

FREEVO™ CONSUMER TERMS OF SERVICE

Updated Effective: December 25, 2017

Upon electronic acknowledgment of acceptance by you as the Consumer (defined below), these Terms of Service will be a legally binding contract between you and Roccabella Holdings, LLC, a Delaware Limited Liability Company, which conducts some business under the proprietary trademark and name "Freevo"SM, together with its affiliates, shareholders, directors and officers (called "Freevo", "we" or "us" in this agreement).

These Terms of Service governs your access to and use of the Sites and participation in the Program (as such terms are defined below).

1. DEFINITIONS

- **"Account"** means a Freevo online account established by a Consumer for purposes of participating in the Program;
- **"Application"** means the Freevo software application that is installed on your Device, and which serves as the interface between your Device and the Platform;
- **"Consumer"** means an individual end-user or Freevo Member ("you", "your") who installs the Application on one or more Devices;
- **"Coupon"** means an electronic coupon displayed by the Freevo Application on your Device;
- **"Device"** means a mobile phone with internet connectivity, a tablet or a similar mobile electronic communication device compatible with and capable of accessing and utilizing the Application and Platform;
- **"Freevo Credits"** means credits issued by Freevo to a Consumer's Account with which a Consumer may exchange for Coupons;
- **"Freevo Member"** means an individual end-user who has a Membership;
- **"Goods"** means tangible goods or products provided by a Merchant;
- **"Materials"** means all previous, current and future textual, graphic or other content on the Sites;
- **"Membership"** means an active subscription entitling the Freevo Member to access Coupons and redeem Merchant Offerings for personal, non commercial use;
- **"Merchant"** means a retail provider of Goods or Services who has contracted with Freevo to use the Platform to promote its business;
- **"Merchant Offering"** means the free, discounted or full value Goods and/or Services to be provided by the Merchant, in accordance with the terms as stated on the Coupon;
- **"Platform"** means the technology platform developed by the Freevo, which functions to drive targeted Consumers, using GPS location-based technology, into retail stores and service providers by offering Consumers, on behalf of the Merchants, free, discounted or full value Goods and/or Services;
- **"Program"** means the promotional program through which Consumers may, by accessing the Platform, obtain Coupons redeemable for Merchant Offerings;
- **"Service(s)"** means personal services provided by a Merchant;
- **"Sites"** means the websites www.freevo-app.com (and or any of its sub-domains), the Application, the Platform, any social media sites/pages/applications managed by or registered to

Freevo and any other websites we presently or in the future own or control or which reference these Terms of Service;

- **“Terms of Service”** means these Terms of Service, together with:
 - The Privacy Policy located at <http://www.freevo-app.com/privacy-policy>; and
 - Any terms or conditions set forth on any Coupon.

2. YOUR ACCEPTANCE OF THESE TERMS OF SERVICE

2.1 By using or accessing the Sites in any manner, you agree to:

- Be bound by these Terms of Service;
- Use the Sites only in accordance with these Terms of Service, our [Privacy Policy \(http://www.freevo-app.com/privacy-policy\)](http://www.freevo-app.com/privacy-policy), any additional terms and conditions that are referenced herein or that otherwise may apply to specific sections of the Sites, Coupons, or to Goods and Services that we may make available to you through the Sites.

2.2 IF YOU DO NOT AGREE TO THESE TERMS OF SERVICE, YOU MUST:

- IMMEDIATELY STOP ACCESSING, USING OR ATTEMPTING TO USE OR ACCESS THE SITES OR THE PLATFORM;
- CANCEL YOUR FREEVO MEMBERSHIP;
- DELETE THE APPLICATION FROM YOUR DEVICE;
- REFRAIN FROM:
 - USING OR ATTEMPTING TO PARTICIPATE IN THE PROGRAM OR ANY MERCHANT OFFERING; OR
 - DOWNLOADING, USING OR ATTEMPTING TO USE ANY COUPON, OR OTHERWISE ATTEMPTING TO OBTAIN ANY GOODS OR SERVICES OFFERED THROUGH THE SITES.

2.3 Changes to These Terms of Service

We reserve the right to change these Terms of Service or to impose new conditions on use of the Sites at any time.

We will post the revised Terms of Service on the affected Site(s). By accessing or using any of the Sites after we post any such changes, you accept the revised Terms of Service.

