

PRIVACY POLICY

Your privacy and the security of your personal information are very important to us. We want you to be as comfortable as possible visiting our Website and ordering our food products (“Products”). This Privacy Policy explains how we collect your personal information, how we protect your personal information, and the choices you have concerning the use of such information. Please read this Privacy Policy carefully. Except as disclosed in this Privacy Policy, we will not sell, share, license, trade, or rent your personal information to others. We may amend this Privacy Policy from time to time. We will post any changes to this Privacy Policy here so that you will always know what information we gather, how we might use that information, and whether we will disclose that information to anyone. Please refer back to this Privacy Policy on a regular basis. By using our Website or ordering our Products through our Website, you agree to the terms of this Privacy Policy.

WHAT PERSONAL INFORMATION DO WE COLLECT ABOUT YOU ?

We collect personal information you manually provide us, including, but not limited to:

- Your first and last name
- Mailing address,
- Email address
- Telephone number
- Birth date
- Profession,
- Meal preferences
- Taste preferences
- Dietary lifestyle

We may request personal information from you when you register on our Website or order Products. In all of these cases, we will collect personal information from you only if you voluntarily submit such information to us. Unless you give us permission to do so, we will not sell, share, license, trade or rent your personal information other than as specified in this Privacy Policy. You do not have to provide us with any personal information to visit our Website, although we automatically collect certain information about your web browser or mobile device, as discussed below. If you choose to withhold requested information, you may not be able to order our Products.

When you use or browse our Website, we collect information that is automatically sent to us by your web browser or mobile device. This information typically includes your user IP address, browser type, domain name, and other statistical data involving the use of our Website. The information we receive may depend on your browser or device settings.

This information is used to help us understand who uses our Website and to improve and market our Website and Products in general.

We may also supplement the personal information we collect with information from other sources to assist us in evaluating and improving our Website and Products, to determine your preferences so that we can tailor our Website and Products to your needs, and to study nutritional, behavioral, and fitness questions in general.

We work with a third-party service provider to offer our Internet-based nutrition counseling services. If you participate in these services, our service provider may collect additional personal information about you, including, but not limited to, your physical characteristics, eating habits and caloric intake, sleeping habits, changes in weight, and your progress with respect to exercises and activities. Any such personal information transferred to us by our service provider is pursuant our role as a Business Associate under the Health Insurance Portability and Accountability Act of 1996. Our service provider has a separate and independent privacy policy, and we therefore have no responsibility or liability for the activities of our service provider. We urge you to read the privacy policy of our service provider before you agree to utilize our nutrition counseling services.

WHERE AND WHEN IS PERSONAL INFORMATION COLLECTED ON OUR WEBSITE OR THROUGH OUR ONLINE PRODUCTS (INCLUDING THROUGH THE USE OF COOKIES AND ACTION TAGS)?

We collect personal information (from you in different manners and at different places and times on our Website, such as when you register to visit a certain page on our Website or order Products. The following is a description of the areas and/or manners in which we primarily collect information about you.

Becoming a Registered User. In order to use our Website for purchasing our Products, you must first complete certain steps to become a registered user. During these steps, you may be required to provide us with personal information. This information is used to help us understand who uses our Website, to improve our Website, to monitor and improve our online ordering process, and to contact users with regards to their use of our Website and the purchase of our Products. We encourage you to provide demographic information so that we can provide a more personalized experience on our Website.

Cookies and Action Tags. We also collect personal information passively using “cookies” and “action tags”. “Cookies” are small text files that are placed on your computer or mobile device in order to identify (i) your Web browser, (ii) the activities of your computer on our Website, and (iii) your activity in connection with our advertisements and other marketing and promotional efforts. Cookies may be used to: personalize your experience on our Website (e.g., to dynamically generate content on web pages specifically designed for you); assist you in ordering our Products (e.g., to save you time by not having to reenter your name upon each visit to our Website); and allow us to statistically monitor how you are using our Website for purposes of improving our online offerings. We also may use cookies to conduct

marketing and promotional efforts, tailor certain advertisements to your browser that we think may be of interest to you, or to determine the popularity of certain Products or content.

We may link the information stored in cookies to personal information you provide us, and to personalize your Website experience we may store Personally Identifiable Information in an encrypted form in temporary or “session” cookies, which are erased when you close your browser. You do not have to accept cookies to use our Website; however, you may not be able to use our Website to its fullest advantage if you do not accept cookies. Although most browsers are initially set to accept cookies, you may reset your browser to notify you when you receive a cookie or to reject cookies generally. Most browsers offer instructions on how to do so in the “Help” section of the toolbar. “Action tags”, also known as web beacons or GIF tags, are a web technology used to help track anonymous website usage information, such as how many times a specific page has been viewed. Action tags are invisible to you, and any portion of our Website, including advertisements or e-mail sent on our behalf, may contain action tags. Unlike cookies, action tags are not placed on your computer. For example, third-party ad servers may track anonymous website usage through action tags on our Website and other websites. They do this by setting a cookie (or reading a cookie previously placed by them) on users' computers to track the activities of users who view a web page that contains action tags. Third-party ad servers may use information about your visits to this Website in order to provide advertisements about goods and services that may be of interest to you. They may report the anonymous data that they collect on our behalf back to us for our internal use and analysis and our treatment of this anonymous data is governed by the terms of this Privacy Policy. By using cookies and action tags together, we are able to gain valuable information to improve our Website and our Products. We do not disclose any of your personal information to our advertising partners through the use of cookies or action tags. Finally, please note that advertisers and other third parties may also use their own cookies or action tags when you click on their advertisement or link to their website or service, on or from our Website.

Social Media (Features) and Widgets. Our Website includes social media features, such as the Facebook Like button and other Widgets such as the Share this button (collectively, the “Features”). These Features may collect your IP address, which page you are visiting on our Website, and may set a cookie to enable the Features to function properly. The Features are either hosted by a third party or hosted directly on our Website. Your interactions with these Features are governed by the privacy policy of the company providing it.

Log Files. We also collect personal information through our Internet log files, which record data such as user IP addresses, browser types, domain names, and other statistical data involving the use of our Website. This information may be used to analyze trends, to administer the Website, to monitor our Website's use, and to gather general demographic information. We may link this information to personal information for these and other purposes such as personalizing your experience on our Website.

DO WE COLLECT PERSONAL INFORMATION FROM CHILDREN UNDER 13 YEARS OF AGE?

We are committed to protecting the privacy of children. Our Website and Products are not designed for or directed to children under the age of 13. We do not collect personal information from any person we actually know is under the age of 13. We urge all parents or guardians to participate in their children's exploration of the Internet and to teach their children about protecting their personal information while online.

In general, we use the information collected to help us understand who uses our Website, how our Website is used, who orders our Products, the volume of Product orders, how to improve our Products, and how to personalize your experience. If you become a registered user of our Website, we may use your information to send you a welcoming email that may confirm your username. If you "opt-in" (for example, if you check a box, or if the box is pre-checked, you do not opt out by unchecking the box) we may send you electronic newsletters, contact you about our Products, provide you with news that may be of interest to you, and provide you with targeted feedback. If you no longer desire to receive these communications, we will provide you with an option to change your preferences. In addition, if you identify yourself to us by sending us an email with questions or comments, we may use your personal information to respond to your questions or comments, and we may file your questions or comments for future reference. We may also use the information collected to contact you about important service announcements and updates regarding our Website or Products. If you are a registered user, we may use the information to contact you about your account. You will not be able to opt-out of these service announcements and updates as they contain important information relevant to your use of our Website or with non-promotional information about our Products. If you do not wish to receive these service announcements, you may cancel your account with us. We may also use the information gathered on our Website and Products ordered by you to perform statistical analysis of user behavior; to analyze and evaluate issues relating to nutrition, behavior and fitness; or to evaluate and improve our Products. We may link some of this information to personal information for internal purposes only.

