

Terms of Service

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Thank you for signing up to use our service made available to you on mentumqr.com or through any other website owned, operated, or controlled by us (collectively, the "**Site**") or through our application (the "**App**") we or others make available to you, including on ordering kiosks in person at various locations (together, the "**Service**"). Please read these terms and conditions (the "**Terms of Service**") carefully. By using the Service or signing up for an Account (as defined below), you are agreeing to these Terms of Service, which means you will be in a legal agreement with Mentum Group Inc. and our affiliates or subsidiaries, as applicable ("**we**", "**us**", "**our**", and similar expressions).

BY ACCESSING, BROWSING, AND USING THE SERVICE, YOU INDICATE THAT YOU HAVE READ AND ACCEPT THESE TERMS OF SERVICE. IF YOU DO NOT ACCEPT THESE TERMS OF SERVICE, THEN YOU MAY NOT ACCESS OR USE THE SERVICE.

IMPORTANT NOTICE: PLEASE BE AWARE THAT THESE TERMS OF SERVICE CONTAIN IMPORTANT DISCLAIMERS AND LIMITATIONS OF LIABILITY. IN ADDITION, THESE TERMS OF SERVICE CONTAIN PROVISIONS GOVERNING HOW CLAIMS THAT YOU AND WE HAVE AGAINST EACH OTHER ARE RESOLVED, INCLUDING, WITHOUT LIMITATION, ANY CLAIMS THAT AROSE OR WERE ASSERTED PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT. IN PARTICULAR, YOU WILL ONLY BE PERMITTED TO PURSUE 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 ARE WAIVING YOUR RIGHT TO SEEK RELIEF IN A COURT OF LAW AND TO HAVE A JURY TRIAL ON YOUR CLAIMS.

The Service, Accounts, and Availability of the Service

1. **The Service.** The Service allows you to view and access or acquire products, services, food, drink, delivery services, and other offers ("**Offers**") from independent third parties (companies or people who are not us) ("**Third-Party Services**"). Our Service helps you find, make requests to, or interact with these Third-Party Services or allows you to share your Data (as defined below) with them to receive Offers, and you understand that by using our Service you are directing us to make the Third-Party Services presented in the Service available to you and to share your Data in the way intended by the Service and as set out in these Terms of Service.
2. **Access to the Service.** Subject to your compliance with these Terms of Service, you may access the Service to view Offers and select and order Offers from Third-Party Services, such as restaurants, food vendors, and other suppliers, and to have them delivered to you or made available for pick up at a specified location (an "**Order**").
3. **Availability.** The Service, Third-Party Services, and Offers available through the Service may be unavailable from time to time, may be offered on a limited basis, or may vary depending on your region. We strive to keep the Service up and running; however, all online services suffer occasional disruptions and outages, and we are not liable for any disruption or loss you may suffer as a result. In the event of an outage, you may not be able to retrieve your Data that you have stored. We recommend that you regularly backup your Data that you store on the Service or that you have connected with Third-Party Services. Not all Service features are available in every

jurisdiction, and we are under no obligation to make any Service or features available in any jurisdiction. We reserve the right to refuse service to anyone for any reason at any time.

