



# Teacher Training

## With Danielle Diamond

### Xen Strength Yoga with Weights Certified Teachers Membership & License Agreement

This Membership and License Agreement (“Agreement”) is made and entered into between Xen Strength LLC, and you (“Instructor”), and shall be deemed effective as of instructor's date of certification. Instructor agrees that the click-through agreement required to accept this agreement shall be effective as an original signature and acknowledges that he/she has read and understood this Agreement in its entirety.

Whereas, Xen Strength LLC is the owner of the following word trademarks: Xen Strength Yoga™, and Xen Strength Yoga with Weights™, and the following logos associated with its Xen Strength Yoga with Weights DVD, and Teacher Training program, which word trademarks and logos are referred to here as “the Xen Strength marks”:



Xen Strength LLC uses the Xen Strength Marks (collectively the "Marks"), together with copyrighted materials associated with the Marks - which copyrighted material is available through the XSYWW membership site, and also is licensed under this Agreement - on or in connection with educational services in the field of yoga and fitness (the “Services”).

Instructor completed an official Basic Xen Strength Yoga with Weights instructor training course and desires to use the Xen Strength Marks to promote and teach classes in accordance with the terms of this Agreement. Instructor who is a Xen Strength member and who has completed an instructor training course for, Xen Strength Yoga with Weights, wishes to use the Specialty Marks in accordance with the terms of this Agreement. Instructor desires only to use the Xen Strength after having become certified, and only for the purposes of providing classes in the program such marks are associated with.

Now therefore, in consideration of the foregoing premises, the mutual promises hereinafter set forth, and the certification into the Xen Strength membership site, and associated benefits, the parties agree as follows:

**1. 1. Grant of License.**

1. 1.1. Xen Strength Marks. Xen Strength hereby grants to instructor a non-exclusive, nontransferable license (the "License"), without warranty, to use the Xen Strength Marks to promote and teach Instructor's classes and to indicate that Instructor is a certified Xen Strength Yoga with Weights instructor. Instructor accepts the License, during the term hereof, all subject to the terms and conditions set forth herein. For purposes of this Agreement, the term Xen Strength Marks may also include such other trademarks of Xen Strength that Xen Strength may designate from time to time.

**2. 2. Subscription Fee.**

1. 2.1. Subscription Fee. Instructor shall pay Xen Strength a subscription in the amount of us \$99.00 per year, starting on the first anniversary of instructor's certification date. The Xen Strength membership fee is subject to change at any time in Xen Strength's sole and absolute discretion. Xen Strength reserves the right to establish, revise, modify or amend at any time its billing practices, methods and fees, including without limitation collection practices, payment practices, supplemental fees and separate fees for content or services provided on Xen Strength website(s). Instructor agrees to accept notice of any changes by Xen Strength posting the change on Xen Strength website in a location regularly available to Instructor. Any changes so posted shall be specifically incorporated in this Agreement. In the event that Instructor objects to any fee or other change(s), Instructor's sole remedy and recourse is to voluntarily cancel his/her Xen Strength membership and terminate this Agreement.
2. 2.2. Termination. Xen Strength may terminate this Agreement at any time for any reason, including for failure to comply with instruction from Xen Strength's Legal Department. Instructor's failure to timely make any payments due under this Agreement shall be deemed a material breach permitting Xen Strength to immediately deny or cancel any or all of Instructor's Xen Strength membership benefits and privileges or immediately terminate this Agreement. Instructor may terminate this Agreement on 30 days notice for any reason.

