

# TrackMyKicks User Agreement

PLEASE READ THE TERMS AND CONDITIONS OF THIS USER AGREEMENT CAREFULLY. BY USING THIS WEBSITE, YOU AGREE TO BE BOUND BY THIS USER AGREEMENT AND ANY AMENDMENTS THERETO, AND AGREE THAT YOU ARE AT LEAST 13 YEARS OF AGE AND ARE ELIGIBLE TO USE THIS SITE.

IF YOU ARE BETWEEN 13 AND 17 YEARS OF AGE, YOU MUST USE THIS SITE ONLY WITH THE INVOLVEMENT OF YOUR PARENT OR GUARDIAN. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS USER AGREEMENT, PLEASE DO NOT USE THIS SITE.

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Welcome to TrackMyKicks.com provided by Superior Software Solutions, Inc. d/b/a TrackMyKicks (“SSSI”). This User Agreement, and any amendments thereto (the “Terms”) govern your use of this Site and its related domains, if any, on which this document appears. The Terms may be changed in the future without further notice. Your continued use of the Site after any such changes constitutes your acceptance of the new Terms.

## **Scope of Services**

TrackMyKicks is a tool designed to assist football kickers and punters improve their skills. The tool provides a service for coaches and players to create workouts specific to the kicking game, track the results of those workouts, and generate a specific set of statistics for the tracked workout results. TrackMyKicks provides a service for coaches and players to track game results, and generate a specific set of statistics for the tracked game results.

TrackMyKicks strictly provides the services on this Site solely as tools. TrackMyKicks relies on the Coaches and Kickers to determine the correct number of kicks for their training regimen and program. TrackMyKicks does not control how the TrackMyKicks tools are used, and does not guarantee improvement for any kicker.

## **MEDICAL AND INJURY DISCLAIMER**

THE INFORMATION ON THIS WEBSITE IS PROVIDED FOR EDUCATIONAL AND ENTERTAINMENT PURPOSES ONLY AND IS IN NO WAY INTENDED TO DIAGNOSE, CURE, OR TREAT ANY MEDICAL OR OTHER CONDITION. THE ADVICE AND INFORMATION CONTAINED ON THIS WEBSITE MAY NOT BE APPROPRIATE FOR ALL INDIVIDUALS. THEREFORE, THE AUTHOR, EMPLOYEES, COMPANY, AFFILIATES, OR ANY OTHER PARTIES INVOLVED IN THE CREATION OR PROMOTION OF OUR PRODUCTS ARE NOT RESPONSIBLE FOR ANY INJURIES OR HEALTH CONDITIONS THAT MAY RESULT FROM ADVICE, OPINIONS, AND PROGRAMS REPRESENTED IN THIS WEBSITE OR ANY OF OUR TRAINING PROGRAMS OR OTHER PRODUCTS. THE INFORMATION ON THIS WEBSITE AND IN THE TOOLS CONSTITUTE THE OPINIONS OF THE AUTHOR AND

ARE NOT A REPLACEMENT FOR MEDICAL ADVICE. YOU SHOULD CONSULT A PHYSICIAN BEFORE STARTING ANY WORKOUT, TRAINING, OR EXERCISE PROGRAM. IF YOU CHOOSE TO UTILIZE THE TRACKMYKICKS TOOLS WITHOUT CONSULTING YOUR PHYSICIAN, YOU ARE DOING SO AT YOUR OWN RISK. WE CLAIM NO RESPONSIBILITY FOR ANY INJURIES YOU MIGHT SUSTAIN. IT IS YOUR RESPONSIBILITY TO WARM UP PROPERLY, DETERMINE THE NUMBER OF KICKS FOR THE TRAINING REGIMEN YOU WILL USE, PERFORM EACH MOVEMENT CORRECTLY, AND ULTIMATELY TO DECIDE WHETHER OR NOT YOU ARE CAPABLE OF PERFORMING THE EXERCISE/WORKOUT WITHOUT SUSTAINING INJURY.

### **Privacy**

Protecting privacy is very important to TrackMyKicks. Please review our Privacy Policy to view our commitment to maintaining your privacy, as well as our use and disclosure of your information.

