

## **STATEN ISLAND CROSSFIT TERMS OF SERVICE**

**THE FOLLOWING TERMS OF SERVICE CONSTITUTE A LEGAL AGREEMENT -- PLEASE READ THEM CAREFULLY.**

The following terms of service (these "Terms of Service" or this "Agreement") shall govern the provision by S.I.C. Brothers Corp. operating as Staten Island CrossFit, a New York corporation (together with its subsidiaries and affiliates, "SIC"), to you ("User"), of the services described and offered on our website [www.statenislandcrossfit.com](http://www.statenislandcrossfit.com), including, but not limited to the use of our website [www.statenislandcrossfit.com](http://www.statenislandcrossfit.com) ("statenislandcrossfit.com"), all available services, tools and functionality related to [statenislandcrossfit.com](http://www.statenislandcrossfit.com), including but not limited to forums, chat rooms, and online message boards (the "Communication Services"), and all products and services offered by SIC through [statenislandcrossfit.com](http://www.statenislandcrossfit.com), as the same may be altered or modified from time-to-time by SIC in its sole discretion (collectively referred to hereinafter as the "Services").

These Terms of Service shall be effective as of the date that User registers for an account on the [statenislandcrossfit.com](http://www.statenislandcrossfit.com) website or uses any of the Services described or offered by SIC (the "Effective Date"). User's access and usage of the Services is strictly conditioned upon User's acceptance and compliance with this Agreement and SIC's Privacy Policy. SIC hereby reserves the right to amend, alter, modify, replace or suspend these Terms of Service and/or the Privacy Policy, from time to time in its sole discretion. Current copies of SIC's Privacy Policy may be reviewed or printed by User at [\[INSERT PRIVACY POLICY URL\]](#) **USER HEREBY REPRESENTS AND WARRANTS THAT USER HAS READ, UNDERSTOOD AND ACCEPTED THESE TERMS OF SERVICE AND THE TERMS OF THE PRIVACY POLICY AND USER IS OF AN AGE THAT LEGALLY PERMITS HIM OR HER TO ENTER INTO A LEGALLY BINDING AGREEMENT IN THE JURISDICTION IN WHICH USER RESIDES OR USES THE SERVICES.**

Changes to this Agreement will be posted on our website at [\[INSERT TERMS OF SERVICE URL\]](#). User hereby acknowledges and agrees that User's continued use of the Services after revisions to this Agreement are posted shall evidence User's acceptance of the changes to this Agreement.

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**1. Personal Use of Services.** User acknowledges and agrees that the access and utilization of the Services are for User's personal use. User shall not create derivative works of, or make commercial use of the Services. User shall not, or attempt to (or otherwise authorize, encourage or support others" attempts to), circumvent, re-engineer, decrypt, break or otherwise alter or interfere with the Services or any password owned or controlled by SIC or any other user of the Services.

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## 2. Registration and Use of Services.

(a) Access: **SIC shall provide User with access to the Services to enable User to...** SIC shall not be responsible for providing any other services not specifically set forth in this Agreement. User hereby agrees that User will only access and utilize the Services as specifically permitted by SIC in these Terms and Conditions.

(b) User Registration: In the event SIC provides User with the ability to register on statenilandcrossfit.com, User shall: (i) provide true, accurate and complete information about User as prompted by the registration form ("Registration Data") and (ii) maintain and promptly update all Registration Data to keep it true, accurate, current and complete. If SIC has reasonable grounds to suspect that the Registration Data is untrue, inaccurate or incomplete, SIC has the right to suspend or terminate User's account and refuse any and all current or future use of the Services (or any portion thereof). User acknowledges and agrees that SIC may rely on the Registration Data to send User important information and notices regarding its account and the Services. SIC shall have no liability associated with or arising from User's failure to maintain accurate Registration Data, including, but not limited to, User's failure to receive critical information about the Services or its account. User further agrees that SIC (ourselves or through third party service providers) is authorized to verify such Registration Data.

