

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

BLAIR DOUGLASS, on behalf of himself and all
similarly situated individuals,

Plaintiff,

v.

iFIT INC.,

Defendant.

Civil Action No. 2:23-cv-917-MJH

CLASS SETTLEMENT AGREEMENT

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Class Settlement Agreement

1. Introduction. This Class Settlement Agreement (all capitalized terms have the meanings set forth in Section 2) is entered into by and between iFIT Inc. and any successors and assigns (collectively, “iFIT”) and Blair Douglass, individually and on behalf of the Settlement Class.

- 1.1. iFIT owns, operates, and controls the Website and Mobile App, which are open to consumers in the United States through the internet.
- 1.2. This Agreement applies to the Website and Mobile App, New Websites and Mobile Apps, and Subsequently Acquired Websites and Mobile Apps, but not to Subsequently Abandoned Websites and Mobile Apps.
- 1.3. Mr. Douglass uses screen reader auxiliary aids to access digital information and is a person with a disability as that term is used ADA. Mr. Douglass has attempted to patronize the Website and intends to do so again in the future.
- 1.4. On or about May 31, 2023, Mr. Douglass filed the Lawsuit, in which Mr. Douglass asserts that iFIT’s Website and Mobile App are not fully accessible to blind or visually disabled individuals, in violation of the ADA. iFIT denies liability for all claims asserted against it in the Lawsuit.
- 1.5. The Parties desire to avoid the necessity, expense, inconvenience and uncertainty of litigation and have agreed to effect a complete resolution and settlement of all claims, disputes and controversies relating to the allegations of Mr. Douglass and the Settlement Class, and to resolve their differences and disputes by settling the Lawsuit pursuant to the terms of this Agreement, without this Agreement constituting evidence of admission by any Party regarding any claim, counterclaim, or any issue of fact or law that was asserted or could have been asserted in the Lawsuit.

2. Definitions.

- 2.1. **“Accessible” or “Accessibility”** refers to digital content that provides reasonably effective communication, as that term is used in 28 C.F.R. § 36.303(c), to all Blind and Visually Disabled persons in substantial compliance with the success criteria of the WCAG 2.1.
- 2.2. **“Accessibility Audit”** means the initial audit of the Website described in Section 8 of this Agreement.

- 2.3. “**Accessibility Coordinator**” means the person designated by iFIT to serve in the role described in Section 6 of this Agreement.
- 2.4. “**Accessibility Consultant**” means the person designated by iFIT to serve in the role described in Section 7 of this Agreement.
- 2.5. “**Accessibility Training**” means ADA/WCA 2.1 training provided by the Accessibility Consultant to relevant iFIT Personnel.
- 2.6. “**Accessibility Webpages**” means the webpages that describe iFIT’s commitment to accessibility and inclusion for Blind and Visually Disabled persons, solicit feedback from visitors to the Digital Properties on how the Accessibility of the Digital Properties can be improved for Blind and Visually Disabled persons, and include an Accessible means of submitting Accessibility questions and problems, including a telephone number and an email address to provide feedback about the Accessibility of the Digital Properties.
- 2.7. “**ADA**” means Title III of the Americans with Disabilities Act, 42 U.S.C. §§ 12181 *et seq.*, and its implementing regulations.
- 2.8. “**Agreement**” means this Class Settlement Agreement.
- 2.9. “**Agreement Term**” means the time from the Effective Date of this Agreement through the end of three (3) years from the Effective Date of this Agreement.
- 2.10. “**Annual Report**” means a document iFIT submits to Class Counsel each year during the Agreement Term and, if applicable, the First Extended Agreement Term and Second Extended Agreement Term, stating the status of this Agreement’s implementation and attaching any relevant material described in Sections 5.3, 7.4, 8.3, 9.4, 10.5, 11.3, 12.4 and 13.3 of this Agreement. The “**First Annual Report**” means the Annual Report iFIT submits to Class Counsel within thirty (30) calendar days of the first anniversary of the Effective Date of this Agreement, the “**Second Annual Report**” means the Annual Report iFIT submits to Class Counsel within thirty (30) calendar days of the second anniversary of the Effective Date of this Agreement, the “**Third Annual Report**” means the Annual Report iFIT submits to Class Counsel within thirty (30) calendar days of the third anniversary of the Effective Date of this Agreement. If applicable, the “**Fourth Annual Report**” means the Annual Report iFIT submits to Class Counsel within thirty (30) calendar days of the fourth anniversary of the Effective Date of this Agreement and the “**Fifth Annual Report**” means the Annual Report iFIT submits to Class Counsel within thirty (30) calendar days of the fifth anniversary of the Effective Date of this Agreement.

- 2.11. **“Blind” and/or “Visually Disabled”** means a person with a physical impairment that substantially limits the major life activity of seeing, as defined by the ADA, 42 U.S.C. § 12102(1)-(2).
- 2.12. **“Class Counsel”** means Kevin Tucker, Kevin Abramowicz, Stephanie Moore, and Chandler Steiger of East End Trial Group LLC.
- 2.13. **“Costs”** means all out-of-pocket expenses reasonably incurred and shall include (but not be limited to) amounts payable to experts.
- 2.14. **“Court”** means United States District Court for the Western District of Pennsylvania.
- 2.15. **“Customer Service Personnel”** means a person designated by iFIT to serve in the role described in Section 12 of this Agreement.
- 2.16. **“Digital Properties”** means the Website, Mobile App, New Websites and Mobile Apps, and Subsequently Acquired Websites and Mobile Apps.
- 2.17. **“Dispute Resolution Procedure”** means the process described in Section 18 of this Agreement.
- 2.18. **“Effective Date”** means the date on which all conditions precedent set forth in Section 3 of this Agreement are completed.
- 2.19. **“End User Testing”** means testing to be performed by individuals who have training and experience in the manner in which Blind or Visually Disabled individuals use a screen reader to navigate, browse, and conduct business online, to evaluate whether the Digital Properties are Accessible.
- 2.20. **“Final Approval”** means approval given in a written order to this Agreement by a United States District Court Judge or United States Magistrate Judge of competent jurisdiction after notice to the Settlement Class and a hearing.
- 2.21. **“First Extended Agreement Term”** means the time from the end of the Agreement Term through the end of four (4) years from the Effective Date of this Agreement.
- 2.22. **“iFIT Mobile App”** means the iFIT At-Home Workout & Fitness mobile application that is publicly available to consumers in the United States through the Apple App Store.

