**[_____]**
**Terms of Use**
**Last Updated: [____]**

PLEASE READ THIS TERMS OF USE AGREEMENT (THE **"TERMS OF USE"**) CAREFULLY. THIS WEBSITE AND ITS SUBDOMAINS (COLLECTIVELY, THE **"WEBSITE"**), THE INFORMATION ON THE WEBSITE, ANY COMPANY MOBILE APPLICATION ("**MOBILE APP**"), AND THE SERVICES AND RESOURCES AVAILABLE OR ENABLED VIA THE WEBSITE [OR THE MOBILE APP] (EACH A **"SERVICE"** AND COLLECTIVELY, THE **"SERVICES"**), ARE CONTROLLED BY [_____] ("**COMPANY**"). THESE TERMS OF USE ALONG WITH ALL SUPPLEMENTAL TERMS THAT MAY BE PRESENTED TO YOU FOR YOUR REVIEW AND ACCEPTANCE (COLLECTIVELY, THE "**AGREEMENT**"), GOVERN YOUR ACCESS TO AND USE OF THE SERVICES. BY CLICKING ON THE "I ACCEPT" BUTTON, COMPLETING THE REGISTRATION PROCESS, BROWSING THE WEBSITE, [DOWNLOADING OR USING THE MOBILE APP,] OR OTHERWISE ACCESSING OR USING ANY OF THE SERVICES, YOU REPRESENT THAT (1) YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY THE AGREEMENT, (2) YOU ARE OF LEGAL AGE TO FORM A BINDING CONTRACT WITH COMPANY, AND (3) YOU HAVE THE AUTHORITY TO ENTER INTO THE AGREEMENT PERSONALLY OR ON BEHALF OF THE LEGAL ENTITY IDENTIFIED DURING THE ACCOUNT REGISTRATION PROCESS, AND TO BIND THAT LEGAL ENTITY TO THE AGREEMENT. THE TERM **"YOU"** REFERS TO THE INDIVIDUAL OR SUCH LEGAL ENTITY, AS APPLICABLE. **IF YOU, OR IF APPLICABLE, SUCH LEGAL ENTITY, DO NOT AGREE TO BE BOUND BY THE AGREEMENT, YOU, AND IF APPLICABLE, SUCH LEGAL ENTITY, MAY NOT ACCESS OR USE ANY OF THE SERVICES**.

IF YOU SUBSCRIBE TO THE SERVICES FOR A TERM, THE AGREEMENT WILL BE AUTOMATICALLY RENEWED FOR ADDITIONAL PERIODS OF THE SAME DURATION AS THE INITIAL TERM AT COMPANY'S THEN-CURRENT FEE FOR SUCH SERVICES UNLESS YOU DECLINE TO RENEW YOUR SUBSCRIPTION IN ACCORDANCE WITH SECTION 7.5 (AUTOMATIC RENEWAL) BELOW.

**PLEASE BE AWARE THAT SECTION 15 CONTAINS PROVISIONS GOVERNING HOW TO RESOLVE DISPUTES BETWEEN YOU AND COMPANY. AMONG OTHER THINGS, SECTION 15 INCLUDES AN AGREEMENT TO ARBITRATE WHICH REQUIRES, WITH LIMITED EXCEPTIONS, THAT ALL DISPUTES BETWEEN YOU AND US SHALL BE RESOLVED BY BINDING AND FINAL ARBITRATION. SECTION 15 ALSO CONTAINS A CLASS ACTION AND JURY TRIAL WAIVER. PLEASE READ SECTION 15 CAREFULLY. UNLESS YOU OPT OUT OF THE AGREEMENT TO ARBITRATE WITHIN 30 DAYS: (1) YOU WILL ONLY BE PERMITTED TO PURSUE DISPUTES OR CLAIMS AND SEEK RELIEF AGAINST US ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING AND YOU WAIVE YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR CLASS-WIDE ARBITRATION; AND (2) YOU ARE WAIVING YOUR RIGHT TO PURSUE DISPUTES OR CLAIMS AND SEEK RELIEF IN A COURT OF LAW AND TO HAVE A JURY TRIAL.**

PLEASE BE AWARE THAT SECTION 1.6 (COMPANY COMMUNICATIONS) OF THE AGREEMENT BELOW CONTAINS YOUR OPT-IN CONSENT TO RECEIVE COMMUNICATIONS FROM US, INCLUDING, AS APPLICABLE, VIA E-MAIL, [TEXT MESSAGE,] [CALLS] AND PUSH NOTIFICATION.

PLEASE NOTE THAT THE AGREEMENT IS SUBJECT TO CHANGE BY COMPANY IN ITS SOLE DISCRETION AT ANY TIME. WHEN CHANGES ARE MADE, COMPANY WILL MAKE A COPY OF THE UPDATED AGREEMENT AVAILABLE AT THE WEBSITE AND UPDATE THE "LAST UPDATED DATE" AT THE TOP OF THESE TERMS OF USE. IF WE MAKE ANY MATERIAL CHANGES TO THE AGREEMENT, WE WILL PROVIDE NOTICE OF SUCH MATERIAL CHANGES ON THE WEBSITE AND ATTEMPT TO NOTIFY YOU BY SENDING AN E-MAIL TO THE E-MAIL ADDRESS PROVIDED IN YOUR ACCOUNT REGISTRATION. ANY CHANGES TO THE AGREEMENT WILL BE EFFECTIVE IMMEDIATELY FOR NEW USERS OF THE SERVICES AND WILL BE EFFECTIVE FOR EXISTING REGISTERED USERS UPON THE EARLIER OF (A) THIRTY (30) DAYS AFTER THE "LAST UPDATED

DATE" AT THE TOP OF THESE TERMS OF USE, OR (B) YOUR CONSENT TO AND ACCEPTANCE OF THE UPDATED AGREEMENT IF COMPANY PROVIDES A MECHANISM FOR YOUR IMMEDIATE ACCEPTANCE IN A SPECIFIED MANNER (SUCH AS A CLICK-THROUGH ACCEPTANCE), WHICH COMPANY MAY REQUIRE BEFORE FURTHER USE OF THE SERVICES IS PERMITTED. IF YOU DO NOT AGREE TO THE UPDATED AGREEMENT, YOU MUST STOP USINGALL SERVICES UPON THE EFFECTIVE DATE OF THE UPDATED AGREEMENT. OTHERWISE, YOUR CONTINUED USE OF ANY OF THE SERVICES AFTER THE EFFECTIVE DATE OF THE UPDATED AGREEMENT CONSTITUTES YOUR ACCEPTANCE OF THE UPDATED AGREEMENT. PLEASE REGULARLY CHECK THE WEBSITE TO VIEW THE THEN-CURRENT AGREEMENT. YOU AGREE THAT COMPANY'S CONTINUED PROVISION OF THE SERVICES IS ADEQUATE CONSIDERATION FOR THE CHANGES IN THE UPDATED AGREEMENT.

**1. USE OF THE SERVICES**. The Services, and the information and content available on them, are protected by applicable intellectual property laws. Unless subject to a separate license between you and Company, your right to use any and all Services is subject to the Agreement.

1.1 [**Mobile App License.** Subject to your compliance with the Agreement, Company grants you a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to download, install and use a copy of the Mobile App on a single mobile device that you own or control and to run such copy of the Mobile App solely for your own personal or internal business purposes. Furthermore, with respect to any Mobile App accessed through or downloaded from the Apple App Store (an **"App Store Sourced Application"**), you will only use such App Store Sourced Application (a) on an Apple-branded product that runs iOS (Apple's proprietary operating system) and (b) as permitted by the "Usage Rules" set forth in the Apple App Store Terms of Service. Notwithstanding the first sentence in this section, with respect to any Mobile App accessed through or downloaded from the Google Play store (a **"Google Play Sourced Application"**), you may have additional license rights with respect to use of such Google Play Sourced Application on a shared basis within your designated family group.]