WHEN DO WE DISCLOSE PERSONAL INFORMATION TO THIRD PARTIES?

Except as set forth in this Privacy Policy or as specifically agreed to by you, we will not disclose any information we gather from you.

Legal Requirements and Business Transfers. We may disclose your personal information (i) if we believe in good faith that we are required to do so in order to comply with an applicable statute, regulation, rule or law, a subpoena, a search warrant, a court or regulatory order, or other valid legal process, (ii) when we have reason to believe that disclosing this information is necessary to identify, contact, or bring legal action against someone who may be violating our Terms of Use,, (iii) to protect the safety and security of our users, our Website, or the general public, (iv) in the event that we are subject to mergers, acquisitions, joint ventures, sales of assets, reorganizations, divestitures, dissolutions, bankruptcies, liquidations, or other types of business transactions. In these types of transactions, personal information may be shared, sold, or transferred, and it may be used subsequently by a third party.

Third Parties Generally. We may provide to third parties information about you that does not allow you to be identified or contacted, including where such information is combined with similar information of other users of our Website. For example, we might inform third parties regarding the number of unique users who visit our Website, the demographic breakdown of the registered users of our Website, or the activities that visitors to our Website engage in while on our Website. The third parties to which we may provide this information may include our webmaster, potential or actual advertisers, providers of advertising services (including website tracking services), commercial partners, sponsors, licensees, researchers, and other similar parties.

Outside Contractors. We may employ independent contractors, vendors, and suppliers (collectively, "Outside Contractors") to provide specific services and products related to our Website or our Products, such as providing payment processing and fraud screening, and developing applications for our Website and e-mail services. These Outside Contractors may sometimes have limited access to information collected on our Website, including your personal information, in the course of providing products or services to us. Access to your personal information by these contractors is limited to the information reasonably necessary in order for the Outside Contractors to perform their limited function for us. We also require that these Outside Contractors (i) protect the privacy of your personal information consistent with this Privacy Policy, and (ii) not use or disclose your personal information for any purpose other than providing us with products or services for which we contracted.

DOES THIS PRIVACY POLICY APPLY WHEN YOU LINK TO OTHER WEBSITES?

Our Website may contain links to other websites not owned or operated by Factor 75. We will attempt to make it obvious to you when you leave our Website and enter these websites by opening a new browser or otherwise notifying you that you are leaving our Website. However, please be aware that we are not responsible for the privacy practices of such websites. We encourage you to be aware when our Website links to other websites and to read the privacy policies or statements of each and every website. This Privacy Policy applies solely to information collected by us.

IS THE PERSONAL INFORMATION WE COLLECT SECURE?

We want your personal information to remain as secure as possible. We strive to provide secure transmission of your information from your computer to our servers through industry-standard techniques. To help ensure the integrity and privacy of the personal information you provide to us via the Internet at the time you elect to become a registered user, we use Secured Socket Layer (SSL) encryption technology in transmitting such personal information over the Internet to our servers. We secure the personal information you provide on servers located in controlled, secure environments, protected from unauthorized access, use, or alteration. Only employees who need access to your information to perform a specific task or function are granted access to such information. All Factor 75 employees must abide by this Privacy Policy and are kept up-to-date on security practices. Any employee who violates this Privacy Policy is subject to disciplinary action, up to and including

termination. Notwithstanding the above commitments to protect your personal information from loss, misuse or alteration by third parties, you should be aware that there is always some risk involved in transmitting information over the Internet. There is also some risk that others could find a way to thwart our security systems. As a result, while we strive to protect your information, we cannot ensure or warrant the security and privacy of any information you transmit to us, and you do so at your own risk.

WHAT CHOICES DO YOU HAVE REGARDING THE COLLECTION, DISCLOSURE AND DISTRIBUTION OF PERSONAL INFORMATION?

Preferences and Accounts. You can always contact us in order to: (1) update or correct your personal information; (2) change your preferences with respect to communications and other information you receive from us; or (3) delete the personal information maintained about you on our systems, by logging onto our web site by using your user name and password. Such updates, corrections, changes, and deletions will not have an effect on other information that we maintain, or information that we have provided to third parties in accordance with this Privacy Policy prior to such update, correction, change, or deletion. You should be aware that it is not technologically possible to remove each and every record of the information you have provided to us from our systems. The need to back-up our systems to protect information from inadvertent loss means that a copy of your personal information may exist in a non-erasable form that will be difficult or impossible for us to locate. We promise that promptly after receiving your request, all personal information stored in databases we actively use and other readily searchable media will be updated, corrected, changed or deleted, as appropriate. We will respond to your request within 30 days.

Email preferences. You cannot opt out of transactional emails related to your membership/registration with our Website. However, you can opt out of promotional emails we send you. If you wish to stop receiving promotional emails, simply select “unsubscribe” located at the bottom of each communication.

Cookies. Most web browsers automatically accept cookies, but you can change your browser’s settings to disable all or certain cookies if you wish. Please note that by disabling or deleting cookies, you may not be able to access the full functionality of our Site. Disabling or clearing cookies also may affect cookie-based opt-outs by either preventing you from using such cookie-based opt-outs or clearing opt-outs that you previously set.

Do Not Track. Because there currently is not an industry or legal standard for recognizing or honoring Do Not Track (“DNT”) signals, we do not respond to them at this time.

LOCATION OF OUR WEBSITE

Our Website is hosted and operated in the United States. However, we and our service providers may store information about individuals in the United States, or we may transfer it to, and store it within, other countries.

Visitors from jurisdictions outside the United States visit us at their own choice and risk.

If you are not a resident of the United States, you acknowledge and agree that we may collect and use your personal information outside your home jurisdiction, and that we may store your personal

information in the United States or elsewhere. Please note that the level of legal protection provided in the United States from which you may access our Website may not be as stringent as that under privacy standards or the privacy laws of other countries, possibly including your home jurisdiction.

YOUR CALIFORNIA PRIVACY RIGHTS

Pursuant to applicable California law, including the CCPA, we make the following disclosures regarding the personal information we collect:

<u>Category of Personal Information</u>	<u>Category of Source from Which Data is Collected</u>	<u>Purpose of Collection</u>	<u>Category of Third Parties to Whom Data is Disclosed</u>
mailing address, email address, telephone number, birth date, profession, meal preferences, taste preferences, dietary lifestyle	Directly from user	To help understand who uses our Website, to improve our Website, to monitor and improve our online ordering process, to contact users with regards to their use of our Website and the purchase of our Products.	Service providers
IP address, browser type, domain name, the activities of users' computers on our Website, users' activities in connection with our advertisements and other marketing and promotional efforts, and other statistical data	Cookies/action tags	To analyze trends, to administer the Website, to monitor our Website's use, to gather general demographic information, to conduct marketing and promotional efforts, tailor certain advertisements to users' browsers that we think may be of interest to users, to determine the popularity of certain Products or content. to personalize users' experience on our Website; to assist users in ordering our	N/A

		Products; to allow us to statistically monitor how users are using our Website for purposes of improving our online offerings.	
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We have not sold consumers' personal information in the twelve (12) months preceding the Effective Date of this Policy.

If you are a California resident, pursuant to the CCPA, you have the right to request:

- the categories of personal information we have collected about you;
- the categories of sources from which your personal information is collected;
- the business or commercial purpose of collecting or selling your personal information;
- the categories of third parties with whom we share your personal information;
- the specific pieces of personal information we have collected about you;
- the categories of personal information that we have sold about you and the categories of third parties to whom the personal information was sold, if applicable;
- deletion of your personal information; and
- an opt out of having your personal information disclosed or sold to third parties.

To submit a request, or designate an authorized agent to make a request under the CCPA on your behalf, please contact us at data@factor75.com. To verify your identity when you submit a request, we will match the identifying information you provide us to the personal information we have about you, and we will verify your identity through our existing authentication practices for your account.

