

Terms of Use

Effective date: [REDACTED]

Welcome to Oma. Please read on to learn the rules and restrictions that govern your use of our website(s), products, services and applications (the “Services”), including, without limitation, any request to receive information about, or to purchase any of the products made available through our website(s) (each, a “Product”). Your purchase of any Products will also be governed by any other terms made available by us to you during the sales process. If you have any questions, comments, or concerns regarding these terms or the Services, please contact us at:

Email: Info@omanaturalfood.com

Mailing Address: [STREET ADDRESS], [CITY], [STATE] [ZIP CODE]

These Terms of Use (the “Terms”) are a binding contract between you and **OMA FOOD, INC.** (“Oma,” “we” and “us”). Your use of the Services in any way means that you agree to all of these Terms, and these Terms will remain in effect while you use the Services. These Terms include the provisions in this document as well as those in the Privacy Policy, Copyright Dispute Policy in the “[What if I see something on the Services that infringes my copyright?](#)” section of these Terms, and any other accompanying terms and conditions of sale entered into between you and us for the sale of any Products. **Your use of or participation in certain Services may also be subject to additional policies, rules and/or conditions (“Additional Terms”), which are incorporated herein by reference, and you understand and agree that by using or participating in any such Services, you agree to also comply with these Additional Terms.**

Please read these Terms carefully. They cover important information about Services provided to you and any charges, taxes, and fees we bill you. **These Terms include information about [future changes to these Terms](#), [limitations of liability](#), [a class action waiver and resolution of disputes by arbitration instead of in court](#).** PLEASE NOTE THAT YOUR USE OF AND ACCESS TO OUR SERVICES ARE SUBJECT TO THE FOLLOWING TERMS; IF YOU DO NOT AGREE TO ALL OF THE FOLLOWING, YOU MAY NOT USE OR ACCESS THE SERVICES IN ANY MANNER.

ARBITRATION NOTICE AND CLASS ACTION WAIVER: EXCEPT FOR CERTAIN TYPES OF DISPUTES DESCRIBED IN THE [ARBITRATION AGREEMENT SECTION BELOW](#), YOU AGREE THAT DISPUTES BETWEEN YOU AND US WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION AND YOU WAIVE YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR CLASS-WIDE ARBITRATION.

Will these Terms ever change?

We are constantly trying to improve our Products and Services, so these Terms may need to change along with our Products and Services. We reserve the right to change the Terms at any time, but if we do, we will place a notice on our site located at www.omanaturalfood.com, send you an email, and/or notify you by some other means.

If you don’t agree with the new Terms, you are free to reject them; unfortunately, that means you will no longer be able to use the Services. If you use the Services in any way after a change to the Terms is effective, that means you agree to all of the changes.

Except for changes by us as described here, no other amendment or modification of these Terms will be effective unless in writing and signed by both you and us.

What about my privacy?

Oma takes the privacy of its users very seriously. For the current Oma Privacy Policy, please click [here](#).

Children's Online Privacy Protection Act

The Children's Online Privacy Protection Act ("COPPA") requires that online service providers obtain parental consent before they knowingly collect personally identifiable information online from children who are under 13 years of age. We do not knowingly collect or solicit personally identifiable information from children under 13 years of age; if you are a child under 13 years of age, please do not attempt to register for or otherwise use the Services or send us any personal information. If we learn we have collected personal information from a child under 13 years of age, we will delete that information as quickly as possible. If you believe that a child under 13 years of age may have provided us personal information, please contact us at Info@omanaturalfood.com.

What are the basics of using Oma?

You represent and warrant that you are an individual of legal age to form a binding contract (or if not, you've received your parent's or guardian's permission to use the Services and have gotten your parent or guardian to agree to these Terms on your behalf).

You will only use the Services and Products you obtain for your own internal, personal, non-commercial use, and not on behalf of or for the benefit of any third party, and only in a manner that complies with all laws that apply to you. If your use of the Services or Products is prohibited by applicable laws, then you aren't authorized to use the Services. We can't and won't be responsible for your using the Services or Products in a way that breaks the law.

