

Heron Creek Yoga & Fitness Online Services Agreement

1. Acceptance of terms

- A. The services that Heron Creek Yoga & Fitness, Inc. (Heron Creek) provides to you (the User) is subject to the following Terms of Use (Agreement). Heron Creek reserves the right to update the Agreement at any time without notice to User. The most current version of the Agreement can be reviewed by clicking on the "Terms of Use" hypertext link located at the bottom of our web pages.
- B. This Agreement, which incorporates by reference other provisions applicable to use of the heroncreek.ca website (heroncreek.ca), including, but not limited to, supplemental terms and conditions set forth hereof (Supplemental Terms) governing the use of certain specific material contained in heroncreek.ca, sets forth the terms and conditions that apply to use of heroncreek.ca by User. By using Heron Creek (other than to read this Agreement for the first time), User agrees to comply with all terms and conditions hereof. The right to use heroncreek.ca is personal to User and is not transferrable to any other person or entity. User is responsible for all use of User's Account (under any screen name or password) and for ensuring that all use of User's Account complies fully with the provisions of this Agreement. User shall be responsible for protecting the confidentiality of User's password(s).
- C. Heron Creek shall have the right at any time to change or discontinue any aspect or feature of heroncreek.ca, including, but not limited to, content, hours of availability, and equipment needed for access or use.

2. Change of terms

- A. Heron Creek shall have the right at any time to change or modify the terms and conditions applicable to User's use of heroncreek.ca, or any part thereof, or to impose new conditions, including, but not limited to, adding fees and charges for use. Such changes, modifications, additions or deletions shall be effective immediately upon notice thereof, which may be given by means including, but not limited to, posting on heroncreek.ca, or by electronic or conventional mail, or by any other means by which User obtains notice thereof. Any use of heroncreek.ca by User after such notice shall be deemed to constitute acceptance by User of such changes, modifications or additions.

3. Description of services

- A. Through its internet (Web) property Heron Creek provides User with access to a variety of resources, including download areas, communication forums and product information (collectively "Services"). The Services, including any updates, enhancements, new features, and/or the addition of any new Web properties, are subject to the Agreement.
- B. Heron Creek provides additional Services via third-party properties, including, but not limited to, Zoom and MindbodyOnline. The Services provided thereto are subject to the Agreement of the third-party service providers where applicable.

4. Equipment

- A. User shall be responsible for obtaining and maintaining all telephone, computer hardware, software and other equipment needed for access to and use of heroncreek.ca and all charges related thereto.

5. User conduct

- A. User shall use heroncreek.ca for lawful purposes only. User shall not post or transmit through heroncreek.ca any material which violates or infringes in any way upon the rights of others, which is unlawful, threatening, abusive, defamatory, invasive of privacy or publicity rights, vulgar, obscene, profane or otherwise objectionable, which encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any law, or which, without Heron Creek's express prior approval, contains advertising or any solicitation with respect to products or services. Any conduct by a User that in Heron Creek's discretion restricts or inhibits any other User from using or enjoying heroncreek.ca will not be permitted. User shall not use heroncreek.ca to advertise or perform any commercial solicitation, including, but not limited to, the solicitation of users to become subscribers of other online information services competitive with Heron Creek.
- B. heroncreek.ca, through its use of wix.com as the Web service provider, contains copyrighted material, trademarks and other proprietary information, including, but not limited to, text, software, photos, video, graphics, music and sound, and the entire contents of heroncreek.ca are copyrighted as a collective work under Canadian copyright laws. Heron Creek owns a copyright in the selection, coordination, arrangement and enhancement of such content, as well as in the content original to it. User may not modify, publish, transmit, participate in the transfer or sale, create derivative works, or in any way exploit, any of the content, in whole or in part. Where explicitly allowed, User may download copyrighted material for User's personal use only. Except as otherwise expressly permitted under copyright law, no copying, redistribution, retransmission, publication or commercial exploitation of downloaded material will be permitted without the express permission of Heron Creek and the copyright owner. In the event of any permitted copying, redistribution or publication of the copyrighted material, no changes in or deletion of author attribution, trademark legend or copyright notice shall be made. User acknowledges that it does not acquire any ownership rights by downloading copyrighted material.
- C. User shall not upload, post or otherwise make available on heroncreek.ca any material protected by copyright, trademark or other proprietary right without the express written permission of the owner of the copyright, trademark or other proprietary right and the burden of determining that any material is not protected by copyright rests with User. User shall be solely liable for any damage resulting from any infringement of copyrights, proprietary rights, or any other harm resulting from such a submission. By submitting material to any public area of heroncreek.ca, User automatically grants, or warrants that the owner of such material has expressly granted Heron Creek the royalty-free, perpetual, irrevocable, non-exclusive right and license to use, reproduce, modify, adapt, publish, translate and distribute such material (in whole or in part) worldwide and/or to incorporate it in other works in any form, media or technology now known or hereafter developed for the full term of any copyright that may exist in such material. User also permits any other User to access, view, store or reproduce the material for that User's personal use. User hereby grants Heron Creek the right to edit, copy, publish and distribute any material made available on heroncreek.ca by User.
- D. The foregoing provisions of Section 5 are for the benefit of Heron Creek, its subsidiaries, affiliates and its third-party content providers and licensors and each shall have the right to assert and enforce such provisions directly or on its own behalf.

