

# Terms of Use

Please review these Terms of Use (“Terms”) before using this site or mobile application or accessing any data on it. If you do not agree to these Terms without limitation or exclusion, you should exit our web site at [www.my-shop-guide.com](http://www.my-shop-guide.com) and any of its subdomains (“Site”) and delete the Shopguide mobile application (“Application”). These Terms are effective immediately for new users, and from 01 of September 2019, for existing users.

Welcome to the Shopguide platform, which is operated by Shopguide, Inc., a Delaware corporation (“Shopguide,” “we,” or “us”). By accessing or using the Site and Application available through the [Apple App Store](#) and [Google Play](#), you (“User” or “you”) signify that you have read and agree to be bound by these Terms, regardless of whether you are a registered member of the Application; you represent and warrant that you have the right, authority and capacity to accept these Terms and to abide by them, and that you have fully understood the Terms without any impairment in judgment resulting from (but not limited to) mental illness, intoxication, medication, or any other health or other problem that could impair judgment.

Consequently, if you do not accept or understand the Terms, please do not use, install, access or register with the Application and leave the Site. If your agreement to these Terms is required in connection with or after the installation process of the Application, and you do not agree to these Terms, you are not entitled to use the Application, in which case you must promptly uninstall and delete all copies thereof.

We may make changes to these Terms from time to time. If so, we will post the changed Terms on the Application and Site and will indicate at the top of this page the date the Terms were last revised. You understand and agree that your continued use of the Application or Site after we have made any such changes constitutes your acceptance of the new Terms.

## Definitions

“Seller” means a third party offering items for purchase through the Application.

“Item” means an item offered by a Seller for purchase through the Application.

## GENERAL LIMITATIONS

You acknowledge and agree that:

- (a) Shopguide provides the marketplace where Sellers post information about Items. We do not manufacture, store, or inspect any of the Items posted on and sold through the Application. The Items presented in the Application are produced, listed, and sold directly by Sellers, which act independently of Shopguide. Shopguide does not make any warranties about the quality, safety, or legality of Items;
- (b) Shopguide does not investigate, monitor, or check for accuracy, appropriateness, or completeness of the information about Items posted by Sellers. Shopguide does not

warrant that the information about Items is accurate, complete, reliable, current, or error-free;

- (c) Shopguide is not responsible or liable for any loss or damage of any sort incurred as a result of any dealings between you and Sellers, including any loss or damage caused by Items or incurred in connection with the use of Items; and
- (d) Shopguide (i) processes payments of the purchase price for Items and transfers such payments to Sellers, and (ii) may arrange for courier shipment from Sellers to Users, but does not itself ship or deliver Items to Users and is not responsible for the delivery of Items.

We wish to remind you that you are solely responsible for any content and information that you make available on the Application or in connection with the use of the Application ("**Your Content**"), regardless of the manner in which you make it available. Similarly, your use of, or reliance on, Your Content is at your own risk.

You acknowledge and agree that you are solely responsible for all activity that occurs under your account in the Application (even if such activity is the result of someone else's use of your account), and that you have all rights necessary to upload Your Content uploaded to the Application through your account or in connection with the use of the Application through your account. You further acknowledge and agree that Your Content and your other activities in connection with the Application do not, and will not, violate, infringe, or **misappropriate any third party's intellectual property right, right of privacy or publicity**, or other personal or proprietary right, nor does Your Content contain any matter that is defamatory, obscene, unlawful, threatening, abusive, tortious, offensive or harassing.

We will not, under any circumstances, be liable in any way for any content, including, but not limited to, any errors or omissions in any material or content, or any loss or damage of any kind that you incur as a result of your use of, or your acting in reliance on, any material or content posted, e-mailed, transmitted, or otherwise made available in the Application or in connection with the use of the Application.

We may, but have no obligation to:

- (a) monitor or moderate any material or content posted in the Application;
- (b) remove any material or content from the Application; or
- (c) restrict access to any part of the Application at any time in our sole discretion and without advance notice.

## ELIGIBILITY, LICENSE AND REPRESENTATIONS

### Eligibility

The Application is intended for Users who are 18 years of age or older, and any registration by, use of or access to the Application by any natural person under 18 is unauthorized, unlicensed and in violation of these Terms. Children under 18 and at least

13 years of age are only permitted to use or access the Application if the following conditions are met: (a) such children use the Application through an account owned by a parent or legal guardian (b) with their explicit permission and (c) under their direct supervision. Children under 13 years of age are not permitted to use the Application.