- 2.23. **“iFIT Personnel”** means all persons who are employed by iFIT and who have managerial responsibility for the design and development of the Digital Properties.
- 2.24. **“Injunctive Releasing Parties”** means Mr. Douglass and all Settlement Class Members, and each of their executors, successors, heirs, assigns, administrators, agents and representatives.
- 2.25. **“Lawsuit”** means *Douglass v. iFIT Inc.*, Case No. 2:23-cv-917-MJH (W.D. Pa.).
- 2.26. **“Letter of Accessibility”** means a letter issued by the Accessibility Consultant at the end of the Agreement Term and, if applicable, the end of the First Extended Agreement Term, describing the Accessibility Audit and QA Monitoring performed by the Accessibility Consultant on the Digital Properties, identifying steps taken, if necessary, to ensure the Accessibility of the U.S. portion of the Digital Properties, and recommending additional steps, if any, to ensure the U.S. portion of the Digital Properties become Accessible within the following twelve (12) months.
- 2.27. **“Long-Form Notice”** means the “Notice of Proposed Settlement of Class Action Lawsuit” attached to this Agreement as Exhibit 1.
- 2.28. **“Mobile App”** means any mobile application that iFIT operates and that is publicly available to consumers in the United States as of the Effective Date of this Agreement.
- 2.29. **“Modified Bug Fix Priority Policies”** refer to the policies described in Section 11 of this Agreement.
- 2.30. **“New Websites and Mobile Apps”** means any website or mobile application that iFIT develops and starts to operate and makes publicly available to consumers in the United States after the Effective Date of this Agreement and is not a Subsequently Abandoned Website or Mobile App.
- 2.31. **“Notice Deadline”** means the deadline for publishing notice to be set by the Court as part of the Preliminary Approval process.
- 2.32. **“Party”** refers to iFIT, Mr. Douglass, or the Settlement Class.
- 2.33. **“Parties”** refers to iFIT, Mr. Douglass, and the Settlement Class.
- 2.34. **“Preliminary Approval”** means the initial approval by the Court of the terms of this Agreement, which will occur before any notice is provided in accordance with this Agreement.

- 2.35. **“QA Monitoring”** means automated monitoring and End User Testing of selected websites and/or mobile applications for substantial compliance with WCAG 2.1 performed by the Accessibility Consultant.
- 2.36. **“Released Injunctive Claims”** means any and all claims, rights, demands, charges, complaints, actions, suits and causes of action, whether known or unknown, suspected or unsuspected, accrued or unaccrued, for injunctive, declaratory, or non-monetary relief, based on the Accessibility of the Digital Properties to Blind and Visually Disabled persons, including any injunctive, declaratory, or non-monetary claims under: (i) the ADA; and/or (ii) any similar or related state or local statutory, administrative, regulatory or code provisions. The “Released Injunctive Claims” cover all conduct concerning the Accessibility of the Digital Properties through the Agreement Term and, if applicable, the First Extended Agreement Term and Second Extended Agreement Term.
- 2.37. **“Second Extended Agreement Term”** means the time from the end of the First Extended Agreement Term through the end of five (5) years from the Effective Date of this Agreement.
- 2.38. **“Settlement Class”** or **“Settlement Class Members”** means all Blind or Visually Disabled persons who have accessed, attempted to access, or been deterred from attempting to access, or who will access, attempt to access, or be deterred from accessing the Digital Properties from the United States.
- 2.39. **“Settlement Website”** means the website located at <https://www.iFITADAsettlement.com>.
- 2.40. **“Subsequently Abandoned Websites and Mobile Apps”** means any website or mobile application, including the Digital Properties, that iFIT ceases to operate or make available to consumers in the United States after the Effective Date of this Agreement.
- 2.41. **“Subsequently Acquired Websites and Mobile Apps”** means any website or mobile application that iFIT acquires from a third party and starts to operate and makes publicly available to consumers in the United States after the Effective Date of this Agreement, and is not a Subsequently Abandoned Website or Mobile App.
- 2.42. **“Third-Party Content”** means technologies provided by someone other than iFIT (a “Technology Provider”) and used on the Digital Properties to transfer data and content between the Technology Provider and consumers’ browsers. Examples of Third-Party Content may include instant messengers (*e.g.*, LiveChat), technology that allows consumers to make installment payments (*e.g.*, Klarna, Affirm, Sezzle,

and Afterpay), accessibility overlays (e.g., accessiBe and UserWay), and advertisements displayed in pop-up windows.

- 2.43. “WCAG 2.1” means Web Content Accessibility Guidelines 2.1, including the WAI-ARIA, and/or the BBC Mobile Accessibility Standards and Guidelines currently available at:

<https://www.bbc.co.uk/accessibility/forproducts/guides/mobile/>

- 2.44. “Website” means any website that iFIT operates and which is publicly available to consumers in the United States as of the Effective Date of this Agreement, including but not limited to <https://www.nordictrack.com/>, <https://www.proform.com/>, <https://freemotionfitness.com/>, and <https://www.ifit.com/>.

3. **Conditions Precedent.** This Agreement shall be conditioned and effective only upon the occurrence of all of the following events:

- 3.1. The Court grants Preliminary Approval of this Agreement, and orders certification of the Settlement Class and notice to the Settlement Class Members.
- 3.2. Notice is provided to the Settlement Class in accordance with Section 23 of this Agreement.
- 3.3. The Court grants Final Approval of this Agreement and enters Judgment in accordance with the terms set forth herein after a fairness hearing has been conducted, and all such orders and approvals have become final and non-appealable.

4. **iFIT Shall Use Commercially Reasonable Efforts to Ensure its Digital Properties are Accessible.** iFIT shall use commercially reasonable efforts to ensure Blind or Visually Disabled persons enjoy full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations provided by and through the Digital Properties as provided for in this Section:

- 4.1. No later than the end of the Agreement Term, iFIT shall use commercially reasonable efforts to ensure the U.S. portion of the Website and Mobile App is Accessible.
- 4.2. iFIT shall use commercially reasonable efforts to ensure the U.S. portion of any New Websites and Mobile Apps are Accessible at the time of their release.

- 4.3. iFIT shall use commercially reasonable efforts to ensure the U.S. portion of Subsequently Acquired Websites and Mobile Apps are Accessible no later than the end of the Agreement Term or twelve (12) months after iFIT's acquisition of the Subsequently Acquired Website or Mobile App, whichever is later.

5. Third-Party Content.

- 5.1. iFIT shall not be required to ensure Third-Party Content is Accessible, but shall use commercially reasonable efforts to ensure Third-Party Content is Accessible if the Third-Party Content is necessary for Blind and Visually Disabled persons to complete a purchase or utilize a chatbot or similar virtual assistant service on a Digital Property.
- 5.2. After the Effective Date of this Agreement, for each new, renewed, or renegotiated contract with a vendor of Third-Party Content, iFIT shall seek a commitment from the vendor to provide content in a format that substantially complies with WCAG 2.1 or can be made by iFIT to substantially comply with WCAG 2.1. If during this contracting process iFIT issues a request for proposal for development or inclusion of Third-Party Content on the Digital Properties, then iFIT shall include substantial compliance with WCAG 2.1 as a criterion. For Third-Party Content that is not subject to a written contract, iFIT shall seek out such content that substantially complies with WCAG 2.1, which may include discussions with vendors to provide content in a format that substantially complies with WCAG 2.1 or can be made by iFIT to substantially comply with WCAG 2.1.
- 5.3. If, after following the process set forth in Section 5.2, iFIT is unable to obtain Third-Party Content that substantially complies with WCAG 2.1, it shall demonstrate through its Annual Report to the Class Counsel and Mr. Douglass that obtaining or providing Third-Party Content that substantially complies with WCAG 2.1 would fundamentally alter the nature of its Digital Properties, goods and services or would result in an undue burden.

6. Accessibility Coordinator.

- 6.1. Within three (3) months of the Effective Date of this Agreement, iFIT shall designate an employee as the Accessibility Coordinator, approved by Mr. Douglass and Class Counsel, for the Digital Properties, which approval shall not be unreasonably withheld.
- 6.2. The Accessibility Coordinator shall report directly to iFIT's Chief Product Officer and shall be responsible for coordinating iFIT's compliance with Sections 8, 9, and 13 of this Agreement.