4. **Content displayed through the Service.** We reserve the right to change or allow a third party to change any information, material, or content (including price, features, availability of Offers, menus, and vendors) contained on or provided through the Service at any time, and from time to time, without notice.
5. **Account registration.** To access and use the Service, you may register for an account with us through the registration process on our Site or the App, or the other means of creating an account provided to you through the Service (an "**Account**"). To create an Account, you may need to provide your full legal name, current address, phone number, a valid email address, and any other information we require. We may reject your application for an Account, or cancel an existing Account, for any reason, in our sole discretion. By signing up for an Account, you represent and warrant that you meet the conditions for having an Account with us and acknowledge that we are relying on this representation and warranty. If you sign up for an Account on behalf of a company or other entity, you represent and warrant that you have the authority to accept these Terms of Service on its behalf.
6. **Account security.** You are responsible for keeping your Account secure. We are not liable for any loss or damage from your failure to maintain the security of your Account, including any password or single sign-on integration you use to access your Account.
7. **Account inactivity.** If your Account is inactive for 12 or more months, we may terminate the Account in our discretion. Once your Account is terminated, whether by you or us, you acknowledge and agree that we may at our option permanently delete your Account and all the data associated with it.
8. **Account disputes.** In the event of a dispute regarding Account ownership, we have the right to request documentation to determine the appropriate Account ownership. Documentation may include things such as a scanned copy of your government issued photo identification or the account number associated with a connected service or account, such as an account associated with any method of payment we have for you. We have the right to determine, in our sole judgment, who the rightful Account owner is and transfer an Account to that person. If we are unable to reasonably determine the rightful owner of an Account, without limiting our other rights and remedies, we have the right to temporarily disable an Account until you and the other party in the dispute have resolved the question of who is the rightful owner.
9. **Age requirements.** You must be the older of 18 years or the age of majority in the jurisdiction where you reside and from which you use the Service to open an Account.
10. **Subject to laws.** You may not sign up for, or have any access to, an Account if doing so would violate any applicable laws or regulations of the laws and regulations of any jurisdiction applicable to you.
11. **Modifications to the Service.** We reserve the right to modify or terminate the Service for any reason, without notice at any time.
12. **Communication with you.** You acknowledge that we will use the email address you provide when you open an Account or as updated by you from time to time to communicate with you. If you provide us with a mobile phone number, we may also contact you through SMS message. You consent to receiving such messages from us in connection with your use of the Service. You

may opt out of email and SMS communication by following the link in our messages to our unsubscribe mechanism.

13. **Technical support.** Technical support regarding the Service is only provided to Account holders and their authorized representatives through the support tools and contact methods provided through the Service and on the Site.

Access to the Service is subject to these Terms of Service and other Terms and Conditions

1. **Acceptance of Terms of Service and additional terms.** You must read, agree with, and accept all of the terms and conditions contained or referenced in these Terms of Service, including our Privacy Policy and any of our other applicable terms, conditions, or policies before you sign up for an Account or use our Service (collectively, the "**Additional Terms**"). Questions about the Terms of Service should be sent to team@mentumqr.com.
2. **New features.** Any new features or functionalities added to the current Service shall be also subject to the Terms of Service and the Additional Terms.
3. **Accessing the Terms of Service and acceptance of updates.** You can review the current version of the Terms of Service and Additional Terms at any time at the Site or within the Service. You acknowledge and agree that we may amend these Terms of Service at any time by posting an updated version on the Site or in the Service. All such amendments to the Terms of Service or any applicable Additional Terms are effective as of the date of posting. Your continued use of the Service after the amended Terms of Service are posted means you have agreed to the changes. If you do not agree to any changes to the Terms of Service or any applicable Additional Terms, do not continue to use the Service.
4. **Breaches.** A breach or violation of any term in the Terms of Service or the Additional Terms, as determined in our sole discretion, may result in an immediate termination of your access to the Service and your Account.
5. **Third-Party terms.** The Third-Party Services may present you with a privacy policy or require you to accept their terms before you can access those Third-Party Services. You should review the third-party terms and privacy policies before acquiring, using, or requesting the Third-Party Service. Any third-party terms do not modify these Terms of Service. We do not license any intellectual property to you as part of any Third-Party Services.
6. **Payment processing.** The Service includes integrated third-party payment gateways that authorize credit card or direct payment and process the transaction for an Order ("**Payment Gateways**"). All such Payment Gateways are Third-Party Services and in addition to these Terms of Service, your use of them will be subject to the terms and conditions of the applicable Payment Gateway service provider, as they may be amended from time to time. You are responsible for reviewing the applicable Payment Gateway service provider's terms and conditions and your continued use of the Payment Gateway with the Service is your agreement to be bound by those terms and conditions. If you do not agree to any of the applicable Payment Gateway service provider's terms and conditions, you must not continue to use the Payment Gateway in connection with the Service.

