same day of the month as your initial purchase, although some charges may be delayed for business or legal reasons. Physical products will be delivered to the address you provided during your initial purchase. Certain subscription services, such as any digital-only streaming subscriptions are not physical products, and thus, are not shippable. Your automatic subscription will continue until you or Kivett Kinetic Solutions, LLC cancels your order. If there are any changes to your subscription terms, such as pricing, frequency, date of charge or any other items, we will take commercially reasonable efforts to inform you in writing of such change. You may modify or cancel your subscription at any time by visiting your profile or account settings within the Kivett Kinetic Solutions, LLC Services or contacting our friendly Customer Service. Any modifications or cancellation of your subscription must be received by us at least three (3) days prior to the next scheduled payment/ship date in order to take effect for that period. If you cancel less than three (3) days prior to the automatic renewal day for your subscription, your subscription will continue as scheduled and your cancellation will take effect in the following period.

- International Orders.

Certain Kivett Kinetic Solutions, LLC Services may not be approved for sale in your jurisdiction. While Kivett Kinetic Solutions, LLC may choose to accept orders for the purchase of its products from non-residents of the United States or Canada, the acceptance of such orders and the sale of such products will only be based on the following conditions precedent:

- You agree that the purchase of any Kivett Kinetic Solutions, LLC products by you, as a non-resident of the United States, shall be (a) ex works Kivett Kinetic Solutions, LLC facilities (which may exist anywhere in the world) per Incoterms 2010, with all title risk and loss in the products passing to you from such facility and (b) for your own personal use only and not for further resale or distribution in any manner;
- You hereby expressly authorize and direct Kivett Kinetic Solutions, LLC to load and ship the purchased products to you to your designated ship to destination, and to contract on your behalf with a common carrier or courier company for that purpose;
- You are the principal importer of record, responsible for ensuring any products can be lawfully imported into your country, and will undertake responsibility for any and all applicable taxes, shipping, customs clearance, duties and import requirements from Kivett Kinetic Solutions, LLC facilities to your foreign ship to destination;
- The United Nations Convention on the International Sale of Goods shall not apply to any purchase or sale, and Kivett Kinetic Solutions, LLC expressly opts out of such application.

For products shipped outside the United States, please note that some Kivett Kinetic Solutions, LLC Services, including without limitation, exercise programs, content, manuals, instructions and safety warnings may not be localized in destination country languages; and the products, goods, services and accompanying materials may not

be designed in accordance with any non-United States destination country standards, specifications, and labeling requirements. In those cases, you expressly accept those Kivett Kinetic Solutions, LLC Services in the English language and as they are sold in the United States.

- [Kivett Kinetic Solutions, LLC Services.](#)

Kivett Kinetic Solutions, LLC memberships are not transferable and may only be used by the individual who signed up for the account. If you cancel your membership, you will no longer have access to any Kivett Kinetic Solutions, LLC content, unless otherwise stated.

6. We Want To Keep You Safe! Important Notice About Our Fitness and Nutrition Content.

Although Kivett Kinetic Solutions, LLC provides its products and services with your health and safety in mind, each individual has their own limitations and it is therefore critical that you consult your physician or other licensed healthcare providers for necessary medical or appropriate care, follow all safety and other instructions provided by Kivett Kinetic Solutions, LLC, and obtain appropriate authorization before accessing or using any Kivett Kinetic Solutions, LLC Services, especially if you are prone to injuries, are pregnant or nursing, are under 18 years of age, or have any other unique or special medical conditions or healthcare concerns.

Any individual results using Kivett Kinetic Solutions, LLC Services may vary. Exercise and proper diet are necessary to achieve and maintain weight loss and muscle definition. The testimonials featured on our websites may have used more than one Kivett Kinetic Solutions, LLC product, nutrition program and/or supplements, or extended the program to achieve their successful results.

- [Nutrition Information.](#)

Certain Kivett Kinetic Solutions, LLC Services, such as nutrition plans and related information provided with our fitness programs, provide nutrition, food, caloric and other related information designed to help our customers eat healthy to help them reach their health and wellness goals. While any nutrition information we may provide is designed to safely align with our related exercise regimens, you must consult your physician or other licensed healthcare provider before beginning any nutrition plan or altering any dietary regimen, especially if you have any unique or special medical needs or conditions, such as food allergies, dietary restrictions or if you are pregnant or breast feeding. The Kivett Kinetic Solutions, LLC Services are not a substitute for professional care. If you have or suspect you may have a medical or psychological problem, or a nutritional deficiency or dietetic condition, you should consult your medical doctor, psychologist or nutritionist, as appropriate.

