

# TERMS OF USE

*Effective & Last Modified January 31, 2015*

## 1. INTRODUCTION AND ACCEPTANCE

Salem Communications Corporation and its subsidiary entities (collectively, “Salem”) offers you access to its interactive online websites, applications and services. These Terms of Use, together with our Privacy Policy and any additional terms which might apply to certain products or services, govern your use of our websites (the “Website(s)”) or any of our mobile widgets, services or other applications (“Applications”) (together, our “Services”).

**Please read these Terms of Use carefully before using our Services. By using any of our Services (other than to read these Terms of Use for the first time) you are agreeing to comply with these Terms of Use, which may change from time to time as set forth in Section 16 below. If you do not agree to be bound by these Terms of Use, do not use our Services. Use of the Services shall be deemed as acceptance of the following Terms and Conditions.**

## 2. INTELLECTUAL PROPERTY

Our Services and associated content (and any derivative works or enhancements of the same) including, but not limited to, all text, illustrations, files, images, software, scripts, graphics, photos, sounds, music, videos, information, content, materials, products, services, URLs, technology, documentation, and interactive features included with or available through our Services and all intellectual property rights to the same, including, without limitation, all trademarks, service marks, trade names and trade dress that may appear in our Services are owned by us, our licensors, our affiliates and/or identified third parties (collectively, the “Service Content”). Except for the limited use rights granted to you in these Terms of Use, you shall not acquire any right, title or interest in our Services or any Service Content. Any rights not expressly granted in these Terms of Use are expressly reserved.

## 3. ACCESS AND USE

(a) We may offer certain portions of our Services at no charge (e.g., Websites) and others for a one-time fee, on a subscription basis or under any other lawful pricing structure (e.g., mobile Applications). In all instances, our Services are not being sold to you; rather, you are being granted a limited license to use our Services. In addition, the license to use of any of our paid Services does not necessarily transfer across operating systems and/or different equipment (e.g., mobile devices, computers, etc.). For example, unless we specifically tell you otherwise, the use of any of our mobile Applications is limited to the relevant device and/or operating system you are using at the time you purchase the license to use the Application.

(b) Some of our Websites may be offered to you conditioned on your payment of a fee (“Premium Service Website(s)”). By using the Premium Service Websites, you will be subject to any charges and rules set forth in the additional terms for that particular Premium Service Website, in addition to the general terms provided below. We will provide notice of any charges, or extra charges, before you register for or enter a Premium Service Website. You are responsible for any charges for premium content incurred by your account. We are not liable for any loss that you may incur as a result of someone else using your password or account, whether with or without your knowledge. In the event that you pay for a Premium Service Website by credit card, you authorize us to charge your credit card account by registering for the service and providing us with your credit card information. You warrant

to us that the credit card information that you provide us is correct and is your account. You may cancel your membership in the Premium Service Website at any time by contacting us using the contact information provided on the Premium Service Website. We reserve the right to terminate your access to the Premium Service Website at any time, without notice, and upon such termination we shall return the unused pro-rata portion of your membership fee.

(c) Our Services are provided for use by you or your organization. When using our Services, you agree to comply with all applicable federal, state, and local laws including, without limitation, copyright law. Except as expressly permitted in these Terms of Use or as we may otherwise permit, you may not use, reproduce, duplicate, distribute, create derivative works based upon, publicly display, publicly perform, publish, transmit, or otherwise exploit Service Content for any purpose whatsoever without obtaining prior written consent from us or, in the case of third-party content, its applicable owner. In certain instances, we may suggest, ask or otherwise permit you to download, install or print Service Content. In such a case, you may do so only in the manner authorized and for your non-commercial use only. You acknowledge that you do not acquire any ownership rights by downloading, installing or printing Service Content.