What about messaging?

As part of the Services, you may receive communications through the Services, including messages that Oma sends you (for example, via email or SMS).

Are there restrictions in how I can use the Services?

You represent, warrant, and agree that you will not provide or contribute anything, including any Content or User Submission (as those terms are defined below), to the Services, or otherwise use or interact with the Services, in a manner that:

- (a) infringes or violates the intellectual property rights or any other rights of anyone else (including Oma);
- (b) violates any law or regulation, including, without limitation, any applicable export control laws, privacy laws or any other purpose not reasonably intended by Oma;
- (c) is dangerous, harmful, fraudulent, deceptive, threatening, harassing, defamatory, obscene, or otherwise objectionable;
- (d) violates the security of any computer network, or cracks any passwords or security encryption codes;
- (e) runs Maillist, Listserv, any form of auto-responder or "spam" on the Services, or any processes that run or are activated while you are not logged into the Services, or that

- otherwise interfere with the proper working of the Services (including by placing an unreasonable load on the Services' infrastructure);
- (f) "crawls," "scrapes," or "spiders" any page, data, or portion of or relating to the Services or Content (through use of manual or automated means);
 - (g) copies or stores any significant portion of the Content; or
 - (h) decompiles, reverse engineers, or otherwise attempts to obtain the source code or underlying ideas or information of or relating to the Products or Services.

A violation of any of the foregoing is grounds for termination of your right to use or access the Services.

What are my rights in the Services?

The materials displayed or performed or available on or through the Services, including, but not limited to, text, graphics, data, articles, photos, images, illustrations, User Submissions (as defined below) and so forth (all of the foregoing, the "Content") are protected by copyright and/or other intellectual property laws. You promise to abide by all copyright notices, trademark rules, information, and restrictions contained in any Content you access through the Services, and you won't use, copy, reproduce, modify, translate, publish, broadcast, transmit, distribute, perform, upload, display, license, sell, commercialize or otherwise exploit for any purpose any Content not owned by you, (i) without the prior consent of the owner of that Content or (ii) in a way that violates someone else's (including Oma's) rights.

Subject to these Terms, we grant each user of the Services a worldwide, non-exclusive, non-sublicensable and non-transferable license to use (i.e., to download and display locally) Content solely for purposes of using the Services. Use, reproduction, modification, distribution or storage of any Content for any purpose other than using the Services is expressly prohibited without prior written permission from us. You understand that Oma owns the Services. You won't modify, publish, transmit, participate in the transfer or sale of, reproduce (except as expressly provided in this Section), create derivative works based on, or otherwise exploit any of the Services. The Services may allow you to copy or download certain Content, but please remember that even where these functionalities exist, all the restrictions in this section still apply.

What about anything I contribute to the Services – do I have to grant any licenses to Oma or to other users?

User Submissions

Anything you post, upload, share, store, or otherwise provide through the Services is your "User Submission". Some User Submissions may be viewable by other users. You are solely responsible for all User Submissions you contribute to the Services. You represent that all User Submissions submitted by you are accurate, complete, up-to-date, and in compliance with all applicable laws, rules and regulations.

You agree that you will not post, upload, share, store, or otherwise provide through the Services any User Submissions that: (i) infringe any third party's copyrights or other rights (e.g., trademark, privacy rights, etc.); (ii) contain sexually explicit content or pornography; (iii) contain hateful, defamatory, or discriminatory content or incite hatred against any individual or group; (iv) exploit minors; (v) depict unlawful acts or extreme violence; (vi) depict animal cruelty or extreme violence towards animals; (vii) promote fraudulent schemes, multi-level marketing (MLM) schemes, get rich quick schemes, online gaming and gambling, cash gifting, work from home businesses, or any other dubious money-making ventures; or (viii) that violate any law.

Licenses

In order to display your User Submissions on the Services, and to allow other users to enjoy them (where applicable), you grant us certain rights in those User Submissions (see below for more information). Please note that all of the following licenses are subject to our Privacy Policy to the extent they relate to User Submissions that are also your personally-identifiable information.