### **Intellectual Property**

All Site materials, including, without limitation, TrackMyKicks, TrackMyKicks.com, "Every Kick Counts", "Kick Randomizer", "Challenge Kicks", and all logos related to TrackMyKicks, as well as the design, text, graphics, software, other files, and the selection and arrangement thereof (the "Content") are either trademarks or registered trademarks of SSSI. SSSI owns and retains other proprietary rights in all products available through the Site. Except as stated herein, none of the Content may be copied, modified, reproduced, distributed, republished, downloaded, performed, displayed, posted, transmitted, sold, or made into derivative works in any form or by any means, including, but not limited to, electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of SSSI or the respective copyright owner. Permission is granted to display, copy, and download the materials on this Site for your personal, noncommercial, and informational use only; provided that you may not, without the permission of SSSI or the respective copyright owner, (a) copy, publish, or post any materials on any computer network or broadcast or publications media, (b) modify the materials; or (c) remove or alter any copyright or other proprietary notices contained in the materials. Such permission also does not include, without limitation: (a) any sale, resale, or commercial use of the Site, its content, or services obtained through the Site; (b) the collection and use of any product listings or descriptions; (c) making derivative uses of the Site and its contents; or (d) use of any data mining, robots, or similar data gathering and extraction methods. Except as noted in this section, you are not conveyed any right or license by implication, estoppel, or otherwise in or under any patent, trademark, copyright, or proprietary right of SSSI or any third party.. You may not copy, imitate, share, sell, or give the workouts, tracking results, or analysis information to any person without the prior written consent of TrackMyKicks.

All right, title and interest in and to the TrackMyKicks website, and content thereon, any workouts, tracking results, or analysis information, the technology related to the TrackMyKicks services, and any and all technology and any content created or derived from any of the foregoing is the exclusive property of TrackMyKicks and/or SSSI.

You agree that all right, title, and interest in and to any and all suggestions you submit to TrackMyKicks for improvements to the TrackMyKicks website or to the services provided by TrackMyKicks become the exclusive property of TrackMyKicks.

### **Web Site Maintenance**

TrackMyKicks will periodically perform system maintenance and install updates to keep the web site up to date. TrackMyKicks reserves a weekly maintenance time from 2AM to 7AM on Sundays. The TrackMyKicks web site may be down without warning during this maintenance window. Notwithstanding the foregoing, TrackMyKicks reserves the right, at any time, to take the web site down, without warning, as may be reasonably necessary in the sole discretion of TrackMyKicks, to perform system maintenance, install updates, or otherwise attend to the system and TrackMyKicks, provided that, TrackMyKicks shall take reasonable measures to limit routine system maintenance and update installation to the maintenance window described herein.

### **Assignment**

You may not transfer or assign any rights or obligations you have under this User Agreement without the prior written consent of TrackMyKicks. TrackMyKicks reserves the right, without notice, to transfer or assign this User Agreement or any right or obligation user this User Agreement at any time.

### **Notices to You**

You agree that TrackMyKicks may provide notices to you by posting on our website or emailing to the email address listed in your account. TrackMyKicks will send periodic notices for new functions, kicking tips, congratulations for kicking accomplishments, renewal notices, and other notices. You agree to keep a valid email address in your account to receive such notices.

### **Order and Payment Information**

If you use the Site to purchase services, payment must be received by TrackMyKicks prior to acceptance of an order, unless otherwise agreed by TrackMyKicks. TrackMyKicks may need to verify information you provide before TrackMyKicks accepts an order, and may cancel or limit an order any time after it has been placed, including but not limited to the event that a service is listed at an incorrect price due to typographical or other error. If payment already has been made and your order is canceled or limited, TrackMyKicks will refund any payment you made for the service that will not be shipped or available due to cancellation or limitation of an order in the same tender as the original purchase. TrackMyKicks expressly conditions its acceptance of your order on your agreement to the Terms.

