

Terms of Use

Welcome to UPWARD DOG PROVISIONS and our Terms of Use (these “Terms”). These Terms are important and affect your legal rights, so please read them carefully. Note that Section 13 of these Terms contains a mandatory arbitration provision that requires the use of arbitration on an individual basis and limits the remedies available to you in the event of certain disputes for future and past transactions.

By accessing or using the websites, mobile applications or blogs (collectively, the “Sites”) provided by UPWARD DOG PROVISIONS (collectively, “Upward Dog Foods Inc” “Upwarddoggy” “we,” “us” or “our”) that link to these Terms, you agree to be bound by these Terms and all of the terms incorporated herein by reference. If you do not agree to these Terms, you may not access or use the Sites or order, receive or use products made available through the Sites (collectively, the “Products”).

These Terms do not alter in any way the terms or conditions of any other agreement you may have with us in respect of any products, services or otherwise. If you are using the Sites on behalf of any entity, you represent and warrant that you are authorized to accept these Terms on such entity’s behalf and that such entity agrees to be responsible to us if you or such entity violates these Terms.

Upward Dog Provisions reserves the right to change or modify these Terms at any time and in our sole discretion. If we make changes to these Terms, we will provide notice of such changes, such as by sending an email notification, providing notice through the Sites or updating the “Last Updated” date at the beginning of these Terms. By continuing to access or use the Sites or order, receive or use Products, you confirm your acceptance of the revised Terms and all of the terms incorporated therein by reference. We encourage you to review the Terms frequently to ensure that you understand the terms and conditions that apply when you access or use the Sites or order, receive or use the Products. If you do not agree to the revised Terms, you may not access or use the Sites or order, receive or use the Products.

1. PRIVACY POLICY

Please refer to our [Privacy Policy](#) for information about how we collect, use and disclose information about you.

2. ELIGIBILITY

The Sites are not targeted toward or intended for use by anyone under the age of 18. By using the Sites, you represent and warrant that you (a) are 18 years of age or older, (b) are a legal resident of the United States, (c) have not been previously suspended or removed from the Sites, or engaged in any activity that could result in suspension or removal from the Sites, (d) do not have more than one Upward Dog Provisions account, and (e) have full power and authority to enter into these Terms and in so doing will not violate any other agreement to which you are a party.

3. REGISTRATION, ACCOUNT AND COMMUNICATION PREFERENCES

In order to access and use certain areas or features of the Sites, you will need to register for a Upward Dog Provisions account. By creating an account, you agree to (a) provide accurate, current and complete account information, (b) maintain and promptly update from time to time as necessary your account information, (c) maintain the security of your password and accept all risks of unauthorized access to your account and the information you provide to us, and you agree to accept responsibility for all activities that occur under your account or password and (d) immediately notify us if you discover or otherwise suspect any security breaches related to the Sites or your account.

By creating a Upward Dog Provisions account, you also consent to receive electronic communications from Upward Dog Provisions (e.g., via email or by posting notices to the Sites). These communications may include notices about your account (e.g., payment authorizations, password changes and other

transactional information) and are part of your relationship with us. You agree that any notices, agreements, disclosures or other communications that we send to you electronically will satisfy any legal communication requirements, including, but not limited to, that such communications be in writing. You should maintain copies of electronic communications from us by printing a paper copy or saving an electronic copy. We may also send you promotional communications via email, including, but not limited to, newsletters, special offers, surveys and other news and information we think will be of interest to you. You may opt out of receiving these promotional emails at any time by following the unsubscribe instructions provided therein.

TERMS OF SALE

4.1 GOOD FEED Subscriptions, Continuous Subscriptions; Cancellation Policy

GOOD FEED Subscriptions. We offer different subscription plans for customized to customer selections (each, a "GOOD FEED Subscription"). For more information about our GOOD FEED Subscriptions, please visit the FAQs. Note that we do not currently deliver to every location, so please visit our delivery area page to see if we deliver to your area.