By submitting User Submissions through the Services, you hereby do and shall grant Oma a worldwide, non-exclusive, perpetual, royalty-free, fully paid, sublicensable and transferable license to use, edit, modify, truncate, aggregate, reproduce, distribute, prepare derivative works of, display, perform, and otherwise fully exploit the User Submissions in connection with this site, the Services and our (and our successors' and assigns') businesses, including without limitation for promoting and redistributing part or all of this site or the Services (and derivative works thereof) in any media formats and through any media channels (including, without limitation, third party websites and feeds), and including after your termination of the Services. You also hereby do and shall grant each user of this site and/or the Services a non-exclusive, perpetual license to access your User Submissions through this site and/or the Services, and to use, edit, modify, reproduce, distribute, prepare derivative works of, display and perform such User Submissions, including after your termination of the Services. For clarity, the foregoing license grants to us and our users do not affect your other ownership or license rights in your User Submissions, including the right to grant additional licenses to your User Submissions, unless otherwise agreed in writing. You represent and warrant that you have all rights to grant such licenses to us without infringement or violation of any third party rights, including without limitation, any privacy rights, publicity rights, copyrights, trademarks, contract rights, or any other intellectual property or proprietary rights.

Finally, you understand and agree that Oma, in performing the required technical steps to provide the Services to our users (including you), may need to make changes to your User Submissions to conform and adapt those User Submissions to the technical requirements of connection networks, devices, services, or media, and the foregoing licenses include the rights to do so.

What if I see something on the Services that infringes my copyright?

In accordance with the DMCA, we've adopted the following policy toward copyright infringement. We reserve the right to (1) block access to or remove material that we believe in good faith to be copyrighted material that has been illegally copied and distributed by any of our advertisers, affiliates, content providers, members or users and (2) remove and discontinue service to repeat offenders.

- (1) **Procedure for Reporting Copyright Infringements.** If you believe that material or content residing on or accessible through the Services infringes your copyright (or the copyright of someone whom you are authorized to act on behalf of), please send a notice of copyright infringement containing the following information to Oma's Designated Agent to Receive Notification of Claimed Infringement (our "Designated Agent," whose contact details are listed below):
 - (a) A physical or electronic signature of a person authorized to act on behalf of the owner of the copyright that has been allegedly infringed;
 - (b) Identification of works or materials being infringed;
 - (c) Identification of the material that is claimed to be infringing including information regarding the location of the infringing materials that the copyright owner seeks to

have removed, with sufficient detail so that Company is capable of finding and verifying its existence;

- (d) Contact information about the notifier including address, telephone number and, if available, email address;
- (e) A statement that the notifier has a good faith belief that the material identified in (1)(c) is not authorized by the copyright owner, its agent, or the law; and
- (f) A statement made under penalty of perjury that the information provided is accurate and the notifying party is authorized to make the complaint on behalf of the copyright owner.

(2) Once Proper Bona Fide Infringement Notification is Received by the Designated Agent. Upon receipt of a proper notice of copyright infringement, we reserve the right to:

- (a) remove or disable access to the infringing material;
- (b) notify the content provider who is accused of infringement that we have removed or disabled access to the applicable material; and
- (c) terminate such content provider's access to the Services if he or she is a repeat offender.

(3) Procedure to Supply a Counter-Notice to the Designated Agent. If the content provider believes that the material that was removed (or to which access was disabled) is not infringing, or the content provider believes that it has the right to post and use such material from the copyright owner, the copyright owner's agent, or, pursuant to the law, the content provider may send us a counter-notice containing the following information to the Designated Agent:

- (a) A physical or electronic signature of the content provider;
- (b) Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or disabled;
- (c) A statement that the content provider has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material; and
- (d) Content provider's name, address, telephone number, and, if available, email address, and a statement that such person or entity consents to the jurisdiction of the Federal Court for the judicial district in which the content provider's address is located, or, if the content provider's address is located outside the United States, for any judicial district in which Company is located, and that such person or entity will accept service of process from the person who provided notification of the alleged infringement.

