

POUND Instructor Agreement

Effective Date: _____

Instructor and Certification Training Information			
Instructor Name:		Training Date:	
Address:		Training Location:	
City, State Zip:		Phone:	
Email:			

This Pound Instructor Agreement ("**Agreement**"), effective as of the date set forth above, is entered into between Pound Rockout Workout, LLC ("**Pound**" or "**us**" or "**our**") and the above referenced Instructor ("**you**") signing this Agreement (each a "**Party**"). You and Pound each agree and acknowledge:

1. Authorization.

1.1 Pound Workout. The Pound workout (the "**Pound Workout**") consists of a fitness class ("**Class(es)**") combining elements of music and choreography with the use of weighed drumsticks ("**Ripstix**") to achieve a strenuous fitness experience developed by Pound and taught by a Pound Certified Instructor who has successfully completed the POUND Training (a "**Pound Pro**") and is certified in the applicable Pound Workout (e.g., basic POUND, Generational POUND, etc.) ("**Authorized Workouts**"). Upon becoming a Pound Pro, Pound hereby authorizes you to offer the Authorized Workouts and teach Classes at (i) any authorized Pound Venues ("**Pound Venues**"), (ii) in a Private Class (as defined below), or (iii) in Additional Venues for the Term in accordance with the terms and conditions of this Agreement. The foregoing authorization is on a limited, non-exclusive, non-transferable and non-sublicensable basis. Nothing herein or otherwise provided by Pound to you shall operate as a guarantee or implication that you will successfully locate venues in which to teach Classes, participants for such Classes, Clients to teach Authorized Workouts, or generate revenue from the activities authorized by this Agreement.

1.2 Private Classes. You are authorized to use Authorized Workouts when privately training your individual Clients (as defined below) in their own home or your own home or a private studio owned or operated by you ("**Private Class(es)**"). "**Clients**" shall mean persons paying a fee to you (whether or not under a contract), either time based, session based or packaged by number of sessions for your instruction and/or teaching of fitness related activities in a private (1 on 1) or semi-private environment. No fee shall be paid by any Client to a third party for your teaching of Authorized Workouts to such Client.

Additional Venues. In addition to the foregoing authorizations you are authorized to teach Classes at Additional Venues that are not official Pound Venues ("**Additional Venues**"), so long as (i) you obtain Pounds prior written consent (email suffices) to include such desired venue as an Additional Venue, which consent may be conditioned or withheld in Pounds sole and absolute discretion, and (ii) no third-party (e.g. venue owner) receives a fee or any monies for hosting or allowing the Classes to be held at such Additional Venue. Notwithstanding the foregoing, you are permitted to pay a nominal fee, no greater than \$100 for the use of such Additional Venue's facilities. For clarification, the Additional Venue (including any affiliates) may not receive any payments from participants in the Classes taught by you at the Additional Venue for participation in the Classes.

2. Class Restrictions.

Except as otherwise specifically authorized communicated in writing by Pound, all Classes offered and Authorized Workouts led or taught by you shall be led and taught solely by you. No other instructor (including a Certified Instructor) other than you is authorized under this Agreement to teach a Class or Pound Workout to your clients or Class participants, unless (i) expressly authorized by Pound, or (ii) such other instructor is a Pound Pro certified in such Authorized Workouts and who has executed an Instructor Agreement. You acknowledge that the minimum age to be a Pound Pro is eighteen (18) years of age, or older, and as such, you represent you are at least eighteen (18) years of age. At all times during the Term, you hereby agree to take all steps required or reasonably requested by Pound to maintain your status as an official Pound Certified Instructor ("**Certified Instructor**"). If at anytime during the Term your status as a Certified Instructor shall lapse, the authorizations granted to you hereunder shall be suspended until such time that your status as a Certified Instructor is brought back into good standing (as determined by Pound in its sole and absolute discretion). You shall only permit Authorized Product (defined below) to be used during Classes, and no other products shall be offered or used during Classes. Classes must be taught using Authorized Product. Teaching of Classes without any Authorized Product is hereby expressly prohibited.

Authorized Product held by you shall be used exclusively for participation in the Pound Classes and no other use of such products is approved or may be made. You shall only perform Authorized Workouts during Classes, and no other type of workouts may be offered, performed or taught during Classes. Classes must be offered, performed and taught with, during or in connection with Authorized Workouts. Teaching of Classes without Authorized Workouts is hereby expressly prohibited.

