

# BODY TEMPERING®

## BODY TEMPERING® LEVEL 2 CERTIFICATION AGREEMENT

This Body Tempering® Level 2 Certification Agreement (the "Agreement") is made and entered into as of \_\_\_\_\_, 20\_\_\_\_ (the "Effective Date") by and between Body Tempering, LLC, a South Carolina limited liability company with its principal place of business at 2535 Morningside Dr. B, West Columbia SC 29169 ( "Body Tempering, LLC") and \_\_\_\_\_, the Body Tempering® Level 2 Certification Holder ("BT-C2").

### INTRODUCTION

The Body Tempering® brand for physical training, mobility techniques, and related products and services is owned exclusively by Body Tempering, LLC. Body Tempering, LLC encourages people and organizations that comprehend and concur with the Body Tempering philosophy to join the community of Body Tempering® and be duly licensed to use the Body Tempering® name with the goal of making its practices widely accessible. This Agreement covers your use of the Body Tempering® brand in connection with the special mobility and strength preparation techniques developed by Body Tempering, LLC.

### TERMS AND CONDITIONS

1. Trademark License and Restrictions.
  - a) BT-C2 is granted, and BT-C2 accepts, a limited, revocable, non-exclusive, non-transferable, non-assignable, and non-delegable license to use the Body Tempering® trademark solely to identify themselves as "BT-C2" or "Body Tempering® Level 2 Certified," subject to the terms and conditions of this Agreement. Regarding this, BT-C2 is only permitted to use the Body Tempering® trademark to:
    - i. List the "BT-C2" or "Body Tempering® Level 2 Certified" designation on a business card; and
    - ii. List the "BT-C2" or "Body Tempering® Level 2 Certified" qualification on a biography, resume, curriculum vitae, or professional biography.
  - b) Unless a person has successfully completed and passed the Body Tempering Level 2 Certification Course and has met all other requirements to maintain the certification, BT-C2 shall not identify themselves as a "Certified."
  - c) The BT-C2 shall not use the Body Tempering® trademark in any business name or in any way that may cause anyone to believe they are an officially affiliated business entity without written approval from Body Tempering, LLC. This includes, but is not limited to, using the Body Tempering® trademark in the name of a gym, studio, or other related business.
  - d) The BT-C2 shall not use the Body Tempering® trademark in any social media handles or usernames that would cause a viewer to believe the BT-C2 is an officially affiliated entity without written approval from Body Tempering, LLC.

- e) Other than as specifically permitted in this Agreement, the BTC-1 may not use the Body Tempering® brand or any of Body Tempering, LLC's other trademarks/service marks, taglines, characters, intellectual content, or logos ("Body Tempering IP"). Body Tempering, LLC expressly and solely reserves all rights not expressly given by Body Tempering, LLC to BT-C2.

## 2. Nature of Relationship.

This Agreement does not intend or create any agency, partnership, joint venture, employee-employer, or franchisee-franchisor relationship. The parties to this Agreement are independent of one another. It is expressly agreed that neither party shall have the capacity to assume or create any obligations of any kind, to express or imply on behalf of the other party, a representation or warranty, or to bind the other party in any way.

## 3. Permits and Licenses.

This Agreement is not a professional license and should not be used as such. The Body Tempering Body Tempering® Level 2 Certification is awarded to BT-C2 as a certificate of completion of the Body Tempering® Level 2 Certification course. BT-C2 shall be responsible for obtaining any and all permits, licenses, and other proper authorizations or permission-related documents required for the performance of Body Tempering techniques and the use of Body Tempering related products and services. It is BT-C2's responsibility to be familiar with the federal and state practice acts, statutes, laws, and other requirements to practice Body Tempering. Body Tempering, LLC does not and cannot provide legal advice regarding any federal or state laws or restrictions related to the practice of Body Tempering.