- [Metrics, Values and Figures Are Estimates Only.](#)

Please remember that any metrics, values and figures presented or displayed on or within the Kivett Kinetic Solutions, LLC Services are estimates only and may be inaccurate. This includes without limitation nutritional values, such as calorie, fat, protein, fiber, and other related values, and equipment-related values, such as heart rate, cadence, resistance and any other related values. You must only use such metrics, values and figures for general reference only and always consult your physician or other licensed healthcare provider for necessary or appropriate care and advice.

- [Safety Warnings.](#)

Kivett Kinetic Solutions, LLC provides safety warnings, along with care and use instructions for certain exercises, equipment, products and services. You must always carefully read and follow all such warnings and instructions prior to beginning any exercise, or use of any equipment, products or services. Failure to read and follow any applicable warnings and instructions could result in serious injury and/or death to you and others.

- [Age Restrictions.](#)

You must always adhere to any minimum age restrictions and limitations related to any Kivett Kinetic Solutions, LLC Services, including without limitation, equipment and connected Bluetooth devices such as whole body vibration platforms, elliptical trainers, massagers, and exercise bikes.

- Assumption of Risk.

You expressly acknowledge and agree that your access, use and/or involvement with any Kivett Kinetic Solutions, LLC Services (including without limitation, exercise, nutritional, and equipment and connected products), or individuals affiliated with Kivett Kinetic Solutions, LLC may involve potentially dangerous and physical activities that may lead to personal and/or bodily injury, death, temporary or permanent disability, loss of services, loss of consortium, or damage to or loss of property or privacy. You hereby acknowledge and willingly accept these risks and agree to unconditionally release and hold harmless Kivett Kinetic Solutions, LLC from and against all claims, suits, damages, losses, causes of action, costs, expenses or liability arising out of or related to your access, use and/or involvement with any Kivett Kinetic Solutions, LLC Services.

7. Copyright Policy and Copyright Agent.

It is Kivett Kinetic Solutions, LLC policy to respect the copyright and other intellectual property rights of others. Kivett Kinetic Solutions, LLC may remove content from its websites or other properties that appears to infringe the copyright or other intellectual property rights, including moral rights, of others. In addition, Kivett Kinetic Solutions, LLC may terminate access by users who appear to infringe the copyright or other intellectual property rights of others. Further, Kivett Kinetic Solutions, LLC complies with the Digital Millennium Copyright Act.

If you believe that content available on or through the online Kivett Kinetic Solutions, LLC Services, or accessible via links posted on online Kivett Kinetic Solutions, LLC Services, infringes your copyright, you or your authorized agent may submit a notification to us, as set forth in this policy. Please send a notification including all of the information described below ("Notification") by mail or e-mail using the contact information provided below.

You may be held liable for damages and attorneys' fees if you make any material misrepresentations in a Notification. Therefore, if you are not sure whether content located on or accessible via a link posted on the online Kivett Kinetic Solutions, LLC Services infringes your copyright, you should contact an attorney.

A Notification must include the following:

- Identification of the copyright claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single Notification, a representative list of works.
- Identification of the material that is claimed to be infringing or to be the subject of infringing activity and information reasonably sufficient to permit us to locate the material (preferably a link to the material).
- Information reasonably sufficient to permit us to contact you, such as an address, telephone number, and, if available, an electronic mail address at which you may be contacted.
- A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the rights owner, its agent, or the law.
- The physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- A statement that the information in the Notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Please direct Notifications via email support@kksmagik.com or by mail to:

Kivett Kinetic Solutions, LLC
5727 W McClure Road
Monrovia, IN 46157

Attention: Amber Kivett, ATC, LAT, CSCS, FMS, FMT

Upon receipt of a substantially compliant Notification regarding an alleged copyright violation, we will respond expeditiously to remove, or disable access to, the material that is claimed to be infringing. We will also terminate in appropriate circumstances users who are willful or repeat infringers.