

## AVOLVE SPORTS TERMS OF SERVICE

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Welcome to Avolve Sports, and thanks for accessing our services. Test Train Develop, LLC d/b/a Avolve Sports (“Avolve Sports,” “we,” “our,” or “us”) provides use of its [www.avolvesports.com](http://www.avolvesports.com) and other related websites, its web and mobile applications, and other related services (collectively, “Services”) to you subject to the following terms and conditions.

These terms and conditions, together with any documents they expressly incorporate by reference (collectively, the “Terms of Service”), govern your access to and use of the website and other Services.

PLEASE READ THESE TERMS OF SERVICE CAREFULLY, AS THEY CONTAIN IMPORTANT INFORMATION REGARDING YOUR LEGAL RIGHTS, REMEDIES, AND OBLIGATIONS. THESE INCLUDE VARIOUS LIMITATIONS AND EXCLUSIONS, AND A DISPUTE RESOLUTION CLAUSE THAT GOVERNS HOW DISPUTES WILL BE RESOLVED.

THIS AGREEMENT IS A LEGAL AGREEMENT BETWEEN YOU AND AVOLVE SPORTS AND GOVERNS YOUR USE OF THE SERVICES. BY USING THE SERVICES OR BY CLICKING TO ACCEPT OR AGREE TO THE TERMS OF SERVICE WHEN THIS OPTION IS MADE AVAILABLE TO YOU, YOU ARE INDICATING THAT YOU HAVE READ AND AGREE TO THESE TERMS OF SERVICE AND OUR PRIVACY POLICY, FOUND AT <https://bit.ly/2Za5nUQ> (“Privacy Policy”), AND ANY OTHER RELATED TERMS AND CONDITIONS LOCATED ON OUR WEBSITE, ALL OF WHICH ARE INCORPORATED HEREIN BY THIS REFERENCE. IF YOU DO NOT WANT TO AGREE TO THESE TERMS OF SERVICE, YOU MUST NOT ACCESS OR USE THE SERVICES. In the event any of the terms of these Terms of Service conflict with the Privacy Policy, the terms of the Privacy Policy shall govern as to the conflicting terms.

The Services are offered and available to users who are 13 years of age or older and reside in the United States or any of its territories or possessions. We make no representation that the Content or Services are appropriate for use in other locations. Access to or use of the Content or the Services from territories where such access or use is illegal is prohibited. Those who choose to access the Services from locations outside of the United States do so on their own initiative and are responsible for compliance with applicable local laws. By using the Services, you represent and warrant that you are of legal age to form a binding contract with Avolve Sports (or your parent or legal guardian has consented to these Terms of Service on your behalf, in accordance with applicable law) and meet all of the foregoing eligibility requirements. If you access or use the Services on behalf of a company or other entity, you represent that you have authority to bind such entity and its affiliates to these Terms of Service and that it is fully binding on them. In such case, the term “you” will refer to such entity and its affiliates. If you do not have authority, you may not access or use the Services.

The Services cannot be provided and the agreement described in these Terms of Service cannot be performed without Avolve Sports processing data about you, and other Avolve Sports users, including your athletic performance data. Processing of the data you share with us, including your athletic performance data, is essential to the Services which we provide and a necessary part of our performance of the agreement we have with you.

We may revise and update these Terms of Service from time to time in our sole discretion. All changes are effective immediately when we post them and apply to all access to and use of the Services thereafter.

However, any changes to the dispute resolution provisions set out in the Dispute Resolution section will not apply to any disputes for which the parties have actual notice on or before the date the change is posted. Your continued use of the Service following the posting of revised Terms of Service means that you accept and agree to the changes. You are expected to check this page from time to time so you are aware of any changes, as they are binding on you.

### **Read Our Privacy Policy.**

You acknowledge that when you download, install, or use the Service, we may use automatic means (including, for example, cookies and web beacons) to collect information about your device and about your use of the Service. You also may be required to provide certain information about yourself as a condition to downloading, installing, or using the Service or certain of its features or functionality, and the Service may provide you with opportunities to share information about yourself with others. All information we collect through or in connection with the Service is subject to our Privacy Policy at <https://bit.ly/2Za5nUQ>, which is incorporated herein and made a part hereof. If you object to your information being transferred or used in this way, then you must not use the Service. By downloading, installing, using, and providing information to or through the Service, you consent to all actions taken by us with respect to your information in compliance with the Privacy Policy.

