

Last updated: January 15th, 2024

Terms of Service

1. Introduction: Our App and the Hotspot Service

We are pleased to offer you access to our smart phone application (the “App”) and/or our website, www.togohotspot.com (the “Website”) or by any other online applications or communication services such as but not limited to, email, phone, text, through which we offer a proprietary service (together with the App, the Website, and other online applications and communication services, the “Hotspot Service”) designed to connect customer users of the Hotspot Service (“Customers”) interested in placing orders for food, groceries, beverages, and other products and services from participating restaurants and other merchants (“Merchants”) with independent couriers (“Couriers”) interested in delivering such orders. These Terms (“Terms”) shall also apply to any other websites, apps or communication services owned or operated by Hotspot which link to them. The term “you” refers to a Customer user of the Hotspot Service.

2. Our Agreement: This is a binding contract between you and us. You agree to our Privacy Policy.

Please read these Terms of Service carefully. These Terms and other documents we refer to in these Terms, like our Privacy Policy (together, the “Agreement”), govern your access to the Hotspot Service.

By clicking the “I AGREE” button, and using the Hotspot Service, you agree, effective as of such date (the “Effective Date”) to be bound by this Agreement.

You are only authorized to use the Hotspot Service if you agree to abide by all applicable laws and this Agreement. Please read this Agreement carefully and save it. If you do not agree with it, you should not install the App, visit the Website, or discuss, request or agree to service by any other technological application or communication platform or service and should discontinue use of the Hotspot Service immediately.

NOTE THAT SECTION 23 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, INCLUDING BUT NOT LIMITED TO THE WAIVER OF A JURY TRIAL. If you do not agree, you should not install the App, visit the Website, or discuss, request or agree to service by any other technological application or communication platform or service and should discontinue use of the Hotspot Service immediately. If you are under the age of 18, you may not use the Hotspot Service for any purpose.

3. About us: We are a technology company. We are not a courier or logistics provider.

Hotspot LLC., a Texas corporation (“Hotspot,” “us,” or “we”) is a technology provider. You acknowledge and agree that we are not a courier, logistics provider, common carrier, or food service operator. We do not supply any food, groceries, beverages, or other products that are delivered to you. Couriers are not our employees, representatives, or agents.

4. Provision of Hotspot Service and License Grant: We grant you rights to use the Hotspot Service.

The Hotspot Service (including all content therein and the compilation of such content, including but not limited to all photos, videos, recipes, text, graphics, data, and images) are each owned by Hotspot and/or its licensors and are subject to trademark, service mark, copyright, and/or other intellectual property rights. The Hotspot names and logos, and all related product and service names, design marks, and slogans, are the trademarks or service marks of Hotspot. All other marks are the property of their respective companies. Nothing contained in the Hotspot Service grants any rights to use any trade name, trademark, service mark, logo, or other intellectual property without the express prior written consent of the owner.

Subject to your compliance with the terms and conditions of this Agreement, during the Term, Hotspot hereby grants you a limited, non-exclusive, and nontransferable license to use the Hotspot Service, including the right to download, install, use the App on a smartphone, tablet, or other mobile device that you own or control, solely for so long as you are permitted by Hotspot to use the Hotspot Service.

5. Representations about you: You make certain representations about yourself.

You represent and warrant that (a) you have read and understand this Agreement, (b) you are 18 years of age or older, (c) the information that you provide to us about you or your account in connection with the Hotspot Service will be current, true, accurate, supportable, and complete, (d) you are not located in a country that is subject to a US government embargo, or that has been designated by the US government as a “terrorist supporting” country, and (e) you are not listed on any US government list of prohibited or restricted parties. Additionally, if you are entering into this Agreement on behalf of your organization, you represent that you are the authorized agent of the organization and have the legal authority to enter into this Agreement on its behalf and any other affiliates of the organization such as but not limited to, the organization's affiliates, independent contractors, guest of the organizations, or any other entity.

6. Users: Certain terms apply to Customers and Couriers.

There are two types of users of the Hotspot Service: (a) Customers who request offered services and Merchant products to be delivered, and (b) Couriers who provide delivery services. This Agreement applies to your use of the Hotspot Service as a Customer.

As a Customer, you agree that you will: (i) as a condition to placing an order via the Hotspot Service, link your Hotspot account with a valid credit card, debit card, and/or other

authorized payment method (“Payment Method”), (ii) pay for the orders that you place via the Hotspot Service, and (iii) comply with all applicable laws at all times. You agree to keep your Payment Method information current at all times while using the Hotspot Service (such as your card number and expiration date). Additionally, you may add more than one Payment Method per account.