Continuous Subscriptions. WHEN YOU REGISTER FOR A GOOD FEED SUBSCRIPTION, YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT (A) UPWARD DOG PROVISIONS (OR OUR THIRD-PARTY PAYMENT PROCESSOR) IS AUTHORIZED TO CHARGE YOU ON A RECURRING BASIS FOR YOUR GOOD FEED SUBSCRIPTION (IN ADDITION TO ANY APPLICABLE TAXES AND OTHER CHARGES) FOR AS LONG AS YOUR GOOD FEED SUBSCRIPTION CONTINUES, AND (B) YOUR GOOD FEED SUBSCRIPTION IS CONTINUOUS UNTIL YOU CANCEL IT OR WE SUSPEND OR STOP PROVIDING ACCESS TO THE SITES OR PRODUCTS IN ACCORDANCE WITH THESE TERMS. YOU MAY SKIP YOUR ORDER AS OFTEN AS YOU'D LIKE BY MANAGING YOUR DELIVERY SCHEDULE ON YOUR MANAGE ACCOUNT PAGE.

Cancellation Policy. IN ORDER TO CANCEL YOUR GOOD FEED SUBSCRIPTION, ON OR BEFORE 10 AM TWO DAYS PRIOR TO YOUR DELIVERY, YOU MUST EITHER EMAIL US AT HELLO@UPWARDDOGPROVISIONS.COM. YOU CAN ALSO CANCEL YOUR SUBSCRIPTION AT ANY TIME WITHIN THREE BUSINESS DAYS OF YOUR SIGNING UP FOR THE SUBSCRIPTION. ANY GOOD FEED ORDER THAT HAS A DELIVERY DATE WITHIN THIS TWO DAY WINDOW HAS BEEN PROCESSED AND CANNOT BE CANCELLED, AND YOU WILL BE RESPONSIBLE FOR ALL CHARGES (INCLUDING ANY APPLICABLE TAXES AND OTHER CHARGES) INCURRED PRIOR TO THE CANCELLATION OF YOUR GOOD FEED SUBSCRIPTION.

In the event you cancel your GOOD FEED Subscription, please note that we may still send you promotional communications about Upward Dog Provisions, unless you opt out of receiving those communications by following the unsubscribe instructions provided therein.

4.2 Gifts

You have the ability to purchase subscriptions for other people through the Sites through Gift Cards ("Gifts").

When you purchase a Gift, we will send an email to the Gift recipient that can be used to redeem the Gift. The Gift recipient will be required to create a Upward Dog Provisions account which includes placing a credit card on file in order to access the Sites and redeem the Gift. Gifts are not refundable or redeemable for cash, unless otherwise required by applicable law. However, Gifts do not expire, and any unused balance will be placed in the Gift recipient's Upward Dog Provisions account.

4.3 Free Trials

From time to time, to the extent legally permitted, we may offer free trials of certain subscriptions for specified periods of time without payment that you may sign up for. If we offer you a free trial, the specific terms of your free trial will be provided in the marketing materials describing the particular trial or at registration. However, an Upward Dog Provisions account, which includes placing a credit card on file in order to access the Sites, will be required.

IF YOU SIGNED UP FOR SUCH A FREE TRIAL, ONCE YOUR FREE TRIAL ENDS, WE (OR OUR THIRD-PARTY PAYMENT PROCESSOR) WILL BEGIN BILLING YOUR DESIGNATED PAYMENT METHOD ON A RECURRING BASIS FOR YOUR SUBSCRIPTION (PLUS ANY APPLICABLE TAXES AND OTHER CHARGES) FOR AS LONG AS YOUR SUBSCRIPTION CONTINUES, UNLESS YOU CANCEL YOUR SUBSCRIPTION PRIOR TO THE END OF YOUR FREE TRIAL. INSTRUCTIONS FOR CANCELING YOUR SUBSCRIPTION ARE DESCRIBED ABOVE. PLEASE NOTE THAT YOU WILL NOT RECEIVE A NOTICE FROM US THAT YOUR FREE TRIAL HAS ENDED OR THAT THE PAID PORTION OF YOUR SUBSCRIPTION HAS BEGUN. WE RESERVE THE RIGHT TO MODIFY OR TERMINATE FREE TRIALS AT ANY TIME, WITHOUT NOTICE AND IN OUR SOLE DISCRETION.

4.4 Payment and Billing Information

By providing a credit card or other payment method that we accept, you represent and warrant that you are authorized to use the designated payment method and that you authorize us (or our third-party payment processor) to charge your payment method for the total amount of your subscription or other purchase (including any applicable taxes and other charges) (collectively, as applicable, an "Order"). If the payment method cannot be verified, is invalid or is otherwise not acceptable, your Order may be suspended or cancelled. You must resolve any problem we encounter in order to proceed with your Order. In the event you want to change or update payment information associated with your Upward Dog Provisions account, you can do so at any time by logging into your account and editing your payment information.

