

Terms of Service

Dibs Technology Inc.
Last Updated: June 1, 2016

Our terms of service (these "Terms") apply to your access and use of the Dibs Technology Inc. ("Dibs") web or SMS application ("Dibs Software"), whether accessed via Dibs website (ondibs.com), via SMS, or via one of our studio partner's sites.

Accepting these Terms:

If you access or use the Service, it means you agree to be bound by all of the terms below. Please read all of the terms before you use the Service. If a term does not make sense to you, please let us know. If you do not agree to all of the terms below, you may not use the Service.

Charges to these Terms:

We encourage you to review the Terms regularly to know about our practices. We may change these Terms from time to time. For example, we may change these Terms if we come out with a new feature. If we make changes, we will let you know by revising the date at the top of the policy and, in some cases, provide you with additional notice (such as sending you an email notification). Any changes we make to these Terms will be effective when we post them. If you use the Service after we have posted the changed Terms, then you have accepted the changes to these Terms.

Privacy Policy:

For information about how we collect, use and share information about users of the Service, please see our [Privacy Policy](#).

Description of the Service:

We provide pricing services for fitness classes. Our proprietary software enables our studio partners to easily price each spot in each of their classes according to real time demand. Prices are based on historical demand. For more information about the Service, please see our FAQs.

We do not provide exercise programs. We provide a way for users to access Dibs' proprietary pricing. All exercise programs should be done in consultation with a certified medical professional. Please work with a professional and make sure you get the approval of a medical professional prior to embarking on any exercise program.

Creating Accounts:

When you create an account, you must maintain the security of your password and accept all risk that someone may access your account without your permission. If you discover or suspect any Service security breaches, please let us know as soon as possible. You represent and warrant to us that all information that you provide in connection with your account is accurate, truthful, current, and complete. Dibs Technology Inc. reserves the right to deny any account at our discretion.

Right to Use the Service:

On the condition that you fully comply with these Terms, Dibs grants you a limited, nonexclusive, non-transferable, and revocable license to access and use the Service. However, the Software may only be used on mobile devices that you own or control. The terms of this license will also govern any upgrades provided by that replace and/or supplement the original Software, unless the upgrade is accompanied by a separate license, in which case the terms of that license will govern.

Except as expressly authorized by these Terms, you may not: (a) modify, disclose, alter, translate or create derivative works of the Service; (b) license, sublicense, resell, distribute, lease, rent, lend, transfer, assign or otherwise dispose of the Service; (c) disassemble, decompile or reverse engineer any of the software components of the Service; (d) copy, frame or mirror any part of the Service; (e) interfere with or disrupt the integrity or performance of the Service; or (f) attempt to gain unauthorized access to the Service or its related systems or networks.

Class Fees:

In order to participate in a class, you must reserve a spot. You can reserve a spot via the Service by paying the applicable class fee. All payments must be made in U.S. Dollars when booking in the United States, or by GBP when booking in England. Payments must be made by credit or debit card via an authorized Dibs payment processor.

Dibs Technology Inc. will charge the credit/debit card provided by you via the Service in advance. You hereby authorize Dibs Technology Inc. (or its authorized payment processor) to charge the credit/debit card number provided via the Service in accordance the amount associated with the class for which you are reserving a spot. You represent and warrant that you are authorized to use and have fees charged to the credit/debit card number you provided to Dibs Technology Inc.

Prohibited Use of the Service:

You may not do any of the following in connection with the Service or other users:

Use the Service in any manner that could interfere with, disrupt, negatively affect or inhibit other users from fully enjoying the Service or that could damage, disable, overburden or impair the functioning of the Service; Collect any personal information about other users; Intimidate, threaten, stalk, bully or otherwise harass other users; Post spam or commercial messages through the Service; Create an account or use the Service if you are not over 13 years of age; Use the Service for any illegal or unauthorized purpose or to engage in, encourage or promote any activity that unlawful or that violates these Terms; and Circumvent or attempt to circumvent any filtering, security measures, rate limits or other features designed to protect the Service, its users, or third parties. Your use of the Service is at your own risk. Dibs Technology Inc. is not responsible or liable for the conduct of, or your interactions with, any other users (whether online or offline) or for any related damage or harm. Although we have no obligation to screen, edit, or monitor user content, we reserve the right, and have the discretion, to screen, edit, or remove any user content at any time, for any reason and without notice.

User Content -- Reporting and Removal:

A user may report a prohibited content to Dibs Technology Inc. that he/she thinks violates these Terms, and Dibs Technology Inc. may remove such user content, suspend or terminate the account of the user who made provided the content and/or take additional action to enforce these Terms against such user.

In addition, in accordance with the Digital Millennium Copyright Act (DMCA) and other applicable law, Dibs Technology Inc. has adopted a policy of terminating, in appropriate circumstances and at our discretion, account holders who are deemed repeat infringers. We also may, at our discretion, limit access to the Service and terminate the accounts of any users who infringe any intellectual property rights of others, whether or not there is any repeat infringement.