### **Creating an Account.**

Full use of the Service requires that you have a valid Account. To acquire an Account, you must provide us with a valid electronic mail address and other information ("Registration Data"). You are responsible for maintaining the confidentiality of the access data for your Account and for restricting access to your password, your computer and mobile device while logged into the Service, and are fully responsible for all activities that occur under your Account. You agree to immediately notify us of any unauthorized use of your Account or any other breach of security and confirm that you understand all risks of unauthorized access to Registration Data and any other information or Content you provide to Avolve Sports. If you think your Account credentials are compromised or that someone has gained access to your Account, please contact us at [support@avolvesports.com](mailto:support@avolvesports.com).

In consideration of use of the Service, you agree to: (a) provide true, accurate, current, and complete information about yourself as prompted by the registration form, and (b) maintain and promptly update the Registration Data to keep it true, accurate, current, and complete. We assume no duty to verify such information. As part of your use of the Service, you may receive notifications, text messages, alerts, emails, and other electronic communications. You agree to the receipt of these communications. You may be able to control certain communications from the Service by using your account settings. Notwithstanding the foregoing, you understand and agree that the Service may include certain communications from Avolve Sports, such as service announcements and administrative messages, and that you may not be able to opt out of receiving them. You are responsible for any messaging or data fees you may be charged by your wireless carrier. If you provide any information that is untrue, inaccurate, not current, or incomplete, or we have reasonable grounds to suspect that such information is untrue, inaccurate, not current, or incomplete, we have the right to suspend or terminate your Account and refuse any and all current or future use of the Service (or any portion thereof).

You are not eligible to register for your own account or to be bound by these Terms of Service if you are under the age of 18 years. If you are under 18, your parent or guardian must register for you and agree to these Terms of Service on your behalf.

You are not eligible to and may not register for an Account if:

- a. you are legally incompetent to enter into a binding contract;
- b. you are a person who is barred from using the Service under the laws of the United States or any other applicable jurisdiction – meaning, for example and without limitation, that you appear on the U.S. Treasury Department’s list of Specially Designated Nationals or face any other similar prohibition;
- c. you are suspended from using the Service; or
- d. you do not hold a valid email address.

We may maintain different types of accounts for different types of Users, such as teams, leagues, associations, and their representatives (collectively, “Organizations”), Athletes, or Administrators. Users may register an Account on behalf of an Organization. If you are registering on behalf of an Organization: (i) these Terms of Service are a contract between us on the one hand and you as an individual together with that Organization on the other hand, and use of the terms “User,” “you,” and “your” herein shall refer collectively to you as an individual together with that Organization”; and (ii) you represent and warrant that you are an authorized representative of that Organization with the authority to bind that Organization to these Terms of Service.

We may, at our absolute discretion, refuse to register any person or entity as a User. Your Account, including any rights or obligations you have under these Terms of Service, is yours alone, and cannot be transferred or assigned to any third party without our prior written consent.

You authorize us, directly or through third parties, to make any inquiries we consider necessary or otherwise required by law to validate your identity. You must, at our request: (1) provide further information to us, which may include your date of birth and/or other information that will allow us to reasonably identify you, (2) take steps to confirm ownership of your e-mail address or financial instruments, or (3) verify your information against third party databases or through other sources. We reserve the right to close, suspend, or limit access to your Account and the website and Services in the event we are unable to obtain or verify to our satisfaction the information which we request under this section.

#### **Description of the Service.**

We may from time to time, in our sole discretion, develop and provide updates, which may include upgrades, bug fixes, patches, other error corrections, and/or new features (collectively, including related documentation, “Updates”). Updates may also modify or delete in their entirety certain features and functionality. You agree that we have no obligation to provide any Updates or to continue to provide or enable any particular features or functionality. We are not liable to you or to any third party for any modification, suspension, or discontinuance of any feature, component, or content of the Service. We reserve the right to determine the timing and content of Updates. Based on your device settings, when your device is connected to the internet either:

- (a) the Services will automatically download and install all available updates; or
- (b) you may receive notice of or be prompted to download and install available updates.

You shall promptly download and install all Updates and acknowledge and agree that the Service or portions thereof may not properly operate should you fail to do so. You further agree that all Updates will be deemed part of the Service and be subject to all terms and conditions of this Agreement.

Full use of the Service is dependent upon your use of a computer with adequate software or a supported mobile device and Internet access. The maintenance and security of this equipment may influence the performance of the Service and it is your responsibility to ensure the equipment's functionality. You are responsible for all Internet access charges. Please check with your Internet and wireless carrier provider for information on possible Internet and/or wireless data usage charges.