App and App Stores or Providers

1. The Service may be available through an App that we provide and which may be accessed by you for download through an app store, such as the Apple App Store or Google Play or any other

app store or distribution platform on which we make the App available (collectively, the "**App Provider**").

2. When you download the App through an App Provider, you acknowledge and agree that: (i) these Terms of Service are between us, and not with the App Provider, and that we are responsible for the Service, not the App Provider; (ii) the App Provider has no obligation to provide maintenance and support services or handle any warranty claims; (iii) the App Provider is not responsible for addressing any claims you or any third-party have relating to the App; and (iv) the App Provider is a third-party beneficiary of these Terms of Service regarding your use of the App, and the App Provider will have the right to enforce these Terms of Service regarding your use of the App.
3. Your use of the App is governed by these Terms of Service and the Additional Terms.
4. If you comply with these Terms of Service, we grant you the right to install and use one copy of the App per device on a worldwide basis for use by only one person at a time as part of your use of the Service. The App, software, or website that is part of the Service may include third-party code. Any third-party scripts or code, linked to or referenced from the App, software, or website, are licensed to you by the third parties that own such code, not by us. Notices, if any, for the third party code are included for your information only.

Privacy, Content, and Data

1. Your Privacy is important to us. Please read our Privacy Policy as it describes the types of data we collect from you and your devices ("**Data**"), how we use your Data, and the legal bases we have to process your Data, including in connection with your use of the Service. Your Data will include your name, address, email, other contact information, and any other data we ask from you through the Service or collect automatically, such as your internet protocol (IP) address or device information.
2. We may, but have no obligation to, remove Data and suspend or terminate Accounts if we determine in our sole discretion that the Data violate these Terms of Service. We do not pre-screen Data you give to us directly and it is in our sole discretion to refuse or remove any Data from the Service at any time.
3. To the extent necessary to provide the Service to you and others, to protect you and the Service, and to improve our products and services, you grant us a worldwide and royalty-free intellectual property license to use your Data, for example, to make copies of, retain, transmit, reformat, display, and distribute via communication tools your Data on the Service as intended by the functionality of the Service.
4. While you maintain ownership over your Data, we own and reserve all rights to information, data, and other content that is derived by or through the Service, including from processing Data, that is sufficiently different from your Data that it cannot be reverse engineered or otherwise personally identifiable.

Payment Terms

1. **Applicability.** Not every aspect of the Service requires a payment for access. However, if a part of or the whole of our Service requires payment for access, we will tell you before you may access that part of the Service. If you purchase a paid portion of the Service or make an Order, then these payment terms apply to your purchase.
2. **Placing Orders.**