3. Venue Restrictions. Each participant in the Classes taught by you (including Clients trained by you in Private Classes) shall be required by you, prior to participation in the Classes, to sign a standard waiver, indemnification and release of liability covering (amongst others) Pound, and its members, managers, owners, officers, employees, contractors agents and affiliates as indemnitees. No person shall be allowed to participate in a Authorized Workout taught or led by you without signing the waiver contemplated in this Section 3.1. If you are teaching Classes at a Pound Venue, you agree to verify that each participant has executed, or the Pound Venue has obtained, the foregoing waiver. At no time during the Term, shall you offer, or permit any other person to offer during the Classes or Authorized Workouts, any competing or substantially similar workouts that combine the use of music and weighted drumsticks, or a similar workout tool.

4. Event Restrictions. You are prohibited from (i) scheduling or booking Pound, including booking a booth or table, (ii) representing Pound in an "official" capacity, and (iii) performing, demonstrating or teaching of Classes, at any event, expo, convention or trade show (each an "**Event**"), without the express prior written consent of an official Pound representative. If you would like to represent Pound at an Event, including any of the foregoing (i), (ii) or (iii), you must seek written approval by Pound by contacting us at info@poundfit.com; Pound may grant or reject such request in its sole discretion. Requests must be submitted at least three (3) months prior to the Event date. Requests submitted within three (3) months of the Event date will not be reviewed or approved. Any approved requests will be subject to the restrictions and policies communicated by Pound, including without limitation, Pound's discretion as to instructor's attending such Event, promotional matters. Classes to be taught (if any) and use of approved Pound materials only. Requests must contain, at a minimum, the information set forth on **Schedule 2** attached hereto.

5. Authorized Retailing. In the event you are in the future authorized in writing by Pound (email suffices) to conduct selling activities (as contemplated by this Section 5) you shall be authorized on a non-exclusive, non-sublicensable basis to sell and distribute those designated authorized products set forth on **Schedule 1** attached hereto, as updated by Pound from time to time (collectively, "**Authorized Product**"), subject to the terms and conditions in this Agreement. You agree to use best efforts to sell and offer Authorized Product at suggested retail pricing, as provided by Pound from time to time. You may not, absent express written consent by Pound, offer, sell or distribute Authorized Product through any other channels (e.g., Internet, direct, catalog or through third-party relationships, resellers or distributors). At Pound's sole discretion, Pound may suspend or terminate the authorization under this paragraph at any time upon written notice without terminating this Agreement. Any purchase of Authorized Product shall be FOB Pound's distribution center, and payable in the manner required by Pound (e.g., COD, 50% or 100% upfront, etc.). Pound's standard policies shall be applicable to any product purchases (e.g., refund policy, trademark usage guidelines, marketing guidelines, etc.). For clarification, nothing contained herein shall permit you to engage in sales of Authorized Product unless and until you are expressly authorized by Pound, in writing.

6. Pound Label. Within one (1) year of the Certification Effective Date listed above you will be required to join the online Pound network for Pound Pros (the "**Pound Label**"). The Pound Label will provide you with access to updates regarding materials, choreography, music and continuing education materials. Membership in the Pound Label will grant you access to the foregoing updates and materials as well as access to instructor resources, partner company discounts for apparel and merchandise, special event information, and numerous other benefits only available to members of the Pound Label.

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Membership in the Pound Label is terminable by Pound at its sole discretion at anytime. Fees for Membership in the Pound Label will be billed in accordance with the then current pricing and subject to the poundfit.com Terms of Use.

7. Fees. At this time, no other fees except the POUND Training Fee (set forth hereafter) is required to become a Pound Pro with respect to the Authorized Workouts. The POUND Training Fee shall be (i) \$249 if paid more than thirty (30) days prior to the POUND training date set forth above, (ii) \$289 if paid less within thirty (30) days of the POUND Training Date set forth above, or (iii) \$315 if paid on the date of the POUND Training. Upon execution of this Agreement, you agree to pay the amount designated in the Agreement as the POUND Training Fee. Pound expressly reserves the right to require additional fees to be paid at a future date for Renewal Terms, including but not limited to continuing education, which may be required to maintain your status as a Pound Pro. Pound further reserves the right to change the foregoing fees at its sole discretion and without notice to you. Fees to obtain additional Pound Workout certifications may be charged by Pound in its sole discretion. With respect to fees for Authorized Product purchased, all amounts are due when invoiced but in no event more than twenty (20) days later than receipt of the invoice. Except as set forth in this Agreement, all fees paid pursuant to this Agreement are non-refundable.