If a counter-notice is received by the Designated Agent, Company may, in its discretion, send a copy of the counter-notice to the original complaining party informing that person that Company may replace the removed material or cease disabling it in 10 business days. Unless the copyright owner files an action seeking a court order against the content provider accused of committing infringement, the removed material may be replaced or access to it restored in 10 to 14 business days or more after receipt of the counter-notice, at Company's discretion.

Please contact Oma's Designated Agent at the following address:

Oma Food, Inc.
Attn: DMCA Designated Agent
[STREET ADDRESS]
[CITY], [STATE] [ZIP CODE]

Who is responsible for what I see and do on the Services?

Any information or Content publicly posted or privately transmitted through the Services is the sole responsibility of the person from whom such Content originated, and you access all such information and Content at your own risk, and we aren't liable for any errors or omissions in that information or Content or for any damages or loss you might suffer in connection with it. We cannot control and have no duty to take any action regarding how you may interpret and use the Content or what actions you may take as a result of having been exposed to the Content, and you hereby release us from all liability for you having acquired or not acquired Content through the Services. We can't guarantee the identity of any users with whom you interact in using the Services and are not responsible for which users gain access to the Services.

You are responsible for all Content you contribute, in any manner, to the Services, and you represent and warrant you have all rights necessary to do so, in the manner in which you contribute it.

The Services may contain links or connections to third-party websites or services that are not owned or controlled by Oma. When you access third-party websites or use third-party services, you accept that there are risks in doing so, and that Oma is not responsible for such risks.

Oma has no control over, and assumes no responsibility for, the content, accuracy, privacy policies, or practices of or opinions expressed in any third-party websites or by any third party that you interact with through the Services. In addition, Oma will not and cannot monitor, verify, censor or edit the content of any third-party site or service. We encourage you to be aware when you leave the Services and to read the terms and conditions and privacy policy of each third-party website or service that you visit or utilize. By using the Services, you release and hold us harmless from any and all liability arising from your use of any third-party website or service.

Your interactions with organizations and/or individuals found on or through the Services, including payment and delivery of goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such organizations and/or individuals. You should make whatever investigation you feel necessary or appropriate before proceeding with any online or offline transaction with any of these third parties. You agree that Oma shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings.

If there is a dispute between participants on this site or Services, or between users and any third party, you agree that Oma is under no obligation to become involved. In the event that you have a dispute with one or more other users, you release Oma, its directors, officers, employees, agents, and successors from claims, demands, and damages of every kind or nature, known or unknown, suspected or unsuspected, disclosed or undisclosed, arising out of or in any way related to such disputes and/or our Services. You shall and hereby do waive California Civil Code Section 1542 or any similar law of any jurisdiction, which says in substance: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

Will Oma ever change the Services?

We're always trying to improve our Products and Services, so they may change over time. We may suspend or discontinue any part of the Services, or we may introduce new features or impose limits on certain features or restrict access to parts or all of the Services. We'll try to give you notice when we make a material change to the Services that would adversely affect you, but this isn't always practical. We reserve the right to remove any Content from the Services at any time, for any reason (including, but not limited to, if someone alleges you contributed that Content in violation of these Terms), in our sole discretion, and without notice.

Do the Services cost anything?

Products are offered at the prices set forth on our Shop Now page, and you may choose to purchase Products through the www.omanaturalfood.com website. Oma may limit or cancel quantities of Products purchased, and it reserves the right to refuse any order. In the event Oma needs to make a change to an order, it will attempt to notify you by contacting the email address, billing address, and/or phone number provided at the time the order was made. The prices displayed are quoted in U.S. currency and are valid only in the United States. Prices are subject to change at any time. Sales tax will be determined by the shipping address of the order and will automatically be added to the order. Oma is required by law to apply sales tax to orders to certain states. Purchased Products will be shipped to the shipping address of the order. Information about our shipping rates and return policy can all be found on our Frequently Asked Questions page. Any payment terms presented to you in the process of purchasing Products are deemed part of these Terms.