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(c) Intellectual Property Infringement Policy: Through the utilization of the Services, SIC (either directly or through third party providers) may provide User with the ability to upload/post materials, including without limitation, photos, videos, and User authored communications/commentary posted on forums, chat rooms, online message boards, and in other public areas of www.statenilandcrossfit.com ("User Submitted Materials"). By uploading or posting any such User Submitted Materials, User automatically agrees to (A) permit SIC to monitor, intercept, store, use or reproduce any such information or data posted by User, and User hereby consents to the foregoing, and (B) indemnify SIC (including its parent company, subsidiaries, affiliates and their respective officers, directors, managers, members, shareholders, contractors, agents, employees, licensors and assigns) from and against any and all third party claims, demands, liabilities, costs or expenses, including reasonable attorneys' fees, resulting from User's breach of this Agreement.

By uploading and/or posting any User Submitted Materials, User automatically (i) grants to all other statenilandcrossfit.com users, and any other person or entity affiliated with such statenilandcrossfit.com users, a perpetual, royalty-free, irrevocable and unrestricted worldwide right and license to use, reproduce, and distribute the User Submitted Materials for the limited purposes of discussion and commentary, (ii) grants to SIC (including its parent company, subsidiaries, affiliates and their respective officers, directors, managers, members, shareholders, contractors, agents, employees, licensors and assigns) a perpetual,

royalty-free, irrevocable and unrestricted worldwide right and license to use, reproduce, modify, adapt, publish, translate, create derivative works from and distribute the User Submitted Materials and incorporate the User Submitted Materials into any form, medium, or technology now known or later developed and (iii) waives all "moral rights" with respect to the User Submitted Materials. User further represents, warrants and affirms that User owns or has the necessary licenses, rights, consents, and permissions to use and authorize SIC to use all patent, trademark, trade secret, copyright or other proprietary rights in and to any and all User Submitted Materials and to enable inclusion and use of the User Submitted Materials in the manner contemplated by SIC, [statenilandcrossfit.com](http://statenilandcrossfit.com) and these Terms of Service.

SIC cannot review links that may be embedded in User Submitted Materials posted in [statenilandcrossfit.com](http://statenilandcrossfit.com). SIC is not responsible for the privacy practices or the content of any linked materials, whether or not they are affiliated with SIC. It is the sole responsibility of User to ensure that any and all User Submitted Materials User posts or uploads do not infringe or violate the intellectual property rights, publicity, privacy or other legal rights of third parties. User's postings will not be reviewed, screened or approved for such violations by SIC. SIC reserves the right to comply with the provisions of the Digital Millennium Copyright Act of 1998, 17 U.S.C. Sec. 512. Pursuant to that Act, SIC may promptly remove posted materials in the event a copyright owner provides proper notification to SIC alleging that the posted materials constitute infringement and further that such materials are posted on [www.statenilandcrossfit.com](http://www.statenilandcrossfit.com). If User's postings are removed under this procedure, SIC shall notify User (provided that SIC has User's current contact information on file) and provide the opportunity for User to respond as provided under the Act. The Digital Millennium Copyright Act is available at the Copyright Office's web site <http://lcweb.loc.gov/copyright/>.

Furthermore, User hereby acknowledges that the information and opinions expressed in User Submitted Materials, are not necessarily those of SIC and SIC makes no representations or warranties regarding such User Submitted Materials. User further acknowledges that User shall have the ability to make certain materials publicly available and that any such communications are public, and not private communications. If User voluntarily discloses personal information, that information can be collected and used by others and may result in unsolicited messages from other people. SIC shall not be held liable for any damages or harm resulting from User's posting of personal information on [statenilandcrossfit.com](http://statenilandcrossfit.com).

User shall not submit, upload, store, transmit or post to [statenilandcrossfit.com](http://statenilandcrossfit.com), or otherwise, any User Submitted Materials or content which in the sole opinion of SIC:

libels, defames, invades privacy, or is obscene, pornographic, abusive, or threatening;  
infringes any intellectual property or other right of any person or entity, including but not limited to, violating anyone's copyrights or trademarks;

falsifies or deletes author attributions, legal notices or other proprietary designations;  
violates any law;  
advocates illegal activity;  
knowingly contains viruses, corrupted files, or other materials that may cause damage to another's computer, or  
advertises or otherwise solicits funds or sales of goods or services except as authorized by SIC.