In ordering services through the Site, you agree to provide only true, accurate, current, and complete information. You hereby certify that any e-mail account you provide to TrackMyKicks is registered to you. TrackMyKicks shall have the right to bar your access to and use of the Site if it has reasonable grounds to believe that you have provided untrue, inaccurate, not current, or incomplete information to

TrackMyKicks. You agree that if you are ordering or purchasing services on behalf of a company or governmental entity, that you have sufficient authority to bind that company or governmental entity to the Terms. You agree that your placement of an electronic order on the Site is sufficient to satisfy the Statute of Frauds, and no further writing is required.

All prices displayed on the Site are quoted in U.S. dollars. TrackMyKicks may prohibit delivery to addresses outside the United States and Canada. TrackMyKicks will add applicable sales/use tax. TrackMyKicks reserves the right without prior notice to discontinue or change specifications and prices on services offered on the Site without incurring any obligation to you. Descriptions of, or references to, products not owned by TrackMyKicks on the Site do not imply endorsement of that product, or constitute a warranty, by TrackMyKicks.

### **Refund Policy**

TrackMyKicks allows a refund policy for the first 30 days of an initial account registration. If you are not satisfied with the TrackMyKicks service within the first 30 days of signing up, send an email to [refund@TrackMyKicks.com](mailto:refund@TrackMyKicks.com) with your user ID, date of registration, contact phone number, return address, and reason for the refund request. TrackMyKicks will disable the account, and issue a check for the purchase amount within 30 days. After 30 days, no refunds will be issued, including for voluntarily closing your account. You agree that the registration fee is for the entire year, and that no portion of the registration fee will be returned after 30 days of the initial sign-up. Account renewals are not eligible for a refund for any reason.

### **Use of User ID/Password**

- A. If you register and/or set up an account on the Website, you will be solely responsible for maintaining the confidentiality of your User ID, password and/or other registration information (collectively, the "Registration Information"). You may not authorize others to use your Registration Information. You may not sub-license, transfer, sell or assign your Registration Information and/or this Agreement to any third party without our written approval. Any attempt to do so will be null and void and shall be considered a material breach of this Agreement.
- B. You are solely responsible for all usage or activity on your account including, but not limited to, use of the account by any person who uses your Registration Information, with or without authorization, or who has access to any computer on which your account resides or is accessible.

If you have reason to believe that your account is no longer secure (for example, in the event of a loss, theft or unauthorized disclosure or use of your Registration Information or any credit, debit or charge card number stored on the Website), you must promptly change the affected Registration Information by using the appropriate update mechanism on the Website, if available, or notify us immediately as described in our [Privacy Policy](#).

## Restricted Activities

1. The Website is not intended for users under the age of 13, and TrackMyKicks does not knowingly collect personally identifiable information from users under the age of 13. Such users are expressly prohibited from submitting their personally identifiable information to us, and from using portions of the Website for which registration is required; any information submitted by such users will not knowingly be used, posted, or retained by us.
2. Unless otherwise specified, the Website is intended for your personal use only. You may not authorize others to use the Website, and you are responsible for all use of the Website by you and by those you allow to use, or provide access to, the Website. You may not impersonate, imitate or pretend to be somebody else when using the Website.
3. You may not provide to or post on or through the Website any graphics, text, photographs, images, video, audio or other material that constitutes junk mail, spam, advertising, and/or commercial offers. You may not repeat the same posting multiple times in a day or week.
4. You agree not to use any obscene, indecent, or offensive language or to provide to or post on or through the Website any graphics, text, photographs, images, video, audio or other material that is defamatory, abusive, bullying, harassing, racist, hateful, or violent. You agree to refrain from ethnic slurs, religious intolerance, homophobia, and personal attacks when using the Website.
5. You further agree not to use any sexually explicit language or to provide to or post on or through the Website any graphics, text, photographs, images, video, audio or other material that is sexually explicit.
6. You may not provide to or post on or through the Website any graphics, text, photographs, images, video, audio or other material that is encrypted, invades anyone's privacy, or illustrates, references or encourages conduct that would constitute a criminal offense, give rise to civil liability, or that otherwise violates any local, state, federal, national or international law or regulation (e.g., drug use, underage drinking). You agree to use the Website only for lawful purposes and you acknowledge that your failure to do so may subject you to civil and criminal liability. Do not provide to or post on or through the Website any graphics, text, photographs, images, video, audio or other material that includes instructions for weapon and/or explosive manufacture or use.
7. The Website may contain graphics, text, photographs, images, video, audio and other material that is clearly identified for your use ("Assets"). The Assets are protected by state, national and international copyright, trademark and other intellectual property laws. Nevertheless, we (and our licensors) grant to you the limited, non-exclusive, right and license to use the Assets solely as described on the Website, as limited by this Agreement, and provided further that you keep intact any and all copyright and other proprietary notices.
8. The Website also contains other graphics, text, photographs, images, video, audio, software, code, and other material that is provided by TrackMyKicks and is not clearly identified as, or intended, for your use, including without limitation the organization, design, compilation, and