(d) Any software that is made available to view and/or download in connection with our Websites is owned or controlled by us and/or licensors, affiliates and suppliers and is protected by copyright laws and international treaty provisions. Your use of the software is governed by the terms of the end user license agreement, if any, which accompanies or is included with the software. We accept no responsibility or liability in connection with any software owned or controlled by third parties.

(e) To the extent that our Websites contain links to outside services and resources, we do not control the availability and content of those outside services and resources. Any concerns regarding any such service or resource, or any link thereto, should be directed to that particular service or resource.

(f) Furthermore, except as expressly permitted in these Terms of Use, you may not:

- (i) Remove, alter, cover, or distort any copyright, trademark, or other proprietary rights notice we include in or through our Services or Service Content;
- (ii) Circumvent, disable or otherwise interfere with our security-related features including, without limitation, any features that prevent or restrict the use of or copying of any software or other Service Content;
- (iii) Use an automatic device (such as a robot or spider) or manual process to copy or “scrape” the Website or Service Content for any purpose (except for that which routinely occurs through the use of bona fide search engines) without our express written permission;
- (iv) Collect or harvest any personally identifiable information or non-personally identifiable information from our Services including, without limitation, user names, passwords, email addresses;
- (v) Solicit other users to join or become members of any commercial online service or other organization without our prior written approval;
- (vi) Attempt to or interfere with the proper working of our Services or impair, overburden, or disable the same;

- (vii) Decompile, reverse engineer, or disassemble any portion of our software or other Service Content, or our Services;
- (viii) Use network-monitoring software to determine architecture of or extract usage data from our Services;
- (ix) Encourage conduct that violates any local, state or federal law, either civil or criminal, or impersonate another user, person, or entity;
- (x) Violate U.S. export laws, including, without limitation, violations of the Export Administration Act and the Export Administration Regulations administered by the Department of Commerce; or
- (xi) Engage in any conduct that restricts or inhibits any other user from using or enjoying our Services.

(g) You agree to fully cooperate with us to investigate any suspected or actual activity that is in breach of these Terms of Use.

(h) For additional terms applying to contests or sweepstakes conducted by this Website, refer to this Website's contest or sweepstakes information section, if applicable.

#### 4. USER REGISTRATION & PROMOTIONAL MESSAGES

(a) In order to access or use some features of our Services, you may have to become a registered user. **If you are under the age of thirteen (13), then you are not permitted to register as a user, sign up for any promotional messages, or otherwise provide us any personal information.**

(b) If you become a registered user, you will provide true, accurate and complete registration information and, if such information changes, you will promptly update the relevant registration information. During registration, you may create a user name and password (a "Membership"). You are solely responsible for safeguarding and maintaining the confidentiality of your Membership. You are solely responsible for the activity that occurs under your Membership, whether or not you have authorized the activity. You agree to contact us by clicking the "Contact Us" link on our Website immediately if you become aware of any breach of security or unauthorized use of your Membership.

(c) Our Services may include sending you promotional e-mails/newsletters. These are typically recurring message programs that, upon registration, will be sent to you until you unsubscribe via any of our disclosed methods. To receive any of these communications from us, you may be required to register and provide certain information about you (e.g., name, street address, e-mail address, etc.). Our use of the information you provide is governed by our Privacy Policy. To opt-out of receiving our e-mails/newsletters as set forth in our Privacy Policy, you may either contact us by clicking the "Contact Us" link on our Website or by using the option included in the communication we send you (e.g., using the "Unsubscribe" feature provided in the footer of our emails).

#### 5. USER CONTENT

(a) We may now or in the future permit users to post, upload, transmit through, or otherwise make available through our Services messages, text, illustrations, data, files, images, graphics, photos, comments, sounds, music, videos, information, content, and/or other materials ("User Content"). Subject to the rights and license you grant herein, you retain all right, title and interest in your User

Content. We do not guarantee any confidentiality with respect to User Content even if it is not published through our Services. It is solely your responsibility to monitor and protect any intellectual property rights that you may have in your User Content, and we do not accept any responsibility for the same.