8. Cancellation Policy; Location or Date Change. If you cancel your registration for Training more than thirty (30) days before your scheduled Training date you will be given a full refund of fees you paid to Pound upon your request for a refund. If you cancel your registration for Training more than fourteen (14) but less than thirty (30) days before your Training date you will be given a full refund less a fifty dollar (\$50.00) cancellation fee upon your request for a refund. If you cancel your registration less than fourteen (14) days before your training date, you will not be entitled to a refund of any portion of the Fees paid to Pound. Refunds shall not apply to amounts paid for prior Terms or for any unused points in any loyalty program that Pound may adopt from time to time. Should you wish to change the location of your registration for Training or change the date of your training you may do so more than thirty (30) days in advance by providing Pound notice of such intention including the desired location and/or date. Should you desire to alter the location or date of your registered training less than thirty (30) days before the start of the training you must comply with the above requirements and in addition, pay a change fee of twenty-five dollars (\$25.00). This cancellation policy may be updated from time to time by Pound at its sole discretion.

9. Intellectual Property.

9.1 Use of Pound Name and Marks. Subject to the terms and conditions of this Agreement, during the Term, Pound grants you and you accept a limited, revocable, non-exclusive, non-transferable, non-assignable, non-delegable, and non-sublicensable license to use the Pound name, trademarks, trade names, service marks or logos set forth on **Schedule 1** attached hereto (collectively "**Pound Marks**") in connection with the marketing, advertising and promotion of the Classes, Pound Workouts, Pound Product and Authorized Product within the Pound Venues, Private Classes and/or Additional Venues (as applicable), and if and when applicable, to sell Authorized Product as permitted under Section 5 within such venues. Any reproduction and use of the Pound Marks must make use of the specific Pound Mark(s) in exactly the format as such mark appears on **Schedule 1** attached hereto. For clarification, you are not authorized or permitted to conduct any generally marketing, selling or promoting of the Classes or Pound outside of the Pound Venues, Private Classes and/or Additional Venues without the prior express written permission of Pound. Promotion generally of Pound Venues, Private Classes or Additional Venues in conjunction with Pound or Classes is strictly prohibited.

9.2 Restrictions on Use of Pound Name and Marks. Notwithstanding the foregoing, you agree that you shall not include the Pound Marks as part of the formal or registered name for a partnership, corporation, limited liability company, sole proprietorship or other legal entity. Neither will you include the Pound Marks as part of the informal, or doing business as name, for a partnership, corporation, limited liability company, sole proprietorship or other legal entity. Permitted use of the Pound Marks strictly excludes any use of the Pound Marks unaccompanied by your name, your business name or the name of the Pound Venue or Additional Venue where Classes are

being held. You shall not use the Pound Marks in connection with any activity that is illegal or that defames, ridicules or disparages Pound, its founders, members, managers, officers, employees, agents, sponsors, licensors, licensees or other individual, entity or organization, or each of their products or services, or that otherwise damages the reputation for quality inherent in the Pound Marks. Nothing herein in any way shall give you any right, title or interest in or to the Pound Marks (or any portion thereof) and/or any other Pound name, trademarks, trade names, service marks, logos, products, goods, services or any right to develop, license, sublicense, publish, perform, use, modify, create derivative works of, reproduce, distribute or exploit any of the foregoing. Pound's provision of any materials or equipment to you to use in connection with the Pound Marks shall not imply a change of ownership therein, and all such materials and equipment shall remain the property of Pound. You acknowledge that there is great value and good will associated with the Pound name and Pound Marks, and that the Pound Marks have a secondary meaning in the mind of the public. You shall use your best efforts to preserve, protect, and enhance the good will and value in the Pound name and Pound Marks.

10. Confidential Information. You agree to hold in confidence all confidential information (e.g., compilations of choreography, routines, workouts, marketing and financial information, and information designated as such by Pound) not publicly disseminated by Pound except in a manner authorized by Pound.

11. Term; Termination. The term of this Agreement shall be for a period of one (1) year from the Effective Date indicated above (the "**Initial Term**"). Thereafter, the term shall automatically renew for successive one (1) year periods (each a "**Renewal Term**", which collectively with the Initial Term is referred to herein as the "**Term**") unless notice is given by either party of an intention not renew the Agreement thirty (30) days prior to the expiration of the current term. This Agreement may be terminated before the end of the Term by providing thirty (30) days notice to the other party. Such termination may be made for any reason, or no reason at all. Notwithstanding the foregoing, in the event of a breach of the terms of this Agreement by you Pound may terminate this Agreement immediately. Upon termination of this Agreement, you agree to return any and all confidential information of Pound, Pound marketing and promotional materials, and all related notes, copies and electronic files of the same that may exist. Sections 9 through 19 together with any payment obligations shall survive termination or expiration of this Agreement.