However, we will not be required to comply with your request to delete your personal information if it is necessary for us to maintain your personal information in order to:

- complete the transaction for which the personal information was collected, provide a good or service requested by you, or reasonably anticipated within the context of our ongoing business relationship with you, or otherwise perform a contract between you and us;
- detect security incidents, protect against malicious, deceptive, fraudulent, or illegal activity; or prosecute those responsible for that activity;
- debug to identify and repair errors that impair existing intended functionality;
- exercise free speech, ensure the right of another consumer to exercise his or her right of free speech, or exercise another right provided for by law;

- comply with the California Electronic Communications Privacy Act pursuant to Chapter 3.6 (commencing with Section 1546) of Title 12 of Part 2 of the Penal Code;
- engage in public or peer-reviewed scientific, historical, or statistical research in the public interest that adheres to all other applicable ethics and privacy laws, when our deletion of the information is likely to render impossible or seriously impair the achievement of such research, if you have provided informed consent;
- to enable solely internal uses that are reasonably aligned with your expectations based on your relationship with us;
- comply with a legal obligation; or
- otherwise use your personal information, internally, in a lawful manner that is compatible with the context in which you provided the information.

We will not discriminate against you in the event you exercise any of the aforementioned rights under the CCPA, including, but not limited to, by:

- denying goods or services to you;
- charging different prices or rates for goods or services, including through the use of discounts or other benefits or imposing penalties;
- providing a different level or quality of goods or services to you; or
- suggesting that you will receive a different price or rate for goods or services or a different level or quality of goods or services.

In addition, we do not and will not sell the personal information of any California resident consumer under 16 years of age, unless the consumer, in the case of consumers between 13 and 16 years of age, or the consumer's parent or guardian, in the case of consumers who are less than 13 years of age, has affirmatively authorized the sale of the consumer's personal information.

This Policy is available to consumers with disabilities. To access this Policy in an alternative downloadable format, please click [HERE](#).

HOW WILL YOU KNOW IF THERE ARE ANY CHANGES TO THIS PRIVACY POLICY?

If we decide to change this Privacy Policy, we will post those changes on our Website so you are always aware of what information we collect, how we use it, and under what circumstances, if any, we disclose it. If at any point we decide to use personal information in a manner significantly different from that stated in this Privacy Policy, or otherwise disclosed to you, at the time it was collected, we will notify you by email or otherwise, and you will have a choice as to whether or not we use your personal information in the new manner. We may also make non-significant changes to our Privacy Policy that generally will not affect our use of your personal information. If you do not agree to the terms of this Privacy Policy, you should not use our Website.

WHOM DO YOU CONTACT IF YOU HAVE ANY PRIVACY QUESTIONS?

If you have any questions about our Privacy Policy or feel that we are not abiding by the terms of our posted Privacy Policy, please contact us by e-mail: help@factor75.com

BY USING OUR WEBSITE, YOU SIGNIFY YOUR ACCEPTANCE OF THIS PRIVACY POLICY. IF YOU DO NOT AGREE TO THIS PRIVACY POLICY, YOU SHOULD NOT USE OUR WEBSITE. YOUR CONTINUED USE OF OUR WEBSITE FOLLOWING THE POSTING OF CHANGES TO THIS PRIVACY POLICY WILL MEAN THAT YOU ACCEPT THOSE CHANGES.

WEBSITE TERMS AND CONDITIONS OF USE AND SALE

By using our Website, you agree to these Terms and Conditions of Use ("Terms & Conditions"). We reserve the right, in our sole discretion, to change, modify, add or remove portions of these Terms & Conditions at any time. You should check these Terms & Conditions periodically for changes. By using this Website after we post any changes to these Terms & Conditions, you agree to accept those changes, whether or not you have reviewed them. If you do not agree to these Terms & Conditions, you should not use our Website and, if applicable, you should arrange to cancel your registered user account.

Scope of Terms & Conditions

The following are the Terms and Conditions of Use and Sale ("Terms & Conditions") of Factor75, LLC, a Delaware limited liability company, formerly Optimal Performance, LLC, an Illinois limited liability company (hereinafter "Factor 75").

Terms & Conditions - In General

By using this Website, you agree to be legally bound and to abide by these Terms & Conditions, just as if you had signed this agreement. If you do not comply with these Terms & Conditions at any time, we reserve the right, if applicable, to do any one or more of the following with or without prior notice to you: (a) Deactivate your password; (b) Terminate your user account; (c) Delete any and all information in your user account; and (d) Restrict or block your access to the Website. Further, you agree that we shall not be liable to you or any third-party for any termination or cancellation of your access to, or use of, our Website. | From time to time, we may supplement these Terms & Conditions with additional terms and conditions ("Additional Terms"). You understand and agree that Additional Terms are automatically incorporated by reference into these Terms & Conditions.

Use of the Website is only available to users who are 18 years of age or older and reside in the United States, or its possessions AND territories. FACTOR 75 makes NO claims that the Website OR ANY of its content is accessible from outside the United States. Should you access our Website outside of the United States, you do so on your own initiative and are responsible for compliance with local laws.

Restrictions on Use of Materials

You acknowledge that this Website contains, or may contain in the future, information, software, photos, video, text, graphics, music, sounds, questions, creative suggestions, messages, comments, feedback, ideas, recipes, notes, drawings, articles and other materials (collectively, "Content") that are protected by copyrights, patents, trademarks, trade secrets and/or other proprietary rights, and that these rights are valid and protected in all forms, media and technologies existing now or hereafter developed. | All Content is copyrighted under the United States copyright laws (and, if applicable, similar foreign laws). FACTOR 75 and BETTER MEALS. BETTER YOU. are trademarks owned by Factor 75. Factor 75 reserves all rights in these trademarks and any other trademarks or intellectual property owned by Factor 75. You may not modify, publish, transmit, distribute, perform, participate in the transfer or sale of, create derivative works of, or in any way exploit, any of the Content, in whole or in part. When Content is downloaded to your computer, you do not obtain any ownership interest in the Content. You may download the Content for personal use only. Modification of the Content or use of the Content for any other purpose, including, but not limited to, use of any Content in printed form or on any other website or networked computer environment is strictly prohibited unless you receive our prior written consent.

Becoming a Registered User

There is no cost to becoming a registered user of our Website. You do not have to become a registered user to use this Website. However, you must be a registered user to order our food products ("Products"). From time to time, areas of the Website may be restricted for use by registered users only. You must register in accordance with instructions that you will find on this Website. | If you elect to become a registered user of our Website, you agree to provide us with true, accurate and complete information about yourself ("Registered User Data"), and to maintain and promptly update the Registered User Data and any other information you provide to us, to keep it accurate. Without limiting any other provision of these Terms & Conditions, if you provide any information that is untrue, inaccurate, or incomplete, or we have reasonable grounds to suspect that such is the case, we reserve the right to suspend or terminate your user account and refuse any and all current or future use of our Website (or any portion thereof). You agree not to assign, transfer or sublicense your rights as a registered user of this Website. You further agree not to register for more than one account or create a false or misleading identity on this Website. You may create an account on behalf of a family member or significant other who otherwise would not be able to register an account and manage it themselves.

Privacy

We are committed to protecting your privacy and security. For more information, you should review our Privacy Policy, which is incorporated into these Terms & Conditions by this reference.

Links

These Terms & Conditions apply only to this Website, and not to the websites of any other person or entity. We may provide, or third parties may provide, links to other worldwide websites or resources. You acknowledge and agree that we are not responsible for the availability of such external sites or resources, and do not endorse (and are not responsible or liable for) any content, advertising, products, or other materials on or available from such websites or resources. You further acknowledge and agree that, under no circumstances, will we be held responsible or liable, directly or indirectly, for any loss or damage that is caused or alleged to have been caused to you in connection with your use of, or reliance on, any content, advertisements, products or other resources available on any other website (regardless of whether we directly or indirectly link to such content, advertisements, products or other resources). You should direct any concerns with respect to any other website to that website's administrator or webmaster.