- a. **Pricing and Order details.** Orders are subject to the pricing and payment terms presented in the Service, including the currency applicable to the Offer. You are responsible to ensure that all of your Order details, including billing, delivery address and other information is current, complete, and accurate.
- b. **Payment processing.** Your payment card will be charged when you place your Order. Once you have placed your Order, you will not be entitled to change or cancel your Order and you will not be entitled to a refund (except where required by law or as otherwise stated in this Section). Once you have placed an Order and your payment has been authorized, your bank or card issuer may place a hold for the full amount of your Order on your selected payment method. If your Order is not confirmed by the Third-Party Service or is cancelled for any other reason, your bank or card issuer will not transfer the funds for the Order to us, and will instead release the relevant amount back into your available balance. However, this may take a period of typically up to 5 working days (and in some cases up to 30 days, depending on your bank or card issuer). You acknowledge and agree that we or the relevant Third-Party Service will not be responsible or liable to you in relation to this delay by your bank or card issuer in the release of funds back into your account.
- c. **Confirmation of Orders by providers of Third-Party Services.** We encourage Third-Party Services to confirm all Orders and to communicate any inability or unwillingness to confirm promptly, and we will notify you as soon as reasonably practicable if the Third-Party Service does not confirm your Order. Third-Party Services may have the discretion to not confirm Orders. We will provide you with a refund of the price of your Order after communicating to you the non-confirmation or cancellation of your Order by the Third-Party Service.
- d. **Taxes.** Prices for Orders may not include applicable tax and delivery charges. Taxes and delivery charges may be added at checkout and will be payable by you along with the Order price. Taxes are calculated based on your location at the time your Order was registered unless local law requires a different basis for the calculation.
- e. **Pickup or Delivery.** You may have the ability to choose if you would like your Order to be picked up by you at the premise of the Third-Party Service related to your Order or delivered to you by a third party courier or courier of the applicable Third-Party Service. You may be provided a time for when the Order will be ready for pickup or when it will be delivered. These times are only an estimate and we and the Third-Party Service offer no guarantee that these times will be achieved. We are not responsible for any delays in receiving or having your Order ready for any reason.
- f. **Alcohol.** If you order alcohol, you warrant that you are of legal age to purchase and consume alcohol in the area in which the alcohol is delivered and are not ordering alcohol for any person below the legal age in the applicable jurisdiction. You acknowledge and agree that Third-Party Services may require valid government-issued photo identification(s) matching the name on the order and proving your age, and that the recipient is not intoxicated when receiving delivery. If you are unable to meet these conditions to the satisfaction of the Third-Party Service then alcohol products may be withheld, and any refund for such withholding is at the discretion of the Third-Party Service or us. If you order alcohol and the alcohol is to be delivered, the delivery address

must be a residential or private addresses. Alcohol orders may be subject to time and location restrictions.

3. **Authorized payment method.** By providing us with a payment method, you (i) represent that you are authorized to use the payment method you provided and that any payment information you provide is true and accurate and authorize us to charge you for the Service, Third-Party Service,

Contests and Competitions

1. From time to time, we may run contests or competitions ("**Contests**"). Those Contests will be subject to these Terms of Service, as well as rules specific to each Contest ("**Contest Rules**").
2. In general, Contests will be open to individuals over the age of majority in the state, province, or territory in which they reside, with the exception of:
 - i. our employees, representatives, and agents (and persons with whom they are domiciled, whether related or not), our advertising and promotion agencies; and
 - ii. residents of Quebec, unless specified in the Contest Rules.
3. Subject to applicable law, we reserve the right, at any time and in our sole discretion, to withdraw any Contest, to add to or amend terms and conditions (including these Terms of Service) in relation to any Contest or to vary or terminate the operation of a Contest at any time without notice.

General Rules and Abuse

1. The App is licensed, not sold, and we reserve all rights to the App not expressly granted by us, whether by implication, estoppel, or otherwise. This license does not give you any right to, and you may not: (i) circumvent or bypass any technological protection measures in or relating to the App or Services; (ii) disassemble, decompile, decrypt, hack, emulate, exploit, or reverse engineer the App, any software or other aspect of the Service, except and only to the extent that the applicable copyright law expressly permits doing so; (iii) separate components of the App or Service for use on different devices; (iv) publish, copy, rent, lease, sell, export, import, distribute, or lend the App or the Service, unless we expressly authorize you to do so; (v) transfer the App, any software licenses, or any rights to access or use the App or Service; (vi) use the Service in any unauthorized way that could interfere with anyone else's use of them or gain access to any service, data, account, or network; (vii) enable access to the App or Service or modify any of them by unauthorized third-party applications.
2. You may not use the Service for any illegal or unauthorized purpose nor may you, in the use of the Service, violate any laws in your jurisdiction, the laws applicable to you in your customer's jurisdiction (if applicable), or the federal, state, and provincial laws of the United States, Canada, or any other jurisdiction applicable to your use of the Service. You will comply with all applicable laws, rules, and regulations in your use of the Service.
3. You may not use the Service to promote or incite harm toward others or in a way that promotes hateful, discriminatory, or harassing content. We may suspend or terminate your Account if, in our sole opinion, you are using the Service in a way that, directly or indirectly, violates this section.
4. The Service allows you to send certain communications to others by electronic means ("**Electronic Communications**"). You will only use the Electronic Communications features in the Service in compliance with these Terms of Service and the laws of the jurisdiction from which you

send messages and in which your messages are received, including any "anti-spam" laws and regulations.