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3. **3. Ownership of Marks.** Instructor acknowledges that Xen Strength owns the Marks. Instructor agrees it will take no action inconsistent with Xen Strength ownership of the Marks. Instructor agrees that Instructor's use of the Marks shall inure to the benefit of and be on behalf of Xen Strength. Instructor agrees that nothing in this Agreement shall give Instructor any right, title or interest in the Marks other than the right to use the Marks as permitted herein. Instructor agrees that Instructor shall not contest Xen Strength title to the Marks, the validity or enforceability of the Marks, or the validity of this Agreement.
4. **4. Quality Standards.** Instructor agrees that the nature and quality of Instructor's marketing and services that use the Marks shall conform to the standards set by Xen Strength.  
4.1 refer to 6.1
5. **5. Quality Maintenance.** Instructor agrees to cooperate with Xen Strength in facilitating Xen Strength control over the nature and quality of Instructor's marketing and services using the Marks, to permit observation of Instructor's classes, to promptly comply with all instructions of the Xen Strength License Support Team or Xen Strength Legal Department, and to supply Xen Strength with evidence confirming compliance with this Agreement upon request. Instructor shall comply with all applicable laws and regulations and obtain all appropriate government approvals pertaining to marketing, advertising, or providing Instructor's services.
6. **6. Permitted Use of Marks.** Instructor agrees to use the Marks for which he/she has a License only in the form and manner shown above in this Agreement. Instructor shall NOT change the form and manner of the Marks shown above. Instructor shall follow Xen Strength Trademark Usage Guide and brand guidelines and instructions from the Xen Strength License Support Team or Legal Department. Without in any way limiting the generality of the foregoing restrictions, Instructor's use of the Marks shall be limited as follows:

1. 6.1. Printed Materials and E-Mail.

- (a) Promotional materials. Instructor may use the Marks on flyers, posters, electronic mail and printed promotional materials whose sole purpose is to promote instructor's Xen Strength classes, and on no other promotional materials. All use of the Marks on such materials must be in the form and manner set forth in this Agreement and shall include a trademark symbol ( ® or ™ ), where appropriate. Instructor's promotional materials shall include a legend in the following form, which should reference the Marks being used as Xen Strength ™ or Xen Strength Yoga with Weights ™ [insert other Marks] and the Xen Strength Fitness logos are trademarks of Xen Strength, LLC, used under license.

When using the Marks in electronic mail, Instructor shall adhere to all applicable laws governing e-mail advertising and marketing.

- (b) Describing or Marketing Your Xen Strength Class. Instructor shall not use the Marks in combination with any other person's or entity's trademarks, service Marks or other trade names or modified descriptions, unless expressly approved in writing by Xen Strength. For example, Instructor shall not refer to a class using the expression “Xen Strength -abs” or “Beginner Xen Strength” or “Xen Strength kids” or “Xen Strength for seniors” and the like, or by suggesting different degrees of difficulty for a Xen Strength class. For another example, Instructor shall not include in the same marketing material other trademarks, except that the name or mark of the venue where the class is held may be identified subordinate to the Marks if Instructor is permitted to do so by the venue. Instructor shall not modify the format of the trademark used to describe a class. For example, Instructor shall not modify the appearance or dimensions of the Marks shown above. In the case where Instructor wishes to use any other Mark for any other purpose (e.g., sponsorship), Instructor must obtain written permission for such use, upon request at least thirty (30) days in advance.
- (c) No Newsletters or Publications. Instructor may not use any of the Marks, in whole or in part, as the title of a newsletter or other printed or online publication.

2. 6.2. Domain Name and Social Media and Networking Pages. Subject to Xen Strength need or desire to use a particular domain name, Instructor may use Xen Strength as part of Instructor's domain name address for a website that ONLY promotes Instructor's Xen Strength classes and related, under these guidelines and in accordance with Section 6.3 below:

- (a) Competing Products and Non-Disparagement. Instructor shall not sell, offer for sale, advertise or promote any services or goods except Instructor's Xen Strength services and Xen Strength goods on Instructor's website. Instructor shall not include on its website any statements or information that dilutes, disparages, or are otherwise detrimental to the Marks or the Xen Strength brand or goodwill. Xen Strength shall have sole discretion to determine whether Instructor's website contains any such statements or information.
- (b) Transfer to Xen Strength In the event Xen Strength determines, in its sole discretion, that it has a need or desire to use a particular domain name that Instructor has registered and which includes any Xen Strength Mark, in whole or in part, then at Xen Strength’s request, Instructor shall transfer such domain name to Xen Strength, in exchange for which Xen Strength shall reimburse Instructor for reasonable out-of-pocket costs Instructor actually paid to register that domain with a domain name Registrar. Xen Strength shall not be required to reimburse Instructor for any costs incurred in designing Instructor's website, for marketing materials created, or for any other costs incurred by paying any other third party that is not a domain name Registrar.
- (d) Recovery of Country Names. Instructor wishing to use domains that contain a combination of a Mark and the name of a country (e.g., www. Xen Strength australia.com, www. Xen Strength - brazil.co.br; etc.) or any top level domain shall seek Xen Strength’s approval to do so. Even if approval is granted, Instructor registering such domain or maintaining registration of such domain expressly agrees to immediately transfer such domain to Xen Strength upon request.