Password and User Security

If you are a registered user of this Website, you are responsible for (a) maintaining the confidentiality of your password; (b) maintaining the confidentiality of your user account information; and (c) any and all activities which occur under your user account.

You agree to notify us immediately in the event of any known or suspected unauthorized use of your user account, or any known or suspected breach of security, including loss, theft, or unauthorized disclosure of your or anyone else's password.

Health Disclaimer

This Website does not provide weight loss management or advice. Factor 75 is not a medical organization and our staff cannot give you medical advice or diagnosis. Nothing contained in this Website should be construed as such advice or diagnosis.

You are urged and advised to seek the advice of a physician before beginning any weight loss effort or regimen. This Website is intended for use only by healthy adult individuals. The Website is not intended for use by minors, pregnant women, or individuals with any type of health condition.

Nutritional Consults & Ask the RD

Factor 75 does not provide medical advice. The contents of Factor 75 websites, such as text, graphics, interactive tools, images and other material contained on the site ("content") are for informational purposes only. The content or any nutritional advice received is not intended to be a substitute for professional medical advice, diagnosis or treatment. Always seek the advice of your physician or other qualified health provider regarding a medical condition. If you think you may have a medical emergency, call your doctor or 911 immediately. All nutritional advice provided by Factor 75 is for educational

purposes only. All nutritional advice should be taken at the discretion and risk of the customer/visitor. Reliance on any information provided on Factor 75 websites, including information posted by other visitors to the sites, is solely at your own risk. Nutritional advice is subject to constantly evolving knowledge in relation to health science, nutritional science and sports science. Although we base our trainings and nutritional tips on current studies and knowledge, we do not guarantee that these reflect the most up to date research findings or knowledge. All educational content is intended for generally healthy people above the age of 18. Factor 75 contracts with GetHealthie and utilizes GetHealthie as a nutrition platform for nutrition coaching. Terms and Conditions and Privacy Policy associated with GetHealthie can be found at <https://gethealthie.com/terms> and <https://gethealthie.com/privacy> respectively.

Nutrition Information

The nutritional information for meals at the time of their preparation is reflected on the labels on our meal containers.

Pricing Policy

We make every attempt to avoid errors in pricing and product information. If a mistake occurs, we reserve the right to correct it, and we apologize for any inconvenience it may cause. All prices listed on the Website are in U.S. dollars.

Free Shipping

Free shipping discounts with or without promotion codes are available to some customers in certain states, including AL, AR, CT, DE, GA, IA, IL, IN, KS, KY, MD, MI, MN, MO, NC, NE, NJ, NY, OH, OK, PA, SC, TN, TX, WI and WV. Some customers may be excluded based on carrier availability. You can always see whether you are eligible to receive free shipping by creating a new Factor 75 subscription at your desired address.

Food Substitution Policy

Although Factor 75 takes every reasonable measure to obtain sufficient inventory to fill your order, availability of product(s) may change without notice. Factor 75 is not responsible for unavailability of product due to popular demand or discontinuation.

Factor 75 reserves the right to substitute an unavailable product with a similar product. When making substitutions, Factor 75 will attempt to meet the requirements of your particular Factor 75 meal plan. Substituted food items may contain different ingredients and allergens than those in items originally ordered. If you have any food allergies or if you are otherwise concerned about any particular ingredients, please be sure to carefully check all individual product packages for the most updated

information regarding ingredients and nutritional content prior to consumption of any of Factor 75's food products.

Cross Contamination Risk

Please Note: Factor 75's food items may contain or may have been manufactured in a facility that also processes dairy, eggs, fish, shellfish, soy or tree nuts.

Product Display

We have made every effort to accurately display the Products featured on the Website. However, the colors we use and the capabilities of your computer monitor may affect the colors visible on your screen. As such, we cannot guarantee that your monitor's display will be accurate.

Credit Card Security

Factor 75 is committed to protecting any information you give us during a credit card transaction. Factor 75 uses a third party vendor to process all credit card payments. Factor 75 does not have access to your credit card information. To extent that Factor 75 may, in the future, have access to your credit card information, we will treat it as personal information covered by our Privacy Policy. In accordance with our Privacy Policy, we will not share the information. In accordance with industry custom, we enforce commercially reasonable security measures to protect against the loss or misuse of any personal information that we have collected from you.

PLEASE NOTE THAT NORMAL E-MAIL (SUCH AS USING "CONTACT US" OR YOUR HOME E-MAIL) IS NOT ENCRYPTED AND THUS IS NOT A SECURE MEANS FOR TRANSMITTING CREDIT CARD INFORMATION OR ANY PERSONAL INFORMATION YOU WISH TO KEEP PRIVATE AND SECURE.

Payment

Factor 75 currently accepts Visa, MasterCard, Discover and American Express for all orders. Payment for Products ordered will be processed at the time of placing such order. You agree to pay promptly all charges to your account (which includes items purchased and applicable taxes) for any order placed by you or anyone who you allow to use your customer identification number or password, including members of your family, friends or any other person. For your order to be accepted, your method of payment shall be validated and must have enough available funds required for the transaction. Upon approval, the order will be accepted for shipping and delivery. Factor 75 reserves the right to establish a spending limit for your account. Your right to order Products is also subject to limits established by your payment card issuer.

Refund Policy

If you are dissatisfied with a meal, meal ingredient or a meal's appearance on arrival, please contact us at help@factor75.com and our customer service agents will research the incident, and at their discretion, may offer credit in the form of Factor Bucks to the customer account. We may require photographic documentation of any meal with which you are dissatisfied before we issue a credit. Meals that did not meet your taste expectations are covered by a money-back guarantee of up to (00). Guarantee applies to your first order only. Refund requests in accordance with this guarantee must be made by phone or email within 7 days of delivery. Meals that arrive unfit can be credited to the account for use in a future order. We value photos of any improper food arrival to continue improving our packaging. A customer service agent may request photographs be sent to accompany the reported complaint. We encourage all customers to remove meals immediately from their box and place in the refrigerator, inspecting containers as they are transferred. Meals delayed by our third-party courier must be communicated with our team in urgency so we may try to resolve this issue. Credit on orders that did not arrive due to courier or Factor 75 fault will be given in the form of Factor Bucks to the customer account. Factor 75 is not liable for packages undelivered due to incorrect addresses submitted by the customer. Orders may be modified at any time until the weekly cutoff of Wednesday at 11:59 pm CST via our website or by contacting us at help@factor75.com. We are unable to modify or cancel orders once the cutoff has passed as ingredients have been ordered.

Delivery Guidelines

We use reliable third-party delivery companies to deliver your meals, that will generally deliver your meals prior to 9 pm CST on your delivery date. Each box is carefully packaged to stay fresh until at least 10 pm CST on the day of delivery. However, to maintain the highest quality and integrity of the meals after delivery, we recommend that you immediately refrigerate the items when you receive them. Furthermore, you should inspect your package to ensure the contents arrive in a cool, refrigerated condition. The best way to do this is to check the meat and fish with a thermometer to ensure their internal temperatures are 41F or below. If a fresh food product arrives at above 41F, you should contact our customer service and discard the item.

If you are not home when a delivery arrives, our delivery person will leave the package for you at your door. Again, since our food is packaged with insulated liners and gel packs, it will remain cold and fresh until at least 10 pm CST.

In the case of inclement weather, we will deliver your order as soon as reasonably possible when the conditions permit. If your designated delivery location is inaccessible, rendering us unable to make the delivery, we will contact you to determine the best alternate location and/or date for the delivery.