3. ACCOUNT AND MEMBERSHIP REGISTRATION PROCESS

In order to use the Application to redeem Merchant Offerings ,you must create an Account and procure a Membership. Your Account and Membership is personal to you and you may not assign it to anyone.

As part of the Account creation and Membership registration process, we may ask you to provide certain personally identifiable information such as your name and email address, certain demographic information such as your city and state of residence as well as payment information.

You agree that all information you provide when creating or updating your Account or Membership with us will be true, accurate, current and complete. We may terminate your Account or Membership in accordance with clause 15 and deny you further access to the Sites if we have reasonable grounds to believe that any such information is untrue, inaccurate, or incomplete.

We may require you to create an acceptable user name and password (“Credentials”) in order to access the Sites. You are responsible for maintaining the confidentiality of your Credentials and are responsible for all activities resulting from the use of your Credentials to access the Sites. You will notify us immediately of any unauthorized use of your Credentials or any other actual or suspected breach of information security.

4. FREEVO MEMBERSHIP

4.1 Membership Fees and Renewal

Freevo Members agree to pay the then current Membership fee as listed on the applicable Freevo Sites or affiliate site, plus any applicable sales, use, VAT or other taxes we may be obligated to charge and collect, as calculated based on your stated location at the time your Account was registered.

Your Membership fees are billed annually in advance on a automatic recurring basis commencing with the date of your initial Account registration.

Unless you notify us before a charge that you want to cancel or do not want to auto renew, you understand your Freevo Membership will automatically continue and you authorize us (without notice to you, unless required by applicable law) to collect the then-applicable Membership fee and any taxes, using any eligible payment method we have on record for you.

Freevo may suspend or cancel your Membership and Account if we do not receive an on time, full payment from you for any Membership Fee, or if the funding of such purchase is reversed or rejected.

The Freevo Membership fee is non-refundable except as expressly set forth in these Terms of Service or when required by law.

We reserve the right to accept or refuse Membership in our discretion.

From time to time, Freevo may choose in its sole discretion to add, amend or remove any Membership benefits.

4.2 Membership Cancellation

You may cancel your Freevo Membership any time by contacting us at cancellation@freevo-app.com. If you cancel within 3 business days of purchasing a Membership, we will refund your full Membership fee; provided that we may charge you (or withhold from your refund) the listed value of any Merchant Offering redeemed by you and your Account during this 3-business day period.

4.3 Termination by Us

We may terminate your Membership at any time and at our discretion without notice. If we do so, we will give you a prorated refund based on the number of full months remaining in your Membership. However, we will not give any refund for termination related to conduct that we determine, in our discretion, violates these Terms Of Service or any applicable law, involves fraud or misuse of the Membership, or is harmful to our interests or another user. Our failure to insist upon or enforce your strict compliance with these Terms Of Service will not constitute a waiver of any of our rights.

5. PARTICIPATING IN THE PROGRAM

Merchants utilize the Platform, to promote their Merchant Offerings, which are presented to and redeemed by Consumers through the Application, in accordance with the Terms of Service. Merchants are the providers and issuers of the Merchant Offerings and are solely responsible to Consumers for all features and aspects of the Goods or Services provided.

5.1 Coupon Redemption Process

Through the Application, we make available to you Coupons that you may use to redeem a Merchant Offering.

Except as otherwise stated on a Coupon or as may be required or prohibited by law, the following terms and conditions apply to your use of any Coupon:

- The Merchant Offering reflected on the Coupon must match a Good or Service on the Merchant's then-current menu list. Coupons not meeting this requirement may be accepted in the sole discretion of the Merchant;
- You may redeem a Coupon only for the Merchant Offering identified on the Coupon. Any variations thereto will be at the Merchants discretion;
- Any additional Goods or Services may be charged for separately at the Merchant's otherwise applicable prices or rates.;
- You may obtain and redeem Coupons only for personal and non-commercial purposes by you and/or a reasonable number of relatives or acquaintances accompanying you.
- Coupons cannot be transferred or redeemed for cash;
- Coupons can only be redeemed by you the Member / Account owner;
- In order for a Coupon to be eligible for redemption, it must:
 - Not have been previously redeemed;
 - Not have expired;
 - Be presented electronically via the Application and be visible to the Merchant;
 - Include the unique animated Freevo background and logo;
 - State the correct name and address of the Merchant;
 - Reflect the then-current date and a local time that is not more than 15 minutes prior to its presentation;
- We and each Merchant may impose additional reasonable terms and conditions on the use and/or redemption of any Coupon, including:
 - A minimum purchase value;

- A limit on the total number of Coupons the Merchant will honor for any single group or party of Consumers;
- Denial of access to (or removal of) any Consumer who refuses or fails to comply with the Merchant's generally applicable rules regarding patrons' dress, decorum or conduct; and
- The discharge of any obligation imposed upon the Merchant by law including, but not limited to applicable state, local or federal laws regulating the sale, distribution or provision of alcoholic beverages.