The Services may contain features designed to interoperate with web-based, mobile, offline, or other software applications or functionality that is provided by you or a third party and interoperates with the Services ("Third-Party Applications"). To use such features, you may be required to obtain access to such Third-Party Applications from their providers and may be required to grant us access to your account(s) on such Third-Party Applications. We cannot guarantee the continued availability of such Service features, and may cease providing them without entitling you to any refund, credit, or other compensation, if for example and without limitation, the provider of a Third-Party Application ceases to make the Third-Party Application available for interoperation with the corresponding Service features in a manner acceptable to Company.

The information presented on or through the Service is made available solely for general information purposes. We do not warrant the accuracy, completeness, or usefulness of this information. Any reliance you place on such information is strictly at your own risk. We disclaim all liability and responsibility arising from any reliance placed on such materials by you or any other person.

By submitting ideas, suggestions, documents, and/or proposals ("Contributions") to Avolve Sports through its suggestion or feedback web pages or otherwise, you acknowledge and agree that: (a) your Contributions do not contain confidential or proprietary information; (b) Avolve Sports is not under any obligation of confidentiality, express or implied, with respect to the Contributions, (c) Avolve Sports shall be entitled to use or disclose (or choose not to use or disclose) such Contributions for any purpose, in any way, in any media worldwide; (d) Avolve Sports may have something similar to the Contributions already under consideration or in development; (e) your Contributions automatically become the property of Avolve Sports without any obligation of Avolve Sports to you; and (f) you are not entitled to any compensation or reimbursement of any kind from Avolve Sports under any circumstances.

#### **Our Intellectual Property Rights.**

The Service, its underlying technology, our website and its entire contents, features, and functionality (including but not limited to all information, software, text, displays, images, video, audio, and the design, selection, and arrangement thereof) are owned by Avolve Sports, its licensors, or other providers of such material and are protected by United States and international copyright, trademark, patent, trade secret, and other intellectual property or proprietary rights laws. We reserve all rights not expressly set forth in these Terms of Service. You agree not to remove, change, or obscure any copyright, trademark, service mark, or other proprietary rights notices incorporated in or accompanying the Service. Other parties'

trademarks used, depicted or identified on the website or through the Service are the property of their respective owners and may not be copied, imitated or used, in whole or in part, without the permission of the applicable trademark holder.

### **Your Use of the Service.**

Subject to these Terms of Service, you are permitted to use the website and Service for your personal, non-commercial use only. No licenses or rights are granted to you by implication or otherwise under any intellectual property rights owned or controlled by us or our licensors, except for the licenses and rights expressly granted in these Terms of Service. All rights not expressly granted are reserved by Avolve Sports.

Except as may be otherwise agreed to in writing by Avolve Sports or as expressly authorized herein with respect to registered users with fully paid for and valid Subscriptions, you must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store, transmit, or otherwise exploit any of the material on our website or from the Services or any portion thereof (including any third-party software), except as follows:

- your computer may temporarily store copies of such materials in RAM incidental to your accessing and viewing those materials.
- You may store files that are automatically cached by your Web browser for display enhancement purposes.
- You may print or download one copy of a reasonable number of pages of the website for your own personal, non-commercial use and not for further reproduction, publication or distribution.
- If we provide desktop, mobile, or other applications for download, you may download a copy to your computer or mobile device solely for your own personal, non-commercial use, provided you agree to be bound by any additional terms and conditions applicable to such applications.
- If we provide social media features with certain content, you may take such actions as are enabled by such features.

Except to the extent permitted by law, you may not perform, attempt to perform, or encourage or assist others in performing any of the following while accessing or using the website or the Service: (a) use, display, mirror, or frame the Service or any individual element within the Service, including the layout and design of any page, without our express written consent; (b) use our name, any Avolve Sports trademark or logo, or any Avolve Sports proprietary information without our express written consent; (c) access or tamper with non-public areas of the Service, our computer systems, or the technical delivery systems of our providers; (d) test the vulnerability of any Avolve Sports system or breach any security or authentication measures; (e) circumvent any technological measure implemented by us or any of our providers or any other third-party (including another user) to protect the Service; (f) use the Service in any manner that could disable, overburden, damage, or impair the Service or interfere with any other party's use of the Service; or (g) modify, decompile, disassemble, reverse engineer, tamper with, or otherwise attempt to derive the source code of any software that we provide you or any other part of the Service.