Copyright, Trademark, and other Intellectual Property Matters

1. Unless we expressly say otherwise, the Service and all text, pictures, graphics, music, sound files, bar codes, video, data, information, software, files, hyperlinks, displays, patents, and other content and materials used in or associated with the Service and the selection and arrangement of them (collectively "**Content**") are our property or that of our licensors.
2. Our trademarks (whether registered or unregistered), trade names, service marks, graphics, and logos (collectively, the "**Marks**") used in connection with the Service are our property. Other trademarks, trade names, service marks, graphics, and logos used in connection with the Service are the property of their respective owners (collectively "**Third-Party Marks**"). The Marks and Third-Party Marks may not be copied, imitated, or used, in whole or in part, without the prior written permission of us or the applicable owner.
3. The Service, Content, Marks, and Third-Party Marks are protected by United States and Canadian (including federal, state, and provincial) and international copyright, trademark, patent, and trade secret laws and other proprietary rights, and may have security components that protect digital information contained within them to be used only as authorized by us or the owners of them. All rights not expressly granted by these Terms of Service are reserved.
4. We have the non-exclusive right and license to use the names, trademarks, service marks, and logos associated with your Account and use of the Service to promote the Service.

Feedback

1. It is our policy not to accept or consider content, information, ideas, suggestions, or other materials other than those we have specifically requested and to which certain specific terms, conditions and requirements may apply. This is to avoid any misunderstandings if your ideas are similar to those we have developed or are developing on our own. If, despite our policy, you choose to send us content, information, ideas, suggestions, or other materials, you agree that you give us a royalty-free, irrevocable, transferable right, and license to use all reviews, comments, feedback, suggestions, ideas, and other submissions disclosed, submitted, or offered to us in connection with your use of the Service (collectively, "**User Submissions**") in however manner we desire and for whatever purpose, including without limitation, to copy, modify, delete, adapt, publish, translate, create derivative works from, sell, profit from, or distribute such User Submissions or incorporate such User Submissions into any form, medium, or technology (including the Service) throughout the world.
2. We are under no obligation to compensate you in any way for User Submissions, to maintain any User Submissions in confidence, or to respond to any User Submissions. You agree that any User Submissions submitted by you to us will not violate the right of any third-party, including without limitation, copyright, trademark, privacy, or other personal or proprietary rights, and will not cause injury to any person or entity. You further agree that no User Submissions submitted by you to us will be or contain libelous or otherwise unlawful, threatening, abusive, or obscene material, or contain software viruses, political campaigning, commercial solicitation, chain letters, mass mailings, or any form of "spam".

Limitation of Liability, Indemnity, and other Disclaimers

THE LAWS OF CERTAIN JURISDICTIONS, INCLUDING QUEBEC, DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LEGAL WARRANTIES, CONDITIONS OR REPRESENTATIONS. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE EXCLUSIONS OR LIMITATIONS IN THESE TERMS OF SERVICE (INCLUDING THE FOLLOWING DISCLAIMERS AND LIMITATIONS OF LIABILITY) MAY NOT APPLY AND YOU MAY HAVE ADDITIONAL RIGHTS.