- 6.3. iFIT must seek and obtain approval of Class Counsel and Mr. Douglass prior to appointing a new individual as Accessibility Coordinator during the Agreement Term, which approval shall not be unreasonably withheld.
- 6.4. iFIT shall have a designated Accessibility Coordinator through at least the Agreement Term, and, if applicable, the First Extended Agreement Term and Second Extended Agreement Term.

7. Accessibility Consultant and Letter of Accessibility.

- 7.1. No later than six (6) months after the Effective Date of this Agreement, iFIT shall retain an Accessibility Consultant who is knowledgeable about digital accessibility, the ADA, and WCAG 2.1, and is approved by Mr. Douglass and Class Counsel, which approval shall not be unreasonably withheld.
- 7.2. The Accessibility Consultant's duties shall include: (a) assisting iFIT to conduct an Accessibility Audit of www.nordictrack.com and the iFIT Mobile App as described in Section 8; (b) advising iFIT, if necessary, on how to make www.nordictrack.com and the iFIT Mobile App Accessible; (c) providing Accessibility Training to relevant iFIT Personnel to allow iFIT to take commercially reasonable efforts to ensure the Digital Properties will be Accessible prospectively; (d) providing annual QA Monitoring, as described in Section 13, for each year of the Agreement Term after the first year, including the First Extended Agreement Term and the Second Extended Agreement Term, if applicable; and (e) providing iFIT a Letter of Accessibility before the end of the Agreement Term and, if applicable, the end of the First Extended Agreement Term.
- 7.3. iFIT must seek and obtain approval of Mr. Douglass and Class Counsel prior to appointing a new individual as Accessibility Consultant during the Agreement Term, which approval shall not be unreasonably withheld.
- 7.4. iFIT shall include a copy of the most recently issued Letter of Accessibility as an exhibit to the Third Annual Report and, if applicable, the Fourth Annual Report.

8. Accessibility Audit.

- 8.1. No later than ten (10) months after the Effective Date of this Agreement, iFIT's Accessibility Consultant shall complete an Accessibility Audit as to www.nordictrack.com and the iFIT Mobile App, which are technologically representative of the Digital Properties.
- 8.2. The Accessibility Audit shall be conducted in a professional manner and shall be benchmarked by appropriate processes, including automated and End User Testing

of specified web screens and pages, consistent with the Accessibility Consultant's recommendations.

- 8.3. iFIT shall provide a copy of the results of the Accessibility Audit as an exhibit to the First Annual Report.

9. Accessibility Training.

- 9.1. No later than twelve (12) months after the Effective Date of this Agreement, iFIT's Accessibility Consultant shall provide Accessibility Training so that iFIT Personnel are trained in methods designed to ensure the Digital Properties are and remain Accessible.
- 9.2. The Accessibility Training shall be recorded and made available, along with all relevant materials, to newly-hired iFIT Personnel within ninety (90) calendar days of the date they begin employment at iFIT.
- 9.3. During the second two years of the Agreement Term and, if applicable, the First Extended Agreement Term and Second Extended Agreement Term, iFIT shall provide refresher accessibility training to iFIT Personnel.
- 9.4. iFIT shall provide a copy of any Accessibility Training recordings and materials developed or utilized during the prior calendar year as an exhibit to the Annual Report.

10. Accessibility Webpages.

- 10.1. During the Agreement Term and, if applicable, the First Extended Agreement Term and Second Extended Agreement Term, iFIT shall continue to maintain Accessibility Webpages.
- 10.2. No later than twelve (12) months after the Effective Date of this Agreement, iFIT shall add invisible anchor text in the header of the homepage of the Website and Mobile App which reads, "Click to view our Accessibility Page." The anchor text shall redirect consumers to the Website's and Mobile App's respective Accessibility Webpages.
- 10.3. iFIT shall include invisible anchor text in the header of the homepage of any New Websites and Mobile Apps at the time of their release, which reads, "Click to view our Accessibility Page." The anchor text shall redirect consumers to the New Websites' and Mobile Apps' respective Accessibility Webpages.

- 10.4. Within three (3) months of their acquisition, iFIT shall add invisible anchor text in the header of the homepage of any Subsequently Acquired Websites and Mobile Apps, which text reads, “Click to view our Accessibility Page.” The anchor text shall redirect consumers to the Subsequently Acquired Websites’ and Mobile Apps’ respective Accessibility Webpages.
- 10.5. iFIT shall confirm the addition of any invisible anchor text required by Sections 10.2, 10.3, or 10.4 during the prior calendar year in the Annual Report.

11. Modified Bug Fix Priority Policies.

- 11.1. No later than eighteen (18) months after the Effective Date of this Agreement, iFIT shall make reasonable efforts to modify existing bug fix policies, practices, and procedures, if necessary, to include the elimination of bugs that create Accessibility barriers so that the Digital Properties substantially comply with WCAG 2.1.
- 11.2. The Modified Bug Fix Priority Policies shall reflect reasonable efforts to ensure that any bugs that create Accessibility barriers to the Digital Properties are remedied to the extent required under the ADA with the same level of priority (*e.g.*, speed, resources used to remediate) as any other equivalent bugs that create a loss of function for individuals without disabilities.
- 11.3. iFIT shall provide a copy of the Modified Bug Fix Priority Policies as an exhibit to the Second Annual Report.

12. Customer Service Personnel.

- 12.1. No later than eighteen (18) months after the Effective Date of this Agreement, iFIT shall designate and train no fewer than two (2) Customer Service Personnel to receive and prioritize calls from Blind or Visually Disabled persons who encounter difficulties using the Digital Properties, and to timely assist such persons within iFIT’s published hours of operation.
- 12.2. The Customer Service Personnel will be instructed to prioritize electronic or written form communications from Blind or Visually Disabled persons who encounter difficulties using the Digital Properties, and to timely assist such users within iFIT’s published hours of operation.
- 12.3. Should any complaint or issue that directly concerns compliance with the terms of this Agreement be made to a Customer Service Personnel, such Customer Service Personnel shall be instructed to forward said complaint or issue to the Accessibility Coordinator, who shall be instructed to forward such complaint or issue to Class Counsel and Mr. Douglass as soon as practicable but not less than fifteen (15)

business days of the Accessibility Coordinator's receipt of such complaint or issue. To the extent there is a dispute over any such complaint or issue that is not resolved, iFIT, Class Counsel, or Mr. Douglass may submit it to the Dispute Resolution Procedure.

- 12.4. iFIT shall provide a copy of any customer service training materials used during the Customer Service Personnel training referenced in Section 12.1 as an exhibit to the Second Annual Report.

13. **Annual QA Monitoring.**

- 13.1. During the second and third years of the Agreement Term and, if applicable, the First Extended Agreement Term and Second Extended Agreement Term, the Accessibility Consultant shall perform annual QA Monitoring on two of the Digital Properties. Each year, the QA Monitoring will be conducted on two different Digital Properties than the Digital Properties assessed in the prior year.
- 13.2. The QA Monitoring shall be conducted in a professional manner and shall be benchmarked by appropriate processes, including automated and End-User Testing of specified web screens and pages, consistent with the Accessibility Consultant's recommendations.
- 13.3. iFIT shall provide copies of the results of QA Monitoring completed during the prior calendar year as an exhibit to the Second Annual Report, the Third Annual Report and, if applicable, the Fourth Annual Report and the Fifth Annual Report.
- 13.4. After receiving the results of QA Monitoring, iFIT will use commercially reasonable efforts to promptly remediate any Accessibility issues identified to the extent required under the ADA. If the QA Monitoring process demonstrates that iFIT has fallen materially short of its obligations to make the Digital Properties Accessible, meaning that iFIT has systematically failed to timely receive a Letter of Accessibility, the Parties will meet and confer regarding a reasonable course of action, which may include more widespread QA Monitoring or a more frequent End User Testing requirement.