5.2 Application Usage

We reserve the right at any time and without notice to amend or impose additional usage restrictions or conditions, including, but not limited to restricting or limiting:

- The total number of Coupons that you may download or redeem;
- The Merchant Offerings available or visible to you;
- The number of Coupons that you may redeem from the same Merchant;
- The frequency with which you may redeem Coupons for Merchant Offerings by the same Merchant;
- The number of Coupons you may use at a Merchant per person/order/table/check/visit;
- The minimum purchase value associated with a Merchant offering or Coupon;
- The milestones or benefit available to you as presented under the My Status section of the Application.

In its sole discretion and for any reason, Freevo may implement one or more of the above actions in order to address:

- Freevo's internal proprietary Consumer rating system (My Status) which includes but is not limited to the frequency with which you:
 - Access the Sites;
 - Access or redeem Merchant Offerings;
 - Add value to Merchants;
 - Earn additional Freevo Credits in the manner described in "Earning Additional Freevo Credits" below;
 - Receive additional benefits based on your Freevo status.
- Supply and demand management for Merchant Offerings relative to geographic location, Freevo coverage areas, industries, Good and Service categories;
- Consumer ratings and reviews as provided by Merchants;
- Consumer profiles and preferences;
- Freevo's or Merchants' then-current internal fair usage policies

5.3 Merchant Offering Terms

- All Goods and Services are to be used by you and/or members of your accompanying party for personal purposes only.

- Descriptions of the Merchant Offerings advertised on the Sites are provided by the Merchant or other third parties. Freevo does not investigate or vet Merchants or their Merchant Offerings and is not responsible for any claims associated with the description of the Merchant Offerings.
- Descriptions of Merchant Offerings, on the Site may change at any time without notice.
- By advertising Goods or Services on the Sites, each Merchant represents to Freevo that it is and will remain in compliance with all applicable regulatory, certification or licensing requirements. However, Freevo cannot and has no duty to investigate or confirm the accuracy of this representation.
- Freevo is not qualified to and therefore does not recommend or endorse any specific professional, Services or Goods advertised on the Sites. The Sites are not a substitute for professional advice, including, without limitation, medical advice, diagnosis or treatment. Always seek the advice of your physician or other qualified health provider with any questions you may have regarding a health condition.
- The Merchant is solely responsible for the nature, quantity and quality of all Goods and Services it provides to you and for any and all injuries, illnesses, damages, claims, liabilities and costs (“Liabilities”) it may cause you to suffer, directly or indirectly, in full or in part, whether related to the use or redemption of a Coupons or not. You waive and release Freevo and its subsidiaries, affiliates, partners, officers, directors, employees and agents from any Liabilities arising from or related to any act or omission of a Merchant in connection with your use of the Goods or Services a Merchant provides in connection with the Coupon.

5.4 Freevo Credits

Freevo will periodically issue you Freevo Credits in amounts to be determined by Freevo in its sole discretion.

5.4.1 General Conditions

- Freevo reserves the right in its sole discretion, with or without notice, to issue, discontinue, reverse or cancel Freevo Credits.
- Freevo Credits are non-transferrable and are not redeemable for cash.
- If your Account or Membership is cancelled by you or us or the Application is deleted from your Device for any reason, you will forfeit, without any recourse to Freevo or the Merchant, any pending, current or future Freevo Credits and Coupons, and any other forms of unredeemed value in your Account.

5.4.2 Earning Additional Freevo Credits

Subject to availability, you may also earn additional Freevo Credits by:

- Capturing on your Device and submitting via the Application a valid pictorial image of the Merchant receipt when you redeem a Coupon; or
- Participating in the “Refer-A-Friend” Program see below

Refer-A-Friend Program

You may from time to time earn additional Freevo Credits by referring people to install the Application using the specific feature available therein. The number of additional Freevo Credits will be in accordance with the amount as stated on the Application at the time.