You acknowledge that each Courier retains total and complete discretion as to the Courier’s provision of services. You further acknowledge and agree that Hotspot has no responsibility and makes no guarantees regarding: (1) Couriers or their vehicles, or (2) Merchants or the quality of any products delivered by Couriers. Hotspot retains a portion of the payments made via the Hotspot Service, but solely as a fee for facilitating the transactions and payments envisioned by this Agreement. You accept all risks related to interacting with and transacting with Couriers and Merchants and all risk related to the Merchant products that Couriers deliver to you.

You may need to register to use all or part of the Hotspot Service. We may reject or require that you change any account name, password, or other information that you provide to us in registering. Your account name and password are for your personal use only. You are responsible for maintaining the confidentiality of your account and password (including any related security questions and answers), and for restricting access to your computer or other device, and you are responsible for all activities, including purchases, that occur in connection with your account or password. Your account may not always transfer to other websites owned or operated by Hotspot; such websites may require you to create a separate account. You represent and warrant that any information you provide in connection with the Hotspot Service is and will remain accurate, current, and complete, and that you will maintain and update such information as needed. By creating an account, you also agree to immediately notify us if you discover or otherwise suspect any security breaches related to the Hotspot Service or your account.

Hotspot reserves the right, but does not have any obligation, to monitor the Hotspot Service electronically. Hotspot further reserves the right to disclose any content, records, or electronic communication of any kind, including feedback, if required to do so by any law, rule, regulation, or court order, or if such disclosure is necessary or appropriate to operate the Hotspot Service or to protect Hotspot’s rights or property, or the rights of other Hotspot Service users, or our partners, affiliates, sponsors, providers, licensors, or Merchants, or as otherwise permitted in our Privacy Policy.

Without limiting Section 16 below, we may terminate or suspend your access to or use of your account, and/or close your account, for any reason or no reason at any time, upon notice to you, including without limitation if you (A) have violated these Terms, the Customer Community Guidelines, the Courier Community Guidelines, or any other terms referenced herein, (B) pose an unacceptable credit or fraud risk to us, (C) attempt to abuse, game, or otherwise exploit the Hotspot Service or any discounts, offers, promotion codes, or referral codes offered in connection therewith (as determined by Hotspot in its sole discretion), (D) attempt to gain unauthorized access to portions of the App or Hotspot Service or information in the Hotspot Service that is not yours, such as other accounts, or

(E) provide any false, incomplete, inaccurate, or misleading information, or otherwise engage in fraudulent or illegal conduct. Upon any such termination or suspension, you must immediately stop using the Hotspot Service, including without limitation the mobile payment functionality, and we reserve the right to delete all of your account information stored on our servers. We will not be liable to you for compensation, reimbursement, or damages in connection with your use of the mobile payment functionality, or any such termination, suspension, or deletion of information.

7. Restrictions on use of the Hotspot Service: The Hotspot Service may only be used for certain activities.

You may not: (a) rent, lease, lend, sell, redistribute, reproduce, or sublicense access to the Hotspot Service, (b) copy, decompile, reverse-engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the Hotspot Service, or any part of the Hotspot Service, or (c) use the account, username, or password of another user at any time, allow any other person to use your account, or provide your passwords to any other person or entity. If you are a competitor of Hotspot, you are not authorized to use the Hotspot Service. You may not exploit the Hotspot Service in any unauthorized or unlawful way. You will not assert, nor will you authorize, assist, or encourage any third party to assert any intellectual property infringement claim regarding the Hotspot Service. If the above restrictions are prohibited by applicable law or by one of our license(s), then the activities are permitted only to the extent necessary to comply with the law or licenses.

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 Hotspot Service. You shall not:

Use the Hotspot Service in any manner which violates the Customer Community Guidelines or Couriers Community Guidelines.

Use or attempt to use the Hotspot Service to purchase or transport any items on the Restricted Product List.