- (e) No Domain Names as Trade Names. Instructor shall not use a domain name containing a Mark as a business name. For example, Instructor shall not use the domain name, www. Xen Strength crew.com and then use Xen Strength CREW to identify Instructor or a group of instructors.
- (f) Social Media and Networking Page Titles. Instructor shall follow all Domain Name, Website and Trade Name requirements for Social Media and Networking Pages (including Facebook, YouTube and similar pages) and title Social Media Pages with Instructor's name in the title. In the case of group Social Media Pages, all Instructors must be Xen Strength members and all Xen Strength members must be identified. This Paragraph shall also apply to social media and networking pages for events.

3. 6.3. Website. Instructor may use the Marks on a website (including social media and networking sites) where Instructor uses the Marks to promote Instructor's Xen Strength<sup>®</sup> classes in accordance with this Agreement and under the following guidelines:

- (a) Trademark Notice. All use of the Marks on Instructor's website must be in the form and manner set forth in this Agreement. Instructor's website must include a trademark symbol (<sup>®</sup> or <sup>™</sup>) with each use of a Mark, where appropriate. Each website page on which any of the Marks appear shall include a legend in the following form (which should reference all of the Xen Strength Marks being used): "Xen Strength<sup>®</sup> and the Xen Strength logos are trademarks of Xen Strength, LLC, used under license." If a specialty mark is being used on the website, instructor is required to include the specialty mark in the notice. For Example:
- (b) If mentioning Xen Strength Yoga with Weights on Instructor's website, it shall include a prominent hyperlink on the home page to Xen Strength's official website, [www.xenstrength.com](http://www.xenstrength.com).
- (c) Trademark Usage. In addition to complying with Section 6.2(b), Instructor shall not use the Marks in combination with any other person's or entity's trademarks, service Marks, business names, product and program names or other terms, unless approved in writing by Xen Strength.
- (d) Disparagement. As with Section 6.2(a), Instructor shall not include any unsavory content on his/her website or content that Xen Strength determines, in its sole and absolute discretion, dilutes, disparages, or is otherwise detrimental to the Marks or the Xen Strength brand or goodwill. Xen Strength reserves the right to require, and Instructor agrees to promptly remove any such content from Instructor's website upon instruction by the Xen Strength License Support Team or Xen Strength's Legal Department.
- (e) Ownership. Instructor shall clearly identify the owner of the website, or social networking site (in particular, it must be clear that the site is owned by Instructor or Company and not Xen Strength, LLC). As required in Section 6.2(c), a link and statement identifying instructor is required.
- (f) Adwords and Keywords. Instructor shall not use any Mark as an AdWord or keyword (or equivalent) or for other search engine optimization or for creating "sponsored links" without written authorization from Xen Strength to do so.