6. YOUR RIGHT OF ACCESS TO AND USE OF THE SITES

The Sites, any Materials on the Sites, as well as the Platform are proprietary to Freevo or other content providers. By using the Sites and accepting and observing these Terms of Service, you obtain a limited, personal, nontransferable, nonexclusive, revocable license to use the Sites pursuant to these Terms of Service and any additional terms and policies established by Freevo. You agree not to reproduce, distribute, create derivative works from, publicly display, publicly perform, license, sell or re-sell any Materials, software, Goods or Services obtained from or through the Site without the express permission of Freevo.

We will not be responsible in any way for any interference with or interruption of your access to the Sites for any reason, including, but not limited to, technical issues affecting the Platform, the Application or your Device.

We reserve the right to modify or discontinue, temporarily or permanently, the Sites, or any portion or feature thereof, with or without notice. We will not be liable to you or to any third party because of any such action.

You must be at least thirteen (13) years of age to access the Sites and at least eighteen (18) years of age to establish an Account or purchase a Membership.

We will not be liable for any loss or damage arising from:

- Unauthorized use of your Credentials; or
- The introduction of any virus, malware, ransomware or similar unauthorized malicious software into your Device while you are accessing or suing the Sites.

7. PROHIBITED CONDUCT

Notwithstanding any other conditions recorded in the Terms Of Service, the following is a non-exclusive list of acts that, whether completed or attempted, constitute a violation of these Terms of Service:

- Submitting any Materials to the Sites that:
 - Violates any applicable data privacy, intellectual property or other laws
 - Falsely purports to have been issued, authorized or endorsed by Freevo, a Merchant or another third party
 - Is knowingly false, fraudulent, deceptive or misleading
- Accessing data without proper authorization
- Scanning or monitoring the Sites for data gathering purposes or to test the security or configuration of the Sites
- Interfering with service to any user in any manner, including, without limitation, by means of submitting a virus to the Sites or attempting to overload, "flood," "spam," "mail bomb" or "crash" the Sites.
- Using, without express written authorization from us, any of the following:
 - Frames, framing techniques or framing technology to enclose any Materials included on the Sites
 - Any Sites Materials in any meta tags or similar techniques or technologies

- The Sites or any of its Materials to advertise or solicit, for any commercial, political or religious purpose or to compete, directly or indirectly, with Freevo
- Collecting personally identifiable information of any Consumer or Merchant
- Tampering or interfering with the proper functioning of any part, page or area of the Sites or any functions or services provided by Freevo;
- Taking any action that places unreasonable demand on the Sites or the Platform
- Accessing, monitoring or copying any Materials from the Sites using any “robot,” “spider,” “scraper” or other automated means or any manual process or circumventing exclusion headers or other measures employed to prevent or limit such access
- Deep-linking to or from any portion of the Sites
- Hyperlinking to the Sites from any other website
- Acting illegally or maliciously against the business interests or reputation of Freevo or any Merchant
- Creating, posting or sharing any communication which:
 - Falsely states or implies that its content or issuance was authorized by Freevo;
 - Discloses any of Freevo’s confidential or proprietary information; or
 - Is knowingly inaccurate or false
- Scanning or monitoring any of the Sites for data gathering purposes including, but not limited to, tracking sales, usage, aggregate offering information, pricing information or similar data;
- Accessing or using a Site or any content to solicit Consumers, Merchants or other third-parties to become users or partners of other online or offline services directly or indirectly competitive or potentially competitive with Freevo
- Attempting to establish multiple Accounts using the same Membership details
- Aggregating current or previously offered deals
- Sharing Accounts and or Memberships to redeem Merchant Offerings. This violation will result in immediate cancellation of the Account for both the Freevo Member and third parties

8. OUR INTELLECTUAL PROPERTY RIGHTS

We (and/or our affiliates or vendors) own all intellectual property rights to the Sites and all Materials, which are protected by copyright, trademark, and other intellectual property laws. You may not modify, copy, reproduce, republish, upload, post, transmit, translate, sell, create derivative works, exploit, or distribute in any manner or medium (including by email or other electronic means) any aspect of the Sites or its Material.

9. Privacy Policy

Our use of any personally identifiable information you provide to us, whether as part of the Account creation, Membership registration process, use of the Sites or otherwise, is governed by the terms of our [Privacy Policy](#).

10. MERCHANT RESPONSIBILITIES

Each Merchant is solely responsible for:

- Complying with the terms of the Coupon;
- All features, aspects and quality of the Goods and Services offered;

- Any injuries, damages, costs, liabilities and claims arising out of, or relating to, the Merchant's Goods or Services;
- Any failure to comply with any of its policies including, but not limited to, its policy pertaining to the security and privacy of Consumers' personally identifiable information.