Subscription Services

Overview

For your convenience, Factor 75 offers subscription services whereby you select a set of meals and a delivery date of your choosing and Factor 75 sends those meals to the location you have selected on a weekly basis.

Billing

For subscription customers Factor 75 will bill the credit card on file on Thursday prior to delivery date. By subscribing to our service you are agreeing to pay recurring periodic subscriptions for an indefinite period of time until cancelled by you or us. You will not receive any advance notice of this payment but you will receive post-payment confirmation by email. It is your responsibility to maintain current, valid payment information with Factor 75. If your automatic recurring payment is declined, you will be contacted by phone or email. If we cannot contact you we cannot guarantee that your meals will be shipped.

Order Cancellation

Subscription customers have the ability to select, change, pause, or cancel a meal delivery any time prior to the weekly cut-off time on Wednesdays at 11:59pm Central. Orders cannot be modified or cancelled after the cut-off time. Unless notified by the subscriber prior to the cut-off, Factor 75 will prepare and ship the meals selected in accordance with subscription terms and bill the credit card on file in accordance with our normal billing procedures. Order cancellations must be submitted prior to the cut-off time to take effect for the next week's delivery.

Continuous Subscriptions

WHEN YOU REGISTER FOR A SUBSCRIPTION (AND EACH TIME YOU CHANGE YOUR PLAN), YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT FACTOR 75 (OR OUR THIRD-PARTY PAYMENT PROCESSOR) IS AUTHORIZED TO CHARGE YOU ON A WEEKLY BASIS FOR YOUR SUBSCRIPTION (IN ADDITION TO ANY APPLICABLE TAXES AND OTHER CHARGES) FOR AN INDEFINITE PERIOD OF TIME UNTIL CANCELLED BY YOU OR US. THE AMOUNT YOU ARE CHARGED AND THE NUMBER OF MEALS YOU RECEIVE EACH WEEK MAY VARY DEPENDING ON THE PREFERENCES YOU SELECT. YOU ACKNOWLEDGE AND AGREE THAT FACTOR 75 WILL NOT OBTAIN ANY ADDITIONAL AUTHORIZATION FROM YOU FOR SUCH AUTOMATIC, RECURRING PAYMENTS.

Subscription Cancellation Policy

YOU CAN TURN OFF YOUR SUBSCRIPTION AT ANY TIME; HOWEVER, IF YOU TURN OFF THE SUBSCRIPTION AFTER THE CUT-OFF TIME HAS PASSED AND AN ORDER HAS BEEN PLACED, YOUR ORDER CANNOT BE CANCELLED OR CHANGED. YOU MUST TURN OFF YOUR SUBSCRIPTION PRIOR TO THE CUT-OFF TIME TO TAKE EFFECT FOR THE NEXT WEEK'S DELIVERY. YOU MAY RE-SUBSCRIBE AT ANY TIME

PROVIDED THAT FACTOR 75 RESERVES THE RIGHT TO NOT PERMIT RE-SUBSCRIPTION WHERE FACTOR 75 HAS PREVIOUSLY ELECTED TO TERMINATE A SUBSCRIPTION BY YOU.

TO TURN OFF YOUR SUBSCRIPTION AND CANCEL ALL FUTURE ORDERS:

CLICK ON YOUR NAME AT THE TOP RIGHT OF THE MENU PAGE.

FROM THE DROP-DOWN, SELECT "ACCOUNT SETTINGS."

WHEN THAT PAGE LOADS, YOU'LL SEE A RED BUTTON THAT SAYS "CANCEL SUBSCRIPTION."

CLICK THAT, AND YOU'LL BE TAKEN THROUGH THE STEPS TO TURN OFF THE AUTOMATED COMPONENT OF YOUR SUBSCRIPTION. (OUR CUSTOMER EXPERIENCE TEAM WILL INITIATE PROCEEDINGS TO BID YOU A TEARFUL FAREWELL.)

FOR A VIDEO TUTORIAL ON HOW TO CANCEL YOUR SUBSCRIPTION, [CLICK HERE](#). IN ADDITION, YOU CAN CONTACT CUSTOMER SERVICE AT 1-888-573-5727 OR help@factor75.com AND A CUSTOMER SERVICE REPRESENTATIVE WILL ASSIST YOU WITH CANCELLING YOUR SUBSCRIPTION.

YOU MAY RE-SUBSCRIBE TO FACTOR 75 AT ANY TIME PROVIDED THAT FACTOR 75 RESERVES THE RIGHT TO NOT PERMIT RE-SUBSCRIPTION WHERE FACTOR 75 HAS PREVIOUSLY ELECTED TO TERMINATE A SUBSCRIPTION BY YOU.

Factor 75 Intellectual Property

The entire contents of the Website are copyrighted as a collective work under the laws of the United States and other copyright laws. Factor 75 holds the copyright in the collective work. The Website and its entire contents, features and functionality (including but not limited to all information, software, text, displays, images, video and audio, and the design, selection and arrangement thereof), are owned by Factor 75 or its affiliates, its licensors or other providers of such material and are protected by United States and international copyright, trademark, patent, trade secret and other intellectual property or proprietary rights laws.

These Terms and Conditions permit you access to the Website for your personal, non-commercial use only. You may display and, subject to any expressly stated restrictions or limitations relating to specific material, download portions of the material from the different areas of the Website solely for your own non-commercial use or any other expressly permitted use (e.g., in the case of electronic coupons, etc.). You may not otherwise reproduce, distribute, modify, create derivative works from, publicly display, publicly perform, republish, download, store or transmit any of the material on our Site. Any redistribution, retransmission or publication of any copyrighted material is strictly prohibited without

the express written consent of the copyright owner. You may not (i) modify copies of any materials from the Website; (ii) use any illustrations, photographs, video or audio sequences or any graphics separately from the accompanying text, and (iii) delete or alter any copyright, trademark or other proprietary rights notices from copies of materials from the Website. You may not access or use for any commercial purposes any part of the Website or any services or materials available through the Website.

If you print, copy, modify, download or otherwise use or provide any other person with access to any part of the Website in breach of the Terms and Conditions, your right to use the Website will cease immediately and you must, at our option, return or destroy any copies of the materials you have made. No right, title or interest in or to the Website or any content on the Website is transferred to you, and all rights not expressly granted are reserved by Factor 75. Any use of the Website not expressly permitted by these Terms and Conditions is a breach of these Terms and Conditions and may violate copyright, trademark and other laws.

Resolving Disputes — Arbitration

Most customer concerns can be resolved quickly and to the customer's satisfaction by calling our customer service department at 1-888-573-5727. If Factor 75's customer service department is unable to resolve your complaint to your satisfaction (or if Factor 75 has not been able to resolve a dispute between us after attempting to do so informally), we each agree to resolve any disputes through binding arbitration or in a small claims court of competent jurisdiction instead of in courts of general jurisdiction.

All disputes or claims that arise under or related to these Terms and Conditions (whether in contract, tort or otherwise, whether past, pre-existing, or future, and including statutory, consumer protection, common law, intentional tort, injunctive, and equitable claims) will be resolved either in small claims court of competent jurisdiction or by individual arbitration in accordance with the rules of the American Arbitration Association ("AAA"). Unless you and Factor 75 agree otherwise, any arbitration hearings will take place in the county (or parish) of your billing address. The AAA Rules are available online at adr.org, by calling the AAA at 1-800-778-7879.

You agree to arbitration on an individual basis. In any dispute, NEITHER CUSTOMER NOR FACTOR 75 SHALL BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS BY OR AGAINST OTHER CUSTOMERS, OR ARBITRATE OR OTHERWISE PARTICIPATE IN ANY CLAIMS AS A REPRESENTATIVE, CLASS MEMBER, OR IN A PRIVATE ATTORNEY GENERAL CAPACITY. If any provision of this arbitration agreement is found unenforceable, the unenforceable provision shall be severed, and the remaining arbitration terms shall be enforced (but in no case shall there be a class arbitration).