Note that if you elect to receive text messages through the Services, data and message rates may apply. Any and all such charges, fees or costs are your sole responsibility. You should consult with your wireless carrier to determine what rates, charges, fees or costs may apply to your use of the Services.

- a. **Billing.** We use a third-party payment processor (the "Payment Processor") to process your payments for Products purchased through our Services (your "Billing Account"). The processing of payments will be subject to the terms, conditions and privacy policies of the Payment Processor in addition to these Terms. Currently, we use Stripe, Inc. as our Payment Processor. You can access Stripe's Terms of Service at <https://stripe.com/us/checkout/legal> and their Privacy Policy at <https://stripe.com/us/privacy>. We are not responsible for any error by, or other acts or omissions of, the Payment Processor. By choosing to purchase Products, you agree to pay us, through the Payment Processor, all charges at the prices then in effect for any such Products in accordance with the applicable payment terms, and you authorize us, through the Payment Processor, to charge your chosen payment provider (your "Payment Method"). You agree to make payment using that selected Payment Method. We reserve the right to correct any errors or mistakes that the Payment Processor makes even if it has already requested or received payment.
- b. **Payment Method.** The terms of your payment will be based on your Payment Method and may be determined by agreements between you and the financial institution, credit card issuer or other provider of your chosen Payment Method. If we, through the Payment Processor, do not receive payment from you, you agree to pay all amounts due on your Billing Account upon demand.

- c. Current Information Required. YOU MUST PROVIDE CURRENT, COMPLETE AND ACCURATE INFORMATION FOR YOUR BILLING ACCOUNT. YOU MUST PROMPTLY UPDATE ALL INFORMATION TO KEEP YOUR BILLING ACCOUNT CURRENT, COMPLETE AND ACCURATE (SUCH AS A CHANGE IN BILLING ADDRESS, CREDIT CARD NUMBER, OR CREDIT CARD EXPIRATION DATE), AND YOU MUST PROMPTLY NOTIFY US OR OUR PAYMENT PROCESSOR IF YOUR PAYMENT METHOD IS CANCELED (E.G., FOR LOSS OR THEFT) OR IF YOU BECOME AWARE OF A POTENTIAL BREACH OF SECURITY, SUCH AS THE UNAUTHORIZED DISCLOSURE OR USE OF YOUR USER NAME OR PASSWORD. PLEASE REFER TO THE TERMS AND/OR SETTINGS OF YOUR BILLING ACCOUNT TO MAKE CHANGES TO YOUR INFORMATION IF YOU FAIL TO PROVIDE ANY OF THE FOREGOING INFORMATION, YOU AGREE THAT WE MAY CONTINUE CHARGING YOU FOR ANY USE OF PAID SUBSCRIPTIONS UNDER YOUR BILLING ACCOUNT UNLESS YOU HAVE TERMINATED YOUR PAID SUBSCRIPTIONS AS SET FORTH ABOVE.
- d. Change in Amount Authorized. If the amount to be charged to your Billing Account varies from the amount you preauthorized (other than due to the imposition or change in the amount of state sales taxes), you have the right to receive, and we shall provide, notice of the amount to be charged and the date of the charge before the scheduled date of the transaction. Any agreement you have with your payment provider will govern your use of your Payment Method. You agree that we may accumulate charges incurred and submit them as one or more aggregate charges.
- e. Free Trials and Other Promotions. Any free trial or other promotion that provides access to free Products or free Paid Subscriptions must be used within the specified time of the trial. You must stop using a Paid Subscription before the end of the trial period in order to avoid being charged for that Paid Subscription. If you cancel prior to the end of the trial period and are inadvertently charged for a Paid Subscription, please contact us at Info@omanaturalfood.com.

What if I want to stop using the Services?

You're free to do that at any time; please refer to our Privacy Policy, as well as the licenses above, to understand how we treat information you provide to us after you have stopped using our Services.

Oma is also free to terminate (or suspend access to) your use of the Services for any reason in our discretion, including your breach of these Terms. Oma has the sole right to decide whether you are in violation of any of the restrictions set forth in these Terms.