You agree to:

- Look only to the Merchant for redress of any grievances or complaints regarding a Merchant Offering and
- Hold Freevo harmless from any claims arising out of any of the foregoing causes.

11. USER-PROVIDED CONTENT

The Sites may include discussion forums, email services and/or social networking areas or features that provide Merchants and us with feedback and permit you to interact with other Consumers or third parties.

By accessing and using any such features on the Sites, you represent and agree that:

- You have read and agree to abide by any published rules of conduct and our Privacy Policy
- You are the owner of any material you display, post or submit ("User Material"), or that you have express permission from the owner of such User Material to do so;
- You have express permission from any person whose likeness appears in User Material
- You will indemnify us and hold us harmless from and against any liability of any nature arising out of related to any User Material you post or display on or submit via the Sites.

While we have no obligation to monitor any discussion forums or other areas of the Sites, we may at any time:

- Screen User Material;
- Edit, move, delete (and dispose of in our discretion) and/or reject any User Material that in our judgment violates these Terms of Use or is otherwise unacceptable, obscene, defamatory or otherwise inappropriate

You acknowledge and agree that we may for any legitimate business or legal reason and without liability to you preserve a copy of User Material or disclose User Material to third parties.

By submitting any content or Materials, as well as any business improvement, technical proposal or other concept or idea, whether through the Sites or directly to us, you grant us an unlimited perpetual license to use, reproduce, sell, license, alter or otherwise deal with such submission without any financial or other obligation or liability to you.

12. DISCLAIMER OF WARRANTIES

The Sites may include links and pointers to websites maintained by third parties ("Third Party Sites"). We do not endorse or sponsor, nor are we responsible for any claims, representations or promises made by any Third Party Sites.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

THE INFORMATION, GOODS AND SERVICES OFFERED ON OR THROUGH THE SITES AND ANY THIRD-PARTY SITES ARE PROVIDED "AS IS" AND WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED.

WE DO NOT WARRANT THAT THE SITES OR ANY OF ITS FUNCTIONS WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT ANY PART OF THE SITES, OR THE SERVERS THAT MAKE IT AVAILABLE, ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

WE DO NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE SITES OR MATERIALS ON THE SITES OR ON THIRD-PARTY SITES IN TERMS OF THEIR CORRECTNESS, ACCURACY, TIMELINESS, RELIABILITY OR OTHERWISE. YOU EXPRESSLY AGREE THAT USE OF THE SITES IS AT YOUR SOLE RISK.

13. LIMITATION OF LIABILITY

UNLESS OTHERWISE REQUIRED BY APPLICABLE LAW, WE WILL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES AS A RESULT OF YOUR USE OF, OR THE INABILITY TO USE, THE SITES AND/OR ANY MATERIALS, PRODUCTS, OR SERVICES (INCLUDING THOSE PROVIDED BY THIRD PARTIES) MADE AVAILABLE THROUGH THIS SITE.

YOU SPECIFICALLY ACKNOWLEDGE AND AGREE THAT WE WILL NOT BE LIABLE FOR ANY DEFAMATORY, OFFENSIVE OR ILLEGAL CONDUCT OF ANY USER. IF YOU ARE DISSATISFIED WITH THE SITES, OR ANY MATERIALS, GOODS, OR SERVICES ON THE SITES, OR WITH ANY OF THE SITE'S TERMS AND CONDITIONS, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SITES.

YOU ASSUME THE ENTIRE COST OF AND RESPONSIBILITY FOR ANY DAMAGE TO, AS WELL AS ALL NECESSARY MAINTENANCE AND REPAIR OF ANY DEVICE THROUGH WHICH YOU ACCESS THE SITES.

OUR TOTAL LIABILITY, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, WILL NOT EXCEED THE LAST MEMBERSHIP FEE YOU PAID. THESE EXCLUSIONS AND LIMITATIONS OF LIABILITY WILL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW AND WILL SURVIVE CANCELLATION OR TERMINATION OF YOUR MEMBERSHIP. CERTAIN STATE LAWS 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.