Post, transmit, or otherwise make available through or in connection with the Hotspot Service any materials that are or may be: (i) threatening, harassing, degrading, hateful, or intimidating, or otherwise fail to respect the rights and dignity of others; (ii) defamatory, libelous, fraudulent, or otherwise tortious; (iii) obscene, indecent, pornographic, or otherwise objectionable; or (iv) protected by copyright, trademark, trade secret, right of publicity or privacy, or any other proprietary right, without the express prior written consent of the applicable owner. Post, transmit, or otherwise make available through or in connection with the Hotspot Service any virus, worm, Trojan horse, Easter egg, time bomb, spyware, or other computer code, file, or program that is or is potentially harmful, invasive, or intended to damage or hijack the operation of, or to monitor the use of, any hardware, software, or equipment. Use the Hotspot Service for any purpose that is fraudulent or otherwise tortious or unlawful. Harvest or collect information about users of the Hotspot Service. Interfere with or disrupt the operation of the Hotspot Service or the servers or

networks used to make the Hotspot Service available, including by hacking or defacing any portion of the Hotspot Service; or violate any requirement, procedure, or policy of such servers or networks. Restrict or inhibit any other person from using the Hotspot Service. Reproduce, modify, adapt, translate, create derivative works of, sell, rent, lease, loan, timeshare, distribute, or otherwise exploit any portion or use of the Hotspot Service except as expressly authorized herein, without Hotspot's express prior written consent. Reverse engineer, decompile, or disassemble any portion of the Hotspot Service, except where such restriction is expressly prohibited by applicable law. Remove any copyright, trademark, or other proprietary rights notice from the Hotspot Service. Frame or mirror any portion of the Hotspot Service, or otherwise incorporate any portion of the Hotspot Service into any product or service, without Hotspot's express prior written consent. Systematically download and store Hotspot Service content. Use any robot, spider, site search/retrieval application, or other manual or automatic device to retrieve, index, "scrape," "data mine," or otherwise gather Hotspot Service content, or reproduce or circumvent the navigational structure or presentation of the Hotspot Service, without Hotspot's express prior written consent. Notwithstanding the foregoing, and subject to compliance with any instructions posted in the robots.txt file located in the Website's root directory, Hotspot grants to the operators of public search engines permission to use spiders to copy materials from the Website for the sole purpose of (and solely to the extent necessary for) creating publicly available, searchable indices of such materials, but not caches or archives of such materials. Hotspot reserves the right to revoke such permission either generally or in specific cases, at any time and without notice. You are responsible for obtaining, maintaining, and paying for all hardware and telecommunications and other services needed to use the Hotspot Service.

8. Transactions involving age-restricted products (including alcohol): You must present a valid government-issued ID verifying your age to receive alcohol or any other age-restricted products through the Hotspot Service.

You may have the option to order delivery of age-restricted products, such as alcohol, in some locations and from certain Merchants through the Hotspot Service. You agree to provide photographs of yourself and your government-issued ID bearing your photograph as may be requested by Hotspot or its third-party service providers or merchants to verify your age and identity or as otherwise necessary to comply with applicable law. You agree to comply with any other laws applicable to the delivery of your order. You may not legally receive any alcoholic beverages through the Hotspot Service unless you are at least twenty-one (21) years of age, and you may not have alcoholic beverages delivered through the Hotspot Service for anyone who is under the age of twenty-one (21). Orders will not be delivered to anyone who is intoxicated or unable to receive the delivery in person for any reason. Alcohol orders may only be placed from duly licensed Merchants during the hours allowed by such Merchant and applicable law, which may vary by location. Alcohol delivery may not be available in all areas. Hotspot credits may not be used on orders involving alcohol. You acknowledge that the Merchant is the seller of record for all products delivered to you, and that the Hotspot Service connects you with Merchants but does not, and does not intend to, sell you any alcoholic beverages. We reserve the right to refuse or cancel any requests which may violate the requirements of the Texas Alcoholic

Beverage Commission (TABAC), including delivery to certain individuals or businesses. You acknowledge that the Merchant, Couriers, and/or Hotspot will have the right to refuse to offer the delivery of any age-restricted products if they or we believe that any of the applicable legal requirements for delivery of alcohol are not met (or are unlikely to be met), in which case either the entire order or the alcohol-related portion of your order will be cancelled. You acknowledge and agree that a return fee (\$20, which may vary by market) may be charged to you if an order involving age-restricted products is cancelled due to your failure to comply with any requirements of these Terms or applicable law, or if such order is undeliverable for any reason. HOTSPOT WILL HAVE NO RESPONSIBILITY OR LIABILITY FOR (a) ANY SALE OF ALCOHOL PRODUCTS OR DELIVERY OF SUCH PRODUCTS SOLD AND DELIVERED BY MERCHANTS TO YOU OR ANY OTHER CUSTOMER OR THIRD PARTY AND/OR (b) ANY ACTIONS OR OMISSIONS OF YOU OR ANY THIRD PARTY THAT MAY RESULT, DIRECTLY OR INDIRECTLY, FROM THE PURCHASE AND/OR CONSUMPTION OF ALCOHOL PRODUCTS PROMOTED OR ACQUIRED THROUGH THE HOTSPOT SERVICE.