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(j) Third Party Providers: SIC may make available or provide access to products and services of independent third parties either directly or via links to websites operated by such third parties. Such products or services shall be purchased and/or obtained directly from such third party. USER ACKNOWLEDGES AND AGREES THAT SIC SHALL NOT BE A PARTY TO, OR IN ANY WAY RESPONSIBLE FOR, ANY TRANSACTION CONCERNING PRODUCTS OR SERVICES MADE AVAILABLE FROM SUCH THIRD PARTIES OR FOR ANY CONTENT OR INFORMATION PRESENTED IN CONNECTION WITH ANY PRODUCTS OR SERVICES OF THIRD PARTIES.

INCLUDEPICTURE "http://www.jamster.com/storage/view/us/en/xml\_htmlimage/TermsandConditions.gif" \\* MERGEFORMATINET **3. Prohibited Content & Conduct.** User shall not allow the posting, transmission, or storage of User Submitted Materials or other data or content on or through statenilandcrossfit.com, the Services, SIC network or its physical infrastructure which in SIC's sole determination, constitutes a violation of any federal, state, local or international law, regulation, ordinance, court order or other legal process applicable to SIC ("Applicable Law"). User shall be responsible for determining which Applicable Laws are applicable to their use of statenilandcrossfit.com, the Services or any portions thereof. Prohibited content includes, without limitation, (a) content or code that facilitates any violation of, or describe ways to violate, these Terms of Service, or (b) "harvested" addresses or information, (c) "phishing" messages, or (d) "spamvertising" messages.

A User shall not knowingly use statenilandcrossfit.com, the Services or any portions thereof or transmit over SIC's network, any material that may constitute child pornography. In addition to any other actions it may take under this Agreement, SIC reserves the right to cooperate fully with any criminal investigation of content transmitted using statenilandcrossfit.com, the Services, or any portion thereof or located on a server owned or controlled by SIC that constitutes alleged child pornography or an alleged violation of Applicable Law.

**4. Privacy.** User acknowledges that SIC may collect and process "personal information" (i.e. information that could be used to contact you, such as full name, postal address, phone number or e-mail address), "demographic and usage information" (i.e. information that you submit, or that we collect, that is neither personal information nor financial information but necessary for the proper functioning of our Services, such as the date regarding the start and end and the extent of your usage of the service), in connection with the Services. SIC may disclose your personal information and or demographic and usage information and such information collected by SIC may be stored and processed in the United States or any other country in which SIC or its agents maintain facilities. By using the Services, User consents to any such disclosure or transfer of information outside of your country. User's personal information and demographic information will be deleted no later than six (6) months after termination of this Agreement. SIC may store your information beyond this date if that is required by law or contract and may make your information available to others when compelled by court order.

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**5. Indemnification.** INCLUDEPICTURE "http://www.jamster.com/storage/view/us/en/xml\_htmlimage/TermsandConditions.gif" \\* MERGEFORMATINET User agrees to release, indemnify, defend and hold harmless SIC, its parent company, subsidiaries, affiliates and their respective officers, directors, shareholders, managers, members, contractors, agents, employees, licensors and assigns from all liabilities, claims, damages, costs and expenses, including reasonable attorneys' fees, made by any third party due to or arising out of or in connection with (a) User's use of the Services, or (b) the breach by User of the terms and conditions of this Agreement, including without limitation, User's representations and warranties set forth herein.