4. 6.4. Internet Videos. Instructor may create one or more promotional videos of up to 2 minutes and 30 seconds per video (“Promotional Video”). A Promotional Video shall feature Instructor demonstrating a Xen Strength class or Xen Strength exercise routines and shall be used ONLY for the purpose of promoting Instructor's Xen Strength<sup>®</sup> classes. A Promotional Video must meet the following terms and conditions:
  - (a) Releases. Instructor shall not include any class or other participant(s) in a Promotional Video unless Instructor has obtained an appropriate written releases from that participant.
  - (b) Title. If Instructor uses a title for such video, then the title should be substantially similar to “Xen Strength<sup>™</sup> class(es) with [Instructor Name].” Instructor's name must be included in the title and any Marks must be used in accordance with this Agreement.
  - (c) Streaming. Promotional Videos created pursuant to this paragraph may be streamed only on Instructor's own website or social media or networking page that complies with the terms of this Agreement. Instructor may not stream, publish or distribute any videos that feature a Xen Strength<sup>™</sup> class or that otherwise mention Xen Strength or the Marks through any other medium.
  - (d) No Dilution or Disparagement. Instructor shall not include any content on internet videos that is unsavory or dilutes, disparages, or is otherwise detrimental to the Marks or the Xen Strength brand or goodwill. Xen Strength reserves the right, in Xen Strength’s sole and absolute discretion, to have removed or require that Instructor remove, and Instructor agrees to promptly remove any Promotional Video or other video including or referring to the Marks.
5. 6.5. Radio and Television. Instructor shall only be permitted to use the Marks in radio or television advertising with Xen Strength 's prior written consent, which consent may be withheld in Xen Strength 's sole and absolute discretion.
6. 6.6. Bona Fide News Coverage. Instructor may promote Instructor's Xen Strength classes through live news coverage or print news media, such as newspapers, television, radio and magazines, by any mainstream news organization or print publisher. In the event Instructor promotes in this manner, Instructor must inform the news organization or publisher of Xen Strength 's guidelines for proper trademark usage and Trademark Usage Guide. With respect to live news coverage, such coverage shall not include more than ten (10) minutes of Xen Strength Fitness routines without Xen Strength 's prior expressed written consent. In the event Instructor is aware of the coverage in advance, Instructor shall notify Xen Strength of such coverage by email to Hello@xenstrength.com. In the event Instructor is not aware of the coverage in advance, Instructor shall promptly notify Xen Strength after the coverage and, when possible, provide Xen Strength with a copy of the article or the footage for such news coverage.
7. 6.9. Charitable Fund Raising Services. Upon obtaining prior written permission from Xen Strength by a request from Instructor at least thirty (30) days in advance, Instructor may conduct Xen Strength Fitness classes in connection with fund raising activities for charitable or other worthy causes under

the name and mark Xen Strength (with an ® in the U.S. and a ™ outside the U.S. Activities using the Xen Strength ® mark or design must be conducted in accordance with applicable law and instructor shall be responsible for the handling and proper disbursement of all fundraising. Xen Strength reserves the right to prohibit instructor from using Xen Strength ® and design, or the Marks, in connection with any fundraising activities that Xen Strength determines, in its sole and absolute discretion, dilutes, disparages, or is otherwise detrimental to the Marks or the Xen Strength brand or goodwill, or that is inconsistent with Xen Strength 's business objectives or interests. For permission to use the Xen Strength ® mark, please email us at [info@xenstrength.com](mailto:info@xenstrength.com)

8. 6.10. Events, Trade Shows and College Classes. Pursuant to specific terms and conditions and only upon obtaining prior written permission from Xen Strength requested at least thirty (30) days in advance, Instructor may conduct Xen Strength ® classes at community events (fairs, festivals, etc.), Trade Shows (fitness or other industry), or for college credit (i.e. as a physical education class). For permission to use the Marks for events or classes please visit the contact us page on [www. Xen Strength.com](http://www.XenStrength.com) and select "Legal Compliance" or follow other instructions provided for Events. An "Event" is any activity that is not a Xen Strength ® class or masterclass as permitted under this Agreement. Whenever Instructor participates in or conducts classes at an Event, Instructor's name must be listed in connection with the Event's promotional materials.

Instructor shall not participate in any Event or conduct any classes that break down basic steps or that are designed to train other instructors or the public in the basics or fundamentals of being a Xen Strength ® instructor nor shall Instructor knowingly participate in any event or class using the Marks in which all other class-teaching participants are not also XSYWW members.

9. 7.1. Use of Xen Strength Logos and Stylized Writing. Instructor shall not alter the form or appearance of any of the Xen Strength logos or stylized Marks, regardless of where used, including, but not limited to, the proportion, color and font.
- 10.7.2. Merchandise. Instructor shall not manufacture, create or distribute any merchandise (including clothing) or other promotional items bearing any of the Marks or anything similar or related to the Marks.

- 11.7.3. Xen Strength Materials. Instructor agrees that Xen Strength materials received by Instructor by virtue of Instructor's enrollment in the Xen Strength program are exclusively for Instructor's benefit and use. Instructor shall not copy, duplicate, sell, distribute or otherwise disseminate any materials Instructor obtains by virtue of becoming a Xen Strength member, such as, but not limited to, the Xen Strength member welcome kit, and its contents, training manuals. In the event of termination of this Agreement for any reason, Instructor agrees to retain Instructor's Xen Strength materials, destroy them or return them to Xen Strength and not to sell or give them away or to use them for any other purpose except personal, non-commercial use.