Avolve Sports provides data management and tracking tools for athletic testing that help you meet your fitness goals. The Service is not a medical or health care service. We do not endorse any specific tests, drills, routines, physician or medical professional, products, procedures, opinions, or any other information that may be mentioned on the Service. If you engage in any health, fitness, or wellness

program or activities that you learn about through the Services, you agree that you do so voluntarily and at your own risk. We are not responsible for any health problems that may result from your participation in any athletic testing. Always consult your physician before beginning any exercise program. Consult with your healthcare professional to design an appropriate exercise prescription. If you experience any pain or difficulty during any athletic testing, stop and consult your healthcare provider. If you think that you have a medical emergency, call your doctor or 911 immediately.

You have sole responsibility for adequate protection and backup of Content of any type that you upload to, download from or otherwise create or use with, the Service, and/or equipment you use in connection with the Service.

If you print, copy, modify, download, or otherwise use or provide any other person with access to any part of the website or Service in breach of these Terms of Service, your right to use the website and the Service will stop immediately and you must, at our option, return or destroy any copies of the materials you have made.

You acknowledge that Avolve Sports may establish general practices and limits concerning use of the Service, including without limitation the maximum number of days that Content will be retained by the Service, the maximum size of any or all Content files, the maximum disk space that will be allotted on our servers on your behalf, and/or any other condition of the Service. You agree that Avolve Sports has no responsibility or liability for the deletion or failure to store any Content, messages and other communications or other materials or Content maintained or transmitted by the Service.

#### **User Content.**

Except as provided in these Terms of Service, we do not claim any ownership rights in the text, files, images, photos, videos, sounds, musical works, works of authorship, or any other materials (collectively, "Content") that you post or upload to the website and/or through the Services ("User Content"). You retain all rights to your User Content that you post or upload to the Service, except as set forth in these Terms of Service. By making User Content available on or through the Service you hereby grant to Avolve Sports a non-exclusive, irrevocable, transferable, sublicensable, worldwide, royalty-free license to use, copy, modify, publicly display, publicly perform, reproduce, translate, create derivative works from, distribute and otherwise exploit such User Content, in whole or in part, including your name and likeness, in any media formats and channels now known or hereafter devised for any and all purposes, including entertainment, news, advertising, promotional, marketing, publicity, trade or commercial purposes, all without further notice to you, with or without attribution, and without the requirement of any permission from or payment to you or to any other person or entity.

You are solely responsible for any third-party Content in your User Content and for the use of the User Content, including on our website and through the Services. We reserve the right to remove such Content, your User Content, and/or any other content in our sole and absolute discretion.

In addition, the website and/or Services may contain Content, under license to us from one or more third-parties, in which you are featured and/or visible or which includes your name, sobriquet, professional name, image, likeness, other identifications, and biographical material (collectively, "User Featured Content"). All User Featured Content shall be deemed "User Content."

You represent and warrant that (1) you own your User Content or that you have all rights necessary to grant us a license to use such User Content as described in these Terms of Service; (2) without limiting these Terms of Service, you have provided your consent to the use of User Featured Content to your school and/or applicable athletic or training organization from which we have obtained, directly or indirectly, such User Featured Content. To the extent that any of the User Content on the website and/or the Services features a user's child who is under the age of 18, such user is deemed to have consented to the license granted to us as described in these Terms of Service and the foregoing representations with respect to such User Content on such child's behalf, and such child shall be deemed to be a user for purposes of these Terms of Service; (3) if you are under eighteen (18) years of age, you are either an emancipated minor, or possess legal parental or guardian consent to enter into this agreement and use the website and Services.

You further represent and warrant that your User Content, the use and provision of your User Content on the Service, and your use of the Service will not (i) infringe, misappropriate, or violate a third-party's patent, copyright, trademark, trade secret, moral rights, or other intellectual property rights, or rights of publicity or privacy; (ii) violate, or encourage any conduct that would violate, any applicable law or regulation or would give rise to civil liability; (iii) be fraudulent, false, misleading, or deceptive; (iv) be defamatory, obscene, pornographic, vulgar, or offensive; (v) promote discrimination, bigotry, racism, hatred, harassment, or harm against any individual or group; (vi) be violent or threatening or promote violence or actions that are threatening to any person or entity; or (vii) promote illegal or harmful activities or substances.

You further agree not to (a) upload any content that contains software viruses or is designed to interrupt, destroy or limit the functionality of any equipment or services, or that contains other harmful, disruptive, or destructive files or content; (b) use or attempt to use another user's account without authorization, or impersonate any person or entity; (c) harvest, solicit, or collect information of other users for any reason whatsoever, including, without limitation, for sending unsolicited communications; (d) post, advertise, or promote products or services commercially, or upload any content that is advertising, promotional material, junk mail, spam or a contest or sweepstake, or that furthers or promotes criminal activity; or (e) use the Service in any manner that, in our sole discretion, is objectionable or restricts or inhibits any other person from using or enjoying the Service, or which may expose us or our users to any harm or liability of any type.

