FishKit Tool Terms of Service

Last revised on July 1, 2022

The Nature Conservancy ("TNC," "we," "us," or "our") is pleased to provide FishKit and related software, data, websites, instructions, and services ("FishKit") to you. FishKit has a workspace that is primarily for uploading and managing your data and applying FishKit tools to your data (the "Workspace") and a general area for, among other things, sharing your data, and learning and using the various FishKit tools and information (the "General Space"). These terms apply to both the Workspace and the General Space.

If you are using FishKit on behalf of a business (such as your employer), that business accepts these terms of service ("Terms") by your use. In that case, the words "You" and "Your" in these Terms refer to both you and that business.

The Terms govern Your access to and use of FishKit, so please carefully read them and Our Privacy Policy before using FishKit. By registering on the FishKit websites and using FishKit, You agree to be bound by these Terms and by our Privacy Policy. If You don't agree with these Terms and our Privacy Policy, You cannot use FishKit or FishKit data in any way or at any time.

FishKit Data: Your Rights and Your Privacy

We developed FishKit as a user-friendly application to help users diagnose and address challenges in local fishery management, including through study and analysis of size limits, stock health, bag limits, and species life history. In Your Workspace, FishKit allows You to upload, review, use, and analyze Your fishery data (Your "Submission") and to apply FishKit tools to generate results such as sustainability scores, estimated yields, and catch scores. Your Submission may include, for example, catch size, length data, and life history information. Your Submission to FishKit is voluntary. If You submit information to FishKit, these Terms do grant us the right to see and use Your Submission to improve the functionality of the tool as appropriate. We may copy and share an anonymized aggregation of information from submissions, potentially including Your Submission, with the public. However, we will not share Your submission nor Your information in any non aggregated format unless you opt to do so.

Some of Your information may be seen or used by other FishKit users in the General Space. For example, You may choose to share fish life history information, other fishery information, and commentary about FishKit tools and analyses with others in the General Space. If You share information or allow Us to share information in the General Space, You grant Us and other FishKit users the right to see and use that information.

Please refer to our Privacy Policy for a description of how we collect, use and disclose FishKit information, including Your Submission. We have the right to withdraw or change FishKit. As we

describe below, we will not be liable to You if for any reason all or any part of FishKit is unavailable at any time or for any length of time.

Your Responsibilities

Only make a Submission if You have all necessary rights to share the information with us, including but not limited to use with FishKit. Only share life history information and other data in the General Space if You believe them to be accurate. You are solely responsible for your conduct and Your Submission while using FishKit. It is Your responsibility to ensure that You have the rights or permission needed to comply with these Terms.

Respect the law. Do not use FishKit for any fraudulent or unlawful purpose including violations of statutory, regulatory or contractual law. Respect copyright, privacy, trade secret, data protection, fish & wildlife and all other laws. Do not attempt to impersonate any other individual on FishKit; if You identify yourself, You must always use Your true identity.

Without our express written consent, You may not use, display, mirror, or frame FishKit, any element within FishKit, or any proprietary elements belonging to us (including but not limited to our logos and marks). In addition to adhering to all applicable laws and regulations, You may NOT do any of the following:

    resell FishKit or data from FishKit, or any portion thereof;

    access or search the FishKit data by using any engine, software, tool, agent, device or mechanism (including spiders, robots, crawlers, data mining tools or the like) other than the software and/or search agents that We provide or authorize;

    probe, scan, tamper with, or test the vulnerability of FishKit or any of our systems or networks;

    avoid, breach, deactivate, impair, or circumvent any security or authentication measures, including those that protect FishKit and its data;

    attempt to decipher, decompile, disassemble or reverse engineer any of the software used to provide FishKit;

    interfere with, or attempt to interfere with, the access of any user, host or network, including, without limitation, by sending a virus, overloading, or flooding FishKit;

    encourage or enable anyone else to do any of the foregoing.

We have the right to investigate violations of these Terms or conduct that affect FishKit or our systems or networks. We may also consult and cooperate with law enforcement authorities to prosecute users who violate the law.