(b) You shall not submit any User Content protected by copyright, trademark, patent, trade secret, moral right, or other intellectual property or proprietary right without the express permission of the owner of the respective right. You are solely liable for any damage resulting from your failure to obtain such permission or from any other harm resulting from User Content that you submit.

(c) You represent, warrant, and covenant that you will not submit any User Content that:

- (i) Violates or infringes in any way upon the rights of others, including, but not limited to, any copyright, trademark, patent, trade secret, moral right, or other intellectual property or proprietary right of any person or entity;
- (ii) Impersonates another or is unlawful, threatening, abusive, libelous, defamatory, invasive of privacy or publicity rights, vulgar, obscene, profane, pornographic, or otherwise objectionable, or otherwise violates any applicable law;
- (iii) Encourages conduct that would constitute a criminal offense, gives rise to civil liability or otherwise violates any law;
- (iv) Is an advertisement for goods or services or a solicitation of funds;
- (v) Includes personal information such as messages which identify phone numbers, social security numbers, account numbers, addresses, or employer references;
- (vi) Contains a formula, instruction, or advice that could cause harm or injury; or
- (vii) Is a chain letter of any kind.

Moreover, any conduct by a user that in our sole discretion restricts or inhibits any other user from using or enjoying our Services will not be permitted.

(d) By submitting User Content to us, simultaneously with such posting you automatically grant, represent or warrant that the owner has expressly granted to us a worldwide, royalty-free, perpetual, irrevocable, non-exclusive, fully sublicensable, and transferable right and license to use, reproduce, distribute, create derivative works based upon (including, without limitation, translations), publicly display, publicly perform, transmit, and publish the User Content (in whole or in part) as we, in our sole discretion, deem appropriate including, without limitation, (i) in connection with our business; and (ii) in connection with the businesses of our affiliates, licensees, assignees, successors, parents, subsidiaries, and their related companies. We may exercise this grant in any format, media or technology now known or later developed for the full term of any copyright that may exist in such User Content. Furthermore, you also grant other users permission to access your User Content and to use, reproduce, distribute, create derivative works based upon, publicly display, publicly perform, transmit, and publish your User Content for personal, non-commercial use as permitted by the functionality of our Services and these Terms of Use. Notwithstanding the foregoing, you waive any and all claims you (or any copyright holder) may now or later have in any jurisdiction to so-called “moral rights” or rights of “droit moral” with respect to the User Content.

(e) By submitting User Content, you also grant us the right, but not the obligation, to use your biographical information including, without limitation, your name and geographical location in connection with broadcast, print, online, or other use or publication of your User Content; *provided, however*, that all such uses will be consistent with the terms of our Privacy Policy.

(f) We do not accept or consider, directly or through any employee or agent, unsolicited ideas of any kind, including without limitation, creative content, ideas or suggestions relating to new or improved products, enhancements, names or technologies, advertising and marketing campaigns, plans or other promotions. Do not send us (or any of our employees) any unsolicited ideas, suggestions, material, images or other work in any form (“Unsolicited Materials”). If you send us Unsolicited Materials, you understand and agree that the following terms will apply, notwithstanding any cover letter or other terms that accompany them:

- (i) We have no obligation to review any Unsolicited Materials, nor to keep any Unsolicited Materials confidential; and
- (ii) We will own, and may use and redistribute Unsolicited Materials for any purpose, without restriction and free of any obligation to acknowledge or compensate you

(g) Notwithstanding the generality of the foregoing, we reserve the right to display advertisements in connection with your User Content and to use your User Content for advertising, marketing, promotional, and other commercial purposes. You acknowledge and agree that your User Content may be included on the websites and advertising networks of our distribution partners, marketing partners, accounts, and third-party service providers (including their downstream users).