You acknowledge that the amount billed may vary due to promotional offers, changes to your GOOD FEED Subscription, changes in applicable taxes or other charges, and you authorize us (or our third-party payment processor) to charge your payment method for the corresponding amount.

4.5 Pricing and Availability

All of our Products are subject to availability, and we reserve the right to impose quantity limits on any Order, to reject all or part of an Order, to discontinue offering certain Products and to substitute Products (including, but not limited to, specific meat varieties/flavors) without prior notice. We strive to provide you with high-quality Products, and given the perishable nature of certain Products and market conditions beyond our control, we may be required to make substitutions from time to time. If you are not satisfied with a substitution, please contact us at hello@upwarddogprovisions.com.

When you subscribe to your GOOD FEED Subscription, you are agreeing to pay the total subscription price for the mix of items included in that delivery.

4.6 Deliveries

You are responsible for inspecting all Products you receive from us for any damage or other issues upon delivery. In addition, you are solely responsible for determining the freshness of the Products you receive. You should always inspect your delivery to confirm that the Products arrive in a frozen condition. In the event that you have any other reason to believe that any other Product in your delivery is not suitable for consumption, contact us at hello@upwarddogprovisions.com. To maintain the quality and integrity of the Products, we recommend that you immediately place Product in freezer upon delivery and follow the USDA instructions on refrigeration and food safety, which can be found [here](#). From the time of delivery, the condition and consumption of the Products are solely at your risk, and you are solely responsible for the proper and safe washing, handling, preparation, storage, thawing, use and consumption of the Products following delivery. We recommend that you follow the USDA's instructions on safe food handling, which can be found [here](#). Failure to follow safe food handling practices and temperature recommendations may increase the risk of foodborne illness.

Our delivery driver will leave the package for you at your door during our normal delivery hours (between 10am and 4pm). Depending on the season and temperature in your geographic area at the time of delivery, advance planning by you should be made for proper storage of your Products.

In the case of inclement weather or other events beyond our control that interfere with our ability to deliver your Order, we will attempt to deliver your Order as soon as reasonably possible. In some

cases, delivery may occur prior to the scheduled delivery date. In the event that timely delivery of your Order is not feasible, we will cancel your Order for the period so affected and issue you a credit or refund of the purchase price for that GOOD FEED delivery.

4.7 No Resale

You are not permitted to resell or otherwise use the Products for commercial purposes.

4.8 Product Descriptions

Upward Dog Provisions attempts to be as accurate as possible. However, Upward Dog Provisions does not warrant that product descriptions, photos, or other content of any product is accurate, complete, reliable, current, or error-free. If a product offered by Upward Dog Provisions itself is not as described, your sole remedy is to receive a refund for the product. We at Upward Dog Provisions prepare GOOD FEED meals with fresh, though ingredients may not be uniform in color, texture, weight. For this reason, weights displayed are approximate and intended to communicate approximate amounts of Product that you will receive. While we don't anticipate weights to be incorrect, your sole remedy for any error or documented weight-related issue will be resolved via a credit or refund for the product in question.

4.9 Returns and Refunds

If you are dissatisfied with any product, please contact us at hello@upwarddogprovisions.com within 48 hours of your delivery and, depending on the circumstances, we will provide you a full or partial credit or refund of the purchase price for that Product. We may require the return or photographic documentation of any product with which you are dissatisfied before we provide you a replacement, credit or refund.

5. LICENSE TO ACCESS AND USE OUR SITES AND CONTENT

Unless otherwise indicated in writing by us, the Sites and all content and other materials contained therein, including, without limitation, the Upward Dog Provisions logo and all designs, text, graphics, pictures, information, data, software, sound files, other files and the selection and arrangement thereof (collectively, "Content") are the proprietary property of Upward Dog Provisions or our licensors or users, as applicable, and are protected by U.S. and international copyright laws.

You are hereby granted a limited, nonexclusive, nontransferable, nonsublicensable license to access and use the Sites and Content. However, such license is subject to these Terms and does not include any right to (a) sell, resell or use commercially the Sites or Content, (b) distribute, publicly perform or publicly display any Content, (c) modify or otherwise make any derivative uses of the Sites or Content, or any portion thereof, (d) use any data mining, robots or similar data gathering or extraction methods, (e) download (other than the page caching) any portion of the Sites or Content, except as expressly permitted by us, and (f) use the Sites or Content other than for their intended purposes. Any use of the Sites or Content other than as specifically authorized herein, without our prior written permission, is strictly prohibited and will terminate the license granted herein. Such unauthorized use may also violate applicable laws, including, without limitation, copyright and trademark laws and applicable communications regulations and statutes. Unless explicitly stated by us, nothing in these Terms shall be construed as conferring any right or license to any patent, trademark, copyright or other proprietary rights of Upward Dog Provisions or any third-party, whether by estoppel, implication or otherwise. This license is revocable at any time.