14. **Agreement Term.** The Agreement Term shall be three (3) years from the Effective Date of this Agreement with the possibility of up to two (2) extensions under the following circumstances:

- 14.1. If the Accessibility Consultant cannot provide a Letter of Accessibility to iFIT before the end of the Agreement Term, then the term of the Agreement shall extend to the First Extended Agreement Term.

- 14.2. If the Accessibility Consultant cannot provide a Letter of Accessibility to iFIT before the end of the First Extended Agreement Term, if applicable, then the term of the Agreement shall extend to the Second Extended Agreement Term.
- 14.3. In addition to Sections 14.1 and 14.2, if iFIT determines in its sole discretion that it would be beneficial to extend the Agreement Term, the Agreement shall extend to the First Extended Agreement Term and/or the Second Extended Agreement Term as specified by iFIT.
15. **Monitoring of Compliance.** Class Counsel and Mr. Douglass shall monitor iFIT's compliance with Sections 5 through 13 as more fully described in this paragraph. Class Counsel and Mr. Douglass shall be entitled to visit the Digital Properties at any time without notice for the purpose of evaluating compliance with Sections 5 through 13.
16. **Scope of Agreement.**
- 16.1. The provisions of this Agreement shall apply to iFIT's policies, practices, and procedures with respect to Blind or Visually Disabled persons within the United States.
- 16.2. The provisions of this Agreement shall not apply to Subsequently Abandoned Websites and Mobile Apps.
- 16.3. Mr. Douglass expressly agrees that the resolution described herein is fair and adequate, and that the policies and procedures set forth in this Agreement are intended to remedy any and all alleged violations of the ADA and related state and local laws by iFIT with respect to the claims alleged by Mr. Douglass in this case on behalf of himself and all similarly situated Class Members.
17. **Additional Information to Class Counsel and Mr. Douglass.**
- 17.1. Class Counsel and Mr. Douglass may request additional information regarding any matter covered by this Agreement if such additional information is necessary to determine whether or not iFIT is in compliance with this Agreement.
- 17.2. iFIT shall provide such additional information or state its objection to providing such information within fifteen (15) business days of its receipt of a written request by Class Counsel and Mr. Douglass.
18. **Dispute Resolution Procedure.** The Parties shall address disputes relating to compliance with any provision of this Agreement as follows.

18.1. Informal Dispute Resolution.

- 18.1.1. If Mr. Douglass believes that a dispute exists relating to compliance with any provision of this Agreement, he shall notify iFIT in writing, describing the dispute in detail. iFIT shall respond in writing to such notice from Mr. Douglass within fifteen (15) business days of iFIT's receipt of the notice. iFIT's response shall be directed to Mr. Douglass and Class Counsel.
- 18.1.2. If iFIT believes that a dispute exists relating to compliance with any provision of this Agreement, it shall notify Class Counsel and Mr. Douglass in writing, describing the dispute in detail. Class Counsel and Mr. Douglass shall respond in writing to such notice from iFIT within fifteen (15) business days of their receipt of the notice. The responses of Mr. Douglass and Class Counsel shall be directed to iFIT.
- 18.1.3. If a Settlement Class Member believes a dispute exists relating to compliance with any provision of this Agreement, she may notify Class Counsel who, in turn, shall notify iFIT in writing, describing the dispute in detail. iFIT shall respond in writing to such notice from Class Counsel within fifteen (15) business days of iFIT's receipt of the notice. iFIT's response shall be directed to Class Counsel and Mr. Douglass.
- 18.1.4. If a Settlement Class Member directly informs iFIT of a dispute relating to compliance with any provision of this Agreement, iFIT shall notify Class Counsel and Mr. Douglass in writing, providing the Settlement Class Member's description of the dispute and providing the Settlement Class Member's contact information, if known. iFIT shall respond in writing to such notice from a Settlement Class Member within fifteen (15) business days of iFIT's receipt of the notice. iFIT's response shall be directed to Class Counsel and Mr. Douglass.
- 18.1.5. Within fifteen (15) business days of receipt of the response described in Section 18.1.1, 18.1.2, 18.1.3, or 18.1.4, counsel for all Parties shall meet and confer by telephone or in person and attempt to resolve the issue informally.

18.2. Submission to Mediation.

18.2.1. In the event that the Parties are unable to resolve a dispute through the informal dispute resolution process detailed in Section 18.1, iFIT, Mr. Douglass, or Class Counsel may provide notice that it is referring the dispute to non-binding mediation. iFIT, Mr. Douglass, and Class Counsel shall agree upon a mediator within fifteen (15) business days of the date each Party receives notice under this Subsection that the dispute is being referred to non-binding mediation. In the event iFIT, Mr. Douglass, and Class Counsel cannot agree on a mediator within this fifteen (15) business day period, iFIT, Mr. Douglass, or Class Counsel may ask the American Arbitration Association to select a mediator.

18.2.2. Non-binding mediation shall take place within forty-five (45) calendar days of the date a mediator is agreed upon by iFIT, Mr. Douglass, and Class Counsel or selected by the American Arbitration Association. If non-binding mediation cannot be scheduled within this forty-five (45) calendar day period, the Parties agree to extend the period for non-binding mediation so that it takes place within ninety (90) calendar days of the date a mediator is agreed upon by iFIT, Mr. Douglass, and Class Counsel or selected by the American Arbitration Association.

18.2.3. The mediator's compensation and other mediation fees, costs, and expenses shall be borne equally by the Parties. Each Party shall otherwise pay for the costs it incurs to participate in the mediation.

18.3. Submission to the Court.

18.3.1. In the event that the Parties are unable to resolve their dispute through the informal dispute resolution process detailed in Section 18.1 or the mediation process detailed in Section 18.2, or if non-binding mediation does not commence within ninety (90) calendar days of the date a mediator is agreed-upon by iFIT, Mr. Douglass, and Class Counsel or selected by the American Arbitration Association, iFIT, Mr. Douglass, or Class Counsel may seek enforcement of this Agreement by the Court. Such litigation will not be filed if the informal dispute resolution process or the non-binding mediation process is ongoing.

18.3.2. In the event iFIT, Mr. Douglass, or Class Counsel finds that it is necessary to seek resolution of the dispute by the Court, the Court shall award reasonable attorneys' fees and costs incurred in pursuing judicial relief to the prevailing party in accordance with the applicable standards of the ADA.