**1.2** [**Company Software**. Use of any software and associated documentation [other than the Mobile App] that is made available via the Services ("**Software**") is governed by the Agreement. Subject to your compliance with the Agreement, Company grants you a non-assignable, non-transferable, non-sublicensable, revocable, non-exclusive license to use the Software in object code form only for the sole purpose of enabling you to use the Services in the manner permitted by the Agreement. Some Software may be offered under open source licenses that we will make available to you upon your request. There may be provisions in the open source licenses that expressly override some of these terms.

**1.3 Limited Source Available License**. Subject to your compliance with this Agreement, Company grants you a limited right to access and review the source code form of the Software ("**Source Code**") solely for your internal review, testing, and evaluation purposes. You may not: (a) distribute, sublicense, sell, publish, or otherwise make the Source Code available to any third party for any purpose; or (b) use the Source Code for or in any production or commercial purpose, including but not limited to developing, marketing, or selling any products similar or related to the Software. Notwithstanding the foregoing, you may modify and publish patches to the Source Code for the sole purpose of making contributions back to Company (such modifications referred to herein as "**Contributions**"). If you choose to make any Contributions to the Source Code, you agree that such Contributions are the sole property of Company and you hereby assign to Company your entire right, title, and interest in any such Contributions and any intellectual property rights embodied therein. You further agree to execute any assignments, oaths, declarations and other documents as may be requested by Company to effect the foregoing. For the avoidance of doubt, this Section 1.3 (Limited Source Available License) applies regardless of whether you have signed up for a paid subscription term to the Services.]

**1.4 Updates**. You understand that the Services are evolving. As a result, Company may require you to accept updates to the Services that you have installed on your computer. You acknowledge and agree that Company may update the Services with or without notifying you. You may need to update third-party software from time to time in order to use the Services.

**1.5 Certain Restrictions**. The rights granted to you in the Agreement are subject to the following restrictions: (a) you shall not license, sell, rent, lease, transfer, assign, reproduce, distribute, host or otherwise commercially exploit any of the Services; (b) you shall not frame or utilize framing techniques to enclose any trademark, logo, or other parts of the Services (including images, text, page layout or form); (c) you shall not use any metatags or other "hidden text" using Company's name or trademarks; (d) you shall not modify, translate, adapt, merge, make derivative works of, disassemble, decompile, reverse compile or reverse engineer any part of the Services except to the extent the foregoing restrictions are expressly prohibited by applicable law; (e) you shall not use any manual or automated software, devices or other processes (including but not limited to spiders, robots, scrapers, crawlers, avatars, data mining tools or the like) to "scrape" or download data from any web pages contained in the Services (except that we grant the operators of public search engines revocable permission to use spiders to copy materials from the Website for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials); (f) except as expressly stated herein, no part of the Services may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means; and (h) you shall not remove or destroy any copyright notices or other proprietary markings contained on or in the Services. Any future release, update or other addition to the Services shall be subject to the Agreement. Company, its suppliers and service providers reserve all rights not granted in the Agreement.

**1.6 Company Communications**. By entering into the Agreement or using the Services, you agree to receive communications from us, including via email [text messages,] [calls] and push notification through the Services. [You agree that texts, calls or prerecorded messages may be generated by automatic telephone dialing systems.] Communications from Company may include but are not limited to: operational communications concerning your Account or the use of the Services, updates concerning new and existing features on the Services, communications concerning promotions run by us or our third-party partners, and news concerning the Company and industry developments. [Standard text messaging charges applied by your cell phone carrier will apply to text messages that we send.] IF YOU WISH TO OPT OUT OF PROMOTIONAL EMAILS, YOU CAN UNSUBSCRIBE FROM OUR PROMOTIONAL EMAIL LIST BY FOLLOWING THE UNSUBSCRIBE OPTIONS IN THE PROMOTIONAL EMAIL ITSELF. [IF YOU WISH TO OPT OUT OF PROMOTIONAL CALLS OR TEXTS, YOU MAY TEXT "END" TO [____] FROM THE MOBILE DEVICE RECEIVING THE MESSAGES. YOU ACKNOWLEDGE THAT YOU ARE NOT REQUIRED TO CONSENT TO RECEIVE PROMOTIONAL TEXTS OR CALLS AS A CONDITION OF USING THE SERVICES. IF YOU WISH TO OPT OUT OF ALL TEXTS OR CALLS FROM US (INCLUDING OPERATIONAL OR TRANSACTIONAL TEXTS OR CALLS), YOU CAN TEXT THE WORD "STOPALL" TO [___] FROM THE MOBILE DEVICE RECEIVING THE MESSAGES. HOWEVER, YOU ACKNOWLEDGE THAT OPTING OUT OF RECEIVING ALL TEXTS MAY IMPACT YOUR USE OF THE SERVICES.]

## 2. REGISTRATION

**2.1 Registering Your Account**. In order to access certain features of the Services you may be required to become a Registered User. For purposes of the Agreement, a **"Registered User"** is a user who has registered an account with Company through the Services (**"Account"**)[, has a valid account on a social networking service through which the user has connected to the Services (each such account, a **"Third-Party Account Account"**),] [or has an account with the provider of the Mobile App for the user's mobile device].

**2.2** [**Access Through a Third-Party Service**. If you access the Services through a Third-Party Service as part of the functionality of the Services, you may link your Account with Third-Party Accounts by allowing Company to access your Third-Party Account, as is permitted under the applicable terms and conditions that govern your Third-Party Account. You represent that you are entitled to grant Company access to your Third-Party Account (including, but not limited to, for use for the purposes described herein) without breach by you of any of the terms and conditions that govern your Third-Party Account and without obligating Company to pay any fees or making Company subject to any usage limitations imposed by such Third-Party Service. By granting Company access to any Third-Party

Accounts, you understand that Company may access, make available and store (if applicable) any information, data, text, software, music, sound, photographs, graphics, video, messages, tags and other materials accessible through the Services that you have provided to and stored in your Third-Party Account ("**Third-Party Service Content**") so that it is available on and through the Services via your Account. Unless otherwise specified in the Agreement, all Third-Party Service Content shall be considered to be Your Content (as defined in Section 3.1 (Types of Content)) for all purposes of the Agreement. Depending on the Third-Party Accounts you choose and subject to the privacy settings that you have set in such Third-Party Accounts, personally identifiable information that you post to your Third-Party Accounts may be available on and through your Account on the Services. Please note that if a Third-Party Account or associated service becomes unavailable, or Company's access to such Third-Party Account is terminated by the Third-Party Service, then Third-Party Service Content will no longer be available on and through the Services. If you select settings within the Services to link with a Third-Party Account, you grant Company permission to transfer, store, share, make available, and publish your Content to your Third-Party Accounts(s) as directed by you within the Services. Please note that if a Third-Party Account or associated service becomes unavailable, or if Company's access to such Third-Party Account is terminated by the applicable third-party service provider, then Company may not publish your Content to such Third-Party Account. You have the ability to disable the connection between your Account and your Third-Party Accounts at any time by accessing the "Settings" section of the Services. PLEASE NOTE THAT YOUR RELATIONSHIP WITH THE THIRD-PARTY SERVICE PROVIDERS ASSOCIATED WITH YOUR THIRD-PARTY SERVICE ACCOUNTS IS GOVERNED SOLELY BY YOUR AGREEMENT(S) WITH SUCH THIRD-PARTY SERVICE PROVIDERS, AND COMPANY DISCLAIMS ANY LIABILITY FOR PERSONALLY IDENTIFIABLE INFORMATION THAT MAY BE PROVIDED TO IT BY SUCH THIRD-PARTY SERVICE PROVIDERS IN VIOLATION OF THE PRIVACY SETTINGS THAT YOU HAVE SET IN SUCH THIRD-PARTY SERVICE ACCOUNTS. Company makes no effort to review any Third-Party Service Content for any purpose, including but not limited to, for accuracy, legality or noninfringement, and Company is not responsible for any Third-Party Service Content.]