Notwithstanding anything to the contrary in these Terms, the Sites and Content may include software components provided by Upward Dog Provisions or a third-party that are subject to separate license terms, in which case those license terms will govern such software components.

6. HYPERLINKS

You are granted a limited, nonexclusive, nontransferable right to create a text hyperlink to the Sites for noncommercial purposes, provided that such link does not portray Upward Dog Provisions or any of

our Products in a false, misleading, derogatory or otherwise defamatory manner, and provided further that the linking site does not contain any adult or illegal material or any material that is offensive, harassing or otherwise objectionable. This limited right may be revoked at any time. You may not use a Upward Dog Provisions logo or other proprietary graphic of Upward Dog Provisions to link to the Sites without our express written permission. Further, you may not use, frame or utilize framing techniques to enclose any Upward Dog Provisions trademark, logo or other proprietary information, including the images found on the Sites or Products, the content of any text or the layout or design of any page, or form contained on a page, on the Sites without our express written consent.

Upward Dog Provisions makes no claim or representation regarding, and accepts no responsibility for, the quality, content, nature or reliability of third-party websites accessible by hyperlink from the Sites or of websites linking to the Sites. Such sites are not under our control, and we are not responsible for the contents of any linked site, any link contained in a linked site, or any review, changes or updates to such sites. We provide these links to you only as a convenience, and the inclusion of any link does not imply our affiliation, endorsement or adoption of any site or any information contained therein. When you leave the Sites, you should be aware that our terms and policies no longer govern. You should review the applicable terms and policies, including privacy and data gathering practices, of any site to which you navigate from the Sites.

7. THIRD-PARTY CONTENT

We may display content, advertisements and promotions from third-parties through the Sites or in shipments with Products (collectively, "Third-Party Content"). We do not control, endorse or adopt any Third-Party Content, and we make no representations or warranties of any kind regarding such Third-Party Content, including, without limitation, regarding its accuracy or completeness. You acknowledge and agree that your interactions with third-parties providing Third-Party Content are solely between you and such third-parties, and that Upward Dog Provisions is not responsible or liable in any manner for such interactions or Third-Party Content.

8. USER CONDUCT

You agree that you will not violate any law, contract, intellectual property or other third-party right or commit a tort, and that you are solely responsible for your conduct, while accessing or using the Sites. You agree that you will abide by these Terms and will not:

Engage in any harassing, threatening, intimidating, predatory or stalking conduct;

Use or attempt to use another user's account without authorization from such user and Upward Dog Provisions;

Use the Sites in any manner that could interfere with, disrupt, negatively affect or inhibit other users from fully enjoying the Sites or that could damage, disable, overburden or impair the functioning of the Sites in any manner;

Reverse engineer any aspect of the Sites or do anything that might discover source code or bypass or circumvent measures employed to prevent or limit access to any Content, area or code of the Sites;

Attempt to circumvent any content-filtering techniques we employ or attempt to access any feature or area of the Sites that you are not authorized to access;

Develop any third-party applications that interact with User Content or the Sites without our prior written consent;

Use any robot, spider, crawler, scraper, script, browser extension, offline reader or other automated means or interface not authorized by us to access the Sites, extract data or otherwise interfere with or modify the rendering of Site pages or functionality; or

Use the Sites for any illegal or unauthorized purpose, or engage in, encourage or promote any activity that violates these Terms.