12. Indemnity. You hereby agree to indemnify, defend, protect and hold Pound and its officers, directors, managers, members, employees, contractors and affiliates harmless from any and all claims, demands, judgments, costs or any other liability, including reasonable attorney's fees and costs that Pound may incur as a result of or arising from (a) your status as a Pound Pro, (b) your use of the Pound Marks, (c) your offering of or teaching the Classes or Pound Workouts (including Private Classes), Authorized Product and Pound Workouts, (d) the use of any Pound Venues, Private Classes or Additional Venues in connection with conducting any Classes or Pound Workouts, (e) your breach of any representation or covenant in this Agreement, or (f) based on any injury, death, disability, loss or damage described herein, which involves the acts or omission of you, your employees, contractors, agents or affiliates or the employees, contractors, agents or affiliates of any Pound Venue, Private Classes or Additional Venues in connection with Pound, Classes or Workouts.

13. Release. You hereby agree to release and forever discharge Pound, its members, employees, officers, managers, instructors, contractors, agents and affiliates (collectively, all such parties including Pound are referred to herein as the "**Released Parties**") from any and all claims, actions, damages, liability, costs, expenses, and attorneys' fees which are related to, arise out of, or are in any way connected to Pound, Classes, Pound Workouts (including without limitation any training of your Clients in Pound Venues, Private Classes or Additional Venues), Authorized Product, whether or not such claims, actions, damages, liability, costs, expenses, and attorney fees are caused by the acts or omissions, negligent or otherwise, of Pound or any of the Released Parties or anyone else's participation in the Pound Workouts or Classes. By execution of this agreement, it is your intention to surrender and waive any rights to exercise any legal action or seek any damages against Pound and all Released Parties. You also confirm and represent that you have agreed to a Pound Instructor Consent and Liability Waiver prior to your participation in the Pound Training. While you are a Pound Pro, you agree, from time to time, at Pound's sole discretion, to execute an updated version of the Pound Instructor Consent and Liability Waiver should Pound make such a request. Pound may institute additional restrictions and policies (as applicable to all Pound Pros) that shall be applicable to you upon ten (10) days notice to you.

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14. Disclaimer of Warranties; Limited Liability. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT OR ANY POLICY INCORPORATED BY REFERENCE BY THIS AGREEMENT, POUND MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE CLASSES, POUND WORKOUTS OR AUTHORIZED PRODUCTS OR ANY OTHER SERVICES OR PRODUCTS PROVIDED BY POUND IN CONNECTION WITH THE AGREEMENT OR THE PERFORMANCE THEREOF. POUND EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE OR NON-INFRINGEMENT. TO THE EXTENT PERMITTED BY APPLICABLE LAW, POUND WILL NOT BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR INDIRECT DAMAGES OF ANY KIND, LOST PROFITS OR SAVINGS, OR LOSS OF BUSINESS, ARISING OUT OF OR RELATED TO THE AGREEMENT, THE CLASSES, POUND WORKOUTS OR AUTHORIZED PRODUCTS, EVEN IF POUND HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. UNLESS EXPRESSLY INDICATED IN THESE TERMS, UNDER NO CIRCUMSTANCE WILL POUND'S LIABILITY EXCEED THE LESSER OF THE AMOUNT OF FEES PAID BY YOU DURING THE PRIOR TWELVE (12) MONTHS OR ONE HUNDRED DOLLARS (\$100).

15. Nature of Relationship; Independent Contractors. The parties to this Agreement are independent, and no agency, partnership, joint venture, employee-employer or franchisee-franchisor relationship is intended or created by this Agreement. Neither party shall have any right or authority to assume or create any obligations of any kind or to make any representation or warranty on behalf of the other party, whether express or implied, or the power to bind the other party in any respect whatsoever. Your personnel involved in your business shall at all times be employees or subcontractors/independent contractors of you and not of Pound. You shall be solely responsible for payment of all compensation for such personnel and all related taxes and benefits for activities conducted at the Venues, Private Classes or the Additional Venues (as applicable). You agree to accept exclusive liability for complying with all applicable state, local and federal laws and any and all laws of the country of your residence, as applicable, including, without limitation, obligations such as payment of taxes. You hereby agree to indemnify and defend Pound against any and all such taxes, payments and obligations, including penalties and interest. Neither you nor any of your agents or employees shall pass on, any express or implied warranty on behalf of Pound to any third-parties.

16. Representations. You hereby represent and warrant to Pound that you have never been convicted of or charged with (i) crime of moral turpitude (including without limitation any sexual misconduct), (ii) any crime involving embezzlement, theft or misappropriation, or (iii) any crime involving elements of fraud, deceit or in any calls into question your veracity. Notwithstanding the foregoing, you hereby agree to immediately inform Pound within three (3) days of being arrested for, charged or convicted of any of the foregoing. You hereby authorize and agree that Pound may perform routine background checks from time to time.