The arbitrator shall be empowered to grant whatever relief would be available in court under law or in equity. Any award of the arbitrator shall be final and binding on each of the parties, and may be entered

as a judgment in any court of competent jurisdiction. This transaction and the arbitration shall be governed by the Federal Arbitration Act 9 U.S.C. sec. 1-16 (FAA).

Telephone Calls and SMS Text Messages

Upon signing up for the program, you will be asked to provide us with a telephone number at which we can reach you. That number enables Factor 75 to reach you with informational calls related to your transactions, including shipping updates. All calls to and from Factor 75 may be monitored or recorded for quality and training purposes.

If you elect to receive text messages about your account, you consent to receive recurring SMS text messages sent through an automatic telephone dialing system. This service is optional, and is not a condition of purchase. You can opt out of receiving SMS messages at any time by texting STOP in response to a text message from Factor 75. Message and data rates may apply. We will treat data collected through text messages in accordance with our Privacy Policy.

ADDITIONAL WEBSITE TERMS AND CONDITIONS OF USE FOR NUTRITION COACHING

These terms and conditions, together with any document they expressly incorporate by reference (the "Terms and Conditions"), constitute a legally binding contract between you, as the person using the Program (the "Participant"), and Factor 75 ("Factor 75", "we", or "us") and governs your use of the Program (as defined below). Read the Terms and Conditions carefully before continuing. BY CHECKING THE "I AGREE" BOX FOR ACCOUNT SET UP, YOU CERTIFY THAT YOU ARE AT LEAST 18 YEARS OF AGE, AND YOU INDICATE YOUR ACCEPTANCE OF ALL OF THESE TERMS AND CONDITIONS, INCLUDING THOSE OF SECTIONS 3 AND 8, REGARDING YOUR ASSUMPTION OF RISK AND THE LIMITATION OF FACTOR 75'S LIABILITY. IF YOU DO NOT AGREE WITH ANY PART OF THESE TERMS AND CONDITIONS, DO NOT CLICK THE "I AGREE" BOX.

We may make changes to the Terms and Conditions from time to time at our sole discretion. All changes are effective immediately when we post them. Your continued use of the Program, following the posting of such changes means that you accept and agree to the changes. You should check this page from time to time so that you are aware of any changes to the Terms and Conditions, as they are binding to you. If we propose to make any significant change to the arbitration provision included in these Terms and Conditions, you will receive notice of such proposed change and will be given an opportunity to discontinue your use of the Program before such change becomes effective.

These Terms and Conditions are in addition to our Privacy Policy and our Website Terms and Conditions of Use and Sale ("Website Terms"), both of which apply to you and govern our transaction. In the event

of a conflict between these Terms and Conditions and the Privacy Policy or Website Terms as applied to your use of the Program, these Terms and Conditions shall govern.

1. Definitions.

Capitalized terms used in these Terms and Conditions have the meaning ascribed to them in this Section.

“Acceptance Date” means the date you indicate your acceptance of these Terms and Conditions.

“Confirmation Email” means any e-mails or dashboard chats to you from Factor 75 (i) providing instruction on the Program; (ii) confirming your Plan selection, participation in the Program, and/or purchase of a Program; and/or (iii) setting forth any specific terms, conditions, or requirements for a particular Program or Plan.

“Customer” means the party who has arranged and/or agreed to pay for the Program provided by Factor 75 in accordance with the terms of a Customer Agreement. The Customer may be an individual Participant who has contracted directly with Factor 75 for his or her own use of the Program (an “Individual Customer”) or it may be the Participant’s employer, health plan or health care provider, which has contracted with Factor 75 to provide a Program for multiple Participants (a “Group Customer”).

“Customer Agreement” means the agreement between Factor 75 and the Customer for the Program provided by Factor 75.

“Documentation” means, collectively, all Participant guides, protocols, Plans, Confirmation Emails, and other reference materials generally furnished by Factor 75 with respect to the Program, whether in printed or electronic format, as may be updated by Factor 75 from time to time.

“Participant Data” means the data about you that Factor 75 gathers in the course of providing the Program, including your physical characteristics, eating habits and caloric intake, sleeping habits, changes in weight, and progress with respect to exercises and activities. “Participant Data” also includes recordings of videoconferences or telephone conversations and any information that you post on the Factor 75-operated website or any Factor 75-affiliated electronic interface at any time before, during or after your participation in the Program.

“Plan” means one or more packages of a defined set of benefits comprising the Program.

“Program” means Factor 75’s internet-based nutrition coaching and management program, which is delivered in one or more Plans.

“Program Fee” means, as set forth in the Plan, Customer Agreement and/or any Confirmation Email, the charge to the Customer for Programs provided by Factor 75.

“Proprietary Information” means all non-public business or technical information or materials disclosed to you by Factor 75 or any Wellness Professional, including the Documentation, any method of carrying out or delivering the Program, and any pricing or commercial terms related to the Program, including the price paid for the Plan and Program.

“Website” means the Factor 75-operated website through which the Program is made available to you.

“Subsidiary” means any entity controlling, controlled by, or under common control of Factor 75.

“Wellness Professional” means an independent contractor or employee of Factor 75 who has been engaged or assigned by Factor 75 to consult with and make recommendations to Factor 75’s Participants as part of the Program.

2. Use of the Program.

2.1 General

Subject to and during the term of these Terms and Conditions, Factor 75 grants you a non-exclusive and non-transferable right to access and use in accordance with these Terms and Conditions the Program, a specific Plan and any Documentation made available to you by Factor 75. The Program has been designed by Factor 75 with the goal of coaching individuals on eating a healthier diet. You agree that, in order to increase the probability of success in your efforts to lose or manage your weight or reduce your risk of disease or improve health, you must at a minimum: (a) follow Factor 75’s protocol, as provided in any Documentation, to the best of your ability; and (b) complete all recommended appointments or other sessions with your Wellness Professionals. **EVEN IF YOU CARRY OUT THE FOREGOING REQUIREMENTS, YOU UNDERSTAND AND AGREE THAT INDIVIDUAL RESULTS VARY, AND THAT FACTOR 75 DOES NOT GUARANTEE WEIGHT LOSS OR DISEASE PREVENTION.** You also understand and agree that we may, but we are not obligated to, modify the Program, Plan, and the Documentation for a variety of reasons, including for consistency with the most recent weight loss and weight management research.

2.2 Wellness Professionals.

As part of the Plan and Program, Factor 75 will provide you with individual or group access to Wellness Professionals, who will consult with you by videoconference or telephone. You agree to work with your Wellness Professionals in good faith solely with respect to the Program, and you will not seek consultation from your Wellness Professionals for any other purpose. If you need to reschedule an individual appointment with a Wellness Professional, you agree to do so at least 12 hours in advance, or the session will be marked as complete and cannot be used. In addition, if you miss a scheduled individual appointment, the session will be marked as completed. You agree that the sessions with Wellness Professionals are for your own personal benefit and not for the benefit of others and that you will not allow any observers to join you, except as may be necessary to facilitate your participation in the session. You agree that you will not record any such session in any way. You also understand and agree that Factor 75 may replace any Wellness Professional assigned to you at any time, with no advanced notice.