Rights You Grant in Your Information

By making Your Submission, You grant us a non-exclusive, transferable, sublicensable, worldwide, perpetual, royalty-free license to use, copy, modify, and create derivative works based upon Your Submission in order to allow Your use of Your Workspace and to maintain and improve FishKit. In addition, You grant us a non-exclusive, transferable, sublicensable, worldwide, perpetual, royalty-free license to use, copy, modify, create derivative works based upon, distribute, publicly display, publicly perform and distribute all information and data that you make available to the General Space.

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Subject to Your compliance with these Terms, we grant You a limited, non-exclusive, non-transferable, non-sublicensable, worldwide, royalty-free license to use the FishKit software, instructions, and websites and to view, copy, display, and create derivative works from the FishKit output that we make available from the FishKit site for Your management of Your fishery.

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Modifying our Terms of Service

We may update these Terms from time to time, in our sole discretion. We may notify You of such updates by any reasonable means, such as by posting the revised Terms on the FishKit website. Please look at the "LAST UPDATED" legend above to see when these Terms were last revised. Your use of FishKit after the posting of any revised Terms means that You accept and agree to be bound by the revised Terms. If You don't agree to be bound by the revised Terms, then You may not use FishKit anymore. You can stop using FishKit at any time. We may also stop providing FishKit or add or create new limits to FishKit at any time.

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TO THE MAXIMUM EXTENT PERMITTED BY LAW, WE SHALL NOT BE LIABLE FOR CREATING, PRODUCING, MAINTAINING, OPERATING, OR PROVIDING FISHKIT OR FISHKIT CONTENT, UNDER ANY THEORY BASED IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, STRICT LIABILITY, OR OTHER LEGAL THEORY. THIS LIMITATION ON LIABILITY INCLUDES ANY AND ALL INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOSS OF DATA OR GOODWILL, SERVICE INTERRUPTION, COMPUTER DAMAGE OR SYSTEM FAILURE OR THE COST OF SUBSTITUTE SERVICES ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR FROM THE USE OF OR INABILITY TO USE FISHKIT, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

THE ABOVE EXCLUSIONS AND LIMITATIONS OF DAMAGES ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN YOU AND US.

Indemnity

You agree to release, indemnify, defend and hold harmless TNC, our subsidiaries and affiliates, and our and their respective officers, directors, agents, partners and employees, from and against any claims, disputes, demands, liabilities, damages, losses, and costs and expenses, including, without limitation, reasonable legal and accounting fees arising out of or in any way connected with (i) Your access to or use of FishKit, (ii) Your Submission, (iii) information or data You make available to the General Space, or (iv) Your violation of these Terms.

Termination

We may terminate Your access to and use of FishKit, at our sole discretion, at any time and without notice to You. Upon any termination, discontinuation or cancellation of FishKit, all provisions of these Terms that by their nature should survive will survive. This includes, for example ownership provisions, warranty disclaimers, and limitations of liability.

General Terms

These Terms are the entire and exclusive agreement between You and us regarding FishKit, and they supersede any prior agreements between You and us regarding FishKit.

These terms do not create any third party beneficiary rights. You may not assign or transfer these Terms, by operation of law or otherwise, without our prior written consent. Subject to the foregoing, these Terms will bind your successors and permitted assigns. We may freely assign or transfer these Terms without restriction.

If You do not comply with these Terms, and we do not take action right away, this does not mean that we are giving up any rights that we may have to take action in the future or seek all available remedies.

If it turns out that a particular provision of these Terms is not fully valid or enforceable, that provision will be enforced to the maximum extent permissible, and this will not affect any other Terms.

All claims arising out of this Agreement or relating to FishKit will be governed by the laws of the State of California, excluding the application of its conflicts of law rules. Any legal action or proceeding arising out of this Agreement or relating to these Services shall be brought exclusively in a state or federal court in or for San Francisco, California. You agree that any and all disputes, claims and causes of action arising out of, or connected with these Terms or Your Submission shall be resolved individually, without resort to any form of class action.