Provisions that, by their nature, should survive termination of these Terms shall survive termination. By way of example, all of the following will survive termination: any obligation you have to pay us or indemnify us, any limitations on our liability, any terms regarding ownership or intellectual property rights, and terms regarding disputes between us, including without limitation the arbitration agreement.

What else do I need to know?

Disclaimers.

Oma and its licensors, suppliers, partners, parent, subsidiaries or affiliated entities, and each of their respective officers, directors, members, employees, consultants, contract employees, representatives

and agents, and each of their respective successors and assigns (Oma and all such parties together, the “Oma Parties”) make no representations or warranties concerning the Services, including without limitation regarding any Content contained in or accessed through the Services or any Products, and the Oma Parties will not be responsible or liable for the accuracy, copyright compliance, legality, or decency of material contained in or accessed through the Services or any claims, actions, suits procedures, costs, expenses, damages or liabilities arising out of use of, or in any way related to your participation in, the Services. The Oma Parties make no representations or warranties regarding suggestions or recommendations of services or products offered or purchased through or in connection with the Services including, without limitation, any Products. Products and services purchased or offered (whether or not following such recommendations and suggestions) through the Services are provided “AS-IS” and without any warranty of any kind from the Oma Parties or others (unless, with respect to such others only, provided expressly and unambiguously in writing by a designated third party for a specific product). THE SERVICES AND CONTENT ARE PROVIDED BY OMA (AND ITS LICENSORS AND SUPPLIERS) ON AN “AS-IS” BASIS, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR THAT USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

YOU ARE SOLELY RESPONSIBLE FOR THE PROPER AND SAFE WASHING, HANDLING, PREPARATION, STORAGE, COOKING, USE AND CONSUMPTION OF THE PRODUCTS YOU RECEIVE FROM US. PLEASE FOLLOW DIRECTIONS CAREFULLY. YOU ARE ALSO SOLELY RESPONSIBLE FOR KNOWING ABOUT ANY FOOD ALLERGIES YOU MAY HAVE AND VERIFYING THE PRODUCTS AND THEIR CONTENTS BEFORE HANDLING, PREPARING, USING OR CONSUMING SUCH PRODUCTS. FURTHER, YOU UNDERSTAND, ACKNOWLEDGE AND AGREE THAT WE STORE, PORTION AND PACKAGE PRODUCTS CONTAINING MAJOR ALLERGENS (INCLUDING BUT NOT LIMITED TO MILK, WHEAT, EGG, SOY, FISH, SHELLFISH, PEANUTS, TREENUTS AND SESAME SEEDS) AND CANNOT GUARANTEE THAT CROSS-CONTAMINATION WILL NOT OCCUR BETWEEN PRODUCTS.

PREPARATION AND COOKING PROCEDURES VARY FOR EACH PRODUCT. PLEASE READ AND FOLLOW THE INSTRUCTIONS CAREFULLY. SOME PREPARATION INVOLVES USE OF EQUIPMENT THAT IF USED INCORRECTLY OR UNATTENDED, MAY CAUSE INJURY OR PROPERTY DAMAGE. PLEASE FOLLOW MANUFACTURER INSTRUCTIONS FOR USE OF ALL EQUIPMENT, INCLUDING WARNINGS. FOLLOWING PREPARATION, SOME PRODUCTS MAY BE HOT. PLEASE HANDLE AND ENJOY CAREFULLY.