(h) We have the right, but not the obligation, to monitor User Content. We have the right in our sole discretion and for any reason whatsoever to edit, refuse to post, remove, or disable access to any User Content.

## 6. E-COMMERCE

(a) You must be at least eighteen (18) years of age or older to make purchases on any of our Websites.

(b) We reserve the right to limit the quantity of sales of particular items and further reserve the right to cancel multiple orders of such item purchases by the same user and/or users with the same shipment/delivery address.

(c) We attempt to be as accurate as possible in our product descriptions. However, we do not warrant that product descriptions or other content of our Websites is accurate, complete, reliable, current, or error-free. If a product offered by us is not purchased as described, your sole remedy is to return it in unused condition.

(d) Except where noted otherwise, the list price or suggested price displayed for products on any of our Websites represents the full retail price listed on the product itself, suggested by the manufacturer or supplier, estimated in accordance with standard industry practice, or is the estimated retail value for a comparably featured item offered elsewhere. Where an item is offered for sale by one of our merchants, the list price or suggested price may be provided by the merchant. In the event a product is listed at an incorrect price or with incorrect information due to typographical error or error received from its suppliers, we shall have the right to refuse or cancel any orders placed for the product listed at the incorrect price. We shall have the right to refuse or cancel any such orders whether or not the

order has been confirmed and your credit card charged. If your credit card has already been charged for the purchase and your order is canceled, we will issue a credit to your credit card account in the amount of the charge.

(e) Your receipt of an electronic or other form of order confirmation does not signify our acceptance of your order, nor does it constitute confirmation of our offer to sell. We reserve the right at any time after receipt of your order to accept or decline your order for any reason. We reserve the right at any time after receipt of your order, without prior notice to you, to supply less than the quantity you ordered of any item. We may automatically charge and withhold the sales tax for orders based on the applicable state sales tax rate and the location to which the item is being shipped. Otherwise, you are solely responsible for all sales taxes, or other taxes, on orders shipped to you.

(f) All requests for service and support for items purchased from us should be made directly to the manufacturer in accordance with their terms and conditions.

(g) Some of our Websites may offer gift cards redeemable for the purchase of goods and/or services ("Gift Cards"). The risk of loss and title for Gift Cards pass to the purchaser upon our electronic transmission to the purchaser, recipient or delivery to the carrier, whichever is applicable. We are not responsible if a Gift Card is lost, stolen, destroyed or used without your permission. We make no warranties, express or implied, with respect to Gift Cards, including without limitation, any express or implied warranty of merchantability or fitness for a particular purpose. In the event a Gift Card is non-functional, your sole remedy, and our sole liability, shall be the replacement of such Gift Card. Certain state laws do not allow limitations on implied warranties or the exclusion or limitation of certain damages. If these laws apply to you, some or all of the above disclaimers, exclusions or limitations may not apply to you, and you might have additional rights.

(h) Some of our Websites may sell vouchers which are redeemable for certain goods, services or experiences ("Vouchers"). These Vouchers are special promotional offers that you purchase from participating non-Salem merchants ("Merchants") through our Websites. The Merchant will be identified on the voucher and such Merchant is solely responsible for redeeming the Voucher. The Merchant is the issuer of the Voucher and is fully responsible for 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 Voucher or not. You waive and release Salem 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 a voucher or the services/goods it provides in connection with it. Additionally, the expiration date on the Voucher sets forth the last date on which you can redeem your Voucher for the full promotional value as stated on the Voucher, but applicable law may provide that the Merchant is responsible for honoring the cash value that you paid for the Voucher for a period of time beyond that expiration date.

(i) We provide our Services including, without limitation, Service Content for educational, entertainment and/or promotional purposes. You may not rely on any information and opinions expressed through any of our Services for any other purpose. In all instances, it is your responsibility to evaluate the accuracy, timeliness, completeness, or usefulness of any Service Content. Under no circumstances will we be liable for any loss or damage caused by your reliance on any Service Content.