- 12.7.4. Use of Marks Other Than to Promote Xen Strength<sup>®</sup> Classes. Instructor acknowledges that Xen Strength may use (or license others to use) the Marks (and other trademarks) in connection with goods and services other than the services. Instructor shall have NO right to use and shall not use any Marks for purposes of promoting any workshop, training, instruction, choreography session, or other activity except Instructor's own Xen Strength class(es). Instructor shall not use any of the Marks to identify a gym, workout facility, business or trade name, or any other type of facility, program or product, except as expressly authorized herein, without the express prior written consent of Xen Strength. For example, the Marks may not be used to identify a business or company or to conduct business activities other than to promote and conduct Instructor's Services.
- 13.7.5. Videos/Recording. Except as expressly set forth above, Instructor may not film, record, create or stream any recordings including videos or DVDs of a Xen Strength class, or which depict or otherwise imitate Xen Strength sequencing. Xen Strength videos and DVDs are fully protected under the laws of copyright, and any unauthorized duplication, exhibition, distribution or other use without the express prior written consent of Xen Strength is strictly prohibited. In addition to constituting grounds for termination of this Agreement, copyright violators will be prosecuted to the fullest extent of the law. Instructor agrees to cooperate with Xen Strength's enforcement and anti-piracy efforts upon request, including by promptly responding to requests from the Xen Strength License Support Team or Xen Strength's Legal Department.
- 14.7.6. Instructor agrees to promptly comply with all licensing requirements posted on the Xen Strength License & Legal Support Page under "Licensing Requirements" or any instruction from the Xen Strength License Support Team or Xen Strength's Legal Department.
- 15.7.7. All requests for approval under this Agreement must be made to the Xen Strength License Support Team at least thirty (30) days in advance through the Xen Strength License Support Team (within the Legal Compliance Department), except that Xen Strength charity events are to follow the method stated above. Instructor should keep informed about new processes for approvals in 2013; information will be in the Xen Strength Newsletter.
- 16.7.8. All rights not specifically granted here are reserved to Xen Strength LLC.
- 17.7.9. Class Posting. Instructor agrees to make commercially reasonable efforts to post his/her classes on the Class Locator at [www.XenStrength.com](http://www.XenStrength.com). Instructor acknowledges that being able to identify legitimate classes on this platform is important to Xen Strength efforts to protect Xen Strength members by identifying unauthorized classes. Email your class schedule and location to [hello@xenstrength.com](mailto:hello@xenstrength.com).
7. **8. Infringement Notification and Proceedings.** Instructor agrees to promptly notify Xen Strength if Instructor becomes aware of any unauthorized use of the Mark by a third party. Xen Strength shall have the sole right and discretion to bring infringement or unfair competition proceedings involving the Mark and to retain the proceeds of any settlement or recovery in any such action. Instructor agrees to cooperate with Xen Strength in enforcing and protecting the Marks.



8. **9. Term.** The initial term of this Agreement shall be for a period of 12 months from the Effective Date (the "Initial Term"), and shall automatically renew for indefinite successive one-year periods unless or until Instructor breaches this Agreement or cancels his/her membership in accordance with this Agreement (the "Term"). Notwithstanding the foregoing, Xen Strength may cancel this Agreement and Instructor's membership in Xen Strength at any time, with or without cause, by giving Instructor written notice of termination. Upon termination without cause, any Xen Strength Membership Fees paid but not used shall be returned to Instructor.

9. **10. Termination For Cause.** Xen Strength shall have the right to immediately terminate this Agreement upon written notice to Instructor in the event of a breach of any of the provisions hereof by Instructor or upon taking any illegal action or other conduct deemed by Xen Strength to be detrimental to the Xen Strength<sup>®</sup> brand. Xen Strength may, in its sole and absolute discretion, provide Instructor with an opportunity to cure any breach of this Agreement prior to termination.

10. **11. Effect of Termination.** Upon termination of this Agreement, Instructor shall immediately discontinue all use of the Marks (including as part of a domain name) as well as any and all confusingly similar names and marks. In the event Instructor created any unauthorized printed materials containing the Xen Strength mark, Instructor shall immediately destroy all such printed materials. In the event Instructor registered a domain name containing the Xen Strength mark, then upon Xen Strength's request, Instructor shall transfer such domain name to Xen Strength. All rights in the Mark and the goodwill connected therewith shall remain the property of Xen Strength.