WE ATTEMPT TO DISPLAY THE PRODUCTS AND OTHER MATERIALS AND INFORMATION YOU VIEW ON THE SERVICES, INCLUDING PRICING AND NUTRITIONAL INFORMATION, AS ACCURATELY AS POSSIBLE. HOWEVER, WE DO NOT GUARANTEE THE ACCURACY OF SUCH MATERIALS AND INFORMATION AND ARE NOT RESPONSIBLE FOR ANY CLAIMS ARISING OR RESULTING FROM YOUR RELIANCE THEREON. IN THE EVENT OF AN ERROR ON OUR SERVICES, IN AN ORDER CONFIRMATION, IN PROCESSING OR DELIVERING AN ORDER OR OTHERWISE, WE RESERVE THE RIGHT TO CORRECT SUCH ERROR AND REVISE YOUR ORDER ACCORDINGLY (INCLUDING CHARGING THE CORRECT PRICE) OR TO CANCEL YOUR ORDER AND ISSUE YOU A REFUND. YOU FURTHER AGREE THAT THE PRODUCTS AND OTHER MATERIALS YOU RECEIVE IN YOUR ORDER MAY VARY FROM THE PRODUCTS AND MATERIALS DISPLAYED ON THE SERVICES DUE TO A NUMBER OF FACTORS, INCLUDING, WITHOUT LIMITATION, SYSTEM CAPABILITIES AND CONSTRAINTS OF YOUR COMPUTER, MANUFACTURING PROCESS OR SUPPLY ISSUES, THE AVAILABILITY AND VARIABILITY OF PRODUCTS, DISTINCT COOKING OR OTHER PREPARATION METHODS AND VARIABILITY OF COOKING EQUIPMENT AND APPLIANCES.

Limitation of Liability. TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (INCLUDING, WITHOUT LIMITATION, TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE) SHALL ANY OF THE OMA PARTIES BE LIABLE TO YOU OR TO ANY OTHER PERSON FOR (A) ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING DAMAGES FOR LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA, LOSS OF GOODWILL, WORK STOPPAGE, ACCURACY OF RESULTS, OR COMPUTER FAILURE OR MALFUNCTION, (B) ANY SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY, (C) ANY AMOUNT, IN THE AGGREGATE, IN EXCESS OF THE GREATER OF (I) ONE-HUNDRED (\$100) DOLLARS OR (II) THE AMOUNTS PAID AND/OR PAYABLE BY YOU TO OMA IN CONNECTION WITH THE SERVICES IN THE TWELVE (12) MONTH PERIOD PRECEDING THIS APPLICABLE CLAIM OR (D) ANY MATTER BEYOND OUR REASONABLE CONTROL. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL OR CERTAIN OTHER DAMAGES, SO THE ABOVE LIMITATION AND EXCLUSIONS MAY NOT APPLY TO YOU.

Indemnity. You agree to indemnify and hold the Oma Parties harmless from and against any and all claims, liabilities, damages (actual and consequential), losses and expenses (including attorneys' fees) arising from or in any way related to any claims relating to (a) your use of the Services and any Products, and (b) your violation of these Terms. In the event of such a claim, suit, or action ("Claim"), we will attempt to provide notice of the Claim to the contact information we have for your account (provided that failure to deliver such notice shall not eliminate or reduce your indemnification obligations hereunder).

Assignment. You may not assign, delegate or transfer these Terms or your rights or obligations hereunder, or your Services account, in any way (by operation of law or otherwise) without Oma's prior written consent. We may transfer, assign, or delegate these Terms and our rights and obligations without consent.

Choice of Law. These Terms are governed by and will be construed under the Federal Arbitration Act, applicable federal law, and the laws of the State of New York, without regard to the conflicts of laws provisions thereof.

Arbitration Agreement. Please read the following ARBITRATION AGREEMENT carefully because it requires you to arbitrate certain disputes and claims with Oma and limits the manner in which you can seek relief from Oma. Both you and Oma acknowledge and agree that for the purposes of any dispute arising out of or relating to the subject matter of these Terms, Oma's officers, directors, employees and independent contractors ("Personnel") are third-party beneficiaries of these Terms, and that upon your acceptance of these Terms, Personnel will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as the third-party beneficiary hereof.