**2.3 Registration Data**. In registering an Account, you agree to (a) provide true, accurate, current and complete information about yourself as prompted by the registration form (the "**Registration Data**"); and (b) maintain and promptly update the Registration Data to keep it true, accurate, current and complete. You represent that you are (i) at least eighteen (18) years old; (ii) of legal age to form a binding contract; and (iii) not a person barred from using the Services under the laws of the United States, your place of residence or any other applicable jurisdiction. You are responsible for all activities that occur under your Account. You agree that you shall monitor your Account to restrict use by any other persons, including minors, and you will accept full responsibility for any such unauthorized use. You may not share your Account login or password with anyone, and you agree to (y) notify Company immediately of any unauthorized use of your password or any other breach of security; and (z) exit from your Account at the end of each session. If you provide any information that is untrue, inaccurate, not current or incomplete, or Company has reasonable grounds to suspect that any information you provide is untrue, inaccurate, not current or incomplete, Company has the right to suspend or terminate your Account and refuse any and all current or future use of the Services (or any portion thereof). You agree not to create an Account using a false identity or information, or on behalf of someone other than yourself. You agree that you shall not have more than one Account at any given time. Company reserves the right to remove or reclaim any usernames at any time and for any reason, including but not limited to, claims by a third party that a username violates the third party's rights. You agree not to create an Account or use the Services if you have been previously removed by Company, or if you have been previously banned from any of the Services.

**2.4 Your Account**. Notwithstanding anything to the contrary herein, you acknowledge and agree that you shall have no ownership or other property interest in your Account, and you further acknowledge and agree that all rights in and to your Account are and shall forever be owned by and inure to the benefit of Company.

**2.5 Necessary Equipment and Software**. You must provide all equipment and software necessary to connect to the Services. You are solely responsible for any fees, including Internet

connection or mobile fees, that you incur when accessing the Services.

## 3. RESPONSIBILITY FOR CONTENT

**3.1 Types of Content**. For purposes of this Agreement, the term "**Content**" includes, without limitation, information, videos, audio files, data, text, photographs, written posts and comments, software, scripts, graphics, and interactive features generated, provided, or otherwise made accessible on or through the Services. You acknowledge that all Content is the sole responsibility of the party from whom such Content originated. This means that you, and not Company, are entirely responsible for all Content that you upload, post, email, transmit or otherwise make available through the Services ("**Your Content**"), and that you and other Registered Users of the Services, and not Company, are similarly responsible for all Content that you and they make available through the Services ("**User Content**").

**3.2 No Obligation to Pre-Screen Content**. You acknowledge that Company has no obligation to pre-screen User Content, although Company reserves the right in its sole discretion to pre-screen, refuse or remove any User Content. By entering into the Agreement, you hereby provide your irrevocable consent to Company's monitoring of Your Content. You acknowledge and agree that you have no expectation of privacy concerning the transmission of Your Content, including without limitation chat, text, or voice communications. In the event that Company pre-screens, refuses or removes any of Your Content, you acknowledge that Company will do so for Company's benefit, not yours. Without limiting the foregoing, Company shall have the right to remove any of Your Content that violates the Agreement or is otherwise objectionable.

**3.3 Storage**. Company has no responsibility or liability for the accuracy of any User Content, including Your Content; or the security, privacy, or transmission of other communications originating with or involving use of the Services. Certain Services may enable you to specify the level at which such Services restrict access to Your Content. You are solely responsible for choosing the appropriate level of access to Your Content. If you do not so choose, the Services may default to the most permissive setting. You agree that Company retains the right to create reasonable limits on Company's use and storage of User Content, including Your Content, such as limits on file size, storage space, processing capacity, and similar limits as determined by Company in its sole discretion.

## 4. OWNERSHIP

**4.1 Services**. Except with respect to Your Content and other User Content, you agree that Company and its suppliers own all rights, title and interest in the Services (including but not limited to, any computer code, themes, objects, characters, character names, stories, dialogue, concepts, artwork, animations, sounds, musical compositions, audiovisual effects, methods of operation, moral rights, documentation, and Company software). You agree not to remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying any Services.

**4.2 Trademarks**. Company's name and all related stylizations, graphics, logos, service marks and trade names used on or in connection with any Services are the trademarks of Company and may not be used without permission in connection with your, or any third-party, products or services. Third party trademarks, service marks and trade names that may appear on or in the Services are the property of their respective owners.

**4.3 Your Content**. Company does not claim ownership of Your Content. However, when you post or publish Your Content on or in any Services, 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. Without limiting the foregoing, you may not post a video, photograph, or any personally identifying information of another person without that person's permission.

**4.4 License to Your Content**. Subject to any applicable Account settings that you select,

you grant Company a fully paid, royalty-free, worldwide, non-exclusive right (including any moral rights) and license to use, reproduce, modify, adapt, publicly perform, and publicly display Your Content (in whole or in part) for the purposes of operating and providing the Services to you and to our other Registered Users. Please remember that other Registered Users may search for, see, use, modify and reproduce any of Your Content that you submit to any "public" area of the Services. You agree that you, not Company, are responsible for all of Your Content. You may not post a photograph of another person without that person's permission.

**4.5 Username**. Notwithstanding anything contained herein to the contrary, by submitting Your Content to any forums, comments, or any other area on the Services, you hereby expressly permit Company to identify you by your username (which may be a pseudonym) as the contributor of Your Content.

**4.6 Feedback**. You agree that submission of any ideas, suggestions, documents, and/or proposals to Company through its suggestion, feedback, wiki, forum, or similar pages ("**Feedback**") is at your own risk and that Company has no obligations (including without limitation obligations of confidentiality) with respect to such Feedback. You represent and warrant that you have all rights necessary to submit the Feedback. You hereby grant to Company a fully paid, royalty-free, perpetual, irrevocable, worldwide, and non-exclusive right and license to use, reproduce, perform, display, distribute, adapt, modify, re-format, create derivative works of, and otherwise commercially or non-commercially exploit in any manner, any and all Feedback, and to sublicense the foregoing rights, in connection with the operation and maintenance of the Services and/or Company's business.

**5. USER CONDUCT**. As a condition of use, you agree not to use any of the Services for any purpose that is prohibited by this Agreement or by applicable law. You shall not (and shall not permit any third party) either (a) take any action or (b) make available any Content on or through the Services that: (i) infringes, misappropriates or otherwise violates any intellectual property right, right of publicity, right of privacy or other right of any person or entity; (ii) is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, tortious, obscene, offensive, or profane; (iii) constitutes unauthorized or unsolicited advertising, junk or bulk email; (iv) involves commercial activities and/or sales, such as contests, sweepstakes, barter, advertising, or pyramid schemes without Company's prior written consent; (v) impersonates any person or entity, including any employee or representative of Company; (vi) interferes with or attempt to interfere with the proper functioning of the Services or uses the Services in any way not expressly permitted by the Agreement; or (vii) attempts to engage in or engage in, any potentially harmful acts that are directed against the Services, including but not limited to violating or attempting to violate any security features of the Services, introducing viruses, worms, or similar harmful code into the Services, or interfering or attempting to interfere with use of the Services by any other user, host or network, including by means of overloading, "flooding," "spamming," "mail bombing," or "crashing" the Services.

**6. [INTERACTIONS WITH OTHER USERS**

**6.1 User Responsibility**. You are solely responsible for your interactions with other Registered Users and any other parties with whom you interact; provided, however, that Company reserves the right, but has no obligation, to intercede in such disputes. You agree that Company will not be responsible for any liability incurred as the result of such interactions.