## 4. Term, Termination, and Renewal.

- a) Unless canceled sooner in accordance with the terms of this Agreement, this Agreement's term will start on the Effective Date and last for five (5) years. This Agreement will automatically be renewed if:
  - i. Attending and passing a new Body Tempering Level 2 Certification Course; or
  - ii. by completing four (4) continuing education credits (continuing education credit requirements to maintain the certification are listed on BodyTempering.com).
- b) Body Tempering, LLC may terminate this Agreement at any time by giving BT-C2 written notice if BT-C2:
  - i. Breaches their responsibilities to Body Tempering, LLC by refusing to fulfill or failing to perform any of their covenants or obligations under this Agreement;
  - ii. Publicly criticizes, slanders, disparages, or discredits Body Tempering, LLC, its officers, principals, or employees verbally, visually, or in writing (including using digital or electronic tools like social media); or
  - iii. Engages in behavior that harms Body Tempering, LLC or any of its affiliates' reputation or business, including, without limitation, any criminal offense or other behavior that would give rise to serious concerns about the about the BT-C2's fitness or ability to perform.

- c) BT-C2 must immediately stop using all Body Tempering IP if Body Tempering, LLC cancels this Agreement for any above reasons. All of BT-C2 uses of the Body Tempering® mark must be deleted and removed. Additionally, BT-C2 is responsible for making sure that any instances of a third party using the Body Tempering® mark in conjunction with BT-C2's name or identity (on a website, social media account, or in any other location) are erased and removed permanently.

5. Damages and Attorneys' Fees.

- a) If BT-C2 violates this Agreement or uses the Body Tempering IP outside the parameters of the limited license granted by this Agreement, among other violations, such as trademark infringement, copyright infringement, unfair competition, and false advertising, it may be considered a violation of this Agreement and may result in legal action. Body Tempering, LLC reserves the right to seek any claims, losses, or other forms of compensation against BT-C2 relating to BT-violation C1's of this contract, including BT-failure C1's to uphold any of the covenants or responsibilities set forth in this Agreement.
- b) If Body Tempering, LLC obtains a judgment in its favor against BT-C2 in a legal action stemming from BT-violation C1's of this Agreement, including their refusal or failure to perform any of the obligations or covenants under this Agreement, Body Tempering, LLC shall be entitled to reimbursement of its attorneys' fees and other litigation expenses.
- c) In no event shall Body Tempering, LLC or any of its affiliates, officers, directors, employees, agents, successors, or assigns be liable to the BT-C2 or any third party for any loss of use, revenue or profit or loss of data or diminution in value, or for any consequential, indirect, incidental, special, exemplary, or punitive damages whether arising out of breach of contract, tort (including negligence) or otherwise, regardless of whether such damage was foreseeable and whether or not Body Tempering, LLC has been advised of the possibility of such damages, and notwithstanding the failure of any agreed or other remedy of its essential purpose. **Body Tempering, LLC's maximum liability to the BT-C2 is limited to the total amount of fees paid by the BT-C2 to attend the Level 2 Certification Course.** Body Tempering, LLC is not responsible for any indirect, special, or consequential damages to the BT-C2 or any other party. To be clear, this implies that even if Body Tempering, LLC terminates or violates this Agreement, Body Tempering, LLC will never be responsible for the BT-C2's (or any other third party's) expenses, investments, leases, commitments, lost revenue, lost profits, or lost data.

6. Disclaimer of Warranties.

Except as expressly set forth in this agreement, Body Tempering, LLC makes no warranties, express or implied, with respect to the Body Tempering IP, the BT-C's use thereof, or the operation or use of Body Tempering, LLC's goods or services. Body Tempering, LLC disclaims all implied warranties, including, without limitation, implied warranties of merchantability and fitness for a particular purpose.

7. Governing Law.

This Agreement shall be governed by and construed under the laws of the State of South Carolina, notwithstanding its conflict of law provisions. Any action or proceeding brought to enforce the terms of this Agreement or adjudicate any dispute arising out of this Agreement shall be exclusively brought in the United States District Court, District of South Carolina within the County of Richland, State of South Carolina. The parties will not raise in connection therewith, and hereby waive, any defenses based upon the venue, the inconvenience of the forum, the lack of personal jurisdiction, the sufficiency of service of process or the like in any such action, suit or proceeding to enforce the terms of this Agreement or adjudicate any dispute arising out of this agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

Body Tempering, LLC:

By: \_\_\_\_\_ Title: \_\_\_\_\_

BT-C2:

By: \_\_\_\_\_ Title: \_\_\_\_\_