11. **12. Cancellation ("Quitting Xen Strength Certification Membership").**

- Instructor may cancel this Agreement and its membership as Xen Strength certified teacher at any time after the Initial Term.
- Cancellation by Instructor shall be effective on the last month of the year on which cancellation is requested, provided that cancellation is requested and received by Xen Strength at least two business days before the last day of the month. For example, if Instructor cancels his/her Xen Strength membership on January 30, but had renewed membership in June the year before, Instructor will remain a certified teacher until June of the cancellation year.
- Cancellation immediately forfeits Instructor's rights granted under this License Agreement, including use of the Marks (including Specialty Marks), copyrights, logos, domain names, and other Xen Strength marketing materials. Cancellation does not terminate Xen Strength's rights under this Agreement or any other benefit to Xen Strength of this Agreement.
- From the date of Xen Strength membership cancellation, Instructor will have one-year to return to Xen Strength as a certified teacher, without having to be re-certified. Within which time all Licenses (Xen Strength Marks and Specialty Marks) may be automatically reactivated, without having to retake any the Instructor Training for the same.

12. **13. Interpretation of Agreement; Enforcement.** This Agreement shall be construed in accordance with the laws of the United States of America and the State of New Jersey. The parties agree that any legal action arising from or relating to this Agreement may be brought in a Court in Essex

County, New Jersey. Each party expressly waives any challenge to personal jurisdiction or venue in those Courts. The prevailing party in any such action shall be entitled to recover its reasonable attorney's fees and costs. The parties expressly waive the right to a trial by jury in any action relating to this agreement. Instructor agrees that any judgment by a court under this Paragraph shall be fully enforceable in the country of residence of Instructor.

13. **14. Modifications to Terms and Conditions.** Instructor acknowledges that the terms and conditions of this Agreement may be updated and modified from time to time at Xen Strength 's sole and absolute discretion. Such changes may be effected by Xen Strength 's posting of a change notice or a new agreement on its website. Such modified terms shall be deemed incorporated herein and made part hereof. Xen Strength shall make commercially reasonable efforts to notify Instructor of all such changes prior to implementation. The enforceability of such changes shall not be deemed contingent upon actual notification, provided that Xen Strength has posted the changes on the Xen Strength License & Legal Support Page. In the event Instructor does not agree to abide by the terms of the Agreement, as modified, Instructor's sole remedy and recourse shall be to terminate this Agreement.
14. **15. Relationship of Parties.** The legal relationship between Xen Strength and Instructor shall be that of licensor and licensee. Nothing in this Agreement shall be construed as creating any partnership, joint venture, agency, franchise, sales representative or employment relationship between the parties, nor shall Xen Strength be deemed to be acting in a fiduciary capacity with respect to Instructor. Instructor shall have no authority to make or accept any offers or representations on behalf Xen Strength or to otherwise act for or bind Xen Strength in any manner. Instructor shall not make any statements or take an actions in any media whatsoever, including, without limitation, electronic media, print media, wireless media or the world wide web, that reasonably may contradict the relationship set forth in this Paragraph or that reasonably may confuse or mislead any person regarding the nature of the relationship - that of licensor and licensee - between Xen Strength and Instructor.
15. **16. Limitation of Liability.** Under no circumstances and under no legal or equitable theory, whether in tort, contract, strict liability or otherwise, shall Xen Strength or any of its affiliates, employees, directors, officers, agents, vendors or suppliers be liable to Instructor or to any other person for any indirect, special, incidental or consequential losses or damages of any nature arising out of or in connection with this Agreement, including, without limitation, damages for lost profits, loss of goodwill, loss of data, work stoppage, accuracy of results, or computer failure or malfunction, even if an authorized representative of Xen Strength has been advised of or should have known of the possibility of such damages. In no event shall Xen Strength be liable for any damages in excess of the fees paid by Instructor pursuant to this Agreement during the six-month period preceding the date on which a claim arises.
16. **17. Indemnification.** Instructor shall indemnify, defend and hold harmless Xen Strength and any of its affiliates along with their directors, officers, employees and agents from any and all losses, liabilities, damages and expenses (including reasonable attorney's fees and costs) that they may suffer as a result of any claims, demands, actions or other proceedings made or instituted by a third

party against any of them that arises out of any breach by instructor of any provision of this Agreement or from any other act or omission by Instructor.