9. Our rights regarding the Hotspot Service: We reserve all rights in the Hotspot Service not granted to you. We can use your Feedback.

We reserve all rights in and to the Hotspot Service and all related intellectual property not expressly granted under this Agreement. HOTSPOT and all associated logos displayed within the Hotspot Service are our trademarks (unless otherwise noted). If you submit comments, suggestions, or other feedback regarding the Hotspot Service ("Feedback"), you agree that we will own such Feedback and will be free to use such Feedback for any purpose.

10. Order process: This is generally the process when an order is placed.

When you submit a delivery request via the Hotspot Service, Hotspot will provide certain information about you, including your phone number, to the restaurant and the Courier(s) who voluntarily accept your delivery request (as more fully described in our Privacy Policy). Orders may be modified in limited circumstances, such as when a Merchant is out of an item originally ordered. Once an order is placed, the Customer cannot cancel the order and is responsible for payment from that point forward. The Courier may communicate with you during the course of fulfilling your order regarding the status of your order. The Courier and Merchant, not Hotspot, are responsible for order fulfillment.

All orders are subject to our acceptance. We may require verification of information prior to the acceptance and/or fulfillment of any order. Once you have placed an order we may send you an acknowledgment or confirmation by email, which does not constitute our acceptance of your order. Your order has been accepted when you have been notified that your items are being processed by the restaurant. By confirming your purchase at the end of the checkout process, you agree to accept and pay for the order and all applicable fees and taxes.

11. Payment terms: You must pay for the orders you place, including any taxes.

Payment. When you place an order, you will be charged for: (a) the total amount of the products you purchase, including any applicable taxes, as indicated in the App, on the Website, invoices, emails, or by other communication based methods (pricing may vary from those listed in store or on another app or website).

In addition, we may offer deals and promotions from time to time with reduced fees and/or discounted products. You hereby authorize your Payment Method to be charged for the fees associated with each order you place via the Hotspot Service. Once your order is ready for checkout, you will receive a receipt for the order. You acknowledge and agree that you will have from the time the order is placed until the end of the day to pay for the charges noted above (for clarity this does not constitute a right to cancel during this time period, all charges will remain due), unless otherwise required based on a particular Merchant.

You agree that your Payment Method will automatically be charged (including the tip amount) if there is a payment method on file. You acknowledge and agree that Hotspot has the right to resubmit any charge you authorize that is declined for any reason or returned for insufficient or uncollected funds. If your primary Payment Method is not available for any reason, including without limitation because the card is not valid or declined, Hotspot reserves the right to automatically charge other Payment Methods you have on file.

Tipping. The Hotspot Service will automatically charge a minimum tip based on various factors, including without limitation the type of order, Merchant, total order amount, and/or the distance traveled by the Courier. You understand and agree that, while you are free to provide additional payment as an additional gratuity beyond the minimum gratuity, you are under no obligation to do so. You acknowledge and agree that gratuities above the minimum are voluntary.

Taxes. Customer acknowledges and agrees that as between Hotspot and Customer, Customer will be responsible for bearing the cost of any sales or comparable taxes associated with orders Customer places via the Hotspot Service.

Credits. Hotspot credits have no cash value, can only be redeemed for Hotspot orders, and may be subject to expiration dates or other restrictions at our sole discretion, which will be stated at the time the credit is given. Hotspot credits are for promotional purposes only and cannot, under any circumstances, be redeemed for cash or any cash equivalent including but not limited to gift cards or refunds. Hotspot credit and gift cards may not be applied toward age-restricted items. Hotspot credits are not transferable and may not be auctioned, traded, bartered, or sold.