**6.2 Content Provided by Other Users**. The Services may contain User Content provided by other Registered Users. Company is not responsible for and does not control User Content. Company has no obligation to review or monitor, and does not approve, endorse or make any representations or warranties with respect to, User Content. You use all User Content and interact with other Registered Users at your own risk.]

**7. FEES AND PURCHASE TERMS**

**7.1 Payment**. You agree to pay all fees or charges to your Account in accordance with the

fees, charges and billing terms in effect at the time a fee or charge is due and payable in accordance with the Services. Company reserves the right at any time to change its prices and billing methods, either immediately upon posting on the Services or by email delivery to you. If you sign up for a paid subscription term to the Services, you must provide Company or its Payment Processor (as defined in Section 16.2) with a valid credit card (Visa, MasterCard, or any other issuer accepted by us) or any other payment provider as accepted by Company in its sole discretion (each, a "**Payment Provider**"). Your Payment Provider agreement governs your use of the designated credit card or other Payment Provider account, and you must refer to that agreement, not this Agreement, to determine your rights and liabilities. By providing Company or its Payment Processor with your credit card number or other Payment Provider account and associated payment information, you agree that Company is authorized to immediately invoice your Account for all fees and charges as they become due and payable and that no additional notice or consent is required. You agree to immediately notify Company or its Payment Processor of any change in your billing address or the credit card or other Payment Provider account used for payment hereunder.

**7.2 Service Subscription Fees**. If you sign up for a paid subscription term to the Services, you will be responsible for payment of the applicable fees for any Services (each, a "**Service Subscription Fee**") at the time you create your Account and select your subscription type and payment package (each, a "**Service Commencement Date**"). Except as set forth in the Agreement, all fees for the Services are non-refundable. No contract will exist between you and Company for the Services until Company accepts your order by a confirmatory email or other appropriate means of communication.

**7.3 Taxes**. The payments required under Section 7.2 (Service Subscription Fees) of this Agreement do not include any Sales Tax that may be due in connection with the services provided under the Agreement. If Company determines it has a legal obligation to collect a Sales Tax from you in connection with the Agreement, Company may collect such Sales Tax in addition to the payments required under Section 7.2 (Service Subscription Fees) of the Agreement. If any Services or payments for any Services under the Agreement are subject to any Sales Tax in any jurisdiction and you have not remitted the applicable Sales Tax to Company, you will be responsible for the payment of such Sales Tax and any related penalties or interest to the relevant tax authority, and you will indemnify Company for any liability or expense Company may incur in connection with such Sales Taxes. Upon Company's request, you will provide it with official receipts issued by the appropriate taxing authority, or other such evidence that you have paid all applicable taxes. For purposes of this section, "**Sales Tax**" shall mean any sales or use tax and any other tax measured by sales proceeds that is the functional equivalent of a sales tax where the applicable taxing jurisdiction does not otherwise impose a sales or use tax.

**7.4 Withholding Taxes**. You agree to make all payments of fees to Company free and clear of, and without reduction for, any withholding taxes. Any such taxes imposed on payments of fees to Company will be your sole responsibility, and you will provide Company with official receipts issued by the appropriate taxing authority, or such other evidence as we may reasonably request, to establish that such taxes have been paid.

**7.5 Automatic Renewal**. Your subscription will continue indefinitely until terminated in accordance with the Agreement. **After your initial subscription period, and again after any subsequent subscription period, your subscription will automatically commence on the first day following the end of such period (each a "Renewal Commencement Date") and continue for an additional equivalent period, at Company's then-current price for such subscription. You agree that your Account will be subject to this automatic renewal feature unless you cancel your subscription at least thirty (30) days prior to the Renewal Commencement Date (or in the event that you receive a notice from Company that your subscription will be automatically renewed, you will have thirty (30) days from the date of the Company notice), by logging into and going to the "Change/Cancel Membership" page of your "Account Settings" page.** If you do not wish your subscription to renew automatically, or if you want to change or terminate your subscription, please contact Company at [insert email] or log in and go to the "Change/Cancel Membership" page on your "Account Settings" page. If you cancel your subscription, you may use your subscription until the end of your then-current subscription term; your subscription will not be renewed after your then-current term

expires. However, you will not be eligible for a prorated refund of any portion of the subscription fee paid for the then-current subscription period. By subscribing for a paid subscription, you authorize Company to charge your Payment Provider now, and again at the beginning of any subsequent subscription period. Upon renewal of your subscription, if Company does not receive payment from your Payment Provider, (a) you agree to pay all amounts due on your Account upon demand and/or (b) you agree that Company may either terminate or suspend your subscription and continue to attempt to charge your Payment Provider until payment is received (upon receipt of payment, your Account will be activated and for purposes of automatic renewal, your new subscription commitment period will begin as of the day payment was received).

**7.6 Free Trials and Other Promotions**. Any free trial or other promotion that provides Registered User level access to the Services must be used within the specified time of the trial. At the end of the trial period, your use of that Service will expire and any further use of the Service is prohibited unless you pay the applicable subscription fee. If you are inadvertently charged for a subscription, please contact Company to have the charges reversed.

**8. INDEMNIFICATION**. You agree to indemnify and hold Company, its parents, subsidiaries, affiliates, officers, employees, agents, partners, suppliers, and licensors (each, a "**Company Party**" and collectively, the "**Company Parties**") harmless from any losses, costs, liabilities and expenses (including reasonable attorneys' fees) relating to or arising out of any and all of the following: (a) Your Content; (b) your use of any Service in violation of the Agreement; (c) your violation of any rights of another party, including any Registered Users; or (d) your violation of any applicable laws, rules or regulations. Company reserves the right, at its own cost, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you agree to fully cooperate with Company in asserting any available defenses. This provision does not require you to indemnify any of the Company Parties for any unconscionable commercial practice by such party or for such party's fraud, deception, false promise, misrepresentation or concealment, or suppression or omission of any material fact in connection with any Services provided hereunder. You agree that the provisions in this section will survive any termination of your Account, the Agreement and/or your access to the Services.

**9. DISCLAIMER OF WARRANTIES AND CONDITIONS**

**9.1 As Is**. YOU EXPRESSLY UNDERSTAND AND AGREE THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK, AND THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS. COMPANY EXPRESSLY DISCLAIMS ALL WARRANTIES, REPRESENTATIONS, AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT ARISING FROM USE OF THE SERVICES.

**(a)** COMPANY MAKES NO WARRANTY, REPRESENTATION OR CONDITION THAT: (1) THE SERVICES WILL MEET YOUR REQUIREMENTS; (2) YOUR USE OF THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; OR (3) THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE.

**(b)** NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM COMPANY OR THROUGH THE SERVICES WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN.

**(c)** FROM TIME TO TIME, COMPANY MAY OFFER NEW "BETA" FEATURES OR TOOLS WITH WHICH ITS USERS MAY EXPERIMENT. SUCH FEATURES OR TOOLS ARE OFFERED SOLELY FOR EXPERIMENTAL PURPOSES AND WITHOUT ANY WARRANTY OF ANY KIND, AND MAY BE MODIFIED OR DISCONTINUED AT COMPANY'S SOLE DISCRETION. THE PROVISIONS OF THIS SECTION APPLY WITH FULL FORCE TO SUCH FEATURES OR TOOLS.

**9.2 No Liability for Conduct of Third Parties**. YOU ACKNOWLEDGE AND AGREE THAT

COMPANY PARTIES ARE NOT LIABLE, AND YOU AGREE NOT TO SEEK TO HOLD COMPANY PARTIES LIABLE, FOR THE CONDUCT OF THIRD PARTIES, INCLUDING OPERATORS OF EXTERNAL SITES AND OTHER USERS OF THE SERVICES, AND THAT THE RISK OF INJURY FROM SUCH THIRD PARTIES RESTS ENTIRELY WITH YOU. **Third-Party Materials**. As a part of the Services, you may have access to materials that are hosted by another party. You agree that it is impossible for Company to monitor such materials and that you access these materials at your own risk.

