



PLANET FITNESS EQUIPMENT, LLC
Terms and Conditions

1. **TERMS** – These Terms and Conditions (“**T&C**”) contained hereof are intended to limit the terms of the agreement between Buyer, as indicated in the “Ship To” portion of the attached Quote, and Planet Fitness Equipment, LLC (“**PFE**”) to those set forth herein. Acceptance of the attached Quote or Invoice, payment (including partial payment) or acceptance of the equipment shall be construed as an unqualified, unconditional acceptance of these T&C.
2. **PRICES** – All prices quoted are subject to change, without notice, at any time prior to PFE’s acceptance of Buyer’s order, to prices prevailing at the time of acceptance. Buyer shall be responsible for all taxes, shipment and any fees or costs associated with the purchase of the equipment. The terms of payment shall be provided on the Quote/Invoice.
3. **DELIVERY** – If an estimate of time of shipment or delivery has been made or proposed, it is understood that it is approximate only and Buyer acknowledges and agrees that it has not relied on a specific delivery date and further agrees that PFE may not be held liable for any delays including any loss of use or indirect or consequential damages.
4. **RISK OF LOSS** – Delivery shall occur directly from manufacturer and risk of loss shall pass to Buyer upon delivery. Transportation shall be directly from manufacturer and any claim for loss or damage shall be made against manufacturer or its carrier.
5. **PLACEMENT SERVICES** – In the event that the attached Quote or Invoice includes placement services, such placement services are limited to the placement and arranging of the equipment within the Buyer’s location. Buyer is solely responsible for securing such equipment in place in accordance with the manufacturer’s specifications and recommendations. Buyer shall defend and indemnify PFE, its parents, subsidiaries and affiliates, and hold them harmless from any claims, loss, damage or injury arising from or related to any actual or alleged failure to follow the manufacturer’s specifications and/or recommendations.
6. **WARRANTY**– All warranties shall be those provided directly from the manufacturer. Plant Fitness makes no representations or warranties whatsoever related to the equipment. Buyer’s sole recourse for any defective equipment shall be to the manufacturer, and PFE shall have no liability whatsoever with respect thereto.
7. **DISPUTES** - This agreement is deemed to be entered into in the State of New Hampshire and to be a New Hampshire contract and shall be governed and construed in accordance with the laws of the State of New Hampshire. PFE and Buyer specifically agree that any legal action brought relating to goods purchased or relating to this contract will be brought and tried in New Hampshire. Buyer hereby waives all objections to venue, and Buyer consents to service of process by certified mail addressed to the same address as that address designated on the delivery of the goods purchased hereunder.
8. **LIABILITY OR RESPONSIBILITY** – PFE assumes no liability or responsibility for any negligent or willful act, omission or violation of applicable law or regulation by Buyer or Buyer’s employee, agent or contractor. Buyer shall defend and indemnify PFE, its parents, subsidiaries and affiliates, and hold them harmless from any claims, loss, damage or injury arising from or related to any actual or alleged negligent or willful act, omission or violation of applicable law or regulation by Buyer or Buyer’s employee, agent or contractor. This indemnification obligation supplements, and does not supersede or replace, any existing obligations you have to PFE, its parents, subsidiaries and affiliates (contractual or otherwise).
9. **WAIVER** - The failure of Plant Fitness at any time to require performance by Buyer of any of its obligations hereunder shall in no way affect the full right to require such performance at any time thereafter. The waiver by PFE of any remedy with respect to a breach of any provision hereof shall not be taken as a waiver of a remedy with respect to any succeeding breach of such provision or any breach of other provision.
10. **SEVERABILITY** - The parties agree that each provision contained in these T&C shall be treated as separate and independent clause, and the unenforceability of any one clause shall in no way impair the enforceability of any of the other clauses herein. Moreover, if one or more of the provisions contained in these T&C shall for any reason be held to be excessively broad as to scope, activity or subject so as to be enforceable at all, such provision or provisions shall be construed by the appropriate judicial body by limiting and reducing it or them, so as to be enforceable to the extent compatible with the applicable law.
11. **ENTIRE AGREEMENT; MODIFICATION** – This document and the documents referred to herein contain the entire agreement of the parties hereto with respect to the subject matter hereof. Except for stenographic and clerical errors, which errors are subject to correction, no terms or condition in any way modifying the foregoing provisions shall be binding upon PFE, unless hereafter made in writing and signed by an authorized representative of PFE. Without limiting the foregoing, no modification shall be effected by the receipt of Equipment Manufacturer’s acknowledgments, invoices, shipping documents or other forms containing terms or conditions in addition to or different from the T&C set forth herein.
12. **NO WAIVER** – PFE’s failure on any occasion to insist on strict performance on any term or condition hereof shall not constitute a waiver of compliance with such term or condition on any other occasion or a waiver of any default.