12. Interactions with other users: We are not liable for your interactions with other users.

The Hotspot Service is designed to facilitate transactions among Couriers, Merchants, and Customers. YOU ARE SOLELY RESPONSIBLE FOR YOUR INTERACTIONS AND TRANSACTIONS WITH COURIERS AND MERCHANTS, AGREE TO LOOK SOLELY TO SUCH COURIERS AND MERCHANTS FOR ANY CLAIM, DAMAGE, OR LIABILITY ASSOCIATED

WITH ANY TRANSACTION COMMISSIONED VIA THE HOTSPOT SERVICE OR ANY ORDER, AND EXPRESSLY WAIVE AND RELEASE HOTSPOT FROM ANY AND ALL CLAIMS, DAMAGES, AND LIABILITIES ARISING OUT OF ANY ACT OR OMISSION OF ANY COURIER OR MERCHANT, INCLUDING WITHOUT LIMITATION DAMAGES RELATING TO PERSONAL INJURY OR DESTRUCTION OF PROPERTY. Hotspot has no obligation to monitor or resolve disputes among Customers, Couriers, and Merchants.

13. Communications: Hotspot and Couriers will communicate with you. You will be asked to rate Hotspot and Couriers.

Hotspot and certain third parties (i.e., Couriers) will need to communicate with you about the Hotspot Service, including about any delivery requests you place via the Hotspot Service. Additionally, we would like to make certain commercial offers available to you from time to time. AS SUCH, YOU CONSENT TO RECEIVE MESSAGES (WHETHER BY PHONE, EMAIL, TEXT MESSAGES, OR PUSH NOTIFICATIONS) FROM HOTSPOT, COURIERS, AND/OR OUR THIRD PARTY PARTNERS, AND ACKNOWLEDGE AND AGREE THAT YOUR PHONE NUMBER, EMAIL ADDRESS, AND OTHER INFORMATION MAY BE USED FOR THE PURPOSE OF INITIATING COMMERCIAL MESSAGES.

We will allow you to opt out of receiving some of these messages, but in order to stop receiving any messages from us whatsoever (including administrative messages regarding the Hotspot Service or messages that are primarily about transactions enabled via the Hotspot Service), you will need to terminate your account. In the unlikely event you receive an unwanted or inappropriate text or other communication from Hotspot or any Courier or Merchant, you agree to promptly notify Hotspot.

After you receive an order from a Courier, you may be prompted by the Hotspot Service to provide a rating of the Hotspot and Couriers. Your rating should be honest and not misleading and should reflect your own experience with the Hotspot and Courier. Hotspot reserves the right (but does not have an obligation) to use, share, display, edit, or remove your ratings and comments in any manner without attribution to you or your approval.

14. Third-Party Services and Materials: Terms regarding products provided by third parties.

In addition to Merchant products ordered via the Hotspot Service, the Hotspot Service may enable access to third-party products and services (collectively and individually, "Third-Party Services"). Use of Third-Party Services may require internet access and your acceptance of additional terms of service. Further, information you make available to Third Party Services is subject to the privacy policies of such third parties. You agree that you will use any Third-Party Services at your sole risk.

The Hotspot Service and/or Third-Party Services may display, include, or make available content, data, information, applications, or materials from third parties ("Third-Party Materials"), or provide links to third-party websites. You acknowledge and agree that Hotspot is not responsible for examining or evaluating the content, accuracy, completeness,

timeliness, validity, copyright compliance, legality, decency, quality, or any other aspect of such Third-Party Materials or websites. Hotspot does not warrant or endorse and will not have any liability or responsibility to you or any other person for any Third-Party Services, Third-Party Materials, or websites.

HOTSPOT DOES NOT ASSUME ANY RESPONSIBILITY FOR ANY CONTENT OF, ANY TECHNOLOGY IMPLEMENTED BY, OR THE PRIVACY PRACTICES OF, ANY THIRD PARTY. YOUR USE OF ANY-THIRD PARTY MATERIALS IS AT YOUR OWN RISK, AND IS SUBJECT TO ANY APPLICABLE THIRD-PARTY TERMS, CONDITIONS, AND POLICIES (SUCH AS TERMS AND PRIVACY POLICIES).

15. Limitations on availability: The Hotspot Service may not be available at all times and in all locations.

The Hotspot Service is not available at all times, in all languages, or in all geographies. We are currently available only in select cities. Hotspot makes no representation the Hotspot Service will achieve any particular uptime, or that the Hotspot Service is appropriate or available for use in any particular location. For example, the Hotspot Service may be available only in certain neighborhoods in a particular city. We do not guarantee that you will be able to place orders with any particular Merchant via the Hotspot Service. You use the Hotspot Service at your own initiative and are responsible for compliance with any applicable laws in connection with your use of the Hotspot Service. Hotspot may also impose limits on the use of or access to the Hotspot Service as required by law. Use of the Hotspot Service is void where prohibited.