6. Member account, password

- A. User is entirely responsible for maintaining the confidentiality of User's password and account. Further, User is entirely responsible for any and all activities that occur under User's account. Heron Creek will not be liable for any loss that User may incur as a result of someone else using User's password or account, either with or without User's knowledge. However, User could be held liable for losses incurred by Heron Creek or another party due to someone else using User's account or password. User may not use anyone else's account at any time.

7. Documents available on heroncreek.ca

- A. Heron Creek and/or its respective suppliers make no representations about the suitability of the information contained in the documents and other content published as part of the Services for any purpose. All such documents and related content are provided "as is" without warranty of any kind. Heron Creek and/or its respective suppliers hereby disclaim all warranties and conditions with regard to this information, including all warranties and conditions of merchantability, where express, implied or statutory, fitness for a particular purpose, title and non-infringement. In no event shall Heron Creek and/or its respective suppliers be liable for any special, indirect or consequential damages or any damages whatsoever resulting from loss of use, data or profits, whether in an action of contract, negligence or other tort action, arising out of or in connection with the use or performance of information available from the Services.
- B. The documents and content published on the Services could include technical inaccuracies or typographical errors. Changes are periodically added to the information herein. Heron Creek and/or its respective suppliers may make improvements and/or changes in the products and/or the programs described herein at any time.

8. Disclaimer of warranty and limitation of liability

- A. User expressly agrees that use of heroncreek.ca is at User's sole risk. Neither Heron Creek, its affiliates nor any of their respective employees, agents, third party content providers or licensors warrant that heroncreek.ca will be uninterrupted or error free; nor do they make any warranty as to the results that may be obtained from use of heroncreek.ca, or as to the accuracy, reliability or content of any information, service, or merchandise provided through heroncreek.ca
- B. heroncreek.ca is provided on an "as is" basis without warranties of any kind, either express or implied, including, but not limited to, warranties of title or implied warranties of merchantability or fitness for a particular purpose, other than those warranties which are implied by and incapable of exclusion, restriction or modification under the laws applicable to this agreement.
- C. This disclaimer of liability applies to any damages or injury caused by any failure of performance, error, omission, interruption, deletion, defect, delay in operation or transmission, computer virus, communication line failure, theft or destruction or unauthorized access to, alteration of, or use of record, whether for breach of contract, negligence or under any other cause of action. User specifically acknowledges that Heron Creek is not liable for the defamatory, offensive or illegal conduct of other users or third parties and that the risk of injury from the foregoing rests entirely with user.
- D. In addition to the terms set forth above neither Heron Creek nor its affiliates, information providers or content partners shall be liable regardless of the cause or duration, for any errors, inaccuracies, omissions, or other defect in, or untimeliness or unauthenticity of, the information contained with heroncreek.ca , or for any delay or interruption in the transmission thereof to the user, or for any claims or losses arising therefrom or occasioned thereby.
- B. Force majeure – Neither party will be responsible for any failure or delay in performance due to circumstances beyond its reasonable control, including, without limitation, acts of God, war, riot, embargoes, acts of civil or military authorities, fire, floods, accidents, service outages resulting from equipment and/or software failure and/or telecommunications failures, power failures, network failures, failures of third-party service providers, including providers of internet services and telecommunications. The party affected by any such event shall notify the other party within a maximum of 15 days from its occurrence. The performance of this agreement shall then be suspended for as long as any such event shall prevent the affected party from performing its obligations under this agreement.

9. Indemnification

- A. User agrees to defend, indemnify, and hold harmless Heron Creek, its affiliates and their respective directors, officers, employees and agents from and against all claims and expenses, including attorney fees, arising out of the user of heroncreek.ca by User.

10. Termination

- A. Either Heron Creek or User may terminate this Agreement at any time. Without limiting the foregoing, Heron Creek shall have the right to immediately terminate User's account in the event of any conduct by User which Heron Creek, in its sole discretion, considers to be unacceptable, or in the event of any breach by User of this Agreement.

11. Miscellaneous

- A. This Agreement and any operating rules for heroncreek.ca established by Heron Creek constitute the entire agreement of the parties with respect to the subject matter hereof and supersede all previous written or oral agreements between the parties with respect to such subject matter. This Agreement shall be construed in accordance with the laws of Ontario. No waiver by either party or breach of default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. The section headings used herein are for convenience only and shall not be given any legal import.

12. Copyright and trademark

- A. Heron Creek logos are trademarks of Heron Creek, all rights reserved. The names of actual companies and products mentioned herein may be the trademarks of their respective owners. Any rights not expressly granted herein are reserved.