You acknowledge that we may or may not pre-screen Content, but that we shall have the right (but not the obligation) to remove Content from the Service that we determine, in our sole discretion, may create liability or damages to Avolve Sports, in accordance with these Terms of Service. You agree that you must evaluate, and bear all risks associated with, the use of any Content, including any reliance on the accuracy, completeness, or usefulness of such Content. You acknowledge that Avolve Sports is not a Business Associate, as such term is defined in HIPAA, and that the Service is not HIPAA compliant. In this regard, you acknowledge that the Content is made available to you without any warranties by Avolve Sports of any kind, and that you may not rely on any Content made available through the Service.

You acknowledge, consent and agree that we may access, preserve and disclose your Account information and User Content if required to do so by law or in a good faith belief that such access, preservation or disclosure is reasonably necessary to: (A) comply with legal process; (B) enforce the Terms of Service; (C) respond to claims that any Content violates the rights of third-parties; (D) respond to your requests for

customer service; (E) protect the rights, property or personal safety of Avolve Sports, its users and the public.

You understand that the technical processing and transmission of the Service, including your User Content, may involve transmissions over various networks, and changes to conform and adapt to technical requirements of connecting networks or devices.

### **Charged Offerings and Fees.**

Certain types of Accounts and access to certain features, capabilities, functions or services offered through or by the Service (“Charged Offerings”) are provided on an annual subscription basis (“Subscriptions”) and are subject to fees. For such Accounts, you will have an opportunity to review and accept the fees that you will be charged based on our Schedule of Fees, which we may change from time to time and will update by placing on our website. Please see the product page for your specific Charged Offerings for more information. We may choose to temporarily change the fees for our Services for promotional events (for example, temporary discounts) or new services, and such changes are effective when we post a temporary promotional event or new service on the website, or as notified through promotional correspondence. We may make changes to, suspend, or discontinue Charged Offerings at any time for any reason, and we have the sole discretion to determine which portions of the Service require payment. All fees for Subscriptions and other Charged Offerings, together with any required taxes, are payable in advance. Except as otherwise provided herein, all fees paid for Subscriptions and other Charged Offerings are non-refundable. If you upgrade your annual Subscription or add new categories or quantities of Charged Offerings to your Account, such changes may result in a new billing date. You agree to pay the Subscription fees, and other charges you incur in connection with your Account, whether on a one-time or subscription basis.

You are responsible for paying all applicable taxes (including, but not limited to, those we are not required to collect) and for all third party hardware, software, service and/or other costs you may incur in order to access the Service and your Account. Neither these Terms of Service nor your Account entitle you to any subsequent releases of the Service, nor to any for-pay features, products, capabilities, features, upgrades or services offered, distributed or made available through the Service without paying applicable charges or except as otherwise expressly provided by Avolve Sports. All or some of the Service may need to be downloaded to your computer and/or accessed online. You must have authorized and separate Service access for each Account you wish it to be enabled for and, where applicable, you must download and install any necessary software on each machine or device on which you wish to use and access the Service.

Converting an Account and/or specific Service version or offering, including, but not limited to trial or limited functionality rights offerings, to an enhanced account and/or fee-based version of the Service or other paid account, version or other Charged Offering may result in the loss of access to the information or other data associated with your use of the free or non-paid version of the Service.

### **Payment and Billing.**

You authorize us to charge your chosen payment method for the Charged Offerings. By providing a payment method that we accept, you represent and warrant that you are authorized to use the designated payment method and that you authorize us (or our third-party payment processor) to charge your payment method for the total amount of your purchase (including any applicable taxes and other

charges). If the payment method cannot be verified, is invalid or is otherwise not accepted, your Charged Offerings may be suspended or canceled. Suspension or cancellation of the Charged Offerings for non-payment could result in a loss of access to and use of your Account and its Content.

### **Free Trials and Beta Testing.**

You may also be provided “trial,” “demo,” “beta,” or other limited-functionality or limited access versions of the Service and/or its parts with or without charge.

If we offer you a free trial, the specific terms of your free trial will be provided in the marketing materials describing the particular trial. Once your free trial ends, we (or are third-party payment processor) will begin billing your designated payment method for your Subscription(s) and other Charged Offerings (plus any applicable taxes and other charges) for as long as your Subscription continues, unless you cancel your Subscription prior to the end of your free trial. To avoid charges, you must cancel your Subscription before the end of your free trial period.