1. **Disclaimers.**

- a. **Content.** While we try to ensure that information on the Service is correct, we do not promise it is accurate or complete. We may make changes to the material on the Service, including to Offers and prices described on it, at any time without notice. The material on the Service may be out of date, and we make no commitment to update that material.
- b. **Allergy, dietary, and other menu information.** We try to accurately copy the item names, descriptions, prices, special offer information, heat, and allergenic warnings and other information ("**Menu Information**") from the menus that are provided to us by the Third-Party Services that provide the Offers on the Service. However, it is the responsibility of the Third-Party Services to provide this Menu Information and ensuring that it is factually accurate and up-to-date, and we do not undertake any such responsibility. If you are in doubt about allergy warnings, contents of a dish or any other Menu Information, you should confirm with the Third-Party Service before making an Order.
- c. **Third-Party Service actions and omissions.** The legal contract for the supply and purchase of Offers is between you and the Third-Party Service that you place your Order with. We have no control over the actions or omissions of any Third-Party Service. Without limiting the generality of the foregoing, you acknowledge and accept the following by using the Service: (i) we do not give any undertaking that the Offers ordered from any Third-Party Service through the Service will be of satisfactory quality or suitable for your purpose and we disclaim any such warranties; (ii) estimated times for deliveries and pick-ups are provided by the Third-Party Service and are only estimates; neither we nor the Third-Party Service guarantee that Orders will be delivered or will be available for pick-up within the estimated times; (iii) we encourage all Third-Party Services to accept all Orders and to communicate any rejection promptly and we will notify you as soon as reasonably practicable if a Third-Party Service rejects your Order. However, we do not guarantee that Third-Party Services will accept all Orders, and Third-Party Services have the discretion to reject Orders at any time for any reason.
- d. **Statutory rights.** The foregoing disclaimers do not affect your statutory rights against any Third-Party Service.
- e. **Viruses.** The downloading and viewing of the Service, the App, or the Content is done at your own risk. We cannot and do not guarantee or warrant that the Service or the Content are compatible with your computer system or that the Service or the Content, or any links from the Service or the Content, will be free of viruses, worms, malware, trojan horses or disabling devices or other code that manifests contaminating or destructive properties. You are responsible for implementing safeguards to protect the security and integrity of your computer system, and you are responsible for the entire cost of any service, repairs, or connections of and to your computer system that may be necessary as a result of your use of the Service.

- f. **Communications not confidential.** We do not guarantee the confidentiality of any communications made by you through the Service. Although we generally adhere to the accepted industry practices in securing the transmission of data to, from, and through the Service, you understand, agree, and acknowledge that we cannot and do not guarantee the security of data transmitted over the Internet or public networks in connection with your use of the Service.