**10. LIMITATION OF LIABILITY**

**10.1 Disclaimer of Certain Damages**. YOU UNDERSTAND AND AGREE THAT, TO THE FULLEST EXTENT PROVIDED BY LAW, IN NO EVENT SHALL COMPANY PARTIES BE LIABLE FOR ANY LOSS OF PROFITS, REVENUE OR DATA, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, OR DAMAGES OR COSTS DUE TO LOSS OF PRODUCTION OR USE, BUSINESS INTERRUPTION, OR PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, IN EACH CASE WHETHER OR NOT COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT OR ANY COMMUNICATIONS, INTERACTIONS OR MEETINGS WITH OTHER USERS OF THE SERVICES, ON ANY THEORY OF LIABILITY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO LIABILITY OF A COMPANY PARTY FOR (i) DEATH OR PERSONAL INJURY CAUSED BY A COMPANY PARTY'S NEGLIGENCE; OR FOR (ii) ANY INJURY CAUSED BY A COMPANY PARTY'S FRAUD OR FRAUDULENT MISREPRESENTATION.

**10.2 Cap on Liability**. TO THE FULLEST EXTENT PROVIDED BY LAW, COMPANY PARTIES WILL NOT BE LIABLE TO YOU FOR MORE THAN THE TOTAL AMOUNT PAID TO COMPANY BY YOU DURING THE THREE (3)-MONTH PERIOD PRIOR TO THE ACT, OMISSION OR OCCURRENCE GIVING RISE TO SUCH LIABILITY; OR THE REMEDY OR PENALTY IMPOSED BY THE STATUTE UNDER WHICH SUCH CLAIM ARISES. THE FOREGOING CAP ON LIABILITY SHALL NOT APPLY TO LIABILITY OF A COMPANY PARTY FOR (i) DEATH OR PERSONAL INJURY CAUSED BY A COMPANY PARTY'S NEGLIGENCE; OR FOR (ii) ANY INJURY CAUSED BY A COMPANY PARTY'S FRAUD OR FRAUDULENT MISREPRESENTATION.

**10.3 User Content**. EXCEPT FOR COMPANY'S OBLIGATIONS TO PROTECT YOUR PERSONAL DATA AS SET FORTH IN THE COMPANY'S PRIVACY POLICY, COMPANY ASSUMES NO RESPONSIBILITY FOR THE TIMELINESS, DELETION, MIS-DELIVERY OR FAILURE TO STORE ANY CONTENT (INCLUDING, BUT NOT LIMITED TO, YOUR CONTENT AND USER CONTENT), USER COMMUNICATIONS OR PERSONALIZATION SETTINGS.

**10.4 Exclusion of Damages**. CERTAIN JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

**10.5 Basis of the Bargain**. THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN COMPANY AND YOU.

**11. Procedure for Making Claims of Copyright Infringement**. It is Company's policy to terminate membership privileges of any Registered User who repeatedly infringes copyright upon prompt notification to Company by the copyright owner or the copyright owner's legal agent. Without limiting the foregoing, if you believe that your work has been copied and posted on the Services in a way that constitutes copyright infringement, please provide our Copyright Agent with the following information: (a) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; (b) a description of the copyrighted work that you claim has been infringed; (c) a description of the location on the Services of the material that you claim is infringing, such as a URL; (d) your address, telephone number and email address; (e) a written statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent or the law; and (f) a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the

copyright owner or authorized to act on the copyright owner's behalf. Contact information for Company's Copyright Agent for notice of claims of copyright infringement is as follows: [Include name or title, physical address, and email of Copyright Agent].

**12. MONITORING AND ENFORCEMENT**. Company reserves the right to: (a) remove or refuse to post any of Your Content for any or no reason in our sole discretion; (b) take any action with respect to any of your Content that we deem necessary or appropriate in our sole discretion, including if we believe that such Content violates the Agreement, infringes any intellectual property right or other right of any person or entity, threatens the personal safety of users of the Services or the public, or could create liability for Company; (c) take appropriate legal action, including without limitation, referral to law enforcement, for any illegal or unauthorized use of the Services; and/or (d) terminate or suspend your access to all or part of the Services for any or no reason, including without limitation, any violation of this Agreement.

If Company becomes aware of any possible violations by you of the Agreement, Company reserves the right to investigate such violations. If, as a result of the investigation, Company believes that criminal activity has occurred, Company reserves the right to refer the matter to, and to cooperate with, any and all applicable legal authorities. Company is entitled, except to the extent prohibited by applicable law, to disclose any information or materials on or in the Services, including Your Content, in Company's possession in connection with your use of the Services, to (i) comply with applicable laws, legal process or governmental request; (ii) enforce the Agreement, (iii) respond to any claims that Your Content violates the rights of third parties, (iv) respond to your requests for customer service, or (v) protect the rights, property or personal safety of Company, its Registered Users or the public, and all enforcement or other government officials, as Company in its sole discretion believes to be necessary or appropriate.

**13. TERM AND TERMINATION**

**13.1 Term**. The Agreement commences on the date when you accept them (as described in the preamble above) and remain in full force and effect while you use the Services, unless terminated earlier in accordance with the Agreement.

**13.2 Prior Use**. Notwithstanding the foregoing, you hereby acknowledge and agree that the Agreement commenced on the earlier to occur of (a) the date you first used the Services or (b) the date you accepted the Agreement, and will remain in full force and effect while you use any Services, unless earlier terminated in accordance with the Agreement.

**13.3 Termination of Services by Company**. You will have thirty (30) days from the Service Commencement Date, or any Renewal Commencement Date, for any Services hereunder, to cancel such Service, in which case Company will refund your Service Subscription Fee, if already paid pursuant to Section 7.1 (Payment) or 7.2 (Service Subscription Fees), for the applicable Service. Except as set forth above, the Service Subscription Fee for any Service shall be non-refundable. If timely payment cannot be charged to your Payment Provider for any reason, if you have materially breached any provision of the Agreement, or if Company is required to do so by law (e.g., where the provision of the Services is, or becomes, unlawful), Company has the right to, immediately and without notice, suspend or terminate any Services provided to you. You agree that all terminations for cause shall be made in Company's sole discretion and that Company shall not be liable to you or any third party for any termination of your Account.

**13.4 Termination of Services by You**. If you want to terminate the Services provided by Company, you may do so by (a) notifying Company at any time and (b) closing your Account for all of the Services that you use. Your notice should be sent, in writing, to Company's address set forth below. THE SERVICES WILL CONTINUE AT THE END OF EACH SUBSCRIPTION PERIOD UNLESS YOU CANCEL YOUR SUBSCRIPTION IN ACCORDANCE WITH THE PROCEDURE SET FORTH IN SECTION 7.5 (AUTOMATIC RENEWAL).

**13.5 Effect of Termination**. Termination of any Service includes removal of access to such

Service and barring of further use of the Service. Termination of all Services also includes deletion of your password and all related information, files and Content associated with or inside your Account (or any part thereof), including Your Content. Upon termination of any Service, your right to use such Service will automatically terminate immediately. You understand that any termination of Services may involve deletion of Your Content associated therewith from our live databases. Company will not have any liability whatsoever to you for any suspension or termination, including for deletion of Your Content. All provisions of the Agreement which by their nature should survive, shall survive termination of Services, including without limitation, ownership provisions, warranty disclaimers, and limitation of liability.