9. INDEMNIFICATION

To the fullest extent permitted by applicable law, you agree to indemnify, defend and hold harmless Upward Dog Provisions, and our respective past, present and future employees, officers, directors, contractors, consultants, equity holders, suppliers, vendors, service providers, parent companies, subsidiaries, affiliates, agents, representatives, predecessors, successors and assigns (individually and collectively, the "Upward Dog Provisions Parties"), from and against all actual or alleged Upward Dog Provisions Party or third-party claims, damages, awards, judgments, losses, liabilities, obligations, penalties, interest, fees, expenses (including, without limitation, attorneys' fees and expenses) and costs (including, without limitation, court costs, costs of settlement and costs of pursuing indemnification and insurance), of every kind and nature whatsoever, whether known or unknown, foreseen or unforeseen, matured or unmatured, or suspected or unsuspected, in law or equity, whether in tort, contract or otherwise (collectively, "Claims"), including, but not limited to, damages to property or personal injury, that are caused by, arise out of or are related to (a) your use or misuse of the Sites, Content or Products, (b) any User Content you create, post, share or store on or through the Sites or our pages or feeds on third-party social media platforms, (c) any Feedback you provide, (d) your violation of these Terms, (e) your violation of the rights of another, and (f) any third-party's use or misuse of the Sites or Products provided to you. You agree to promptly notify Upward Dog Provisions of any third-party Claims and cooperate with the Upward Dog Provisions Parties in defending such Claims. You further agree that the Upward Dog Provisions Parties shall have control of the defense or settlement of any third-party Claims. This indemnity is in addition to, and not in lieu of, any other indemnities set forth in a written agreement between you and Upward Dog Provisions.

10. DISCLAIMERS

YOU ARE SOLELY RESPONSIBLE FOR THE PROPER AND SAFE WASHING, HANDLING, PREPARATION, STORAGE, THAWING, USE AND CONSUMPTION OF THE PRODUCTS YOU RECEIVE FROM US. YOU ARE ALSO SOLELY RESPONSIBLE FOR KNOWING ABOUT ANY FOOD ALLERGIES YOUR DOG MAY HAVE AND VERIFYING THE PRODUCTS AND THEIR CONTENTS BEFORE HANDLING, PREPARING, USING OR THAWING SUCH PRODUCTS.

WE ATTEMPT TO DISPLAY THE PRODUCTS AND OTHER MATERIALS AND INFORMATION YOU VIEW ON THE SITES, INCLUDING PRICING AND NUTRITIONAL INFORMATION, AS ACCURATELY AS POSSIBLE. HOWEVER, WE DO NOT GUARANTEE THE ACCURACY OF SUCH MATERIALS AND INFORMATION AND ARE NOT RESPONSIBLE FOR ANY CLAIMS ARISING OR RESULTING FROM YOUR RELIANCE THEREON. IN THE EVENT OF AN ERROR ON OUR SITES, IN AN ORDER CONFIRMATION, IN PROCESSING OR DELIVERING AN ORDER OR OTHERWISE, WE RESERVE THE RIGHT TO CORRECT SUCH ERROR AND REVISE YOUR ORDER ACCORDINGLY (INCLUDING CHARGING THE CORRECT PRICE) OR TO CANCEL YOUR ORDER AND ISSUE YOU A REFUND.

YOU FURTHER AGREE THAT THE PRODUCTS AND OTHER MATERIALS YOU RECEIVE IN YOUR ORDER MAY VARY FROM THE PRODUCTS AND MATERIALS DISPLAYED ON THE SITES DUE TO A NUMBER OF FACTORS, INCLUDING, WITHOUT LIMITATION, SYSTEM CAPABILITIES AND CONSTRAINTS OF YOUR COMPUTER, MANUFACTURING PROCESS OR SUPPLY ISSUES, AND THE AVAILABILITY AND VARIABILITY OF PRODUCTS. THE SITES MAY CONTAIN INFORMATION ABOUT PRODUCTS THAT ARE NOT AVAILABLE IN EVERY LOCATION. A REFERENCE TO A PRODUCT ON THE SITES DOES NOT IMPLY OR GUARANTEE THAT IT IS OR WILL BE AVAILABLE IN YOUR LOCATION OR AT THE TIME OF YOUR ORDER.

EXCEPT AS MAY BE PROVIDED IN A WARRANTY BY THE MANUFACTURER OF A PRODUCT, ALL PRODUCTS AND THE SITES AND CONTENT ARE PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. UPWARD DOG PROVISIONS DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT AS TO THE SITES, CONTENT AND PRODUCTS, ANY WARRANTIES THAT ARISE FROM TRADE USAGE OR CUSTOM, AND ANY WARRANTIES THAT THE SITES OR PRODUCTS WILL BE FREE AND CLEAR FROM ANY ADVERSE LIEN OR SECURITY INTERESTS.