By using the Application, you represent that you are 18 or older and that you agree to and will abide by these Terms. If you violate any of these Terms, or otherwise violate any agreement between you and us, Shopguide may terminate your membership, delete your profile or prohibit you from using or accessing the Application (or any portion, aspect or feature of the Application), at any time in its sole discretion, with or without notice, including if Shopguide believes that you are under 18.

### Proprietary Rights in Content; Limited License

All content on the Application and Site, including, but not limited to, designs, text, graphics, pictures, video, information, software, music, sound and other files, and their selection and arrangement (the "Shopguide Content"), is the property of Shopguide or Sellers with all rights reserved. No Shopguide Content may be modified, copied, distributed, framed, reproduced, republished, downloaded, displayed, posted, transmitted, or sold in any form or by any means, in whole or in part, without Shopguide's or Sellers' prior written permission, except as provided in the following sentence and except that the foregoing does not apply to Your Content that you legally post on the Application.

Provided that you are eligible to use the Application, you are granted a limited license to access and use the Application and to download or print a copy of any portion of the Shopguide Content solely for your use, provided that you keep all copyright or other proprietary notices intact. Except for Your Content, you may not republish Shopguide Content on any Internet, Intranet or Extranet site or incorporate the information in any other database or compilation, and any other use of the Shopguide Content is strictly prohibited and will result in the termination of the license granted under the Terms. Such unauthorized use may also violate applicable laws, such as copyright and trademark laws and applicable communications regulations and statutes. This license is revocable by us at any time without notice and with or without cause.

You are not allowed to distribute the Application software or otherwise profit from the use of the Application.

Shopguide reserves the right to change, suspend, or discontinue operating the Application at any time, for any reason. We will not be liable to you for the effect that any changes to the Application may have on you.

### Restrictions on Data Collection

Without our prior consent, you may not:

- (a) use any automated means to access the Application or Site or collect any information from the Application or Site (including robots, spiders, scripts or other automatic devices or programs);

- (b) frame the Application or Site, utilize framing techniques to enclose any Shopguide Content or other proprietary information, place pop-up windows over the Application and Site pages, or otherwise affect the display of the Application or Site pages;
- (c) engage in the practices of “screen scraping,” “database scraping” or any other activity with the purpose of obtaining content or other information;
- (d) upload, post, email, transmit or otherwise make available any unsolicited or unauthorized advertising, promotional materials, “junk mail,” “spam,” “chain letters,” “pyramid schemes,” or any other form of commercial or non-commercial solicitation or bulk communications of any kind to any Users of the Application or third party;
- (e) use data provided by Shopguide in any manner whatsoever for any competing uses or purposes. You further agree that you have never used data provided in any manner whatsoever by Shopguide in the past to compete with the products or services of Shopguide; or
- (f) use the Application or Site in any manner that violates applicable law or that could damage, disable, overburden, or impair the Application or Site or interfere with any other User’s use and enjoyment of the Application or Site.

We may terminate, disable or throttle your access to, or use of, the Application at any time without notice for any reason, with or without cause, in our sole discretion. If we do so, it is important to understand that you do not have a contractual or legal right to continue to use the Application, for example, to purchase Items through the Application. Shopguide may refuse service to anyone, at any time, for any reason. If you or Shopguide terminate your account, you may lose any information associated with your account, including Your Content.

The provisions contained in the MISCELLANEOUS TERMS section of these Terms will survive termination of your use or access to the Application and Site.

#### Registration Process

To register in the Application, you must provide your mobile phone number. You will receive a text message containing an access code, which you will need to access the Application registration form.

#### Registration Data; Account Security

In consideration of your use of the Application, you agree to:

- (a) **provide accurate, current and complete information about you (“Registration Data”);**
- (b) maintain the security of your password and identification;
- (c) maintain and promptly update the Registration Data, keep it accurate, current and complete; and
- (d) be fully responsible for all use of your account and for any actions that take place using your account.

#### User Representations and Warranties

You represent, warrant and agree that no materials of any kind submitted through your account or otherwise posted or shared by you through the Application or in connection with the use of the Application will violate or infringe upon the rights of any third party, including copyright, trademark, privacy, publicity or other personal or proprietary rights; or contain libelous, defamatory, fraudulent or otherwise unlawful material. You further agree not to harvest or collect email addresses or other contact information of Users from the Application by electronic or other means for the purposes of sending unsolicited emails or other unsolicited communications. Additionally, you agree not to use automated scripts to collect information from the Application or Site or for any other purpose. You further agree not to interfere with or try to disrupt the Application or Site, for example by distributing a virus or other harmful computer code. You further agree that you may not use the Application or Site in any unlawful manner or in any other manner that could damage, disable, overburden or impair Shopguide. In addition, you agree not to use the Application or Site to:

- (a) upload, share, store or otherwise make available any content that we deem to be harmful, threatening, unlawful, defamatory, infringing, abusive, inflammatory, harassing, vulgar, obscene, fraudulent, invasive of privacy or publicity rights, hateful, or racially, ethnically or otherwise objectionable;
- (b) except where authorized by Shopguide, register for more than one User account, register for a User account on behalf of an individual other than yourself, or register for a User account on behalf of any group or entity;
- (c) impersonate any person or entity, or falsely state or otherwise misrepresent yourself;
- (d) upload, share or otherwise make publicly available on the Application any private information of any third party, including, without limitation, phone numbers, email addresses and photographs;
- (e) upload, post, transmit, share or otherwise make available any material that contains software viruses or any other malicious or tracking computer code, files or programs designed to track, interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
- (f) upload, share, store or otherwise make available content that would constitute, encourage or provide instructions for a criminal offense, violate the rights of any party, or that would otherwise create liability or violate any local, state, national or international law;
- (g) use or attempt to use another User's account, service or system without authorization from that person and Shopguide, or create a false identity on the Application; or
- (h) upload, post, transmit, share, store or otherwise make available content that, in the sole judgment of Shopguide, is objectionable or which restricts or inhibits any other person from using or enjoying the Application or Site, or which may expose Shopguide or its Users to any harm or liability of any type.

## RETURNS POLICY

Items can be returned within 14 days of receipt of shipment in unused condition for any reason, including if the Item doesn't match its description in the Application or is otherwise defective.

To return an Item, you must pack the Item securely. If you do not have the original Item packaging, use a sturdy box and include padding such as packing bubbles or newspaper, and ship your return. If your return is based on a claim for a defective product, you will be provided with a free return shipping label that you must attach to the package. The Seller will reimburse you the cost of shipping using standard ground rates.

## CONSENT TO ELECTRONIC TRANSACTIONS AND DISCLOSURES

### Consent through the Use of the Application

Because the Application operates only on the Internet, it is necessary for you to consent to transact business with us and Sellers online and electronically. As part of doing business with us, therefore, we also need you to consent to our giving you certain disclosures electronically, either via the Application or to the email address you provide to us. By agreeing to the Terms, you agree to receive electronically all documents, communications, notices arising from or relating to your use of the Application (each a "Disclosure"), from us and Sellers. The decision to do business with us and Sellers electronically is yours. This document informs you of your rights concerning Disclosures.

### Consent to Receive Electronic Communications

Any Disclosures will be provided to you electronically through the Application or via email to the email address you provided. We may discontinue the electronic provision of Disclosures at any time in our sole discretion.

Your consent to receive Disclosures and transact business electronically, and our agreement to do so, applies to any transactions to which such Disclosures relate. Your consent will remain in effect for so long as you are a User and, if you are no longer a User, will continue until such time as all Disclosures relevant to transactions that occurred while you were a User have been made.

### How to Contact Us regarding Disclosures

You can contact us via email at [info@my-shop-guide.com](mailto:info@my-shop-guide.com) . You may also reach us in writing to us at the following address: Shopguide, Inc., 220 East 23rd St, suite 400, New York, NY 10010, Attention: Customer Service.

## INTELLECTUAL PROPERTY MATTERS

### Trademarks

Shopguide graphics, logos, designs, page headers, button icons, scripts and service names are the exclusive intellectual property of Shopguide in the U.S. and other countries. Shopguide's trademarks and trade dress may not be used, including as part of trademarks or as part of domain names, in connection with any product or service in any

manner that is likely to cause confusion and may not be copied, imitated, or used, in whole or in part, without the prior written permission of Shopguide.

### Copyright Complaints

We will respond expeditiously to claims of copyright infringement using guidelines and procedures set forth in Section 512 of the Digital Millennium Copyright Act of 1998 ("DMCA"). **If you see any material on the Application or Site that in your good-faith belief may infringe someone's copyright, you may notify us by e-mailing us at [info@my-shop-guide.com](mailto:info@my-shop-guide.com) with "Copyright" in the subject line. In order to be effective, your notice, also known as a takedown notice, must include the following information:**

- (a) The identity of the original copyrighted work that you claim is infringed or, if your notice covers multiple copyrighted works, you may provide a representative list of the copyrighted works that you claim have been infringed;
- (b) A sufficiently detailed description of the content on the Application or Site that you claim infringes the copyrighted work;
- (c) Your contact information, including your full name, mailing address, telephone number, and email address, if available;
- (d) A statement that you believe in good faith that the use of the allegedly infringing content on the Application or Site is not authorized by the copyright owner, its agent, or the law;
- (e) **This statement: "I swear, under penalty of perjury, that the information in this notification and complaint is accurate and that I am the copyright owner, or am authorized to act on behalf of the copyright owner, of an exclusive right that is infringed"; and**
- (f) A physical or electronic signature of the copyright holder or a person authorized to act on his or her behalf.