**13.6 No Subsequent Registration**. If your registration(s) with, or ability to access, the Services or any other Company community, is discontinued by Company due to your violation of any portion of the Agreement or for conduct otherwise inappropriate for the community, then you agree that you shall not attempt to re-register with or access the Services or any Company community through use of a different member name or otherwise, and you acknowledge that you will not be entitled to receive a refund for fees related to those Services to which your access has been terminated. In the event that you violate the immediately preceding sentence, Company reserves the right, in its sole discretion, to immediately take any or all of the actions set forth herein without any notice or warning to you.

**14. INTERNATIONAL USERS**. The Services can be accessed from countries around the world and may contain references to Services and Content that are not available in your country. These references do not imply that Company intends to announce such Services or Content in your country. The Services are controlled and offered by Company from its facilities in the United States of America. Company makes no representations that the Services are appropriate or available for use in other locations. Those who access or use the Services from other countries do so at their own volition and are responsible for compliance with local law.

**15. DISPUTE RESOLUTION. Please read the following arbitration agreement in this section ("Arbitration Agreement") carefully. PLEASE BE AWARE THAT THIS SECTION 15 CONTAINS PROVISIONS GOVERNING HOW DISPUTES THAT YOU AND COMPANY HAVE AGAINST EACH OTHER WILL BE RESOLVED. AMONG OTHER THINGS, THIS SECTION 15 INCLUDES AN AGREEMENT TO ARBITRATE WHICH REQUIRES, WITH LIMITED EXCEPTIONS, THAT ALL DISPUTES BETWEEN YOU AND COMPANY BE RESOLVED BY BINDING AND FINAL ARBITRATION. THIS SECTION 15 ALSO CONTAINS A CLASS ACTION AND JURY TRIAL WAIVER.**

15.1 **Applicability of Arbitration Agreement.** Subject to the terms of this Arbitration Agreement, you and Company agree that any dispute, claim, disagreements arising out of or relating in any way to your access to or use of the Service, any communications you receive, any products sold or distributed through the Service or the Terms of Use and prior versions of the Terms of Use, including claims and disputes that arose between us before the effective date of these Terms of Use (each, a "**Dispute**") will be resolved by binding arbitration, rather than in court, except that: (1) you and Company may assert claims or seek relief in small claims court if such claims qualify and remain in small claims court; and (2) you or Company may seek equitable relief in court for infringement or other misuse of intellectual property rights (such as trademarks, trade dress, domain names, trade secrets, copyrights, and patents). For purposes of this Arbitration Agreement, "Dispute" will also include disputes that arose or involve facts occurring before the existence of this or any prior versions of the Terms of Use as well as claims that may arise after the termination of these Terms of Use.

15.2 **Informal Dispute Resolution.** There might be instances when a Dispute arises between you and Company. If that occurs, Company is committed to working with you to reach a reasonable resolution. You and Company agree that good faith informal efforts to resolve Disputes can result in a prompt, low-cost and mutually beneficial outcome ("**Informal Dispute Resolution**"). You and Company therefore agree that before either party commences arbitration against the other (or initiates an action in small claims court if a party so elects), we will personally meet and confer telephonically or via videoconference, in a good faith effort to resolve informally any Dispute covered by this Arbitration Agreement ("**Informal Dispute Resolution Conference**"). If you are represented by counsel, your counsel may participate in the conference, but you will also participate in the conference.

The party initiating a Dispute must give notice to the other party in writing of its intent to initiate an Informal Dispute Resolution Conference ("**Notice**"), which shall occur within 45 days after the other party receives such Notice, unless an extension is mutually agreed upon by the parties. Notice to Company that you intend to initiate an Informal Dispute Resolution Conference should be sent by email to [email address] or regular mail to our offices located at [insert address]. The Notice must include: (1) your name, telephone number, mailing address, e-mail address associated with your account (if you have one); (2) the name, telephone number, mailing address and e-mail address of your counsel, if any; and (3) a description of your Dispute.

The Informal Dispute Resolution Conference shall be individualized such that a separate conference must be held each time either party initiates a Dispute, even if the same law firm or group of law firms represents multiple users in similar cases, unless all parties agree; multiple individuals initiating a Dispute cannot participate in the same Informal Dispute Resolution Conference unless all parties agree. In the time between a party receiving the Notice and the Informal Dispute Resolution Conference, nothing in this Arbitration Agreement shall prohibit the parties from engaging in informal communications to resolve the initiating party's Dispute. Engaging in the Informal Dispute Resolution Conference is a condition precedent and requirement that must be fulfilled before commencing arbitration. The statute of limitations and any filing fee deadlines shall be tolled while the parties engage in the Informal Dispute Resolution Conference process required by this section.

15.3 **Waiver of Jury Trial.** YOU AND COMPANY HEREBY WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO SUE IN COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY. You and Company are instead electing that all Disputes shall be resolved by arbitration under this Arbitration Agreement, except as specified in the section entitled "Applicability of Arbitration Agreement" above. There is no judge or jury in arbitration, and court review of an arbitration award is subject to very limited review.

15.4 **Waiver of Class and Other Non-Individualized Relief.** YOU AND COMPANY AGREE THAT, EXCEPT AS SPECIFIED IN THE SECTION ENTITLED "BATCH ARBITRATION," EACH OF US MAY BRING CLAIMS AGAINST THE OTHER ONLY ON AN INDIVIDUAL BASIS AND NOT ON A CLASS, REPRESENTATIVE, OR COLLECTIVE BASIS, AND THE PARTIES HEREBY WAIVE ALL RIGHTS TO HAVE ANY DISPUTE BE BROUGHT, HEARD, ADMINISTERED, RESOLVED, OR ARBITRATED ON A CLASS, COLLECTIVE, REPRESENTATIVE, OR MASS ACTION BASIS. ONLY INDIVIDUAL RELIEF IS AVAILABLE, AND DISPUTES OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. Subject to this Arbitration Agreement, the arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by the party's individual claim. Nothing in this paragraph is intended to, nor shall it, affect the terms and conditions under the section entitled "Batch Arbitration." Notwithstanding anything to the contrary in this Arbitration Agreement, if a court decides by means of a final decision, not subject to any further appeal or recourse, that the limitations of this section, "Waiver of Class and Other Non-Individualized Relief," are invalid or unenforceable as to a particular claim or request for relief (such as a request for public injunctive relief), you and Company agree that that particular claim or request for relief (and only that particular claim or request for relief) shall be severed from the arbitration and may be litigated in the state or federal courts located in the [State of Delaware]. All other Disputes shall be arbitrated or litigated in small claims court. This section does not prevent you or Company from participating in a class-wide settlement of claims.

15.5 **Rules and Forum.** The Term of Use evidence a transaction involving interstate commerce; and notwithstanding any other provision herein with respect to the applicable substantive law, the Federal Arbitration Act, 9 U.S.C. § 1 *et seq.*, will govern the interpretation and enforcement of this Arbitration Agreement and any arbitration proceedings. If the Informal Dispute Resolution process described above does not resolve satisfactorily within sixty (60) days after receipt of your Notice, you and Company agree that either party shall have the right to finally resolve the Dispute through binding arbitration. The arbitration will be administered by the American Arbitration Association ("**AAA**"), in accordance with the Consumer Arbitration Rules (the "**AAA Rules**") then in effect, except as modified by

this section of this Arbitration Agreement. The AAA Rules are currently available at https://www.adr.org/sites/default/files/Consumer%20Rules.pdf.

A party who wishes to initiate arbitration must provide the other party with a request for arbitration (the "**Request**"). The Request must include: (1) the name, telephone number, mailing address, e-mail address of the party seeking arbitration and the account username (if applicable) as well as the email address associated with any applicable account; (2) a statement of the legal claims being asserted and the factual bases of those claims; (3) a description of the remedy sought and an accurate, good-faith calculation of the amount in controversy in United States Dollars; (4) a statement certifying completion of the Informal Dispute Resolution process as described above; and (5) evidence that the requesting party has paid any necessary filing fees in connection with such arbitration.