14. INDEMNIFICATION

You agree to indemnify and hold us harmless from and against any losses, expenses, damages and costs, including reasonable attorneys' fees, which arise out of:

- The use or misuse of the Sites by you or anyone acting with your authority
- The violation of these Terms of Service by you or any other person using your Account; or
- Your violation of any rights of another Consumer or other third party
- The Merchant Offerings purchased or obtained from the Merchant
- Any Goods or Services other than Merchant Offerings purchased or obtained from the Merchant

15. SUSPENSION AND TERMINATION OF ACCESS

Violation of or failure to observe any of the Terms Of Service conditions may result, at Freevo's discretion, in the immediate forfeiture of the applicable Coupon and associated Freevo Credit and termination or suspension of your Account and Membership.

In this event, neither Freevo nor the Merchant will be liable to you or any third party for any resulting loss, damage or expense.

In the event that we suspend or terminate your Account, Membership or access to and/or use of the Sites, you will continue to be bound by the Terms of Service that were in effect as of the date of your suspension or termination.

16. DISPUTE RESOLUTION

16.1 Binding Arbitration.

Except as specifically stated herein, any dispute between you and Freevo arising out of, relating in any way to these Terms of Service, the Sites or your use of the Sites (“Disputes”) shall be resolved exclusively by final, binding arbitration. Upon your acceptance of the Terms of Service, this provision will become your and Freevo’s written agreement to arbitrate Disputes (“Dispute Agreement”) under the Federal Arbitration Act. Under this Dispute Agreement, except as otherwise provided in this Dispute Agreement, you and Freevo are each giving up the right to go to court and have a Dispute heard by a judge or jury.

16.2 Modification

Any modification of this Dispute Agreement must be in writing and signed by you and Freevo.

16.3 Arbitrator

The arbitration will be administered by the American Arbitration Association (“AAA”) and conducted before a single arbitrator pursuant to its rules, including, without limitation, the AAA’s Supplementary Procedures for Consumer-Related Disputes, available at <http://www.adr.org> or by calling 800-778-7879. The arbitration will be based upon written submissions unless you request and/or the arbitrator determines that a telephone or in-person hearing is necessary. The arbitrator will apply and be bound by this Agreement, apply applicable law and the facts, and issue a reasoned award.

16.4 Class Action Waiver.

We each agree that we shall bring any Dispute against the other in our respective individual capacities and not as a plaintiff or class member in any purported class, representative proceeding or as an association. In addition, we each agree that Disputes shall be arbitrated only on an individual basis and not in a class, consolidated or representative action. The arbitrator does not have the power to vary these provisions.

16.5 Injunctive Relief

Notwithstanding anything to the contrary in this Dispute Agreement, either party may bring suit in court seeking an injunction or other equitable relief arising out of or relating to the infringement of a party’s intellectual property or any conduct that violates these Terms of Service.

16.6 Time Limitations

If either of us wants to assert a Dispute against the other, the party with a Dispute must institute arbitration within one (1) year from the date the Dispute arose. Absent commencing the arbitration within one (1) year from the date the Dispute arose, the Dispute(s) will be forever barred.

16.7 Severability

If any part of this Dispute Agreement is determined by a court having jurisdiction to be unenforceable, then the balance of this Dispute Agreement shall remain in full effect.

17. CONSENT TO ELECTRONIC COMMUNICATIONS

We may communicate with you by email, through the Application or by posting notices on the Sites. You agree to receive electronic communications related to your use of the Sites. You agree that all agreements, notices, disclosures and other communications that are provided to you electronically satisfy any legal requirement that such communications be in writing. Notices from us will be considered delivered to you and effective when sent to the email address reflected in your Account or when posted on any Sites.

18. MISCELLANEOUS

- The contract formed by your acceptance of these Terms of Service constitutes the entire agreement between us and you with respect to the subject matter contained in this agreement and supersedes all previous and contemporaneous agreements, proposals and communications, written or oral.
- You also may be subject to additional terms and conditions that may apply when you use any Goods or Services of a Merchant or other third party that are provided through the Sites. In the event of any conflict between any such third-party terms and conditions and these Terms of Service, these Terms of Service will govern.
- These Terms of Service will be governed by and construed in accordance with the laws of the State of Illinois without giving effect to any principles of conflicts of law.
- If any provision of these Terms of Service are found to be unlawful, void, or for any reason unenforceable, then that provision will be deemed severable and will not affect the validity and enforceability of any remaining provisions.
- These Terms of Service are not intended to benefit any third party and do not create any third-party beneficiaries. Accordingly, these Terms of Service may only be invoked or enforced by you or us.