

# **TERMS AND CONDITIONS OF WWW.THECHEERFORGE.COM**

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## **PLEASE READ THESE TERMS OF USE CAREFULLY BEFORE USING THIS WEBSITE.**

The following Terms and Conditions govern and apply to your use of or reliance upon this website maintained by Cheer Factory INC. (the "Website").

Your access or use of the Website indicates that you have read, understand and agree to be bound by these Terms and Conditions and other applicable laws, statutes and/or regulations. We may change these Terms and Conditions at any time without notice, effective upon its posting to the Website. Your continued use of the Website will be considered your acceptance to the revised Terms and Conditions.

### **1. PRODUCTS AND SERVICES**

The Website provides instructional content to Cheerleading coaches, gym owners, athletes and choreographers intended for informational purposes only. How this information is used, implemented, taught, instructed, performed or otherwise used by the User is not the responsibility of the Website or Cheer Factory INC.

### **2. INTELLECTUAL PROPERTY**

All intellectual property on the Website (except for User Generated Content, as defined below) is owned by us or our licensors, which includes materials protected by copyright, trademark, or patent laws. All trademarks, service marks and trade names are owned, registered and/or licenced by us. All content on the Website (except for User Generated Content, as defined below), including but not limited to text, software, code, designs, graphics, photos, sounds, music, videos, applications, interactive features and all other content is a collective work under Canadian and other copyright laws and is the proprietary property of the Company; All rights reserved.

### **3. USE OF COMPANY MATERIALS**

We may provide you with certain information as a result of your use of the Website including, but not limited to, documentation, data, or information developed by us, and other materials which may assist in the use of the Website or Services ("Company Materials"). The Company Materials may not be used for any other purpose than the use of this Website and the services offered on the Website. Nothing in these Terms of Use may be interpreted as granting any licence of intellectual property rights to you.

### **4. USER GENERATED CONTENT**

"User Generated Content" is communications, materials, information, data, opinions, photos, profiles, messages, notes, website links, text information, music, videos, designs, graphics,

sounds, and any other content that you and/or other Website users post or otherwise make available on or through the Website, except to the extent the content is owned by us.

## **5. ACCOUNT AND ACCOUNT USE**

If your use of the Website requires an account identifying you as a user of the Website (an "Account"):

- a) You are solely responsible for your Account and the maintenance, confidentiality and security of your Account and all passwords related to your Account, and any and all activities that occur under your Account, including all activities of any persons who gain access to your Account with or without your permission;
- b) You agree to immediately notify us of any unauthorized use of your Account, any service provided through your Account or any password related to your Account, or any other breach of security with respect to your Account or any service provided through it, and you agree to provide assistance to us, as requested, to stop or remedy any breach of security related to your Account, and
- c) You agree to provide true, current, accurate and complete customer information as requested by us from time to time and you agree to promptly notify us of any changes to this information as required to keep such information held by us current, complete and accurate.

## **6. PAYMENT**

When you make a purchase on the Website, you agree to provide a valid instrument to make a payment. Pay attention to the details of the transaction, as your total price may include taxes, fees, and shipping costs, all of which you are responsible for.

When you provide a payment instrument to us, you confirm that you are permitted to use that payment instrument. When you make a payment you authorize us (and our designated payment processor) to charge the full amount to the payment instrument you designate for the transaction. You also authorize us to collect and store that funding instrument, along with other related transaction information.

If you pay by credit or debit card, we may obtain a pre-approval from the issuer of the card for an amount as high as the full price. If you cancel a transaction before completion, this pre-approval may result in those funds not otherwise being immediately available to you.

We may cancel any transaction if we believe the transaction violates these Terms, or if we believe doing so may prevent financial loss.

In order to prevent financial loss to you or to us, we may contact your funding instrument issuer, law enforcement, or affected third parties (including other users) and share details of any payments you are associated with, if we believe doing so may prevent financial loss or a violation of law.

Payment for any on-going services is billed automatically until notification that you would like to terminate your access to the services.

## **7. SALE OF GOODS AND SERVICES**

We may sell goods and services or allow third parties to sell goods or services on the Website. We undertake to be as accurate as possible with all the information regarding the goods and services, including product descriptions and images. However, we do not guarantee the accuracy or reliability of any product information and you acknowledge and agree that you purchase such products at your own risk.

If you are unhappy with a service being sold on our Website, you may request a refund as per the terms below.

## **8. REFUNDS AND CANCELLATION OF SERVICE**

Access to your Account on the Website may be cancelled at any time. Cancellation can be made through your User Profile or by contacting the Website using the Contact information provided. Please allow up to 10 business days for your Account to be completely cancelled.

Refunds will be issued for the subscribed services less the amount of days your subscription has been active. An administrative fee may also be charged to the user for cancellations made before the end of your billing period.