If the party requesting arbitration is represented by counsel, the Request shall also include counsel's name, telephone number, mailing address, and email address. Such counsel must also sign the Request. By signing the Request, counsel certifies to the best of counsel's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, that: (1) the Request is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of dispute resolution; (2) the claims, defenses and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; and (3) the factual and damages contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

Unless you and Company otherwise agree, or the Batch Arbitration process discussed in the section entitled "Batch Arbitration" is triggered, the arbitration will be conducted in the county where you reside. Subject to the AAA Rules, the arbitrator may direct a limited and reasonable exchange of information between the parties, consistent with the expedited nature of the arbitration. If the AAA is not available to arbitrate, the parties will select an alternative arbitral forum. Your responsibility to pay any AAA fees and costs will be solely as set forth in the applicable AAA Rules.

You and Company agree that all materials and documents exchanged during the arbitration proceedings shall be kept confidential and shall not be shared with anyone except the parties' attorneys, accountants, or business advisors, and then subject to the condition that they agree to keep all materials and documents exchanged during the arbitration proceedings confidential.

15.6 **Arbitrator.** The arbitrator will be either a retired judge or an attorney licensed to practice law in the State of Delaware and will be selected by the parties from the AAA's roster of consumer dispute arbitrators. If the parties are unable to agree upon an arbitrator within thirty-five (35) days of delivery of the Request, then the AAA will appoint the arbitrator in accordance with the AAA Rules, provided that if the Batch Arbitration process under the section entitled "Batch Arbitration" is triggered, the AAA will appoint the arbitrator for each batch.

15.7 **Authority of Arbitrator.** The arbitrator shall have exclusive authority to resolve any Dispute, including, without limitation, disputes arising out of or related to the interpretation or application of the Arbitration Agreement, including the enforceability, revocability, scope, or validity of the Arbitration Agreement or any portion of the Arbitration Agreement, except for the following: (1) all Disputes arising out of or relating to the section entitled "Waiver of Class and Other Non-Individualized Relief," including any claim that all or part of the section entitled "Waiver of Class and Other Non-Individualized Relief" is unenforceable, illegal, void or voidable, or that such section entitled "Waiver of Class and Other Non-Individualized Relief" has been breached, shall be decided by a court of competent jurisdiction and not by an arbitrator; (2) except as expressly contemplated in the section entitled "Batch Arbitration," all Disputes about the payment of arbitration fees shall be decided only by a court of competent jurisdiction and not by an arbitrator; (3) all Disputes about whether either party has satisfied any condition precedent to arbitration shall be decided only by a court of competent jurisdiction and not by an arbitrator; and (4) all Disputes about which version of the Arbitration Agreement applies shall be decided only by a court of competent jurisdiction and not by an arbitrator. The arbitration proceeding will not be consolidated with any other matters or joined with any other cases or parties, except as expressly provided in the section

entitled “Batch Arbitration.” The arbitrator shall have the authority to grant motions dispositive of all or part of any Dispute. The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The award of the arbitrator is final and binding upon you and us. Judgment on the arbitration award may be entered in any court having jurisdiction.

15.8 **Attorneys’ Fees and Costs.** The parties shall bear their own attorneys’ fees and costs in arbitration unless the arbitrator finds that either the substance of the Dispute or the relief sought in the Request was frivolous or was brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)). If you or Company need to invoke the authority of a court of competent jurisdiction to compel arbitration, then the party that obtains an order compelling arbitration in such action shall have the right to collect from the other party its reasonable costs, necessary disbursements, and reasonable attorneys’ fees incurred in securing an order compelling arbitration. The prevailing party in any court action relating to whether either party has satisfied any condition precedent to arbitration, including the Informal Dispute Resolution process, is entitled to recover their reasonable costs, necessary disbursements, and reasonable attorneys’ fees and costs.

15.9 **Batch Arbitration.** To increase the efficiency of administration and resolution of arbitrations, you and Company agree that in the event that there are one-hundred (100) or more individual Requests of a substantially similar nature filed against Company by or with the assistance of the same law firm, group of law firms, or organizations, within a thirty (30) day period (or as soon as possible thereafter), the AAA shall (1) administer the arbitration demands in batches of 100 Requests per batch (plus, to the extent there are less than 100 Requests left over after the batching described above, a final batch consisting of the remaining Requests); (2) appoint one arbitrator for each batch; and (3) provide for the resolution of each batch as a single consolidated arbitration with one set of filing and administrative fees due per side per batch, one procedural calendar, one hearing (if any) in a place to be determined by the arbitrator, and one final award (“**Batch Arbitration**”).

All parties agree that Requests are of a “substantially similar nature” if they arise out of or relate to the same event or factual scenario and raise the same or similar legal issues and seek the same or similar relief. To the extent the parties disagree on the application of the Batch Arbitration process, the disagreeing party shall advise the AAA, and the AAA shall appoint a sole standing arbitrator to determine the applicability of the Batch Arbitration process (“**Administrative Arbitrator**”). In an effort to expedite resolution of any such dispute by the Administrative Arbitrator, the parties agree the Administrative Arbitrator may set forth such procedures as are necessary to resolve any disputes promptly. The Administrative Arbitrator’s fees shall be paid by Company.

You and Company agree to cooperate in good faith with the AAA to implement the Batch Arbitration process including the payment of single filing and administrative fees for batches of Requests, as well as any steps to minimize the time and costs of arbitration, which may include: (1) the appointment of a discovery special master to assist the arbitrator in the resolution of discovery disputes; and (2) the adoption of an expedited calendar of the arbitration proceedings.

This Batch Arbitration provision shall in no way be interpreted as authorizing a class, collective and/or mass arbitration or action of any kind, or arbitration involving joint or consolidated claims under any circumstances, except as expressly set forth in this provision.

15.10 **30-Day Right to Opt Out.** You have the right to opt out of the provisions of this Arbitration Agreement by sending written notice of your decision to opt out to: [insert address], within thirty (30) days after first becoming subject to this Arbitration Agreement. Your notice must include your name and address, the email address you used to set up your Company account (if you have one), and an unequivocal statement that you want to opt out of this Arbitration Agreement. If you opt out of this Arbitration Agreement, all other parts of these Terms of Use will continue to apply to you. Opting out of this Arbitration Agreement has no effect on any other arbitration agreements that you may currently have, or may enter in the future, with us.

15.11 **Invalidity, Expiration.** Except as provided in the section entitled "Waiver of Class or Other Non-Individualized Relief", if any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Arbitration Agreement shall continue in full force and effect. You further agree that any Dispute that you have with Company as detailed in this Arbitration Agreement must be initiated via arbitration within the applicable statute of limitation for that claim or controversy, or it will be forever time barred. Likewise, you agree that all applicable statutes of limitation will apply to such arbitration in the same manner as those statutes of limitation would apply in the applicable court of competent jurisdiction.

15.12 **Modification.** Notwithstanding any provision in these Terms of Use to the contrary, we agree that if Company makes any future material change to this Arbitration Agreement, we will notify you. Unless you reject the change within thirty (30) days of such change become effective by writing to Company at [insert address], your continued use of the Service, including the acceptance of products and services offered on the Service following the posting of changes to this Arbitration Agreement constitutes your acceptance of any such changes. Changes to this Arbitration Agreement do not provide you with a new opportunity to opt out of the Arbitration Agreement if you have previously agreed to a version of these Terms of Use and did not validly opt out of arbitration. If you reject any change or update to this Arbitration Agreement, and you were bound by an existing agreement to arbitrate Disputes arising out of or relating in any way to your access to or use of the Service, any communications you receive, any products sold or distributed through the Service or these Terms of Use, the provisions of this Arbitration Agreement as of the date you first accepted the Terms of Use (or accepted any subsequent changes to these Terms of Use) remain in full force and effect. Company will continue to honor any valid opt outs of the Arbitration Agreement that you made to a prior version of these Terms of Use.