(a) Arbitration Rules; Applicability of Arbitration Agreement. The parties shall use their best efforts to settle any dispute, claim, question, or disagreement arising out of or relating to the subject matter of these Terms directly through good-faith negotiations, which shall be a precondition to either party initiating arbitration. If such negotiations do not resolve the dispute, it shall be finally settled by binding arbitration in New York County, New York. The arbitration will proceed in the English language, in accordance with the JAMS Streamlined Arbitration Rules and Procedures (the "Rules") then in effect, by one commercial arbitrator with substantial experience in resolving intellectual property and commercial contract disputes. The arbitrator shall be selected from the appropriate list of JAMS arbitrators in accordance with such Rules. Judgment upon the award rendered by such arbitrator may be entered in any court of competent jurisdiction.

(b) *Costs of Arbitration.* The Rules will govern payment of all arbitration fees. Oma will pay all arbitration fees for claims less than seventy-five thousand (\$75,000) dollars. Oma will not seek its attorneys' fees and costs in arbitration unless the arbitrator determines that your claim is frivolous.

(c) *Small Claims Court; Infringement.* Either you or Oma may assert claims, if they qualify, in small claims court in New York County, New York or any United States county where you live or work. Furthermore, notwithstanding the foregoing obligation to arbitrate disputes, each party shall have the right to pursue injunctive or other equitable relief at any time, from any court of competent jurisdiction, to prevent the actual or threatened infringement, misappropriation or violation of a party's copyrights, trademarks, trade secrets, patents or other intellectual property rights.

(d) *Waiver of Jury Trial.* YOU AND OMA WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR JURY. You and Oma are instead choosing to have claims and disputes resolved by arbitration. Arbitration procedures are typically more limited, more efficient, and less costly than rules applicable in court and are subject to very limited review by a court. In any litigation between you and Oma over whether to vacate or enforce an arbitration award, YOU AND OMA WAIVE ALL RIGHTS TO A JURY TRIAL, and elect instead to have the dispute be resolved by a judge.

(e) *Waiver of Class or Consolidated Actions.* ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS. CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. If however, this waiver of class or consolidated actions is deemed invalid or unenforceable, neither you nor Oma is entitled to arbitration; instead all claims and disputes will be resolved in a court as set forth in (g) below.

(f) *Opt-out.* You have the right to opt out of the provisions of this Section by sending written notice of your decision to opt out to the following address: [STREET ADDRESS], [CITY], [STATE] [ZIP CODE] postmarked within thirty (30) days of first accepting these Terms. You must include (i) your name and residence address, (ii) the email address and/or telephone number associated with your account, and (iii) a clear statement that you want to opt out of these Terms' arbitration agreement.

(g) *Exclusive Venue.* If you send the opt-out notice in (f), and/or in any circumstances where the foregoing arbitration agreement permits either you or Oma to litigate any dispute arising out of or relating to the subject matter of these Terms in court, then the foregoing arbitration agreement will not apply to either party, and both you and Oma agree that any judicial proceeding (other than small claims actions) will be brought in the state or federal courts located in, respectively, New York County, New York, or the federal district in which that county falls.

(h) *Severability.* If the prohibition against class actions and other claims brought on behalf of third parties contained above is found to be unenforceable, then all of the preceding language in this Arbitration Agreement section will be null and void. This arbitration agreement will survive the termination of your relationship with Oma.

Miscellaneous. You will be responsible for paying, withholding, filing, and reporting all taxes, duties, and other governmental assessments associated with your activity in connection with the Services, provided that the Oma may, in its sole discretion, do any of the foregoing on your behalf or for itself as it sees fit. The failure of either you or us to exercise, in any way, any right herein shall not be deemed a waiver of any further rights hereunder. If any provision of these Terms are found to be unenforceable or invalid, that provision will be limited or eliminated, to the minimum extent necessary, so that these Terms shall

otherwise remain in full force and effect and enforceable. You and Oma agree that these Terms are the complete and exclusive statement of the mutual understanding between you and Oma, and that these Terms supersede and cancel all previous written and oral agreements, communications and other understandings relating to the subject matter of these Terms. You hereby acknowledge and agree that you are not an employee, agent, partner, or joint venture of Oma, and you do not have any authority of any kind to bind Oma in any respect whatsoever.

Except as expressly set forth in the section above regarding the arbitration agreement, you and Oma agree there are no third-party beneficiaries intended under these Terms.