If you think that anything on the Service infringes upon any copyright that you own or control, you may file a notification with Dibs Technology Inc.'s Designated Agent as set forth below:

Dibs Technology, Inc.
1460 Broadway, New York, NY 10024
646.494.7905
info@ondibs.com

Please see 17 U.S.C. § 512(c)(3) for the requirements of a proper notification. If you knowingly misrepresent that any material or activity is infringing, you may be liable for any damages, including costs and attorneys' fees, Dibs Technology Inc. or the alleged infringer incurs because we relied on the misrepresentation when removing or disabling access to the material or activity.

Dibs Technology Inc.'s Rights:

As between you and Dibs, all information, materials and content of the Service, including text, graphics, data, formatting, graphs, designs, HTML, look and feel, photographs, music, sounds, images, software, videos, designs, typefaces, source and object code, format, queries, algorithms and other content is owned by Dibs or is used with permission. When you post, link or otherwise make available content to the Service, you grant us a nonexclusive, royalty-free, perpetual, irrevocable and fully sublicensable right to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, perform and display such content throughout the world in any manner or media, on or off the Software. Dibs Technology Inc. reserves all rights not expressly set forth in these Terms.

Feedback:

Any suggestions, comments, or other feedback you give us about the Service will be our confidential information. We are free to use, disclose, reproduce, license, distribute and exploit this feedback as we see fit, without compensation to you or any obligation or restriction because of any intellectual property rights or otherwise.

Disclaimers:

As a software that lets people who book classes at fitness related classes, you acknowledge and agree that Dibs Technology Inc. is not liable for the acts or omissions of the companies or individuals providing fitness classes, the facilities or other environments within which the classes occur and any damages or losses (physical, mental or otherwise) caused by, arising out of, resulting from, attributable to or in any way incidental to the classes or your workout.

DIBS TECHNOLOGY INC. IS NOT RESPONSIBLE FOR ANY CLASS CANCELATIONS.

YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT YOUR USE OF THE SERVICE AND ANY WORKOUTS/CLASSES RELATED THERETO ARE AT YOUR SOLE RISK AND THAT THE ENTIRE RISK (INCLUDING, BUT NOT LIMITED TO, RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, SAFETY AND ACCURACY) IS WITH YOU. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICE AND ANY WORKOUTS/CLASSES RELATED THERETO ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. WE DISCLAIM ANY AND ALL WARRANTIES AND REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN) WITH RESPECT TO THESE TERMS, THE SERVICE, ANY WORKOUTS/CLASSES, OUR PRODUCTS AND/OR SERVICES, USER CONTENT, THIRD-PARTY SERVICES OR THIRD-PARTY MATERIALS, WHETHER ALLEGED TO ARISE BY OPERATION OF LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, BY COURSE OF DEALING OR OTHERWISE, INCLUDING ANY AND ALL: (A) WARRANTIES OF MERCHANTABILITY; (B) WARRANTIES OF FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT WE KNOW, HAVE REASON TO KNOW, HAVE BEEN ADVISED OR ARE OTHERWISE AWARE OF ANY SUCH PURPOSE); AND (C) WARRANTIES OF NON-INFRINGEMENT OR CONDITION OF TITLE. WE DO NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SERVICE WILL BE ACCURATE OR MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ANY DEFECTS IN THE SERVICE WILL BE CORRECTED. NO ORAL OR WRITTEN INFORMATION, GUIDELINES, OR ADVICE GIVEN BY OUR AUTHORIZED REPRESENTATIVE OR US WILL CREATE A WARRANTY.

No Medical Advice. THE CONTENT AND/OR INFORMATION PROVIDED VIA THE SERVICE DOES NOT CONTAIN OR CONSTITUTE AND SHOULD NOT BE INTERPRETED AS, MEDICAL ADVICE, OPINION, OR SERVICES, AND THERE IS NO DOCTOR-PATIENT RELATIONSHIP BETWEEN DIBS TECHNOLOGY INC. AND YOU.

All weight reduction/control programs and exercise programs should be done in consultation with a certified medical professional. Please work with a professional and make sure you get the approval of a medical professional prior to embarking on any exercise program.

Limitation of Liability:

OUR TOTAL LIABILITY ARISING OUT OF OR RELATING TO THE USE OF OR INABILITY TO USE THE SERVICE WILL NOT EXCEED THE COST TO USE THE SERVICE AS OPPOSED TO AMOUNT PAID FOR ANY CLASSES OR ANY OTHER FEES/ COSTS RELATED TO THE USER OF THE SERVICE INCLUDING, BUT NOT LIMITED TO, ANY FEES ASSOCIATED WITH YOUR DEVICE.