16. Term and termination: Either of us can terminate this Agreement at any time.

This Agreement is effective upon our acceptance after you indicate your assent and provide any required information to initiate your account and will continue until terminated by either you or us (such time period will be referred to as the "Term"). Your right to use or access the Hotspot Service will terminate automatically without notice from us if you fail to comply with any terms of this Agreement, including without limitation the Customer Community Guidelines, the Courier Community Guidelines, or any other Terms referenced herein. Upon termination of the Agreement, all rights granted to you under this Agreement will cease. Sections 7, 8, 9, 12, 13, 18, 20, 22, 23, and 24 shall survive any termination or expiration. All other rights and obligations shall be of no further force or effect.

17. Mobile app marketplace terms: You make certain acknowledgements about app marketplace providers.

Acknowledgements regarding marketplace providers. You understand this Agreement is between you and Hotspot and not with Apple Inc. ("Apple"), Google, LLC ("Google") or any other provider of an application and that Hotspot (not the marketplace provider) is responsible for the App. YOU ACKNOWLEDGE AND AGREE THAT NO OTHER PERSON OR

ENTITY MAKES ANY WARRANTIES WHATSOEVER UNDER THIS AGREEMENT OR HAS ANY WARRANTY OBLIGATIONS WITH RESPECT TO THE APP. You acknowledge that marketplace providers have no obligation whatsoever to furnish any maintenance and support services with respect to the App or for addressing any claims relating thereto or your possession and/or use thereof, including, but not limited to (a) product liability claims, (b) any claim that the App fails to conform to any applicable legal or regulatory requirement, and (c) claims arising under consumer protection or similar legislation. You further acknowledge that such providers have no responsibility for the investigation, defense, settlement, or discharge of any third-party intellectual property claims the App, the Hotspot Service, or your use thereof infringes intellectual property rights.

18. Disclaimers and limitations of liability: We disclaim all warranties. Our liability to you is limited.

This section is important—please read it carefully. It limits Hotspot’s liability (and the liability of its affiliates) to you. These disclaimers and limitations apply only to the extent permitted by applicable law. Some jurisdictions do not allow disclaimers of implied warranties or limitations of liability, so this section may not apply to you.

Disclaimer of warranties. EXCEPT AS EXPRESSLY STATED ABOVE, THE HOTSPOT SERVICE IS PROVIDED “AS IS” AND “AS AVAILABLE” WITHOUT WARRANTY OF ANY KIND, AND WE HEREBY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, EITHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, QUIET ENJOYMENT, AND NON-INFRINGEMENT. WE DO NOT MAKE ANY WARRANTIES REGARDING ANY COURIER AND THEIR DELIVERY SERVICES OR MERCHANTS AND THEIR PRODUCTS.

Limitation of liability. NEITHER WE NOR OUR AFFILIATES WILL BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION, OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE HOTSPOT SERVICE, OR THE FULFILLMENT OF ORDERS, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT, OR OTHERWISE) AND EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEITHER WE NOR OUR AFFILIATES WILL HAVE LIABILITY HEREUNDER OR TO YOU OR TO ANY THIRD PARTY IN CONNECTION WITH THE APP, THE WEBSITE, THE HOTSPOT SERVICE, OR RELATED MATTERS FOR AGGREGATE DAMAGES IN EXCESS OF THE GREATER OF: (a) U.S. \$50.00, OR (b) THE TOTAL DOLLAR VALUE OF TRANSACTIONS YOU PLACED VIA THE HOTSPOT SERVICE, IF ANY, IN THE 12 MONTHS PRIOR TO THE CLAIM. THE ABOVE LIMITATIONS APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

19. Export and other restrictions: You agree not to violate export laws. Additional terms apply to government users.

You may not use or otherwise export or re-export the Hotspot Service or elements of it, except as authorized by United States law and the laws of the jurisdiction in which the Hotspot Service was accessed or obtained. You also agree that you will not use the Hotspot Service for any purposes prohibited by applicable law. The Hotspot Service and related documentation are “Commercial Items” as that term is defined at 48 C.F.R. §2.101, consisting of “Commercial Computer Software” and “Commercial Computer Software Documentation” as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to US government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein.