17. Insurance. You shall maintain during the Term: (1) comprehensive general liability insurance, including individual automobile coverage, and (2) professional liability insurance. Such coverage shall be maintained in a

minimum amount of \$1,000,000 and cover no less than the following activities: (i) bodily injury and property damage, (ii) personal and advertising injury, (iii) damage to premises rented to you, medical expense, and (iv) professional liability. You shall promptly supply Pound with proof of such insurance upon request. You agree to add Pound as an additional insured under such policies immediately upon Pound's request.

18. Morality. If at any time during the term you become the subject of public disrepute or scandal that affects your image, or Pound's brand or image, in addition to any other rights and remedies which Pound may have hereunder or at law or in equity, Pound shall have the right but not the obligation to immediately terminate this Agreement.

19. Miscellaneous. This Agreement sets forth the entire understanding and agreement of the parties and supersedes any and all prior or contemporaneous oral or written agreements or understandings between the parties as to the subject matter of this Agreement. This Agreement may be changed only by a writing signed by both Parties. Neither Party is relying upon any warranties, representations, assurances or inducements not expressly set forth herein. This Agreement shall be interpreted in accordance with, and shall be governed by, the laws of the State of California without regard to conflict of laws principles, and solely with respect to contracts wholly made and performed therein. By executing this Agreement you expressly consent to the personal jurisdiction of the courts located in Orange County, California, for any lawsuit arising from or related to this Agreement or the activities contemplated hereby. If any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, portions of such provision, or such provision in its entirety, to the extent necessary, shall be severed from this Agreement. The balance of this Agreement shall be enforceable in accordance with its terms. Waiver by either of the parties of any breach of any provision of this Agreement shall not operate or be construed as a waiver of any prior or subsequent breach of the same or any other provision hereof. You agree that you may not assign this Agreement nor grant, assign, delegate, sublicense or otherwise transfer any rights under this Agreement, in whole or in part, whether voluntarily or by operation of law, by way of sale of assets, merger or consolidation, or change of control without the prior written consent of Pound, which consent may be granted or withheld in Pounds sole discretion. Any attempted or purported assignment without such required consent shall be void and a material breach of this Agreement. Pound may grant, assign or sublicense this Agreement or any of its rights or obligations herein in its sole and absolute discretion. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and assigns. Except as expressly otherwise stated in this Agreement, all notices required or permitted hereunder shall be given to either party at their respective address specified in this Agreement or at such other address as such party shall specify in writing, and shall be deemed to have been given: (a) when personally delivered or sent by confirmed facsimile (with hard copy to follow); (b) one (1) business day after sent by reputable overnight express courier (charges prepaid); or (c) five (5) business days following mailing by certified or registered mail, postage prepaid and return receipt requested. Unless otherwise stated in this Agreement, any permitted e-mail notice (as expressly indicated herein as "email shall suffice") to be sent by you or Pound hereunder shall be considered sufficient and received when a confirmatory reply is received from the recipient of the notice. Waiver by either of the parties of any breach of any provision of this Agreement shall not operate or be construed as a waiver of any prior or subsequent breach of the same or any other provision hereof.

AGREED BY (INSERT NAME BELOW):		ACCEPTED BY:	
		POUND ROCKOUT WORKOUT, LLC	
SIGNATURE (BELOW)	DATE (BELOW)	SIGNATURE (BELOW)	DATE (BELOW)
NAME AND TITLE ; ADDRESS (BELOW)		NAME AND TITLE ; ADDRESS (BELOW)	
		Kirsten Potenza, CEO	

Instructor Number:
(For Internal Use Only)

POUND Instructor Agreement

SCHEDULE 1

Authorized Product:

Ripstix®

a. Packages:

Small: 15 pairs

Medium: 25 pairs

Large: 50 pairs

Pound Marks:

1. POUND Rockout Workout®

2. POUND mark (see below)



3. Ripstix®

SCHEDULE 2

Event Request

Requests must be submitted to Pound via e-mail at info@poundfit.com at least three (3) months prior to the applicable Event and contain, at a minimum, the following information:

- . Name of Event
- . Date(s)
- . Location
- . Links to website and social media outlets
- . Summary of Event and audience/attendees
- . What is being requested (i.e., booth, sessions, sponsorship, etc.)?
- . What are the costs associated with the requested participation?
- . Other brands/companies that will be presenting and holding sessions at the Event.