We reserve the right to change any and all Content and to modify, suspend or stop providing access to the Sites (or any features or functionality of the Sites) and the Products at any time without notice and without obligation or liability to you. Reference to any products, services, processes or other information by trade name, trademark, manufacturer, supplier, vendor or otherwise does not constitute or imply endorsement, sponsorship or recommendation thereof, or any affiliation therewith, by us. Some jurisdictions do not allow the disclaimer of implied terms in contracts with consumers, so some or all of the disclaimers in this section may not apply to you.

11. LIMITATION OF LIABILITY, RELEASE

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL UPWARD DOG PROVISIONS OR ANY OF THE OTHER UPWARD DOG PROVISIONS PARTIES BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUE, INCOME OR PROFITS, LOSS OF USE OR DATA, LOSS OR DIMINUTION IN VALUE OF ASSETS OR SECURITIES, OR DAMAGES FOR BUSINESS INTERRUPTION) ARISING OUT OF OR IN ANY WAY RELATED TO THE ACCESS OR USE OF THE SITES OR CONTENT OR THE ORDER, RECEIPT OR USE OF ANY PRODUCT OR OTHERWISE RELATED TO THESE TERMS (INCLUDING, BUT NOT LIMITED TO, ANY DAMAGES CAUSED BY OR RESULTING FROM RELIANCE BY ANY USER ON ANY INFORMATION OBTAINED FROM UPWARD DOG PROVISIONS, OR FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETIONS OF FILES OR EMAILS, ERRORS, DEFECTS, BUGS, VIRUSES, TROJAN HORSES, DELAYS IN OPERATION OR TRANSMISSION OR ANY FAILURE OF PERFORMANCE, WHETHER OR NOT RESULTING FROM ACTS OF GOD, COMMUNICATIONS FAILURE, THEFT, DESTRUCTION OR UNAUTHORIZED ACCESS TO UPWARD DOG PROVISIONS' RECORDS, PROGRAMS OR SYSTEMS), REGARDLESS OF THE FORM OF ACTION, WHETHER BASED IN CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, SIMPLE NEGLIGENCE, WHETHER ACTIVE, PASSIVE OR IMPUTED), STRICT PRODUCT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY (EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE).

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE MAXIMUM AGGREGATE LIABILITY OF UPWARD DOG PROVISIONS AND THE OTHER UPWARD DOG PROVISIONS PARTIES (JOINTLY) ARISING OUT OF OR IN ANY WAY RELATED TO (A) THE ORDER, RECEIPT OR USE OF PRODUCTS PURCHASED FROM UPWARD DOG PROVISIONS EXCEED THE AMOUNT PAID FOR SUCH PRODUCTS; AND (B) THE ORDER, RECEIPT OR USE OF PRODUCTS, OR ACCESS OR USE OF THE SITES OR CONTENT, EXCEED THE GREATER OF \$250 OR THE AMOUNT YOU PAID TO US IN THE ONE (1) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH YOUR CLAIM AROSE. THE FOREGOING LIMITATIONS SHALL APPLY EVEN IN THE EVENT YOUR REMEDIES HEREUNDER FAIL OF THEIR ESSENTIAL PURPOSE, AND THE FOREGOING SHALL CONSTITUTE UPWARD DOG PROVISIONS TO YOU AND THE OTHER UPWARD DOG PROVISIONS PARTIES' SOLE LIABILITY AND OBLIGATION IN RESPECT HEREOF, REGARDLESS OF THE FORM OF ACTION, WHETHER BASED IN CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, SIMPLE NEGLIGENCE, WHETHER ACTIVE, PASSIVE OR IMPUTED), STRICT PRODUCT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU, ON BEHALF OF YOUR HEIRS, EXECUTORS, ADMINISTRATORS, LEGAL AND PERSONAL REPRESENTATIVES, HEREBY RELEASE, WAIVE, ACQUIT AND FOREVER DISCHARGE UPWARD DOG PROVISIONS AND THE OTHER UPWARD DOG PROVISIONS PARTIES FROM AND AGAINST, AND COVENANT NOT TO SUE ANY SUCH UPWARD DOG PROVISIONS PARTY FOR, ALL CLAIMS YOU HAVE OR MAY HAVE ARISING OUT OF OR IN ANY WAY RELATED TO THESE TERMS.

IF YOU ARE A CALIFORNIA RESIDENT, YOU HEREBY WAIVE YOUR RIGHTS UNDER CALIFORNIA CIVIL CODE 1542, WHICH STATES "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you. Some jurisdictions also limit disclaimers or limitations of liability for personal injury from consumer products, so this limitation may not apply to personal injury claims.