"look and feel" of the Website, and advertising thereon ("Website Content"). The Website Content is protected by state, national and international copyright, trademark and other intellectual property laws, and is the property of TrackMyKicks. The copying, reproduction, publication, display, rearrangement, redistribution, modification, revision, alteration, cropping, re-sizing, reverse engineering, movement, removal, deletion, or other use or change by you, directly or indirectly, of any such Website Content, including but not limited to the removal or alteration of advertising, is strictly prohibited.

9. You may not in any way make commercial or other unauthorized use, by publication, re-transmission, distribution, performance, caching, or otherwise, of material obtained through the Website, including without limitation the Assets or Website Content, except as permitted by the Copyright Act or other law or as expressly permitted in writing by this Agreement, TrackMyKicks or the Website.
10. You agree not to disrupt, overwhelm, attack, modify, reverse engineer or interfere with the Website or its associated software, hardware and/or servers in any way, and you agree not to impede or interfere with others' use of the Website.
11. Other than connecting to TrackMyKicks's servers by http requests using a Web browser, you may not attempt to gain access to TrackMyKicks's servers by any means - including, without limitation, by using administrator passwords or by masquerading as an administrator while using the Website or otherwise.
12. You acknowledge that TrackMyKicks has not reviewed and does not endorse the content of all sites linked to from this Website and is not responsible for the content or actions of any other sites linked to from this Website. Your linking to any service or site is at your sole risk.

You agree that TrackMyKicks can take reasonable measures to enforce these restricted activities, including closing violator's accounts to legal action to recover damages arising from violations of the restricted activities.

### **Disputes with TrackMyKicks**

If an issue arises between you and TrackMyKicks, our goal is to understand and resolve the issue. You agree to contact TrackMyKicks for any and all disputes via email at [CustomerService@TrackMyKicks.com](mailto:CustomerService@TrackMyKicks.com).

### **Indemnification**

You agree to defend, indemnify, and hold TrackMyKicks, its parent, officers, directors, and employees harmless from any claim or demand (including attorney's fees) made or incurred by any party due to or arising out of your breach of this User Agreement and/or your use of the TrackMyKicks services.