2. **NO IMPLIED WARRANTIES; LIMITATIONS ON LIABILITY.**

- a. TO THE MAXIMUM EXTENT PERMITTED BY LAW, WE PROVIDE THE SERVICE "AS IS". THIS MEANS THAT, EXCEPT AS EXPRESSLY STATED IN THESE TERMS OF SERVICE, WE DO NOT PROVIDE WARRANTIES, CONDITIONS, OR UNDERTAKINGS OF ANY KIND IN RELATION TO THE SERVICE, EITHER EXPRESS OR IMPLIED. THIS INCLUDES WARRANTIES OF MERCHANTABILITY, PERFORMANCE, AND FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE, TO THE FULLEST EXTENT PERMITTED BY LAW, EXCLUDED FROM THE TERMS OF SERVICE. SINCE THOSE WHO USE OUR SERVICE DO SO FOR A VARIETY OF REASONS, WE CANNOT AND DO NOT GUARANTEE THAT IT WILL MEET YOUR SPECIFIC NEEDS.
- b. **EXCLUSION OF INDIRECT DAMAGES.** IN NO EVENT WILL WE BE LIABLE, WHETHER BASED ON WARRANTY, CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER LEGAL THEORY, FOR ANY DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, LOST PROFITS, LOSS OF REVENUE, LOSS OF USE, LOSS OF DATA, PERSONAL INJURY, FINES, FEES, PENALTIES OR OTHER LIABILITIES), WHETHER OR NOT WE ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, RESULTING FROM OR RELATED TO THE USE OF, OR THE INABILITY TO MAKE USE OF, THE SERVICE, THE APP, OR THE CONTENT.
- c. **NO RESPONSIBILITY FOR THIRD-PARTY SERVICES AND OTHER THIRD PARTIES.** THIRD-PARTY SERVICES OFFERING OFFERS OR SERVICES THROUGH THE SERVICE ARE INDEPENDENT PERSONS OR ORGANIZATIONS AND NOT OUR REPRESENTATIVES, AGENTS OR EMPLOYEES. WE THEREFORE ARE NOT LIABLE FOR THE ACTS, ERRORS, OMISSIONS, REPRESENTATIONS, WARRANTIES, CONTRACTUAL BREACHES, OR NEGLIGENCE OF ANY THIRD-PARTY SERVICES OR FOR ANY PERSONAL INJURY, DEATH, PROPERTY DAMAGE, OR OTHER DAMAGES OR EXPENSES RESULTING THEREFROM AND WE TAKE NO RESPONSIBILITY WHATSOEVER FOR THE PRODUCTS OR SERVICES OFFERED BY THIRD-PARTY SERVICES. WE ARE NOT RESPONSIBLE FOR THE BEHAVIOR OF ANY OTHER THIRD PARTIES, , LINKED WEBSITES, OR OTHER USERS OF THE SERVICE.
- d. **CAUSES OUTSIDE OF OUR CONTROL.** WE ARE NOT LIABLE FOR ANY DELAYS OR FAILURE IN PERFORMANCE OF ANY PART OF THE SERVICE FROM ANY CAUSE BEYOND OUR CONTROL. THIS INCLUDES CHANGES TO LAW OR REGULATIONS, EMBARGOES, WAR, TERRORIST ACTS, RIOTS, FIRES, EARTHQUAKES, NUCLEAR ACCIDENTS, UNEXPLAINED EVENTS, FLOODS, STRIKES, POWER BLACKOUTS,

VOLCANIC ACTION, UNUSUALLY SEVERE WEATHER CONDITIONS, AND ACTS OF HACKERS OR THIRD-PARTY INTERNET SERVICE PROVIDERS.

- e. **LIMITATION OF LIABILITY.** TO THE EXTENT THAT THE FOREGOING LIMITATIONS DO NOT APPLY, IN NO EVENT WILL OUR TOTAL AGGREGATE LIABILITY IN CONNECTION WITH OR UNDER THESE TERMS OF SERVICE, INCLUDING IN CONNECTION WITH YOUR USE OF, OR INABILITY TO MAKE USE OF, THE SERVICE, THE APP, OR THE CONTENT EXCEED: (I) THE FEES PAID BY YOU IN THE PRECEDING 4 MONTHS; OR (II) CDN \$100.00 (ONE HUNDRED CANADIAN DOLLARS), WHICHEVER IS LOWER. FOR GREATER CERTAINTY, THE EXISTENCE OF ONE OR MORE CLAIMS UNDER THESE TERMS OF SERVICE WILL NOT INCREASE THE MAXIMUM LIABILITY AMOUNT.
- f. **FAIR BASIS.** THE LIMITATIONS ABOVE REFLECTS A FAIR ALLOCATION OF RISK BUT FOR WHICH WE WOULD NOT MAKE THE SERVICE OR APP AVAILABLE TO USERS. THE LIMITATIONS SPECIFIED IN THIS SECTION WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THESE TERMS IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