## 16. THIRD-PARTY SERVICES

**16.1 Third-Party Websites and Applications.** The Services may contain links to third-party websites ("**Third-Party Websites**") and applications ("**Third-Party Applications**"). When you click on a link to a Third-Party Website or Third-Party Application, we will not warn you that you have left the Services and are subject to the terms and conditions (including privacy policies) of another website or destination. Such Third-Party Websites and Third-Party Applications are not under the control of Company. Company is not responsible for any Third-Party Websites or Third-Party Applications. Company provides these Third-Party Websites and Third-Party Applications only as a convenience and does not review, approve, monitor, endorse, warrant, or make any representations with respect to Third-Party Websites or Third-Party Applications, or any product or service provided in connection therewith. You use all links in Third-Party Websites and Third-Party Applications at your own risk. When you leave our Website, the Agreement and our policies no longer govern. You should review applicable terms and policies, including privacy and data gathering practices, of any Third-Party Websites or Third-Party Applications, and make whatever investigation you feel necessary or appropriate before proceeding with any transaction with any third party.

**16.2** [**Third Party Service Provider.** The Company uses [Stripe, Inc. and its affiliates] as the third party service provider for payment services (e.g., card acceptance, merchant settlement, and related services) (a **"Payment Processor"**). By buying or selling on any Company Property, you agree to be bound by [Stripe's Privacy Policy (currently accessible at https://stripe.com/us/privacy) and its Terms of Service (currently accessible at https://stripe.com/us/terms)] and hereby consent and authorize the Company and [Stripe] to share any information and payment instructions you provide with one or more Payment Processor(s) to the minimum extent required to complete your transactions.]

**16.3** [**App Stores.** You acknowledge and agree that the availability of the Mobile App and the Services is dependent on the third party from whom you received the Mobile App license, e.g., the Apple App Store or Google Play (each, an **"App Store"**). You acknowledge that the Agreement is between you and Company and not with the App Store. Company, not the App Store, is solely responsible for the Services, including the Mobile App, the content thereof, maintenance, support services, and warranty therefor, and addressing any claims relating thereto (e.g., product liability, legal compliance or intellectual

property infringement). In order to use the Mobile App, you must have access to a wireless network, and you agree to pay all fees associated with such access. You also agree to pay all fees (if any) charged by the App Store in connection with the Services, including the Mobile App. You agree to comply with, and your license to use the Mobile App is conditioned upon your compliance with all terms of agreement imposed by the applicable App Store when using any Service, including the Mobile App. You acknowledge that the App Store (and its subsidiaries) are third-party beneficiaries of the Agreement and will have the right to enforce it.

**16.4 Accessing and Downloading the Mobile App from iTunes.** The following applies to any App Store Sourced Application accessed through or downloaded from the Apple App Store:

(a) You acknowledge and agree that (i) the Agreement is concluded between you and Company only, and not Apple, and (ii) Company, not Apple, is solely responsible for the App Store Sourced Application and content thereof. Your use of the App Store Sourced Application must comply with the App Store Terms of Service.

(b) You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the App Store Sourced Application.

(c) In the event of any failure of the App Store Sourced Application to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the App Store Sourced Application to you and to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App Store Sourced Application. As between Company and Apple, any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be the sole responsibility of Company.

(d) You and Company acknowledge that, as between Company and Apple, Apple is not responsible for addressing any claims you have or any claims of any third party relating to the App Store Sourced Application or your possession and use of the App Store Sourced Application, including, but not limited to: (i) product liability claims; (ii) any claim that the App Store Sourced Application fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.

(e) You and Company acknowledge that, in the event of any third-party claim that the App Store Sourced Application or your possession and use of that App Store Sourced Application infringes that third party's intellectual property rights, as between Company and Apple, Company, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by the Agreement.

(f) You and Company acknowledge and agree that Apple, and Apple's subsidiaries, are third-party beneficiaries of the Agreement as related to your license of the App Store Sourced Application, and that, upon your acceptance of the terms and conditions of the Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce the Agreement as related to your license of the App Store Sourced Application against you as a third-party beneficiary thereof.

**(g)** Without limiting any other terms of the Agreement, you must comply with all applicable third-party terms of agreement when using the App Store Sourced Application.]

## 17. GENERAL PROVISIONS

**17.1 Governing Law; Exclusive Venue**. Any dispute, claim or request for relief relating in any way to your use of the services will be governed and interpreted by and under the laws of the State of Delaware, consistent with the Federal Arbitration Act, without giving effect to any principles that provide for the application of the law of any other jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods is expressly excluded from this Agreement. To the extent the parties are

permitted under this Agreement to initiate litigation in a court, both you and Company agree that all claims and disputes arising out of or relating to the Agreement will be litigated exclusively in the state or federal courts located in San Francisco County, California.

**17.2 Electronic Communications**. The communications between you and Company may take place via electronic means, whether you visit the Services or send Company emails, or whether Company posts notices on the Services or communicates with you via email. For contractual purposes, you (a) consent to receive communications from Company in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that Company provides to you electronically satisfy any legal requirement that such communications would satisfy if it were to be in writing. The foregoing does not affect your statutory rights, including but not limited to the Electronic Signatures in Global and National Commerce Act at 15 U.S.C. §7001 et seq.

**17.3 Assignment**. The Agreement, and your rights and obligations hereunder, may not be assigned, subcontracted, delegated or otherwise transferred by you without Company's prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void.

**17.4 Force Majeure**. Company shall not be liable for any delay or failure to perform resulting from causes outside its reasonable control, including, but not limited to, acts of God, pandemics, war, terrorism, riots, embargos, acts of civil or military authorities, fire, floods, accidents, strikes or shortages of transportation facilities, fuel, energy, labor or materials.

**17.5 Questions, Complaints, Claims**. If you have any questions, complaints or claims with respect to the Services, please contact us at: [insert email]. We will do our best to address your concerns. If you feel that your concerns have been addressed incompletely, we invite you to let us know for further investigation.

**17.6 Notice**. Where Company requires that you provide an email address, you are responsible for providing Company with your most current email address. In the event that the last email address you provided to Company is not valid, or for any reason is not capable of delivering to you any notices required/ permitted by the Agreement, Company's dispatch of the email containing such notice will nonetheless constitute effective notice. You may give notice to Company at the following address: [insert mailing address]. Such notice shall be deemed given when received by Company by letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail at the above address.

**17.7 Waiver**. Any waiver or failure to enforce any provision of the Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

**17.8 Severability**. If any portion of the Agreement is held invalid or unenforceable, that portion shall be construed in a manner to reflect, as nearly as possible, the original intention of the parties, and the remaining portions shall remain in full force and effect.

**17.9 Export Control**. You may not use, export, import, or transfer any Services except as authorized by U.S. law, the laws of the jurisdiction in which you obtained the Services, and any other applicable laws. In particular, but without limitation, the Services may not be exported or re-exported (a) into any United States embargoed countries, or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Denied Person's List or Entity List. By using the Services, you represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties. You also will not use the Services for any purpose prohibited by U.S. law, including the development, design, manufacture or production of missiles, nuclear, chemical or biological weapons. You acknowledge and agree that products, services or technology provided by Company are subject to the export control laws and regulations of the United States. You shall comply with these laws and regulations and shall not, without prior U.S. government authorization, export, re-export, or transfer

Company products, services or technology, either directly or indirectly, to any country in violation of such laws and regulations.

**17.10 Consumer Complaints**. In accordance with California Civil Code §1789.3, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 1625 North Market Blvd., Suite N 112, Sacramento, CA 95834, or by telephone at (800) 952-5210.

**17.11 Entire Agreement**. The Agreement is the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior discussions between the parties with respect to such subject matter.