(j) Any health-related Service Content available is not intended to be a substitute for professional medical advice. We do not warrant the validity of any such health-related statements found on or through our Services. All such information is general in nature and may be helpful to some persons but

not others, depending upon their personal needs. You should always consult with your physician prior to changing or undertaking a new diet or exercise program. Never disregard professional medical advice or delay in seeking it because of something you have read on or through our Services.

(k) In many instances, Service Content will include content posted by a third-party or will represent the opinions and judgments of a third-party. We do not endorse, warrant and are not responsible for the accuracy, timeliness, completeness, or reliability of any opinion, advice, or statement offered through our Services by anyone other than our authorized employees or spokespersons while acting in their official capacities.

(l) Our Services may link or contain links to other websites maintained by third parties. We do not operate or control, in any respect, or necessarily endorse the content found on these third-party websites. You assume sole responsibility for your use of third-party links. We are not responsible for any content posted on third-party websites or liable to you for any loss or damage of any sort incurred as a result of your dealings with any third-party or their website.

(m) Your correspondence or business dealings with, or participation in contests or promotions of advertisers and other third parties (i.e. entities other than Salem) found on or through this Website, including payment and delivery of related goods or service, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such party. You agree that we shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or as the result of the presence of such advertisers on the website.

## 7. INDEMNIFICATION

(a) You agree to defend, indemnify and hold harmless Salem, our officers, directors, employees, parents, partners, successors, agents, distribution partners, affiliates, subsidiaries, and their related companies (collectively, the "Website Parties") from and against any and all claims, liabilities, losses, damages, obligations, costs and expenses (including reasonable attorney's fees and costs) arising out of, related to, or that may arise in connection with: (i) your use of our Services; (ii) User Content provided by you or through use of your Membership; (iii) any actual or alleged violation or breach by you of these Terms of Use; (iv) any actual or alleged breach of any representation, warranty, or covenant that you have made to us; or (v) your acts or omissions. You agree to cooperate fully with us in the defense of any claim that is the subject of your obligations hereunder.

(b) If you are using our Website on behalf of a business, that business accepts these terms. It will hold harmless, defend and indemnify the Website Parties from any claim, suit or action arising from or related to the use of the Website or violation of these terms, including any liability or expense arising from claims, losses, damages, suits, judgments, litigation costs and attorney's fees.

## 8. DISCLAIMER OF WARRANTIES

**You expressly agree that use of our Services is at your sole risk. Our Services and Service Content (including software) are provided on an "as is" and "as available" basis without warranty of any kind, either express or implied. Without limiting the foregoing and to the fullest extent permitted by law, the Website Parties disclaim any and all warranties including any: (i) warranties that our Services will meet your requirements; (ii) warranties concerning the availability, accuracy, security, usefulness, timeliness, or information content of our Services or Service Content; (iii) warranties of title, non-infringement, merchantability, or fitness for a particular purpose; (iv) warranties for services or goods received through, advertised or accessed through our Services; (v) warranties concerning the accuracy or reliability of the results that may be obtained from the use**

of our Services; (vi) warranties that your use of our Services will be sure or uninterrupted; and (vii) warranties that errors in our Services or Service Content (including software) will be corrected.

9. LIMITATION ON LIABILITY

(a) Under no circumstances shall any of the Website Parties be liable for indirect, incidental, special, consequential, or exemplary damages (even if we have been advised of the possibility of such damages), arising out of, relating to, or in any way connected with our Services or these Terms of Use. Your sole remedy for dissatisfaction with our Services including, without limitation, Service Content, is to stop using our Services. Such limitation shall also apply with respect to damages incurred by reason of goods received or advertised in connection with our Services or any links placed in our Services. Such limitation shall also apply with respect to damages incurred by reason of any content posted by a third-party or conduct of a third-party using our Services.