20. Modifications: The Agreement may be changed.

Hotspot reserves the right, at any time, to change these Terms by notifying you of such changes by any reasonable means, including without limitation by posting a revised version of these Terms through the Hotspot Service. Any such changes will not apply to any dispute between you and us arising prior to the date on which we posted the revised Terms incorporating such changes, or otherwise notified you of such changes. By using the Hotspot Service following any such changes, you agree to be bound by such revised Terms. You may reject such changes by ceasing all use of the Hotspot Service. You should periodically visit this page to review the most current Terms; the “Last Updated” legend indicates when these Terms were last updated. In addition, we may at any time and without liability modify or discontinue all or part of the Hotspot Service (including access to the Hotspot Service via third-party links); charge, modify, or waive any fees required to use the Hotspot Service; or offer opportunities to some or all Hotspot Service users.

21. Force majeure: Neither of us will be in breach of this Agreement due to forces beyond our control.

Neither party will be in default for failing to perform any obligation, other than payment of monies, if the failure is caused solely by conditions beyond the parties’ respective control, including acts of God, civil commotion, strikes, terrorism, failure of third-party networking equipment, illegal acts of third parties, failure of the public internet or changes in the accessibility of third-party websites, power outages, labor disputes, or governmental demands or restrictions.

22. Indemnity: You will hold us harmless from your misuse of the Hotspot Service.

You shall defend, indemnify, and hold Hotspot and its affiliates and each of their directors, officers, employees, agents, assigns, and representatives harmless from and against any and all claims, proceedings, damages, injuries, liabilities, losses, costs, and expenses (including reasonable attorneys’ fees and litigation expenses) relating to or arising from (a) your access to or use of the Hotspot Service or any materials (including Third-Party

Materials), products, or services available through the Hotspot Service, (b) any of your Feedback, or (c) any violation or alleged violation by you of any provision of these Terms.

23. Disputes: YOU HEREBY AGREE TO MANDATORY BINDING ARBITRATION.

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

Binding arbitration. EXCEPT FOR ANY DISPUTES, CLAIMS, SUITS, ACTIONS, CAUSES OF ACTION, DEMANDS, OR PROCEEDINGS (COLLECTIVELY, "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 HOTSPOT AGREE (a) TO WAIVE YOUR AND HOTSPOT'S RESPECTIVE RIGHTS TO HAVE ANY AND ALL DISPUTES ARISING FROM OR RELATED TO THESE TERMS OR YOUR USE OF THE SERVICES RESOLVED IN A COURT, AND (b) TO WAIVE YOUR AND HOTSPOT'S RESPECTIVE RIGHTS TO A JURY TRIAL. INSTEAD, YOU AND HOTSPOT 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 and Hotspot agree that for any arbitration you initiate, you will pay the filing fee . If you cannot afford to pay for the arbitration you agree to provide us the option of paying the arbitrator before seeking to initiate any other form of dispute resolution, including litigation. For any arbitration initiated by Hotspot, Hotspot will pay all JAMS fees and costs.

No class arbitrations, class actions or representative actions. YOU AND HOTSPOT AGREE THAT ANY DISPUTE ARISING OUT OF OR RELATED TO THESE TERMS OR YOUR USE OF THE SERVICES IS PERSONAL TO YOU AND HOTSPOT 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 HOTSPOT 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 HOTSPOT 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.

Federal Arbitration Act. You and Hotspot agree that these Terms affect interstate commerce and that the enforceability of this Section 23 shall be both substantively and procedurally governed by and construed and enforced in accordance with the Federal Arbitration Act, 9 U.S.C. § 1 et seq. (the "FAA"), to the maximum extent permitted by applicable law.

Notice of informal Dispute resolution. You and Hotspot agree that each party will notify the other party in writing of any arbitrable or small claims 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 Hotspot shall be sent by certified mail or courier to 4206 Buena Vista St, Suite A, Dallas TX 75205, Attn: Legal Department. Your notice must include (a) your name, postal address, telephone number, the email address you use or used for your Hotspot 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 and will include (i) our name, postal address, telephone number, and an email address at which we can be contacted with respect to the Dispute, (ii) a description in reasonable detail of the nature or basis of the Dispute, and (iii) the specific relief that we are seeking. If you and Hotspot 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 Hotspot may, as appropriate and in accordance with this Section 23, commence an arbitration proceeding or, to the extent specifically provided for in this Section 23, file a claim in court.