17. **18. Disclaimers.** Xen Strength makes no representations or warranties, express or implied, to Instructor with respect to Xen Strength, or any products sold through Xen Strength (including, without limitation, warranties of fitness, merchantability, non-infringement) or any implied warranties arising out of a course of performance, dealing, or trade usage. In addition, Xen Strength makes no representation that the operation of Xen Strength 's website will be uninterrupted or error-free. As such, Xen Strength shall not be liable for the consequences of any interruptions or errors, although Xen Strength agrees to make commercially reasonable efforts to correct errors or interruptions.

18. **19. Nature of Xen Strength Services.** Instructor acknowledges and agrees that as a result of the physical nature of Xen Strength<sup>®</sup> fitness classes, Xen Strength Yoga with Weights may not be safe or appropriate for everyone. Instructor further acknowledges and agrees that any information Xen Strength may provide to Instructor through a Xen Strength website or otherwise regarding health and fitness is intended solely as a general educational aid and is not a substitute for medical or healthcare advice. Instructor further acknowledges that Instructor has been encouraged to seek the advice of a physician or other qualified healthcare professional if Instructor has experienced any medical condition that may affect Instructor's ability to provide the Services. Xen Strength and its affiliates and agents assume no responsibility for any consequence relating directly or indirectly to any action or inaction Instructor may take based on the information, services, or other material provided by Xen Strength or on a Xen Strength website. While Xen Strength will strive to provide complete, up-to-date and accurate information on its websites, Xen Strength and its affiliates and agents do not guarantee, and shall not be responsible or liable for, any damage or loss related to the accuracy, completeness, or timeliness of such information.

19. **20. Notices.** Any notice, request, demand or other communication required or permitted to be given hereunder may be given to any party at the addresses set forth below or as may hereafter be specified in a notice designated as a change of address under this paragraph. Any notice or request hereunder shall be given by registered or certified mail, return receipt requested, hand delivery, overnight mail, e-mail, or facsimile (confirmed by mail). Notices and requests shall be: (i) in the case of those by hand delivery, deemed to have been given when delivered to the party to whom it is addressed (supported by evidence of delivery), (ii) in the case of those by certified mail, deemed to have been given three (3) business days (inside the U.S.) or ten (10) business days (outside the U.S.) after the date when deposited in the mail, (iii) in the case of those by overnight mail, deemed to have been given one (1) business day (inside the U.S.) or five (5) business days (outside the U.S.) after the date when deposited with the overnight mail carrier, and (iv) in the case of e-mail or a facsimile, when confirmed by Xen Strength

If to Xen Strength:

Danielle Diamond, Founder, Xen Strength LLC

E-mail: [help@xenstrength.com](mailto:help@xenstrength.com)

If to Instructor: To the email address set forth in Instructor's Xen Strength Registration Form.

**20.21. No Waiver.** Xen Strength 's failure or agreement not to enforce the strict performance of any provision of this Agreement in a given instance shall not constitute a waiver of Xen Strength's right to subsequently enforce such provision or any other provision of this Agreement.

**21.22. Acceptance of Terms.** Instructor's payment of fees pursuant to this Agreement or click-through of this Agreement in signing on to Xen Strength's website or Xen Strength membership home, constitutes Instructor's acceptance of the terms hereof.

**22.23. Entire Agreement.** This Agreement shall supersede any other previously or simultaneously created documents, discussions or promises with which it may conflict, including prior Xen Strength Membership or License Agreements between Instructor and Xen Strength. This Agreement may be modified by Xen Strength on the Xen Strength License & Legal Support Page, which content is incorporated and effective on the date posted there by Xen Strength. Instructor agrees to monitor this Page regularly for changes to this Agreement.

Instructor's Name \_\_\_\_\_ (please print)

Instructor's Signature \_\_\_\_\_

This agreement must be read in full, signed, and faxed back to Xen Strength LLC at 917 744 2948. As soon as we receive it, you will be emailed a certification letter.