We may also provide you access to Services identified as “beta” or pre-release Services. You understand that these Services are still in development, may contain bugs or errors, may be feature incomplete, may materially change prior to a full commercial launch, or may never be released commercially. We provide beta Services AS IS, and without warranty of any kind, and your use of, or reliance on beta Services is at your own risk. We are not liable in any way for the loss of data or damage to any computer systems or mobile devices used during the beta test, interruptions of service, software or hardware failures, or disruption of service. During and after the beta test, you may be provided with an opportunity to give Avolve Sports your comments, suggestions and impressions of the beta or pre-release Services by using tools to supply feedback and bug reports, internal websites and forums, and other methods, and you agree to provide honest feedback and comments.

### **Third-Party Services.**

The Service may display or permit linking or other access to or use of third-party content, promotions, websites, apps, services and resources, including materials provided by other users, bloggers, and third-party licensors, syndicators, aggregators, advertisers, and/or reporting services (collectively, “Third-Party Services”) that are not under our control. This may include the opportunity for you to link your Account, data, or the Service with Third-Party Services. We provide these links only as a convenience and are not responsible for the products, services, or other content that are available from Third-Party Services. You acknowledge that any Third-Party Services that you use in connection with the Service, such as third-party applications, are not part of the Service and are not controlled by us, and you take sole responsibility and assume all risk arising from your interaction with or use of any Third-Party Services. You also acknowledge that these Terms of Service and our Privacy Policy do not apply to any Third-Party Services. You are responsible for reading and understanding the terms and conditions and privacy policy that applies to your use of any Third-Party Services.

Additionally, all statements and/or opinions expressed in these materials, and all articles and responses to questions and other content, other than the content provided by Avolve Sports, are solely the opinions and the responsibility of the person or entity providing those materials. These materials do not necessarily reflect the opinion of Avolve Sports. We are not responsible, or liable to you or any third party, for the content or accuracy of any materials provided by any third parties.

### **Linking to the Website and Social Media Features.**

You may link to our homepage, provided you do so in a way that is fair and legal and does not damage our reputation or take advantage of it, but you must not establish a link in such a way as to suggest any form of association, approval, or endorsement on our part without our express written consent.

The website and/or the Services may provide certain social media features that enable you to: (i) link from your own or certain third-party websites to certain Content on the website or the Services; (ii) send emails or other communications with certain Content, or links to certain Content, on the website or the Services; (iii) cause limited portions of Content on the website or the Services to be displayed or appear to be displayed on your own or certain third-party websites. You may use these features solely as they are provided by us and solely with respect to the Content they are displayed with and otherwise in accordance with any additional terms and conditions we provide with respect to such features. Subject to the foregoing, you must not: (a) establish a link from any website that is not owned by you; (b) cause the website or the Services or any portions thereof to be displayed on, or appear to be displayed by, any other site, for example, framing, deep linking, or in-line linking, without our express written consent; (c) otherwise take any action with respect to the materials on the website or the Services that is inconsistent with any other provision of these Terms of Service. You agree to cooperate with us in causing any unauthorized framing or linking immediately to stop. We reserve the right to withdraw linking permission without notice or liability. We may disable all or any social media features and any links at any time without notice in our sole discretion.

### **Contests and Giveaways.**

Additional terms and conditions may apply to surveys, contests, giveaways, and other promotions sponsored by us or our partners. It is your responsibility to carefully review those terms and conditions.

### **Geographic Restrictions.**

Avolve Sports is based in the State of Florida in the United States. We provide the website and the Services for use only by persons located in the United States. We make no claims that the website, the Services, or any of the Content is accessible or appropriate outside of the United States. Access to the Service may not be legal by certain persons or in certain countries. If you access the Service from outside the United States, you do so on your own initiative and are responsible for compliance with local laws.

### **Notification of Copyright Infringement.**

We respect the intellectual property rights of others and expect our users to do the same. In accordance with the Digital Millennium Copyright Act (“DMCA”), we will respond expeditiously to notices of alleged infringement that are reported to our Designated Copyright Agent, identified in the sample notice below.

If you are a copyright owner, authorized to act on behalf of one, or authorized to act under any exclusive right under copyright, please report alleged copyright infringements taking place on or through the website or Service by completing the following notice (“Notice”) and delivering it via email to [support@avolvesports.com](mailto:support@avolvesports.com) or by U.S. mail to the address provided below.