2.3 Your Health.

FACTOR 75 IS NOT A MEDICAL ORGANIZATION. YOU SHOULD NOT CONSIDER THE PROGRAM OR THE DOCUMENTATION AS MEDICAL ADVICE OF ANY KIND, AND THE PROGRAM IS NOT INTENDED TO DIAGNOSE OR TREAT ANY ILLNESS, DISEASE, OR ADVERSE MEDICAL CONDITION. Factor 75 is not a licensed medical care provider and the Programs are not medically supervised. You are urged and advised to seek the advice of a physician before beginning your use of the Program, and to get periodic medical check-ups as recommended by your primary-care physician. By using the Program, you represent that you are an adult who is healthy enough to begin a weight loss regimen that includes dieting and exercise. The Program is not intended for use by minors. If you are currently under the care of a health care professional or are living with a chronic health care condition, you represent that you have obtained the express approval from a health care professional to receive the Programs before beginning. Never disregard professional medical advice or delay in seeking it because of something you have been told by Factor 75 staff or any Wellness Professional.

2.4 Registration and Use of the Website.

You represent and warrant that the data that you provide about yourself in filling out the Factor 75 account registration form are and will remain accurate and complete, and you agree to update such data as necessary to maintain their accuracy, including providing Factor 75 with your current email address, so that you may receive notifications and other account-related communications. You are responsible for maintaining the confidentiality of the login and password you use to access the Website. You will be responsible for all uses of your login and password, whether or not authorized by you. You agree to immediately notify us of any unauthorized use of the Website, including any unauthorized use of your login or password. Your general use of the Website is subject to our Terms of Use, which is incorporated and made part of these Terms and Conditions.

2.5 Restrictions.

You may not: (a) license, sell, transfer, distribute, or otherwise commercially exploit or make available to any third-party, access to the Program or any of the Documentation; (b) modify or make derivative works based on the Documentation or the Website; (c) use any robot, spider, or other automatic device or manual process to monitor or access the Website, record any interaction with a Wellness Professional, or in any way duplicate the Documentation; (d) copy any content, features, functions, or graphics of the Documentation or the Website other than in connection with your own personal use of the Program; (e) use the Website or the Program in a manner intended to abuse or violate the privacy or property rights of others; (f) tamper with or reverse engineer, disassemble, or decompile the Website; or (g) use the Program, Website, or Documentation to build a competitive website or Program, or to build a product or Program using similar ideas, features, or functions.

3. You Assume All Risk In Using the Program.

Not all exercises or activities recommended by Factor 75 or any of the Wellness Professionals, or otherwise made available on the Website or in the Documentation, are suitable for everyone. You understand and agree that when participating in any exercise or exercise program, there is the possibility of injury or death. As such, YOU AGREE TO USE YOUR OWN JUDGMENT AT ALL TIMES DURING YOUR USE OF THE PROGRAM IN ORDER TO DETERMINE IF ANY RECOMMENDED EXERCISE OR ACTIVITY IS SUITABLE FOR YOU. If you feel any discomfort or pain during your use of the Program, you must immediately stop the exercise or activity causing such discomfort or pain, and dial 911 using your telephone if you need emergency help.

Factor 75 will not be responsible for any health problems or injuries that you may experience as a result of receiving the Programs, including from training programs, products, or events you learn about through the Program. YOU HEREBY AGREE THAT YOUR USE OF THE PROGRAM, INCLUDING YOUR USE OF ANY EXERCISE PROGRAM RECOMMENDED BY Factor 75 OR ANY WELLNESS PROFESSIONAL, IS AT YOUR OWN RISK AND THAT YOU ARE VOLUNTARILY PARTICIPATING IN THESE ACTIVITIES, EVEN IF ANY ASPECT OF THE WEBSITE OR DOCUMENTATION IS INACCURATE, INCOMPLETE, OR INAPPROPRIATE IN THE MANNER IT WAS PRESENTED.

4. Term and Termination.

4.1 Term.

Unless otherwise specified in the Plan and/or a Confirmation Email, these Terms and Conditions will be effective as of the Acceptance Date and will continue for the term specified in the Confirmation Email. If set forth in the Plan and/or a Confirmation Email, you will have the opportunity to renew your participation.

4.2 Termination by Factor 75.

Factor 75 may, at its option and in its sole discretion, suspend or terminate your subscription and/or your access to the Program and the Website at any time and for any reason including, without limitation, if you: (a) violate any of these Terms and Conditions or our Terms of Use; or (b) if you engage in any conduct that we believe is offensive to Factor 75 staff, violates the rights of Factor 75 or any third-party, or could in our judgment cause Factor 75 liability.

4.3 Effect of Termination.

Upon the termination of these Terms and Conditions, you agree to delete all copies of any Documentation in your possession or control.

4.4 Survival.

Sections 2.5, 3, 4.3, 5.1, 5.3, 5.4, and 6 through 9 will survive the termination or expiration of these Terms and Conditions.

5. Program Fees.

NOTE: This Section 5 applies only to Individual Customers and does not apply to Participants whose participation in a Program is through a Group Customer. Group Customer Program Fees and payment terms are set forth in the applicable Customer Agreement.

5.1 Program Fee.

The Program Fee is presented to the Customer in the Customer Agreement, Plan, and/or a Confirmation Email. Unless otherwise specified in the Customer Agreement, Plan and/or a Confirmation Email, Customer is responsible for the full Program Fee from the Acceptance Date, even if Customer stops using the Program before the end of the term.

5.2 Cancellation Fee.

Unless otherwise specified in the Customer Agreement, Plan and/or a Confirmation Email, if a Customer cancels participation in any Plan prior to completing a full term, Factor 75 reserves the right to charge a cancellation fee to cover the cost of any administrative expenses (including legal cost). The cancellation fee will be charged directly to the Customer.

5.3 Promotions.

Any promotion offered has no independent cash value and may not be combined with any other offers.

5.4 Taxes.

Customer will be responsible for all taxes of whatever kind or nature imposed by any governmental authority upon any Programs provided hereunder, excluding taxes based upon Factor 75's income or property.

6. Proprietary Rights.

6.1 Reservation of Rights by Factor 75.

Factor 75 is the owner or licensor of all right, title, and interest in the Program, Website, and Documentation, including all related intellectual property and other proprietary rights therein. No rights in these items are granted to you except as expressly set forth in these Terms and Conditions. You acknowledge and agree that the Program, Website, Documentation, and any technology, written materials, and logos used in connection with these items, contain Factor 75's and its licensors' intellectual property and other proprietary information, and are protected by United States and international intellectual property laws. Your infringement or misappropriation of such intellectual property and other proprietary information could expose you to both civil and criminal penalties under applicable laws.

6.2 License to Participant Data.

You hereby grant, and represent and warrant that you have the right to grant, Factor 75 a royalty-free, worldwide, transferable, sub-licensable, irrevocable, and perpetual right and license to publicly perform, publicly display, reformat, translate, excerpt, distribute, create derivative works from, rearrange, store, copy, and use Participant Data in order to: (a) provide the Program to you; (b) analyze and improve the Program, Website, Documentation; (c) conduct research on the efficacy of the Program, Website or Documentation; and (d) promote, market, or advertise the Program or Website. Identifiable Participant Data will not be publicly displayed without your prior express written permission. You grant Factor 75 permission to use and/or publish de-identified Participant Data (i.e., Participant Data that is made anonymous by removing your name, image and other identifiers that could foreseeably be used to identify you) as part of research studies, academic papers, and scholarly articles based any such research, as well as for analytics, product development and other purposes.

6.3 Suggestions.

You hereby grant, and represent and warrant that you have the right to grant, Factor 75 a royalty-free, worldwide, transferable, sub-licensable, irrevocable, and perpetual right and license to use, copy, publicly perform, publicly display, reformat, translate, excerpt, distribute, create derivative works from, rearrange, or incorporate into the Program, Website or Documentation, any ideas, suggestions,

enhancement requests, recommendations or other feedback that you provide to us. You further represent and warrant that such license does not infringe, misappropriate or otherwise violate the rights of any third party.