## **DISCLAIMER OF WARRANTY AND LIMITATION OF LIABILITY**

**YOU ACKNOWLEDGE THAT YOU ARE USING THE WEBSITE AT YOUR OWN RISK. THE WEBSITE IS PROVIDED "AS IS", AND TRACKMYKICKS, ITS AFFILIATES AND ITS THIRD PARTY SERVICE PROVIDERS HEREBY EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES, EXPRESS AND IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF ACCURACY, RELIABILITY, TITLE, MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER WARRANTY, CONDITION, GUARANTEE OR REPRESENTATION, WHETHER ORAL, IN WRITING OR IN ELECTRONIC FORM, INCLUDING BUT NOT LIMITED TO THE ACCURACY OR COMPLETENESS OF ANY INFORMATION CONTAINED THEREIN OR PROVIDED BY THE WEBSITE. TRACKMYKICKS, ITS AFFILIATES, AND ITS THIRD PARTY SERVICE PROVIDERS DO NOT REPRESENT OR WARRANT THAT ACCESS TO THE WEBSITE WILL BE UNINTERRUPTED OR THAT THERE WILL BE NO FAILURES, ERRORS OR OMISSIONS OR LOSS OF TRANSMITTED INFORMATION, OR THAT NO VIRUSES WILL BE TRANSMITTED ON THE WEBSITE. TRACKMYKICKS, ITS AFFILIATES AND ITS THIRD PARTY SERVICE PROVIDERS SHALL NOT BE LIABLE TO YOU OR ANY THIRD PARTIES FOR ANY DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ALLEGEDLY SUSTAINED ARISING OUT OF THIS AGREEMENT, THE PROVIDING OF THE WEBSITE HEREUNDER, THE SALE OR PURCHASE OF ANY GOODS SERVICE OR MERCHANDISE, YOUR ACCESS TO OR INABILITY TO ACCESS THE WEBSITE, INCLUDING FOR VIRUSES ALLEGED TO HAVE BEEN OBTAINED FROM THE WEBSITE, YOUR USE OF OR RELIANCE ON THE WEBSITE OR ANY OF THE GOODS, SERVICE, MERCHANDISE, INFORMATION OR MATERIALS AVAILABLE ON THE WEBSITE, REGARDLESS OF THE TYPE OF CLAIM OR THE NATURE OF THE CAUSE OF ACTION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU, HOWEVER, IN THOSE INSTANCES, THIS EXCLUSION OF WARRANTIES AND LIMITATION OF LIABILITY SHALL BE ENFORCEABLE TO THE FULLEST EXTENT OF THE LAW. YOU MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE. YOU HEREBY AGREE TO RELEASE TRACKMYKICKS, ITS AFFILIATES AND THIRD-PARTY SERVICE PROVIDERS, AND EACH OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS FROM CLAIMS, DEMANDS AND DAMAGES (ACTUAL AND CONSEQUENTIAL) OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, SUSPECTED AND UNSUSPECTED, DISCLOSED AND UNDISCLOSED ("CLAIMS"), ARISING OUT OF OR IN ANY WAY CONNECTED WITH YOUR USE OF THIS SITE. IF YOU ARE A CALIFORNIA RESIDENT, YOU WAIVE CALIFORNIA CIVIL CODE SECTION 1542, WHICH STATES, IN PART: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR".**

### **Changes to the Site**

TrackMyKicks may, in its sole discretion, terminate, change, modify, suspend, make improvements to, or discontinue any aspect of the Site or any products or services available through the Site, temporarily or

permanently, including the availability of any features of the Site or access to any parts of the Site, at any time without notice to you, and you agree that TrackMyKicks shall not be liable therefor.

### **International Users**

This Site is controlled, operated, and administered by TrackMyKicks from its offices within the United States of America. TrackMyKicks makes no representation that materials on the Site are appropriate or available for use at other locations outside of the United States and access to them from territories where the contents or products available through the Site are illegal is prohibited. You may not use the Site or export the content or products in violation of U.S. export laws and regulations. If you access this Site from a location outside of the United States, you are responsible for compliance with all local laws.

### **Applicable Law**

These Terms shall be governed by and construed in accordance with the laws of the State of Texas, without resort to its conflict of law provisions. You agree that any action at law or in equity arising out of or relating to the Terms or your use of the Site shall be filed only in the District Court of Collin County, Texas, or the United States District Court for the Eastern District of Texas, and you hereby irrevocably and unconditionally consent and submit to the exclusive jurisdiction of such courts over any suit, action, or proceeding arising out of the Terms.

The terms of this section survive any termination of the Terms.

### **Termination**

Notwithstanding any of these Terms, TrackMyKicks reserves the right, without notice and in its sole discretion, for any reason or no reason, to terminate your license to use the Site and to block or prevent future access to and use of the Site. You agree that TrackMyKicks shall not be liable for any termination of your use of or access to the Site.

### **Severability**

If any provision of these Terms shall be deemed unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from these Terms and shall not affect the validity and enforceability of any remaining provisions.

The terms of this section survive any termination of the Terms.

### **Survivability**

This User Agreement, and all provisions therein, will survive the termination and/or closing of the User Account. If any provision of this User Agreement is held to be invalid or unenforceable, that provision shall be struck and the remaining provisions shall be enforced.