12. MODIFICATIONS TO THE SITES AND PRODUCTS

We reserve the right in our sole discretion to modify, suspend or discontinue, temporarily or permanently, the Sites (or any features or parts thereof) or the provision of the Products at any time and without liability therefor.

13. DISPUTE RESOLUTION; ARBITRATION

PLEASE READ THE FOLLOWING SECTION CAREFULLY BECAUSE IT REQUIRES YOU TO ARBITRATE CERTAIN DISPUTES AND CLAIMS WITH UPWARD DOG PROVISIONS AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM US.

13.1 Binding Arbitration

Except for any disputes, claims, suits, actions, causes of action, demands or proceedings (collectively, "Disputes") arising out of or related to a violation of Section 8 or Disputes in which either party seeks to bring an individual action in court or seeks injunctive or other equitable relief for the alleged unlawful use of intellectual property, including, without limitation, copyrights, trademarks, trade names, logos, trade secrets or patents, you and UPWARD DOG PROVISIONS agree (a) to waive your and UPWARD DOG PROVISIONS' respective rights to have any and all Disputes arising from or related to these Terms, or the Sites, Content or Products, resolved in a court, and (b) to waive your and UPWARD DOG PROVISIONS' rights to a jury trial. Instead, you and UPWARD DOG PROVISIONS agree to arbitrate Disputes through binding arbitration (which is the referral of a Dispute to one or more persons charged with reviewing the Dispute and making a final and binding determination to resolve it instead of having the Dispute decided by a judge or jury in court). You agree to only bring actions against UPWARD DOG PROVISIONS to you by way of such binding arbitration and to not file any action in any state or federal court.

13.2 No Class Arbitrations, Class Actions or Representative Actions

You and UPWARD DOG PROVISIONS agree that any Dispute arising out of or related to these Terms or the Sites, Content or Products is personal to you and UPWARD DOG PROVISIONS and that such Dispute will be resolved solely through individual arbitration and will not be brought as a class arbitration, class action or any other type of representative proceeding. You and UPWARD DOG PROVISIONS agree that there will be no class arbitration or arbitration in which an individual attempts to resolve a Dispute as a representative of another individual or group of individuals. Further, you and UPWARD DOG PROVISIONS agree that a Dispute cannot be brought as a class or other type of representative action, whether within or outside of arbitration, or on behalf of any other individual or group of individuals.

13.3 Notice, Information Dispute Resolution

You and UPWARD DOG PROVISIONS agree that each party will notify the other party in writing of any arbitrable or Dispute within thirty (30) days of the date it arises, so that the parties can attempt in good faith to resolve the Dispute informally. Notice to UPWARD DOG PROVISIONS shall be sent by certified mail or courier to UPWARD DOG PROVISIONS, Attn: Consumer Complaint, 2633 Lincoln Boulevard, Santa Monica, CA 90405. Your notice must include (a) your name, postal address, telephone number, the email address you use or used for your UPWARD DOG PROVISIONS account and, if different, an email address at which you can be contacted, (b) a description in reasonable detail of the nature or basis of the Dispute, and (c) the specific relief that you are seeking. Our notice to you will be sent electronically in accordance with Section 3 and will include our name, postal address, telephone number and an email address at which we can be contacted with respect to the Dispute, (y) a description in reasonable detail of the nature or basis of the Dispute, and (z) the specific relief that we are seeking. If you and UPWARD DOG PROVISIONS cannot agree how to resolve the Dispute within thirty (30) days after the date notice is received by the applicable party, then either you or UPWARD DOG PROVISIONS may, as appropriate and in accordance with this Section 13, commence an arbitration proceeding or, to the extent specifically provided for in Section 13.1, file a claim in court.

13.4 Process

Except for Disputes arising out of or related to a violation of Section 8 or Disputes in which either party seeks to bring an individual action in small claims court or seeks injunctive or other equitable relief for the alleged unlawful use of intellectual property, including, without limitation, copyrights, trademarks, trade names, logos, trade secrets or patents, you and UPWARD DOG PROVISIONS agree that any Dispute must be commenced or filed by you or UPWARD DOG PROVISIONS within one (1) year of the date the Dispute arose, otherwise the underlying claim is permanently barred (which means that you and UPWARD DOG PROVISIONS will no longer have the right to assert such claim regarding the Dispute). You and UPWARD DOG PROVISIONS agree that (a) any arbitration will occur in the State of California, County of Los Angeles (b) arbitration will be conducted confidentially by a single arbitrator in accordance with the rules of the Judicial Arbitration and Mediation Services (“JAMS”), which are hereby incorporated by reference, and (c) that the state or federal courts of the State of California and the United States, respectively, sitting in the State of California, County of Los Angeles, have exclusive jurisdiction over any appeals and the enforcement of an arbitration award. You may also litigate a Dispute in the small claims court located in the county of your billing address if the Dispute meets the requirements to be heard in small claims court.