Process. EXCEPT FOR 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 HOTSPOT AGREE THAT ANY DISPUTE MUST BE COMMENCED OR FILED BY YOU OR HOTSPOT WITHIN ONE (1) YEAR OF THE DATE THE DISPUTE AROSE, OTHERWISE THE UNDERLYING CLAIM IS PERMANENTLY BARRED (WHICH MEANS THAT YOU AND HOTSPOT WILL NO LONGER HAVE THE RIGHT TO ASSERT SUCH CLAIM REGARDING THE DISPUTE). You and Hotspot agree that (a) any arbitration will either occur (i) in person in Dallas County, Texas or, if requested in your Dispute notice, in the US county where your permanent residence is located, (ii) by written submissions, or (iii) telephonically, (b) arbitration will be conducted confidentially by a single arbitrator in accordance with the rules of the JAMS, which are hereby incorporated by reference, and (c) that the state or federal courts of the State of Texas and the US, respectively, sitting in the State of Texas, in Dallas County, 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.

Authority of arbitrator. As limited by the FAA, 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.

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.

Minimum standards for arbitration procedures. Pursuant to certain Minimum Standards for Arbitration Procedures set forth by JAMS and in addition to other applicable standards set forth herein, the following standards apply: (a) If remedies that are otherwise available to you under applicable federal, state, or local laws are not available hereunder, you retain the right to pursue such otherwise unavailable remedies in court; (b) the arbitrator(s) must be neutral, and you shall have a reasonable opportunity to participate in the process of choosing the arbitrator(s); (c) you are hereby encouraged to exercise your right to retain counsel to assist you during the course of arbitration; (d) arbitration hereunder shall allow for the discovery or exchange of non-privileged information relevant to the Dispute; and (e) the arbitrator's award will consist of a written statement stating the disposition of each claim. The award will also provide a concise written statement of the essential findings and conclusions upon which the award is based.

Severability. If any term, clause, or provision of this Section 23 is held invalid or unenforceable, it will be so held to the minimum extent required by law, and all other terms, clauses, and provisions of this Section 23 will remain valid and enforceable. Further, the waivers set forth in this Section 23 are severable from the other provisions of these Terms and will remain valid and enforceable, except as prohibited by applicable law.

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 23 by writing to: 4206 Buena Vista St. Suite A, Dallas TX 75205, Attn: Legal Department. 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 24.

24. Governing law and venue: Texas law controls this Agreement. Any Disputes will be in Texas.

This Agreement will be construed in accordance with and governed by the laws of the State of Texas, without regard to conflicts of laws principles. You agree that the exclusive venue for resolving any Dispute between Hotspot and you including but not limited to any Dispute arising out of or related to this Agreement, shall be the state and federal courts located in Dallas County, Texas, and you consent to the jurisdiction of the federal and state courts located in Dallas County, Texas. You further acknowledge and agree that many of the witnesses and records that would be relevant to any dispute between the parties are located in Dallas, Texas, and that Dallas, Texas would not be an inconvenient forum for the resolution of any dispute between the parties. You hereby waive any objection to Dallas, Texas as a forum and venue for the hearing of any dispute between Hotspot and you.

25. Assignment: We may assign this Agreement. You cannot assign it unless you get our permission.

We may freely transfer or assign this Agreement and any of our rights or obligations. You may not transfer or assign this Agreement or any of your rights or obligations without our prior written consent, and any attempt to do so will be null and void.

26. Exclusion of California and European Economic Area Customers: You cannot use the Hotspot Service if you are from or otherwise reside in California or the EEA.

You agree to access and use Hotspot Service only within the jurisdictions in which Hotspot operates. If you are a resident of California or the European Economic Area (“EEA”), you may not access or otherwise use the Hotspot Service or provide Hotspot with any personal information or cause Hotspot to receive any personal information of any California or EEA resident.

27. Miscellaneous: This is how to interpret this Agreement.

This Agreement, and the documents we reference in this Agreement, is the entire Agreement between Hotspot and you regarding the Hotspot Service. Our failure to exercise or enforce any right will not operate as a waiver of such right. Headings and the summaries before each section of this Agreement are provided for convenience and to aid in readability only. These headings and summaries have no legal or contractual effect. This Agreement operates to the fullest extent permissible by law. If any provision of this Agreement is unlawful, void, or unenforceable, that provision is deemed severable from this Agreement and does not affect the validity and enforceability of any remaining provisions.

Last updated: January 15th, 2024

By checking box, I agree to terms of service