DMCA NOTICE OF ALLEGED INFRINGEMENT

1. Identify the copyrighted work that you claim has been infringed. If you believe multiple copyrighted works to have been infringed, you may provide a representative list of the copyrighted works.
2. Identify the material you claim is infringing, including at a minimum, if applicable, the URL of the link shown on the website or the location within the Service where such material is presented.
3. Provide your mailing address, telephone number, and, if available, email address.
4. Include both of the following statements in the body of the Notice:

\* "I hereby state that I have a good faith belief that the disputed use of the copyrighted material is not authorized by the copyright owner, its agent, or the law (e.g., as a fair use)."

\* "I hereby state that the information in this Notice is accurate and, under penalty of perjury, that I am the owner, or authorized to act on behalf of the owner, of the copyright or of an exclusive right under the copyright that is allegedly infringed."

5. Provide your full legal name and your electronic or physical signature.

In addition to an email delivery, please deliver this Notice, with all items completed, to our Designated Copyright Agent: Test Train Develop, LLC, ATTN: Avolve Sports Copyright Agent, 3237 E. Silver Springs Blvd, Ocala, Florida 34470.

We do not permit copyright infringing activities through our Services and will, if properly notified that content infringes, remove or disable access to such content. We reserve the right to remove or disable access to content without prior notice. In appropriate circumstances, we will also terminate users whom we determine to be repeat infringers.

### **Counter Notices**

A poster of allegedly infringing material may make a counter notice pursuant to Sections 512(g)(2) and 512(g)(3) of the DMCA. When we receive a counter notice, we may reinstate the material in question. To provide a counter notice to us, please return the following form to the Avolve Sports Copyright Agent.

#### COUNTER NOTICE

1. Identification of the material that has been removed or to which access has been disabled on the website or Service and the location at which the material appeared before it was removed or access to it was disabled:
2. A statement as follows: "I hereby state under penalty of perjury that I have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled."
3. Your name, address, telephone number and, if available, email address:
4. A statement as follows: "I hereby consent to the jurisdiction of the Federal District Court for the judicial district in which my address is located or, if my address is outside of the United States, for any judicial district in which Avolve Sports may be found, and I will accept service of process from the complaining party who notified Avolve Sports of the alleged infringement or an agent of such person."

5. Your physical or electronic signature.

The Counter Notice should be delivered to Avolve Sports' Designated Copyright Agent: Test Train Develop, LLC, ATTN: Avolve Sports Copyright Agent, 3237 E. Silver Springs Blvd, Ocala, Florida 34470.

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**Indemnification.**

You agree to defend, indemnify, and hold Avolve Sports and its subsidiaries, affiliates, officers, agents, employees, partners and licensors harmless from and against any claims, suits, actions, demands, disputes, allegations, or investigations brought by any third party, governmental authority, or industry body, and all liabilities, damages, losses, costs, and expenses, including without limitation reasonable attorneys' fees and costs, arising out of or in any way connected with: (i) your access to or use of the website or the Service, (ii) your connection to the website or Service, (iii) User Content, (iv) your breach or alleged breach of any warranties made by you hereunder or your violation of any other provision of these Terms of Service, or (v) your violation of any law or the rights of a third-party. We reserve the right to assume control of the defense of any third-party claim that is subject to indemnification by you, in which event you will cooperate with us in asserting any available defenses.

**Termination.**

You agree that Avolve Sports may, under any circumstances and without prior notice, immediately terminate your Account, and access to the website, the Service and/or any and all Content or materials. Cause for such termination shall include, but not be limited to: (i) breaches or violations of these Terms of Service or other incorporated agreements or guidelines, (ii) requests by law enforcement or other government agencies, (iii) a request by you (self-initiated account deletions), (iv) discontinuance or material modification to the Service (or any part thereof), (v) unexpected technical or security issues or problems, (vi) extended periods of inactivity, (vii) engagement by you in fraudulent or illegal activities, and/or (viii) nonpayment of any fees owed by you in connection with the Services. We reserve the right to suspend or deactivate your Account or your access to certain aspects or all of the Service, or to

terminate these Terms of Service, at our sole discretion, at any time and without notice or liability to you. Upon any such suspension, deactivation, or termination, we may delete or remove your User Content and other information related to your Account. Further, you agree that we shall not be liable to you or any third party for any termination of your Account or access to the Service. Closing your account does not necessarily imply deletion or removal of all of the information we hold.

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### **Dispute Resolution.**

PLEASE READ THE FOLLOWING SECTION CAREFULLY BECAUSE IT REQUIRES YOU TO ARBITRATE CERTAIN DISPUTES AND CLAIMS WITH US AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM US.