19. Incentive Award to Mr. Douglass.

- 19.1. Subject to Court approval, iFIT shall pay Mr. Douglass an incentive award in the amount of One Thousand Five Hundred Dollars and Zero Cents (\$1,500.00).
- 19.2. Mr. Douglass waives any right to an incentive award in connection with this matter which exceeds the amount provided in Section 19.1.
- 19.3. iFIT shall pay the amount provided in Section 19.1 within thirty (30) calendar days of the Effective Date of this Agreement or the date iFIT receives all necessary IRS forms from Mr. Douglass and/or Class Counsel, whichever is later, by sending a business check or wire transfer payable to "EAST END TRIAL GROUP LLC IOLTA ATTORNEY TRUST ACCOUNT" to Class Counsel in care of Kevin W. Tucker, East End Trial Group, LLC, at an address or account to be confirmed by Class Counsel before payment.
- 19.4. The Incentive Award shall not be subject to withholding deductions and iFIT may issue an IRS Form 1099 to Mr. Douglass, and any other necessary forms, through Class Counsel at the address provided for notice below, to process this payment. Payment of the Incentive Award is contingent on Mr. Douglass and/or Class Counsel completing and returning all necessary IRS forms.

20. Attorneys' Fees and Costs up to the End of the Agreement Term.

- 20.1. Subject to Court approval, iFIT shall pay Mr. Douglass's reasonable attorneys' fees and Costs incurred in connection with this matter, up to and including the end of the Agreement Term, in the amount of Fifty-Three Thousand Five Hundred Dollars and Zero Cents (\$53,500.00).
- 20.2. Mr. Douglass waives any right to attorneys' fees and Costs incurred in connection with this matter up to and including the end of the Agreement Term that exceed the amount provided in Section 20.1, other than the right to any reasonable attorneys' fees and Costs awarded pursuant to the Dispute Resolution Procedure.
- 20.3. iFIT shall pay the amount provided in Section 20.1 within thirty (30) calendar days of the Effective Date of this Agreement or the date iFIT receives all necessary IRS forms from Mr. Douglass and/or Class Counsel, whichever is later, by sending a

business check or wire transfer payable to “EAST END TRIAL GROUP LLC IOLTA ATTORNEY TRUST ACCOUNT” to Class Counsel in care of Kevin W. Tucker, East End Trial Group, LLC, at an address or account to be confirmed by Class Counsel before payment.

- 20.4. The Parties have agreed to settle this case for Fifty-Five Thousand Dollars and Zero Cents (\$55,000.00) in total, which includes the Incentive Award to Mr. Douglass described in Section 19 and the attorneys’ fees and Costs described in Section 20. Other than any reasonable attorneys’ fees and Costs awarded pursuant to the Dispute Resolution Procedure, iFIT’s liability to Mr. Douglass, Class Counsel, and/or any Class Members shall not exceed Fifty-Five Thousand Dollars and Zero Cents (\$55,000.00).

21. Attorneys’ Fees and Costs after the Agreement Term.

21.1. First Extended Agreement Term

21.1.1. If there is a First Extended Agreement Term, iFIT shall pay additional reasonable attorneys’ fees and Costs incurred by Mr. Douglass during the First Extended Agreement Term for work performed by Class Counsel pursuant to this Agreement in the amount of Fifteen Thousand Dollars and Zero Cents (\$15,000.00).

21.1.2. Other than the right to any reasonable attorneys’ fees and Costs awarded pursuant to the Dispute Resolution Procedure, Mr. Douglass waives any right to attorneys’ fees and Costs for work performed by Class Counsel during the First Extended Agreement Term that exceeds the amount provided in Section 21.1.1.

21.1.3. If there is a First Extended Agreement Term, iFIT shall pay the amount provided in Section 21.1.1 no later than three (3) months after the start of the First Extended Agreement Term or the date iFIT receives all necessary IRS forms from Mr. Douglass and/or Class Counsel, whichever is later, by sending a business check or wire transfer payable to “EAST END TRIAL GROUP LLC IOLTA ATTORNEY TRUST ACCOUNT” to Class Counsel in care of Kevin W. Tucker, East End Trial Group, LLC, at an address or account to be confirmed by Class Counsel before payment.

21.2. Second Extended Agreement Term

- 21.2.1. If there is a Second Extended Agreement Term, iFIT shall pay additional reasonable attorneys' fees and Costs incurred by Mr. Douglass during the Second Extended Agreement Term for work performed by Class Counsel pursuant to this Agreement in the amount of Fifteen Thousand Dollars and Zero Cents (\$15,000.00).
- 21.2.2. Other than the right to any reasonable attorneys' fees and Costs awarded pursuant to the Dispute Resolution Procedure, Mr. Douglass waives any right to attorneys' fees and Costs for work performed by Class Counsel during the Second Extended Agreement Term that exceeds the amount provided in Section 21.2.1.
- 21.2.3. If there is a Second Extended Agreement Term, iFIT shall pay the amount provided in Section 21.2.1 no later than three (3) months after the start of the Second Extended Agreement Term or the date iFIT receives all necessary IRS forms from Mr. Douglass and/or Class Counsel, whichever is later, by sending a business check or wire transfer payable to "EAST END TRIAL GROUP LLC IOLTA ATTORNEY TRUST ACCOUNT" to Class Counsel in care of Kevin W. Tucker, East End Trial Group, LLC at an address or account to be confirmed by Class Counsel before payment.

22. **Preliminary Approval, Objections, and Fairness Hearing.**

- 22.1. Promptly after execution of this Agreement, the Parties shall jointly request that the Court schedule a preliminary approval hearing within fourteen (14) calendar days of the request or as soon thereafter as the Court may set the hearing and that the Court preliminarily approve the Agreement, preliminarily certify the Settlement Class, preliminarily enjoin Settlement Class Members from bringing any claims to be released pursuant to this Agreement, and approve the proposed form of notice and plan for providing notice outlined in Section 23.
- 22.2. Mr. Douglass shall ask the Court to schedule a fairness and final approval hearing for ninety (90) calendar days after the Notice Deadline set by the Court, or as soon thereafter as the Court may set the hearing.
- 22.3. Mr. Douglass shall ask the Court to order Mr. Douglass to move for the payment of the reasonable attorney's fees and Costs described in Section 20.1 in accordance

with Section 20.3 within forty-five (45) calendar days after the Notice Deadline set by the Court.

- 22.4. Mr. Douglass shall ask the Court to order the following procedures for objections: Any Settlement Class Member may object to this Agreement by filing, within sixty (60) calendar days after the Notice Deadline set by the Court, written objections with the Clerk of the Court. Only such objecting Settlement Class Members shall have the right, and only if they expressly seek it in their objection, to present objections orally at the fairness hearing in the Lawsuit. Responses by Mr. Douglass to any timely-filed objections shall be made no fewer than five (5) calendar days before the fairness hearing in the Lawsuit.