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**6. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITIES.**

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USER UNDERSTANDS AND AGREES THAT HIS/HER/ITS USE OF THE SERVICES, INCLUDING, BUT NOT LIMITED TO THE WEBSITE WWW.STATENISLANDCROSSFIT.COM, AND/OR ANY CONTENT DOWNLOADED, IS SOLEY AT USER'S OWN RISK AND THAT USER WILL BE SOLEY RESPONSIBLE FOR ANY DAMAGE OR LOSS OF DATA THAT MAY RESULT FROM ITS USE OR DOWNLOAD. USER AGREES THAT THE SERVICES AND SOFTWARE ARE PROVIDED ON AN "AS IS," AND "AS AVAILABLE" BASIS, EXCEPT AS OTHERWISE EXPRESSLY NOTED IN THIS AGREEMENT. SIC EXPRESSLY DISCLAIMS ANY LIABILITY FOR THE DATA AND CONTENT POSTED OR TRANSMITTED THROUGH OR INTERMEDIATELY, TEMPORARILY OR PERMANENTLY STORED ON SIC'S NETWORK, STATENISLANDCROSSFIT.COM, OR ANY SERVER OWNED OR CONTROLLED BY SIC, AND FOR THE ACTIONS OR OMISSION OF USERS.

USER ACKNOWLEDGES AND AGREES THAT SIC SHALL HAVE NO LIABILITY TO USER, OR TO ANY THIRD PARTY, FOR ANY MODIFICATION, SUSPENSION, DISRUPTION, DISCONTINUANCE OR TERMINATION OF THE SERVICES, OR ANY PART THEREOF, INCLUDING WITHOUT LIMITATION, ANY SERVICE DOWNTIMES OR DISRUPTIONS. SIC EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. SIC MAKES NO WARRANTIES THAT THE SERVICES OR SOFTWARE WILL MEET USER'S REQUIREMENTS, OR THAT THE SERVICES OR SOFTWARE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY USER FROM SIC, STATENISLANDCROSSFIT.COM, OR THROUGH OUR SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. USER MAY NOT RELY ON ANY SUCH INFORMATION OR ADVICE. TO THE EXTENT JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO USER.

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USER HEREBY EXPRESSLY AGREES THAT SIC'S ENTIRE LIABILITY TO USER OR ANY THIRD PERSON, AND USER'S OR ANY THIRD PERSON'S EXCLUSIVE REMEDY, IN LAW, IN EQUITY, OR OTHERWISE, WITH RESPECT TO THE SERVICES PROVIDED UNDER THIS AGREEMENT AND/OR FOR ANY BREACH OF THIS AGREEMENT IS SOLELY LIMITED TO RECOVERY OF AN AMOUNT NOT TO EXCEED THE ACTUAL AMOUNT WHICH SIC COLLECTED DIRECTLY FROM USER AS A FEE (IF ANY) FOR SERVICES PROVIDED DURING THE PAST THIRTY (30) DAYS PRIOR TO ANY SUCH LIABILITY BEING CONCLUSIVELY ESTABLISHED AGAINST SIC. SIC, ITS SUBSIDIARIES, AFFILIATES, LICENSORS AND CONTRACTORS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, MANAGERS, MEMBERS, EMPLOYEES, AND CONTRACTORS (INCLUDING ANY THIRD PARTIES PROVIDING ALL OR PART OF THE SERVICES) SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES EVEN IF SIC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE EXTENT THAT A STATE OR COUNTRY DOES NOT PERMIT THE EXCLUSION OR LIMITATION OF LIABILITY AS SET FORTH HEREIN SIC'S LIABILITY IS LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW IN SUCH STATES OR COUNTRIES.

**7. Intellectual Property Rights.** INCLUDEPICTURE "http://www.jamster.com/storage/view/us/en/xml\_htmlimage/TermsandConditions.gif" \\* MERGEFORMATINET Except

as otherwise set forth herein, all right, title and interest in and to any intellectual property, proprietary rights or other rights related to intangible property which are used, developed, comprising, embodied in, or practiced in connection with any of the Services ("Company Intellectual Property Rights") are owned by SIC or its licensors, and User agrees to make no claim of interest in or ownership of any such Company Intellectual Property Rights. User acknowledges that no title to the Company Intellectual Property Rights is transferred to User, and that User does not obtain any rights, express or implied, in the Service, other than the rights expressly granted in this Agreement.