EXCEPT AS EXPRESSLY STATED ABOVE, TO THE EXTENT NOT PROHIBITED BY LAW, IN NO EVENT WILL WE BE LIABLE TO YOU OR ANY THIRD-PARTY FOR ANY DIRECT, INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHATSOEVER INCLUDING, BUT NOT LIMITED TO, bodily injury, emotional distress OR death HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, WHETHER ACTIVE, PASSIVE OR IMPUTED), PRODUCT LIABILITY, STRICT LIABILITY OR OTHER THEORY) AND EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION MAY NOT APPLY TO YOU.

Indemnification:

You agree, at your sole expense, to defend, indemnify and hold us, our service providers and consultants, and their respective directors, employees and agents, harmless from and against any and all actual or threatened suits, actions, proceedings (at law or in equity), claims, damages, payments, deficiencies, fines, judgments, settlements, liabilities, losses, costs and expenses (including, but not limited to, reasonable attorney fees, costs, penalties, interest and disbursements) caused by, arising out of, resulting from, attributable to or in any way incidental to: (a) your conduct; (b) your violation of the Terms or the rights of any third-party; or (c) any user content.

Third Party Software:

The software you are using consists of a package of components, including certain third party software provided under separate third party license terms. Your use of this third party software in conjunction with the Software in a manner consistent with the terms of these Terms is permitted, however, you may have broader rights under the applicable third party license terms, and nothing in these Terms is intended to impose further restrictions on your use of this third party software.

Changes to the Service:

Dibs Technology Inc. reserves the right in our discretion to review, improve, change, or discontinue, temporarily or permanently, the Service and/or any features, information, materials or content on the Service with or without providing notice to you. Dibs Technology Inc. will not be liable to you or any third party for any changes or discontinuance of the Service or any part of the Service.

Consent to Electronic Communications:

By using the Service, you agree that we may communicate with you electronically regarding your use of the Service and that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that the communications be in writing. To withdraw your consent from receiving electronic notice, please notify us at info@ondibs.com mailto:.

Suspension and Termination:

Dibs Technology Inc may suspend or terminate your rights to access or use the Service for any reason or for no reason at all and with or without notice at Dibs Technology Inc.'s discretion. Suspension or termination may include restricting access to and use of the App. All of the terms of these Terms (excluding the license grant) will survive any termination or suspension.

Governing Law; Arbitration:

PLEASE READ THE FOLLOWING PARAGRAPHS CAREFULLY BECAUSE THEY REQUIRE YOU TO ARBITRATE DISPUTES WITH DIBS TECHNOLOGY INC. AND LIMIT THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM DIBS TECHNOLOGY INC.

In the event of any controversy or claim arising out of or relating in any way to these Terms or the Service, you and Dibs agree to consult and negotiate with each other and, recognizing your mutual interests, try to reach a solution satisfactory to both parties. If we do not reach settlement within a period of 60 days, then either of us may, by notice to the other demand mediation under the mediation rules of the American Arbitration Association New York, New York. We both give up our right to litigate our disputes and may not proceed to arbitration without first trying mediation, but you and Dibs Technology Inc. are NOT required to arbitrate any dispute in which either party seeks equitable and other relief from the alleged unlawful use of copyrights, trademarks, trade names, logos, trade secrets or patents. Whether the dispute is heard in arbitration or in court, you and Dibs Technology Inc. will not commence against the other a class action, class arbitration or other representative action or proceeding.

If settlement is not reached within 60 days after service of a written demand for mediation, any unresolved controversy or claim will be resolved by arbitration in accordance with the rules of the American Arbitration Association before a single arbitrator in New York, New York. The language of all proceedings and filings will be English. The arbitrator will render a written opinion including findings of fact and law and the award and/or determination of the arbitrator will be binding on the parties, and their respective administrators and assigns, and will not be subject to appeal. Judgment may be entered upon the award of the arbitrator in any court of competent jurisdiction.

The parties will share the expenses of the arbitration equally unless the arbitration determines that the expenses will be otherwise assessed and the arbitrator may award the prevailing party its attorneys' fees and expenses. It is the intent of the parties that, barring extraordinary circumstances, arbitration proceedings will be concluded within 90 days from the date the arbitrator is appointed. The arbitrator may extend this time limit only if failure to do so would unduly prejudice the rights of the parties. Failure to adhere to this time limit will not constitute a basis for challenging the award. Consistent with the expedited nature of arbitration, pre-hearing information exchange will be limited to the reasonable production of relevant, non-privileged documents, carried out expeditiously.

General:

Enforcement of these Terms is solely at Dibs Technology Inc.'s discretion. Failure to enforce any part of these Terms in some instances does not constitute a waiver of our right to enforce the same or other part of these Terms in other instances. If any provision of these Terms is or becomes unlawful, void or otherwise unenforceable (including the warranty disclaimers and liability limitations above), then that provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision, and the remaining provisions of these Terms will continue in full force and effect. As used in these Terms, "including" means "including (without limitation)." The section headings these Terms and are for reference purposes only and will not affect the meaning or interpretation of these Terms.

Legal Compliance:

You represent and warrant that (a) 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 (b) you are not listed on any U.S. Government list of prohibited or restricted parties.

Individual Studio Terms and Conditions also apply