13.5 Authority of Arbitrator

As limited by the Federal Arbitration Act (9 U.S.C. § 1 et seq.), these Terms and the applicable JAMS rules, the arbitrator will have (a) the exclusive authority and jurisdiction to make all procedural and substantive decisions regarding a Dispute, including the determination of whether a Dispute is arbitrable, and (b) the authority to grant any remedy that would otherwise be available in court; provided, however, that the arbitrator does not have the authority to conduct a class arbitration or a representative action, which is prohibited by these Terms. The arbitrator may only conduct an individual arbitration and may not consolidate more than one individual’s claims, preside over any type of class or representative proceeding or preside over any proceeding involving more than one individual.

13.6 Rules of JAMS

The rules of JAMS and additional information about JAMS are available on the JAMS website. By agreeing to be bound by these Terms, you either (a) acknowledge and agree that you have read and understand the rules of JAMS, or (b) waive your opportunity to read the rules of JAMS and any claim that the rules of JAMS are unfair or should not apply for any reason.

13.7 Opt Out Right

You have the right to opt out of binding arbitration within thirty (30) days of the date you first accepted the terms of this Section 13 by writing to: UPWARD DOG PROVISIONS, Attn: Consumer Complaint, 2633 Lincoln Boulevard, Santa Monica, CA 90405. In order to be effective, the opt out notice must include your full name and clearly indicate your intent to opt out of binding arbitration. By opting out of binding arbitration, you are agreeing to resolve Disputes in accordance with Section 14.

14. GOVERNING LAW AND VENUE

These Terms, your access to and use of the Sites and your order, receipt and use of the Products shall be governed by and construed and enforced in accordance with the laws of the State of California, without regard to conflict of law rules or principles (whether of the State of California or any other jurisdiction) that would cause the application of the laws of any other jurisdiction. Any Dispute between the parties that is not subject to arbitration or cannot be heard in small claims court, shall be resolved in the state or federal courts of the State of California and the United States, respectively, sitting in the State of California, County of Yolo.

15. TERMINATION

Notwithstanding anything contained in these Terms, we reserve the right, without notice and in our sole discretion, to terminate your right to access or use the Sites and to order, receive and use the Products, at any time and for any or no reason, and you acknowledge and agree that we shall have no liability or obligation to you in such event and that you will not be entitled to a refund of any amounts that you have already paid to us, to the fullest extent permitted by applicable law.

16. SEVERABILITY

If any term, clause or provision of these Terms is held invalid or unenforceable, then that term, clause or provision will be severable from these Terms and will not affect the validity or enforceability of any remaining part of that term, clause or provision, or any other term, clause or provision of these Terms.

17. SURVIVAL

The following sections will survive the expiration or termination of these Terms and the termination of your UPWARD DOG PROVISIONS account: all defined terms and Sections 1, 3, 4, 5 (first paragraph only), 6, 7, 8 (second paragraph only), 9 through 19.

18. INTERNATIONAL USE

We make no representation that information on this Site is appropriate or available for use outside the United States. Those who choose to access this Site from outside the United States do so on their own initiative and are responsible for compliance with local laws, if and to the extent local laws are applicable.

19. MISCELLANEOUS

These Terms constitute the entire agreement between you and UPWARD DOG PROVISIONS relating to your access to and use of the Sites and your order, receipt and use of Products. These Terms, and any rights and licenses granted hereunder, may not be transferred or assigned by you without the prior written consent of UPWARD DOG PROVISIONS. No waiver of any provision of these Terms will constitute a waiver of such provision in any prior, concurrent or subsequent circumstance, and UPWARD DOG PROVISIONS' failure to assert any right or provision under these Terms shall not constitute a waiver of such right or provision. Except as otherwise provided herein, these Terms are intended solely for the benefit of the parties and are not intended to confer third-party beneficiary rights upon any other person or entity.

This Terms of Use was last updated on January 10, 2018.