(b) Notwithstanding anything to the contrary contained herein, in no event shall the cumulative liability of all the Website Parties exceed the lesser of the total payments received from you by us during the preceding twelve (12) month period of \$100. Furthermore, you agree that any cause of action arising out of, or relating to, or in any way connected with any of our Services or these Terms of Use must commence within one (1) year after the cause of action accrues; otherwise, such cause of action shall be permanently barred.

(c) These limitations shall apply to the fullest extent permitted by law. In some jurisdictions limitations of liability are not permitted; in such jurisdictions, some of the foregoing limitations may not apply to you.

10. TERMINATION

(a) We reserve the right in our sole discretion and at any time to terminate or suspend your Membership and/or block your use of our Services for any reason including, without limitation, if you have failed to comply with the letter and spirit of these Terms of Use. You agree that we are not liable to you or any third party for any termination or suspension of your Membership or for blocking your use of our Services.

(b) Any suspension or termination shall not affect your obligations to us under these Terms of Use. The provisions of these Terms of Use (which by their nature should survive the suspension or termination of your Membership or these Terms of Use) shall survive including, but not limited to, the rights and licenses that you have granted hereunder, indemnities, releases, disclaimers, limitations on liability, provisions related to choice of law, and all of the provisions under Section 17 "Miscellaneous."

11. COPYRIGHT POLICY

(a) We respect the intellectual property rights of others and expect users to do the same. In appropriate circumstances and at our sole discretion, we may terminate and/or disable the Membership of users suspected to be infringing the copyrights (or other intellectual property rights) of others. Additionally, in appropriate circumstances and in our sole discretion, we may remove or disable access to material on any of our Websites or hosted on our systems that may be infringing or the subject of infringing activity.

(b) In accordance with the Digital Millennium Copyright Act of 1998, Title 17 of the United States Code, Section 512 (“DMCA”), we will respond promptly to claims of copyright infringement that are reported to the agent that we have designated to receive notifications of claims infringement (our “DMCA Compliance Officer”). The DMCA Compliance Officer for notice of claims of copyright infringement on our Website can be reached by clicking the “Contact Us” link on our Website.

(c) If you are a copyright owner (or authorized to act on behalf of the copyright owner) and believe that your work’s copyright has been infringed, please report your notice of infringement to us by providing our DMCA Compliance Officer with a written notification of claimed infringement that includes substantially the following information:

- (i) A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- (ii) Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single Website are covered by a single notification, a representative list of such works at that Website;
- (iii) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit us to locate the material;
- (iv) Information reasonably sufficient to permit us to contact you, such as an address, telephone number, and, if available, an electronic mail address at which you may be contacted;
- (v) A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- (vi) A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

We will investigate notices of copyright infringement and take appropriate actions under the DMCA. Inquiries that do not follow this procedure may not receive a response.

## 12. CHOICE OF LAW; JURISDICTION AND VENUE

These Terms of Use shall be construed in accordance with the laws of the State of Virginia without regard to its conflict of laws rules. Any legal proceedings against us that may arise out of, relate to, or be in any way connected with our Services or these Terms of Use shall be brought exclusively in the state or federal courts of Richmond, Virginia, and you waive any jurisdictional, venue, or inconvenient forum objections to such courts.

## 13. DISPUTE RESOLUTION & MANDATORY ARBITRATION

(a) We each agree to first contact each other with any disputes and provide a written description of the problem, all relevant documents/information and the proposed resolution. You agree to contact us

with disputes by contacting us at the address provided in the “Contact Us” link on our Website. We will contact you based on the contact information you have provided us.

(b) If, after thirty (30) days, the parties are unable to resolve any dispute raised under the previous provision, the dispute may only be submitted to arbitration consistent with this section. The parties understand that they would have had a right or opportunity to litigate disputes through a court and to have a judge or jury decide their case, but they instead choose to have any disputes resolved through arbitration.