7. Confidentiality.

7.1 Your Rights and Obligations.

You may not, without Factor 75's prior written consent: (a) use the Proprietary Information except in conjunction with your use of the Program; or (b) disclose any of the Proprietary Information to any other person. As specified in the Plan and/or any Confirmation Email, your participation in certain Plans may permit or require you to disclose your Participant Data to other Plan participants and/or to your Group Customer. If you choose to participate in these Plans and to make your Participant Data available, other Plan participants and/or your Group Customer will not be under a duty of confidentiality with respect to such information.

7.2 Factor 75's Obligations.

Factor 75 will use commercially reasonable efforts to safeguard Participant Data and any other information we collect about you in accordance with these Terms and Conditions including, without limitation, Paragraph 6.2, and our Privacy Policy, the terms of which are hereby incorporated by reference into these Terms and Conditions. Notwithstanding the foregoing, if you are participating in Factor 75 through an arrangement with a Group Customer, Factor 75 may share Participant Data and any other information we collect about you with your Group Customer, to the extent permitted by applicable law. For more information about whether the Group Customer through which you participate will have access to your individually identifiable information and/or how the Group Customer may use or further disclose your information, please contact the Group Customer directly or refer to your Group Customer's Notice of Privacy Practices, if applicable. We encourage you to read and become familiar with our Privacy Policy, available at <https://www.factor75.com/r/terms>. For inquiries regarding your privacy with Factor 75, please contact help@factor75.com.

8. No Warranties; Limitation of Liability; Indemnification.

8.1 Disclaimer of Warranties.

THE PROGRAM, WEBSITE AND DOCUMENTATION ARE PROVIDED BY FACTOR 75 AND ITS SUPPLIERS STRICTLY ON AN "AS IS", WITH ALL FAULTS, AND "AS AVAILABLE" BASIS. NEITHER FACTOR 75, NOR ITS SUPPLIERS, NOR ANY THIRD PARTIES PROVIDING CONTENT FOR THE PROGRAM, WEBSITE OR DOCUMENTATION, NOR ANY THIRD PARTIES PROVIDING SUPPORT OR INFORMATION FOR THE PROGRAM, WEBSITE OR DOCUMENTATION INCLUDING, WITHOUT LIMITATION, ANY GROUP CUSTOMERS (COLLECTIVELY, THE "PROGRAM-RELATED THIRD PARTIES") REPRESENT OR WARRANT THAT THE PROGRAM OR ACCESS TO THE SITE WILL BE UNINTERRUPTED OR ERROR-FREE. NEITHER FACTOR 75 NOR THE PROGRAM-RELATED THIRD PARTIES MAKE ANY REPRESENTATIONS OR

WARRANTIES OF ANY KIND, AND HEREBY DISCLAIM ANY IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE.

8.2 Limitation of Liability.

TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER FACTOR 75 NOR ITS SUBSIDIARIES, AFFILIATES, LICENSORS, SUPPLIERS OR THE PROGRAM-RELATED THIRD PARTIES, NOR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, MEMBERS, AGENTS OR REPRESENTATIVES (INCLUDING THE WELLNESS PROFESSIONALS), SHALL BE LIABLE TO YOU FOR ANY DAMAGES RESULTING FROM YOUR USE OR INABILITY TO USE THE PROGRAM OR WEBSITE OR YOUR RELIANCE ON ANY BEHAVIORAL RECOMMENDATIONS AVAILABLE ON OR THROUGH THE PROGRAM. THIS LIMITATION COVERS CLAIMS BASED ON WARRANTY, CONTRACT, TORT, STRICT LIABILITY, AND ANY OTHER LEGAL THEORY. TO THE FULLEST EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES WILL FACTOR 75, ITS SUBSIDIARIES, AFFILIATES, LICENSORS, SUPPLIERS OR THE PROGRAM-RELATED THIRD PARTIES, OR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, MEMBERS, AGENTS OR REPRESENTATIVES (INCLUDING THE WELLNESS PROFESSIONALS), HAVE ANY LIABILITY FOR ANY INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE, CONSEQUENTIAL, OR SPECIAL DAMAGES INCURRED BY YOU (INCLUDING DAMAGES FOR LOST BUSINESS, LOST PROFITS, OR LOST WAGES), REGARDLESS OF HOW SUCH DAMAGES ARISE AND REGARDLESS OF WHETHER OR NOT SUCH PARTIES WERE ADVISED SUCH DAMAGES MIGHT ARISE. YOU EXPRESSLY AGREE THAT THE LIMITATIONS AND EXCLUSIONS SET FORTH IN THIS SECTION CONSTITUTE AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN YOU AND FACTOR 75. IF YOU ARE DISSATISFIED WITH THE PROGRAM, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE PROGRAM. TO THE EXTENT THAT IN A PARTICULAR CIRCUMSTANCE ANY LIMITATION ON DAMAGES OR LIABILITY SET FORTH HEREIN IS DEEMED UNENFORCEABLE BY AN ARBITER SELECTED IN ACCORDANCE WITH PARAGRAPH 9.7, THE TOTAL, CUMULATIVE LIABILITY OF FACTOR 75, ITS SUBSIDIARIES, AFFILIATES, LICENSORS, SUPPLIERS, AND THE PROGRAM-RELATED THIRD PARTIES, AND EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, MEMBERS, AGENTS, AND REPRESENTATIVES (INCLUDING THE WELLNESS PROFESSIONALS) FOR LOSSES OR DAMAGES SHALL BE LIMITED TO THE AMOUNT OF YOUR ACTUAL DAMAGES, NOT TO EXCEED U.S. \$500.00.

8.3 Indemnification.

You agree to defend and indemnify Factor 75, its subsidiaries, successors, assigns, affiliates, licensors and suppliers and their respective officers, directors, managers, members, agents, and representatives (including the Wellness Practitioners) against any claim, demand, action, lawsuit, and liability (including reasonable attorneys' and experts' fees) arising out of, or alleged to result from, your use or misuse of, or inability to use, the Program or your violation of these Terms and Conditions, any laws, rules or regulations, or any rights of third parties.

9. Miscellaneous.

9.1 Subcontractors.

Factor 75 may subcontract some or all of its obligations under these Terms and Conditions, without providing any prior notice to you.

9.2 No Third-Party Beneficiaries.

Nothing in these Terms and Conditions is intended to create any rights in, or confer any benefits upon, any person or entity other than you and Factor 75.

9.3 Assignment.

You may not assign or transfer your rights or obligations under these Terms and Conditions to any other person or entity.

9.4 Use of "Including".

Wherever the word "including" is used in these Terms and Conditions, it is not intended to limit the proposition preceding it, but is rather intended to mean "including but not limited to."

9.5 Force Majeure.

Neither party will be responsible for delays or failure in performance (other than failures to make payments due under the Customer Agreement) resulting from acts beyond the reasonable control of such party, including acts of God, strikes, lockouts, riots, acts of war, terrorism, epidemics, fire, communication line failures, power surges or failures, earthquakes or other disasters.

9.6 Entire Agreement.

These Terms and Conditions and the Confirmation Emails constitute the sole and complete agreement between the parties with regard to the Program, and supersede all prior and contemporaneous agreements, proposals, representations, warranties, or promises, whether written or oral, relating to the Program. In the event of conflict between these Terms and Conditions and any Confirmation Email, the Confirmation Email shall control.

9.7 Severability.

If any provision of these Terms and Conditions is adjudicated to be contrary to law, the provision will be modified and interpreted so as to best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of these Terms and Conditions will remain in effect.

9.8 Manner of Giving Notice.

All notices, permissions and approvals hereunder will be in writing and will be deemed to have been given upon: (a) personal delivery; (b) the second business day after mailing; (c) the second business day after sending by confirmed facsimile; or (d) the first business day after sending by email. Factor 75 will send notices to the address you provide to Factor 75 during your use of the Program. You agree to send notices to Factor 75 to the following address: Attn: Chief Executive Officer, Factor 75, 1853 Suncast Ln, Batavia, IL 60510.