23. **Notice.**

- 23.1. As soon as practicable, but no later than twenty-one (21) calendar days after the Court's entry of a Preliminary Approval Order, iFIT shall at its expense:
 - 23.1.1. Cause the Long-Form Notice to be published on, and make the following documents filed in the Lawsuit available for download on, the Settlement Website: the class action complaint, motion for preliminary approval of class action settlement and supporting documents, and the Court's orders concerning preliminary approval as well as any supporting memorandum. The Settlement Website and the documents identified in this Subsection shall be fully accessible to individuals who screen reader auxiliary aids.
 - 23.1.2. Add invisible anchor text in the header of the Website's and Mobile App's homepages which reads, "Click to view our ADA Class Action Settlement Notice regarding our commitment to ensure iFIT's websites and mobile applications are accessible" and which links to the Settlement Website.
- 23.2. As soon as practicable, but no later than seven (7) calendar days after Mr. Douglass moves for payment of the reasonable attorney's fees and Costs described in Section 20.1 in accordance with the deadline set under Section 22.3, iFIT shall make any motion for attorneys' fees and Costs, and supporting documentation, available for download on the Settlement Website. In addition, as soon as practicable, but no later than seven (7) calendar days after any Court order on Mr. Douglass's motion for attorneys' fees and Costs, iFIT shall make the order available for download on the Settlement Website.
- 23.3. As soon as practicable, but no later than twenty-one (21) calendar days after the Court's entry of a Preliminary Approval order, Class Counsel shall, at its expense, request that at least the following organizations publish notice in the form of

Section 23.4 in their respective electronic newsletters and social media accounts such that the notice is sent out within sixty (60) calendar days of Preliminary Approval: Achieva, American Action Fund for Blind Children and Adults, American Council of the Blind, American Foundation for the Blind, Blinded American Veterans Foundation, Blinded Veterans Association, Foundation Fighting Blindness, Guide Dogs for the Blind, National Association of Blind Merchants, National Council on Disability, and National Federation of the Blind. Class Counsel shall copy iFIT's counsel on each request at the address provided in Section 34.2.

23.4. The notice described in Section 23.3 shall read:

“A proposed settlement has been reached that would resolve the class action lawsuit *Douglass v. iFIT Inc.*, No. 2:23-cv-917-MJH (W.D. Pa.). The lawsuit alleges that iFIT Inc. violated the Americans with Disabilities Act, 42 U.S.C. §§ 12101, et seq. by failing to take the necessary steps to ensure its website, <https://www.nordictrack.com/>, and its mobile app, iFIT At-Home Workout & Fitness, do not discriminate against blind or visually disabled consumers who use screen reader auxiliary aids to access digital content. Under the settlement, iFIT Inc. agrees to take additional steps to make these and other websites and mobile apps, including any new website or mobile app it develops or acquires, accessible to blind or visually disabled consumers.

For a more complete summary of the terms of the proposed settlement, please visit <https://www.iFITADAsettlement.com>.”

23.5. No fewer than five (5) calendar days before the fairness hearing scheduled in the Lawsuit, iFIT shall file a declaration from the stipulated class action settlement administrator that summarizes the work the administrator performed and the number of visitors to the Settlement Website.

24. **Judgment, Final Approval, and Dismissal.**

24.1. Class Counsel and Mr. Douglass shall request that the Court enter a Final Judgment and Order granting Final Approval of this Agreement, certifying the Settlement Class, and enjoining Settlement Class Members from asserting any Released Injunctive Claims. Among other things, the Final Judgment and Order shall attach this Agreement as an exhibit and shall provide that the Court retains jurisdiction through the Agreement Term and, if applicable, the First Extended Agreement Term and Second Extended Agreement Term, in order to enforce this Agreement.

- 24.2. The Lawsuit shall be dismissed with prejudice pursuant to Rule 41 of the Federal Rules of Civil Procedure, no later than thirty (30) calendar days following the date of Final Approval. Pursuant to *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375 (1994), the Parties shall jointly request that the Court's dismissal order expressly retain the Court's jurisdiction to enforce this Agreement against Mr. Douglass, iFIT, and Settlement Class Members.
- 24.3. If the Court denies the Parties' request for Final Approval of this Agreement: (i) this Agreement will be null and void and of no force and effect; (ii) nothing in this Agreement will be deemed to prejudice the position of any Party with respect to any matter; (iii) neither the existence of this Agreement, nor its contents, will be admissible in evidence, referred to for any purpose in any litigation or proceeding, or be deemed an admission by iFIT of any fault, wrongdoing, or liability; and (iv) prosecution of the Lawsuit shall resume and shall be conducted in accordance with a schedule to be set by the Court.
25. **No Admission of Liability.** By agreeing to and voluntarily entering into this Agreement, there is no admission or concession by iFIT, direct or indirect, express or implied, that the Digital Properties are in any way inaccessible or that iFIT has violated the ADA, or any other federal, state, or local law, code, regulation, order, or rule. Nothing in this Agreement shall operate as an admission by iFIT in any context other than within the settlement of the Lawsuit that any particular standard or standards are applicable under the ADA or any other federal or state law to the Digital Properties.
26. **Release.** Effective on the date of Final Approval, the Injunctive Releasing Parties unconditionally and forever fully and finally release, acquit, and discharge iFIT from the Released Injunctive Claims. Pursuant to this release, Mr. Douglass and Settlement Class Members shall not bring any claims concerning the Accessibility of the Digital Properties during the Agreement Term and, if applicable, the First Extended Agreement Term and Second Extended Agreement Term. Notwithstanding this release, Mr. Douglass and Settlement Class Members may fully utilize the Dispute Resolution Procedure in Section 18 during the Agreement Term to enforce the terms of this Agreement.
27. **Class Certification.** Mr. Douglass and Class Counsel acknowledge that iFIT does not consent to certification of any class pertaining to the claims asserted herein other than for settlement purposes on the terms set forth in this Agreement.
28. **Entire Agreement.** This Agreement contains all the agreements, conditions, promises and covenants among iFIT, Mr. Douglass, Class Counsel, and the Settlement Class regarding matters set forth in it and supersedes all prior or contemporaneous agreements, drafts, representations or understandings, either written or oral, with respect to the subject matter of the present Agreement.

29. **Modification.** Prior to Final Approval, this Agreement can only be amended by written agreement of the Parties hereto. Following Final Approval, no modification of this Agreement shall be effective unless it is pursuant to Court Order.
30. **Severability.** If any provision or any part of this Agreement shall at any time be held unlawful, or inconsistent with applicable law, in whole or in part, under any federal, state, county, municipal or other law, ruling or regulation, then the remaining provisions of this Agreement shall remain effective and enforceable.
31. **Drafting of the Agreement.** This Agreement is deemed to have been drafted by all Parties hereto, as a result of arm's length negotiations among the Parties. Whereas all Parties have contributed to the preparation of this Agreement, it shall not be construed more strictly against one Party than another.
32. **Execution in Counterparts.** The Parties may execute this Agreement in counterparts, each of which shall constitute an original for all purposes, including any copies of same, and all duplicate counterparts will be construed together and constitute one Agreement. The Parties will be bound by signatures on this document which are transmitted by mail, hand delivery, email or any other electronic means to the other Parties or, if applicable, counsel of record for the other Parties. Such signature will have the same binding effect as any original signature. A typed electronic signature will have the same effect as a handwritten signature.
33. **Deadlines.** The Parties and the Court recognize that from time to time unforeseen events, such as exigent business circumstances, labor disputes, natural disasters, personnel issues, pandemics, and negotiations with third parties, cause delays in the accomplishment of objectives no matter how well intentioned and diligent the Parties may be. Accordingly, with regard to the provisions of this Agreement that require that certain acts be taken within specified periods, the Parties understand and agree that Court approval shall not be required for reasonable extensions of deadlines. In the event that any Party determines that an action required by this Agreement cannot be taken within the specified time period, that Party shall promptly notify the other Parties that it anticipates a delay, the reasons for the delay and a proposed alternative deadline. The Parties shall endeavor to cooperate in reasonably rescheduling such deadlines. However, if the other Parties do not agree to the proposed delay, the Parties shall submit the matter to the Dispute Resolution Procedure.
34. **Communications to Mr. Douglass, the Settlement Class, Class Counsel, and iFIT.** All letters, notices, IRS forms, requests, demands and other communications required or permitted to be given to the Parties pursuant to this Agreement shall be in writing, provided by electronic mail and/or next-day express delivery service and addressed as follows:

34.1. To Mr. Douglass, the Settlement Class, or Class Counsel:

Kevin W. Tucker (He/Him/His)
Kevin Abramowicz (He/Him/His)
Stephanie Moore (She/Her/Hers)
Chandler Steiger (She/Her/Hers)
EAST END TRIAL GROUP LLC
6901 Lynn Way, Suite 215
Pittsburgh, PA 15208
ktucker@eastendtrialgroup.com
kabramowicz@eastendtrialgroup.com
smoore@eastendtrialgroup.com
csteiger@eastendtrialgroup.com
Tel. (412) 877-5220

34.2. To iFIT:

Christopher S. Huther
WILEY REIN LLP
2050 M Street NW
Washington, DC 20036
chuther@wiley.law
Tel. (202) 719-7197

iFIT may change the individual or address to which notices and communications required by this Agreement shall be sent by providing Class Counsel and Mr. Douglass written notification of the new contact or contact information.

Signature block begins on the next page.

THE PARTIES EXECUTING THIS AGREEMENT BELOW INDIVIDUALLY ACKNOWLEDGE THAT EACH: HAS READ THIS AGREEMENT; UNDERSTANDS, ACCEPTS, AND AGREES TO ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT; AND EXECUTES THIS AGREEMENT VOLUNTARILY, WITH FULL UNDERSTANDING OF ITS CONSEQUENCES, AND WITHOUT DURESS OF ANY KIND.

**BLAIR DOUGLASS, individually and on behalf
of the Settlement Class**

DATED: Oct 5, 2023

By: *Blair Douglass*
Blair Douglass (Oct 5, 2023 09:40 EDT)

iFIT INC.

DATED: 2 Oct. 2023

By: *Richard Chang*
Richard Chang

Its: Associate General Counsel

APPROVED AS TO FORM AND CONTENT:

EAST END TRIAL GROUP, LLC

WILEY REIN LLP

By: *Kevin W. Tucker*
Kevin W. Tucker (He/Him/His)
Kevin Abramowicz (He/Him/His)
Stephanie Moore (She/Her/Hers)
Chandler Steiger (She/Her/Hers)
6901 Lynn Way, Suite 215
Pittsburgh, PA 15208

By: *Christopher S. Huther*
Christopher S. Huther
2050 M Street NW
Washington, DC 20036

Counsel for Mr. Douglass and the
Settlement Class

Counsel for iFIT Inc.

Agreement Exhibit 1:
Long-Form Notice

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT

IF YOU ARE A SCREEN READER USER, YOUR LEGAL RIGHTS MAY BE AFFECTED. PLEASE READ THIS NOTICE AND THE INSTRUCTIONS CAREFULLY

- This notice is to inform you about the proposed settlement that would resolve the class action lawsuit *Douglass v. iFIT Inc.*, No. 2:23-cv-917-MJH (W.D. Pa.).
- The proposed settlement covers all blind or visually disabled persons who have accessed, attempted to access, been deterred from accessing, will access, will attempt to access, or will be deterred from accessing any website or mobile application operated by iFIT Inc. (“iFIT”) that is publicly available to consumers in the United States, including but not limited to: <https://www.nordictrack.com/>, <https://www.proform.com/>, <https://freemotionfitness.com/>, <https://www.ifit.com/>, and the iFIT At-Home Workout & Fitness mobile application.
- The class action lawsuit alleges that iFIT violated the Americans with Disabilities Act, 42 U.S.C. §§ 12101, *et seq.*, by failing to take the necessary steps to ensure its websites and mobile applications do not discriminate against blind or visually disabled consumers who use screen reader auxiliary aids to access digital content.
- iFIT denies all liability in the class action lawsuit and asserts that its practices do not and have not violated applicable federal, state, and local law.
- The proposed settlement, which must be approved by the Court, would resolve the lawsuit.
- iFIT has agreed to use commercially reasonable efforts to ensure its websites and mobile applications are in substantial compliance with the success criteria of the Web Content Accessibility Guidelines 2.1 (“WCAG 2.1”) and to follow certain steps to ensure that its websites and mobile applications remain in substantial compliance with the success criteria of the WCAG 2.1 and so are accessible to blind and visually disabled persons.
- You have the right to object to the proposed settlement by **DATE**.
- The Court will hold a final hearing to determine whether to approve the proposed settlement on **DATE**.
- Your legal rights are affected whether or not you act. Please read this Notice carefully.

I. WHAT IS THIS LAWSUIT ABOUT?

This case is a class action lawsuit. In a class action, one or more people sue on behalf of others who have similar claims. The person that sues is the class representative. All of the people who have similar claims are part of a “class.” Individual class members do not file lawsuits. Instead, a court resolves all of their claims at once.

This case is a class action that challenges the accessibility of websites and mobile applications operated by iFIT, including but not limited to <https://www.nordictrack.com/>, <https://www.proform.com/>, <https://freemotionfitness.com/>, and <https://www.ifit.com/>, and the iFIT At-Home Workout & Fitness mobile application. Plaintiff alleged that iFIT’s websites and mobile applications were not accessible to persons with vision disabilities that use screen readers to access the internet. Plaintiff alleged that this violated the Americans with Disabilities Act. Plaintiff sought an order to require iFIT to make its online content accessible to screen reader users. iFIT denies all liability and asserts that its website and mobile application comply with the Americans with Disabilities Act.

II. WHO DOES THIS PROPOSED SETTLEMENT AFFECT?

The proposed settlement covers all blind or visually disabled persons who have accessed, attempted to access, or been deterred from attempting to access, or who will access, attempt to access, or be deterred from attempting to access any website or mobile application operated by iFIT that is publicly available to consumers in the United States, including but not limited to, <https://www.nordictrack.com/>, <https://www.proform.com/>, <https://freemotionfitness.com/>, <https://www.ifit.com/>, and the iFIT At-Home Workout & Fitness mobile application, from the United States.

III. WHAT DOES THE PROPOSED SETTLEMENT PROVIDE?

A. iFIT Will Use Commercially Reasonable Efforts to Ensure its Digital Properties are Accessible.

Under the proposed settlement, iFIT agrees to take additional commercially reasonable steps to ensure websites and mobile applications it operates and that are publicly available to consumers in the United States, including <https://www.nordictrack.com/>, <https://www.proform.com/>, <https://freemotionfitness.com/>, <https://www.ifit.com/>, and the iFIT At-Home Workout & Fitness mobile application, and any new website or mobile application it develops or acquires and makes publicly available to consumers in the United States (collectively “Digital Properties”) provide reasonably effective communication to all blind or visually disabled persons in substantial compliance with the success criteria of the Web Content Accessibility Guidelines 2.1 (“WCAG 2.1”).

B. iFIT Will Implement Additional Procedures to Ensure Accessibility to Blind and Visually Disabled Persons.

iFIT will implement additional procedures to ensure its Digital Properties are and remain accessible to blind and visually disabled persons.