(c) We each agree that any claim or dispute between us, and any claim by either of us against any agent, employee, successor, or assign of the other, including, to the full extent permitted by applicable law, third parties who are not signatories to this agreement, whether related to this agreement or otherwise, including past, present, and future claims and disputes and including any dispute as to the validity or applicability of this arbitration clause, shall be resolved by binding arbitration administered by the JAMS under its rules and procedures in effect when the claim is filed. The rules and procedures and other information, including information on fees, may be obtained from JAMS directly.

(d) We are entering into this arbitration agreement in connection with a transaction involving interstate commerce. Accordingly, this arbitration agreement and any proceedings thereunder shall be governed by the Federal Arbitration Act (“FAA”), 9 U.S.C. §§ 1-16. Any award by the arbitrator(s) may be entered as a judgment in any court having jurisdiction.

(e) Either of us may bring qualifying claims in small claims court. Furthermore, as set forth below, we each agree that any arbitration will be solely between you and us, not as part of a class-wide claim (i.e., not brought on behalf of or together with another individual's claim). If for any reason any court or arbitrator holds that this restriction is unconscionable or unenforceable, then our agreement to arbitrate doesn't apply and the class-wide dispute must be brought in court.

#### 14. NO CLASS ACTIONS

**To the extent permitted by law, we each waive any right to pursue disputes on a class-wide basis; that is, either to join a claim with the claim of any other person or entity, or assert a claim in a representative capacity on behalf of anyone else in any lawsuit, arbitration or other proceeding.**

#### 15. NO TRIAL BY JURY

**To the extent allowed by law, we each waive any right to trial by jury in any lawsuit, arbitration or other proceeding.**

#### 16. AMENDMENT; ADDITIONAL TERMS

(a) We reserve the right in our sole discretion and at any time and for any reason, to modify or discontinue any aspect or feature of our Services or to modify these Terms of Use. In addition, we reserve the right to provide you with operating rules or additional terms that may govern your use of our Services generally, unique of our Services, or both (“Additional Terms”). Any Additional Terms that we may provide to you will be incorporated by reference into these Terms of Use. To the extent any Additional Terms conflict with these Terms of Use, the Additional Terms will control.

(b) Modifications to these Terms of Use or Additional Terms will be effective immediately upon posting on the Website. It is your responsibility to review the Terms of Use from time to time for any

changes or Additional Terms. Your access and use of our Services following any modification of these Terms of Use or the provision of Additional Terms will signify your assent to and acceptance of the same. If you object to any subsequent revision to the Terms of Use or to any Additional Terms, immediately discontinue use of our Services and, if applicable, terminate your Membership.

17. MISCELLANEOUS

(a) No waiver by either party of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. The section headings used herein are for convenience only and shall not be given any legal import.

(b) Except where specifically stated otherwise, if any part of these Terms of Use is unlawful or unenforceable for any reason, we both agree that only that part of the Terms of Use shall be stricken and that the remaining terms in the Terms of Use shall not be affected. So, for example, if a provision in these terms is found to be unenforceable, we agree an arbitrator (or, if permitted, a court) shall only strike that provision and that the remaining terms of these Terms of Use shall remain in full force and effect.

(c) Where we have provided you with a translation of the English language version of these Terms of Use, our Privacy Policy or Additional Terms, you agree that the translation is provided for your convenience only and that the English version governs your relationship with us. The English language version takes precedence if there is any contradiction between the English and translated versions.

(d) These Terms of Use (including the Privacy Policy and any Additional Terms incorporated by reference) constitute the entire agreement of the parties with respect to the subject matter hereof, and supersede all previous written or oral agreements between us with respect to such subject matter.

(e) You may not assign these Terms of Use or assign any rights or delegate any obligations hereunder, in whole or in part, without our prior written consent. Any such purported assignment or delegation by you without the appropriate prior written consent will be null and void and of no force and effect. We may assign these Terms of Use or any rights hereunder without your consent and without notice.