**8. Termination and Cancellation of Services.** User agrees that SIC, at its sole discretion, may at any time immediately terminate this Agreement and User's use of the Services, without notice to User or obligation to refund any amounts paid by User (if any), with or without cause or reason. User agrees that upon termination of its access to the Services under any provision of this Agreement, SIC may immediately deactivate or delete any personalized accounts and all related information and files in your account and/or bar any further access to such files, the Services. Further, User agrees that SIC shall not be liable to User or any third party for any termination of User's access to the Services. In the event User has the ability to cancel User's account or Service for any reason, SIC will not be obligated to refund any of the fees actually paid by User to SIC (if any).

## **9. Miscellaneous Provisions**

(a) Notices and Announcements. Except as expressly provided otherwise herein, all notices to SIC shall be in writing and delivered via overnight courier or certified mail, return receipt requested to:

Staten Island CrossFit  
3801 Victory Boulevard, Unit #3  
Staten Island, New York  
Attn: Dan Messinger, President

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SIC shall serve notices related to this Agreement by sending them to User at the postal address or e-mail address given to SIC upon registration associated with its account. Notices sent by mail shall be deemed received seven days after they were sent. Notices sent by e-mail or as a text message shall be deemed received on the weekday following the day when they were posted or sent, provided SIC does not receive a "failure to deliver" notice.

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(b) Severability. User agrees that the terms of this Agreement are severable. If any term or provision is declared invalid or unenforceable, in whole or in part, that term or provision will not affect the remainder of this Agreement; this Agreement will be deemed amended to the extent necessary to make this Agreement enforceable, valid and, to the maximum extent

possible, consistent with applicable law, consistent with the original intentions of the parties; and the remaining terms and provisions will remain in full force and effect.

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(c) Entire Agreement. User agrees that this Agreement constitutes the entire, complete and exclusive agreement between User and SIC regarding the Service and supersedes all prior agreements and understandings, whether written or oral, or whether established by custom, practice, policy or precedent, with respect to the subject matter of this Agreement. In the event of any conflicting term between these Terms of Service and the Privacy Policy, these Terms of Service shall govern to the extent required to resolve the conflict.

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(d) Assignment and Resale. Except as otherwise set forth herein, User's rights under this Agreement are not assignable or transferable. User agrees not to resell the Services or any portion thereof.

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(e) **Governing Law**. **This Agreement and any disputes hereunder shall be governed in all respects by and construed in accordance with the laws of the State of New York, United States of America, excluding its conflicts of laws rules. User and SIC each hereby submit to the exclusive subject matter jurisdiction, exclusive personal jurisdiction and exclusive venue of the United States District Courts in the Southern District of the State of New York, specifically located in New York, New York, for any disputes between User and SIC under or arising out of this Agreement. If there is no jurisdiction in the United States District Court for the Southern District of New York, in New York, New York, for any disputes between User and SIC under or arising out of this Agreement then User and SIC hereby expressly agree that jurisdiction shall be in the state courts of Richmond County, New York. The parties hereby waive any right to jury trial with respect to any action brought in connection with this Agreement.**

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(f) Waiver. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by an authorized representative of SIC. The remedies of SIC under this Agreement shall be cumulative and not alternative, and the election of one remedy for a breach shall not preclude pursuit of other remedies. The failure of a party, at any time or from time to time, to require performance of any obligations of the other party hereunder shall not affect its right to enforce any provision of this Agreement at a subsequent time, and the waiver of any rights arising out of any breach shall not be construed as a waiver of any rights arising out of any prior or subsequent breach.

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(g) Headings. The section headings appearing in this Agreement are inserted only as a



matter of convenience and in no way define, limit, construe or describe the scope or extent of such section or in any way affect such section.

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(h) Survival. In the event this Agreement terminates for any reason whatsoever as provided herein, Sections 2(c), 5, 6, 7, 8 and 9 of this Agreement shall survive such expiration or termination.