3. **Indemnification.**

- a. Indemnity is an agreement to compensate someone for a loss. You agree to defend, indemnify, and hold us harmless, our licensors and their directors, officers, agents, contractors, partners, representatives, and employees ("**Indemnitees**") from and against any threatened or actual claims, causes of action, demands, recoveries, losses, damages, fines, penalties or other costs or expenses of any kind or nature including reasonable legal fees, incurred in connection with or as a result of:
 - i. your breach of these Terms of Service, the Additional Terms, or any other documents, policies, or terms referenced herein;
 - ii. your violation of any law or the rights of a third party (including, without limitation, intellectual property rights);
 - iii. your breach of or failure to perform in respect of any Orders made by you or by any third party acting on your behalf or with your permission;
 - iv. any claims you make that are not allowed under these Terms of Service due to a "Limitation of Liability" or other provision.
 - v. your content;
 - vi. any misrepresentations made by you; or
 - vii. a breach of any representations or warranties you have made to us.
- 4. **Injunctive relief.** Your violation of these Terms of Service may cause irreparable harm to us and our Indemnitees. Therefore, we have the right to seek injunctive relief or other equitable relief if you violate these Terms of Service (meaning we may request a court order to stop you).
- 5. **Mandatory Disclosure.** If we must provide information in response to a demand for discovery, subpoena, court order, or other legal, governmental, or regulatory inquiry related to your Account, then we may charge you for our costs. These fees may include attorney and employee time spent retrieving the records, preparing documents, and participating in a deposition.

General Terms

1. These Terms of Service are governed by the laws of Ontario and the federal laws of Canada applicable therein, without resort to conflict of law provisions. The United Nations Convention on Contracts for the International Sale of Goods shall have no applicability. You irrevocably consent to the exclusive jurisdiction of the courts in Toronto, Ontario, Canada for purposes of any legal action arising out of or related to these Terms of Service.
2. By using the English version of the Site, the parties acknowledge and agree that they have required that this Agreement be prepared in the English language. En utilisant la version anglaise de les sites, les parties reconnaissent avoir exigé que la présente convention soit rédigée en anglais.
3. For purposes of these Terms of Service: (a) the words "include", "includes" and "including" are deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; (c) the words "herein", "hereof", "hereby", "hereto" and "hereunder" refer to the Terms of Service as a whole; and (d) whenever the singular is used, the same will include the plural, and, whenever the plural is used, the same will include the singular, where appropriate. The definitions given for any defined terms will apply equally to both the singular and plural forms of the terms defined.
4. All the terms and provisions of the Terms of Service shall be binding upon and inure to the benefit of the parties to the Terms of Service and to their respective heirs, successors, permitted assigns, and legal representatives. We are permitted to assign these Terms of Service without notice to you or consent from you. You shall have no right to assign or otherwise transfer the Terms of Service, or any of your rights or obligations, to any third-party without our prior written consent, to be given or withheld in our sole discretion.
5. If any provision, or portion of the provision, in these Terms of Service is, for any reason, held to be invalid, illegal, or unenforceable in any respect, then such invalidity, illegality, or unenforceability will not affect any other provision (or the unaffected portion of the provision) of the Terms of Service, and the Terms of Service will be construed as if such invalid, illegal, or unenforceable provision, or portion of the provision, had never been contained within the Terms of Service.
6. Our failure to exercise or enforce any right or provision of the Terms of Service shall not constitute a waiver of such right or provision. The Terms of Service, including the documents it incorporates by reference, constitute the entire agreement between you and us and govern your use of the Service and your Account, superseding any prior agreements between you and us (including any prior versions of the Terms of Service).
7. The headers and any sidebar text are provided only to make these Terms of Service easier to read and understand. The fact that we wrote these Terms of Service will not affect the way our agreement with you is interpreted.
8. Any notice to you will be effective when we send it to the last email or physical address you gave us or when posted on our Site. Any notice to us will be effective when delivered to us at the addresses we post for general communication to us on our Site.
9. These Terms of Service and any Additional Terms you have agreed to make up the entire agreement between us in relation to its subject matter and supersede all prior agreements, representations, and understandings. This section shall survive any termination of the Terms of

Service. Where there is a conflict between these Terms of Service and the Additional Terms, the Additional Terms will control to the extent of the conflict.

10. Even if these Terms of Service are terminated, the following sections will continue to apply: Privacy, Content, and Data; Copyright, Trademark, and other Intellectual Property Matters; Feedback; Limitation of Liability, Indemnity, and other Disclaimers; any sections regarding compliance with laws, choice of law, or severability; and any other terms which expressly or by their nature ought to survive the termination of the Terms of Service.