You agree that any dispute between you and Avolve Sports arising out of or relating to these Terms of Service, the website, the Service, or any other Avolve Sports products or services (collectively, “Disputes”) will be governed by the arbitration procedure outlined below.

Except as otherwise required by applicable law, the Terms of Service and the resolution of any Disputes shall be governed by and construed in accordance with the laws of the State of Florida without regard to its conflict of laws principles.

We want to address your concerns without needing a formal legal case. Before filing a claim against us, you agree to try to resolve the Dispute informally by contacting [support@avolvesports.com](mailto:support@avolvesports.com). We will try to resolve the Dispute informally by contacting you through e-mail. If a dispute is not resolved within 15 days after submission, you or Avolve Sports may bring a formal proceeding.

You and Avolve Sports agree to resolve any Disputes through final and binding arbitration, except as set forth below. The American Arbitration Association (AAA) will administer the arbitration under its Commercial Arbitration Rules. The arbitration will be held in the United States county where you live or work, Hillsborough County, Florida, or any other location we agree to.

Either you or Avolve Sports may assert claims, if they qualify, in small claims court in Hillsborough County, Florida or any United States county where you live or work. Either party may bring a lawsuit solely for injunctive relief to stop unauthorized use or abuse of the Avolve Sports products or the Service, or infringement of intellectual property rights (e.g., trademark, trade secret, copyright or patent rights) without first engaging in arbitration or the informal dispute-resolution process described above.

You may only resolve Disputes with us on an individual basis and may not bring a claim as a plaintiff or a class member in a class, consolidated, or representative action. Class arbitrations, class actions, private attorney general actions, and consolidation with other arbitrations are not allowed under our agreement.

Except as otherwise required by applicable law, in the event that the agreement to arbitrate is found not to apply to you or your claim, you and Avolve Sports agree that any judicial proceeding (other than small claims actions) will be brought in the federal or state courts of Hillsborough County, Florida. Both you and Avolve Sports consent to venue and personal jurisdiction there. We both agree to irrevocably waive our right to a jury trial.

The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act, as currently enacted by any jurisdiction or as may be codified or amended from time to time by any jurisdiction, do not apply to these Terms of Service.

#### **NCAA Regulations/Other Regulations.**

We are in no way affiliated with or sponsored by the NCAA. You are responsible for your own activities in connection with the website, including your use of the Services. Accordingly, you are responsible for knowing and complying with the NCAA's rules, regulations and laws or similar rules, regulations, and laws (collectively, "NCAA Regulations"). We are not responsible if you do not abide by NCAA Regulations (or any other similar rules or regulations) in connection with your use of the website and/or Services. If you act in violation of the NCAA Regulations, we may take reasonable steps in response, including, but not limited to, termination of your access to and use of the website and/or reporting of such conduct to the NCAA, governmental authorities, or other appropriate entities.

#### **Notice for California Users.**

Under California Civil Code Section 1789.3, California Website users are entitled to the following specific consumer rights notice: The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 1625 N. Market Blvd., Suite N 112, Sacramento, California 95834, or by telephone at (800)-952-5210.

#### **General Terms.**

Except as otherwise stated herein, these Terms of Service constitute the entire and exclusive understanding and agreement between Avolve Sports and you regarding the website and the Service, and these Terms of Service supersede and replace any and all prior or contemporaneous oral or written understandings or agreements between Avolve Sports and you regarding the website and the Service.

If for any reason a court of competent jurisdiction finds any provision of these Terms of Service invalid or unenforceable, that provision will be enforced to the maximum extent permissible and the other provisions of these Terms of Service will remain in full force and effect.

You may not assign, delegate, or transfer these Terms of Service, by operation of law or otherwise, without our prior written consent. Any attempt by you to assign or transfer these Terms of Service, without such consent, will be null and void. Avolve Sports may freely assign or transfer these Terms of Service without restriction. Subject to the foregoing, these Terms of Service will bind and inure to the benefit of the parties, their successors, and permitted assigns.

Any notices or other communications provided by Avolve Sports under these Terms of Service, including those regarding modifications to these Terms of Service, will be given: (i) via email or (ii) by posting to the Service. For notices made by e-mail, the date of receipt on the message will be deemed the date on which such notice is transmitted.

Our failure to enforce any right or provision of these Terms of Service will not be considered a waiver of such right or provision. The waiver of any such right or provision will be effective only if in writing and signed by a duly authorized representative of Avolve Sports. Except as expressly set forth in these Terms of Service, the exercise by either party of any of its remedies under these Terms of Service will be without prejudice to its other remedies under these Terms of Service or otherwise.