## **9. ACCEPTABLE USE**

You agree not to use the Website for any unlawful purpose or any purpose prohibited under this clause. You agree not to use the Website in any way that could damage the Website, the services or the general business of Cheer Factory INC.

You further agree not to use and/or access the Website:

- a) To harass, abuse, or threaten others or otherwise violate any person's legal rights;
- b) To violate any intellectual property rights of us or any third party;
- c) To upload or otherwise disseminate any computer viruses or other software that may damage the property of another;
- d) To perpetrate any fraud;
- e) To engage in or create any unlawful gambling, sweepstakes, or pyramid scheme;
- f) To publish or distribute any obscene or defamatory material;
- g) To publish or distribute any material that incites violence, hate or discrimination towards any group;
- h) To unlawfully gather information about others.

## **10. PROTECTION OF PRIVACY**

Through your use of the Website, you may provide us with certain information. By using the Website, you authorize us to use your information in Canada and any other country where We may operate.

When you register for an account, you provide us with a valid email address and may provide us with additional information, such as your name and/or billing information. Depending on how you use our Website, we may also receive information from external application you use to access our Website, or we may receive information through various web technologies, such as cookies, log files, clear gifs, web beacons and others.

We use the information gathered from you to ensure your continued good experience on our website, including through email communication. We may also track certain of the passive information received to improve our marketing and analytics, and for this, we may work with third-party providers.

If you would like to disable our access to any passive information we receive from the use of various technologies, you may choose to disable cookies in your web browser. Please be aware that we will still receive information about you that you have provided, such as your email address.

If you choose to terminate your account, we will store information about you for a reasonable period of time to be determined by use in accordance with applicable federal and provincial laws. After this period, all information about you will be deleted.

## **11. REVERSE ENGINEERING & SECURITY**

You may not undertake any of the following actions:

- a) Reverse engineer, or attempt to reverse engineer or disassemble any code or software from or on the Website;
- b) Violate the security of the Website through any unauthorized access, circumvention of encryption or other security tools, data mining or interference to any host, user or network.

## **12. DATA LOSS**

We are not responsible for the security of your Account or Content. Your use of the Website is at your own risk.

## **13. INDEMNIFICATION**

You defend and indemnify Cheer Factory INC. and any of its affiliates and hold us harmless against any and all legal claims and demands, including reasonable attorney's fees, which may arise from or relate to your use or misuse of the Website, your breach of these Terms and Conditions, or your conduct or actions. We will select our own legal counsel and may participate in our own defence, if we wish to do so.

#### **14. SERVICE INTERRUPTIONS**

We may need to interrupt your access to the Website to perform maintenance or emergency services on a scheduled or unscheduled basis. You agree that your access to the Website may be affected by unanticipated or unscheduled downtime, for any reason, but that we will have no liability for any damage or loss caused as a result of such downtime.

#### **15. TERMINATION OF ACCOUNT**

We may, in our sole discretion, suspend, restrict or terminate your Account and your use of the Website, effective at any time, without notice to you, for any reason, including because the operation or efficiency of the Website or our or any third party's equipment or network is impaired by your use of the Website, any amount is past due from you to us, we have received a third party complaint which relates to your use or misuse of the Website, or you have been or are in breach of any term or condition of these Terms and Conditions. We will have no responsibility to notify any third party, including any third party providers of services, merchandise or information, of any suspension, restriction or termination of your access to the Website.

#### **16. NO WARRANTIES**

Your use of the Website is at your sole and exclusive risk and any services provided by us are on an "as is" basis. We disclaim any and all express or implied warranties of any kind, including, but not limited to the implied warranty of fitness for a particular purpose and the implied warranty of merchantability. We make no warranties that the Website will meet your needs or that the Website will be uninterrupted, error-free, or secure. We also make no warranties as to the reliability or accuracy of any information on the Website or obtained through the Services. Any damage that may occur to you, through your computer system, or as a result of loss of your data from your use of the Website is your sole responsibility and we are not liable for any such damage or loss.

#### **17. PRIVACY**

In addition to these Terms and Conditions, this Website has a Privacy Policy that describes how your personal data is collected and how cookies are used on the Website. For more information, you may refer to our Privacy Policy, available on the Website.

By using or browsing this Website, you also acknowledge that you have read our Privacy Policy.

#### **18. LIMITATION ON LIABILITY**

We are not liable for any damages that may occur to you as a result of your use of the Website, to the fullest extent permitted by law. The maximum liability of Cheer Factory INC. arising from your use of the Website is limited to the greater of one hundred (\$100) Canadian Dollars or the amount you paid to Cheer Factory INC. in the last three (3) months. This applies to any and all claims by you, including, but not limited to, lost profits or revenues, consequential or punitive damages, negligence, strict liability, fraud, or torts of any kind.