1. For each new, renewed, or renegotiated contract with a vendor of Third-Party Content, iFIT will ask the vendor to commit to provide content in a format that substantially complies with WCAG 2.1 or can be made by iFIT to substantially comply with WCAG 2.1.
2. iFIT will designate an employee as its Accessibility Coordinator, who will be responsible for coordinating iFIT's compliance with certain audit, training, and notification requirements.
3. iFIT will retain an Accessibility Consultant knowledgeable about digital accessibility, the ADA, and WCAG 2.1. The Accessibility Consultant will, among other things: (a) assist iFIT in conducting an accessibility audit of a website and mobile application; (b) advise iFIT, if necessary, on how to make the website and mobile application accessible; (c) provide accessibility training to certain iFIT personnel, (d) provide annual quality assurance monitoring of certain websites and mobile applications, and (e) issue iFIT a letter describing the audit and quality assurance monitoring work it performed and identifying the steps taken to ensure the accessibility of the Digital Properties.
4. iFIT's Accessibility Consultant will complete an accessibility audit of www.nordictrack.com and the iFIT At-Home Workout & Fitness mobile application, which are technologically representative of the Digital Properties. The accessibility audit will be conducted in a professional manner and will be benchmarked by appropriate processes, including automated and end-user testing, consistent with the Accessibility Consultant's recommendations.
5. iFIT's Accessibility Consultant will train all iFIT employees who have managerial responsibility for the design and development of the Digital Properties in methods designed to ensure the Digital Properties are and remain accessible.
6. iFIT will include invisible anchor text in the header of the homepage of its websites and mobile applications that directs consumers to a webpage that describes iFIT's commitment to accessibility and inclusion for blind and visually disabled persons and solicits feedback.
7. iFIT will take reasonable efforts to modify its bug fix policies, practices, and procedures, if necessary, to include the elimination of bugs that create accessibility

barriers for blind and visually disabled persons so that the Digital Properties substantially comply with WCAG 2.1.

8. iFIT will designate and train at least two employees to receive and prioritize calls from blind and visually disabled persons and to timely assist such individuals within iFIT's published hours of operation ("iFIT's Customer Service Personnel").
9. iFIT's Accessibility Consultant will perform annual quality assurance monitoring on certain Digital Properties. The annual quality assurance monitoring will be conducted in a professional manner and will be benchmarked by appropriate processes, including automated and end-user testing, consistent with the accessibility consultant's recommendations.

C. The Parties Will Create a Dispute Resolution Procedure to Address Accessibility Issues.

Additionally, iFIT will instruct its Customer Service Personnel to forward any complaint or issue they receive that directly concerns compliance with the proposed settlement to iFIT's Accessibility Coordinator, who will be instructed to forward the complaint or issue to Class Counsel (defined below), who, if necessary, will work with iFIT to ensure the issue is resolved consistent with the settlement if it is approved. Class Counsel will monitor iFIT's compliance with the settlement as well if it is approved.

D. iFIT Will Pay Class Counsel's Attorneys' Fees and Costs.

The proposed settlement also provides that the named individual plaintiff who served as class representative will receive a \$1,500.00 incentive award, subject to Court approval, in return for a release of his individual claims.

Finally, East End Trial Group LLC ("Class Counsel"), the attorneys who represent the class, will have the right to seek attorneys' fees and costs up to (a) \$53,500.00 for work performed during the initial term of the proposed settlement, (b) \$15,000.00 for additional work if the proposed settlement is extended by one extra year, and (c) another \$15,000.00 if the proposed settlement is extended by a second extra year. Class Counsel will file a motion asking the Court to award reasonable fees and costs to reimburse them for work they performed on this case up to these specified amounts. The Court must approve the amount awarded even if the parties reach an agreement on the amount. This motion for fees and costs will be available at <https://www.iFITADAsettlement.com> after it is filed with the Court.

IV. DOES THE PROPOSED SETTLEMENT AFFECT MY LEGAL RIGHTS?

All class members will be bound by the terms of the proposed settlement relating to access to the Digital Properties for blind or visually disabled persons if the proposed settlement

is approved by the Court. If the proposed settlement is approved, all class members will release and forever discharge all claims for injunctive relief under all federal, state, and local laws related to alleged discrimination by iFIT against blind or visually disabled persons that arose before the proposed settlement becomes effective. Class members, other than the named plaintiff in the lawsuit, are not releasing any claims for monetary damages.

V. CAN I OBJECT TO THE PROPOSED SETTLEMENT?

You have the right to object to the proposed settlement if you do not like part or all of it.

If you wish to object to the proposed settlement, you must do so in writing on or before **DATE**. Your written objections must:

- a) clearly identify the case name and number, *Douglass v. iFIT Inc.*, Case No. 2:23-cv-917-MJH (W.D. Pa.);
- b) be submitted to the Court either by mailing them to the Clerk of the Court for the United States District Court for the Western District of Pennsylvania, 700 Grant Street, Pittsburgh, PA 15219, or by filing them in person at any location of the United States District Court for the Western District of Pennsylvania;
- c) and be received on or before **DATE**.

If you wish to appear and present your objection orally at the fairness hearing, you must first submit a written objection and in your written objection you must indicate your intention to appear and be heard at the fairness hearing. If you appear through your own attorney, you are responsible for paying that attorney.

VI. DO I HAVE A LAWYER IN THIS CASE?

The Court has appointed Kevin Tucker, Kevin Abramowicz, Stephanie Moore, and Chandler Steiger of East End Trial Group as Lead Counsel (“Class Counsel”) on behalf of the class members. Class Counsel’s contact information can be found in Section IX.

You do not need to hire a lawyer because Class Counsel is working on your behalf. You do not need to pay Class Counsel, as the proposed settlement provides that iFIT will pay Class Counsel’s fees and costs in an amount approved by the Court.

VII. WHEN AND WHERE WILL THE COURT APPROVE THE PROPOSED SETTLEMENT?

The Court will hold a hearing to decide whether to approve the proposed settlement on **DATE**. At this hearing, the Court will consider whether the proposed settlement is fair, reasonable, and adequate. You are not required to attend the final fairness hearing.

VIII. HOW DO I GET MORE INFORMATION ABOUT THE PROPOSED SETTLEMENT?

This notice summarizes the proposed settlement. For the precise terms and conditions of the proposed settlement, please see the Class Settlement Agreement available at <https://www.iFITADAsettlement.com>, contact Class Counsel using the information below, access the Court docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.pawd.uscourts.gov>, or visit the office of the Clerk of the Court for the United States District Court for the Western District of Pennsylvania, 700 Grant Street, Pittsburgh, PA 15219, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

To obtain a copy of this notice in alternate accessible formats, contact Class Counsel using the information below.

IX. CONTACT INFORMATION

Please do not contact the Court, the Court clerk's office, or counsel for iFIT with questions about this proposed settlement. Any questions must be directed to Class Counsel at the numbers and addresses below.

Class Counsel:

Kevin Tucker
Kevin Abramowicz
Stephanie Moore
Chandler Steiger
EAST END TRIAL GROUP LLC
6901 Lynn Way, Suite 215
Pittsburgh, PA 15208
ktucker@eastendtrialgroup.com
kabramowicz@eastendtrialgroup.com
smoore@eastendtrialgroup.com
csteiger@eastendtrialgroup.com
Tel. (412) 877-5220
<https://eastendtrialgroup.com/>