Moreover, if you believe your work was erroneously removed due to an incorrect claim of copyright ownership, you may provide us a written counter-notice. When we receive your counter-notice, we may, in our discretion, reinstate the material in question in no fewer than 10 and no more than 14 days after we receive the counter-notice, unless we first receive notice from the original complaining party who filed the infringement notice that it has filed a legal action to restrain the allegedly infringing activity. To provide a counter-notice to us, you may email us at [info@my-shop-guide.com](mailto:info@my-shop-guide.com). Please note that if you provide a counter-notice, in accordance with the terms of the DMCA, the counter-notice will be given to the original complaining party that filed the infringement notice. To be effective, a counter-notice must contain substantially all of the following information:

- (a) Identification of the material that has been removed or to which access has been disabled in the Application or Site and the location at which the material appeared before it was removed or access to it was disabled;
- (b) Your name, address, telephone number, and, if available, email address;
- (c) Include both of the following statements in the body of the notice:

**"I hereby state under penalty of perjury that I have a good-faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled."**

"I hereby state that I consent to the jurisdiction of the Federal District Court for the judicial district in which my address is located or, if my address is outside of the United States, for any judicial district in which Shopguide may be found, and I will accept service of process from the complaining party who notified Shopguide of the **alleged infringement or an agent of such person.**"

(d) Provide your full legal name and your electronic or physical signature.

#### Submissions

You acknowledge and agree that any questions, comments, suggestions, ideas, feedback or other information about the Application ("Submissions"), provided by you to Shopguide are non-confidential and will become the sole property of Shopguide. Shopguide will own exclusive rights, including all intellectual property rights, and will be entitled to the unrestricted use and dissemination of these Submissions for any purpose, commercial or otherwise, without acknowledgment or compensation to you.

#### MISCELLANEOUS TERMS

##### Content

The Application and Site contain photographs, text, graphics, pictures, designs, music, sound, video, information and other content belonging to or originating from Sellers ("Seller Content"). Such Seller Content is not investigated, monitored or checked for accuracy, appropriateness, or completeness by us, and we are not responsible for any Seller Content posted on the Application or Site, including without limitation the content, accuracy, offensiveness, opinions contained in Seller Content. Inclusion of or linking to any Seller Content does not imply approval or endorsement thereof by us.

##### Privacy

Please review Shopguide's Privacy Policy <https://my-shop-guide.com/privacypolicy.pdf>. By using the Application or visiting the Site, you are consenting to the Privacy Policy and agree to have your personal data transferred to and processed in the United States.

##### Disclaimers of Warranties

None of Shopguide's or any of its affiliates, subsidiaries, providers or their respective officers, directors, employees, agents, independent contractors or licensors (collectively, the "Shopguide Parties") guarantee the accuracy, adequacy, timeliness, reliability, completeness, or usefulness of any of the Application, Site, Shopguide Content or Seller Content, and the Shopguide Parties disclaim liability for errors or omissions in the Application, Site, Shopguide Content or Seller Content.

The Shopguide Parties are not responsible for the accuracy, copyright compliance, legality, or decency of Seller Content that you accessed through the Application or Site. You release the Shopguide Parties from all liability relating to that content. Shopguide is



not responsible for the conduct, whether online or offline, of any Seller represented on the Application or Site.

This Application, Site, Shopguide Content and Seller Content are provided "as is" and "as available," without any warranty, either express or implied, including the implied warranties of merchantability, fitness for a particular purpose, non-infringement or title. Additionally, there are no warranties as to the results of your use of the Application or Site. The Shopguide Parties do not warrant that the Application or Site are free of viruses or other harmful components. This does not affect those warranties which are incapable of exclusion, restriction or modification under the laws applicable to these Terms.

Any legal claim related to an Item you purchase must be brought directly against the Seller of the Item. You release Shopguide from any claims related to Items sold through the Application, including for defective Items, misrepresentations by Sellers, or Items that caused physical injury (like product liability claims).

The Application or Site may be temporarily unavailable from time to time for maintenance or other reasons. Shopguide assumes no responsibility for any error, omission, interruption, deletion, defect, delay in operation or transmission, communications line failure, theft or destruction or unauthorized access to, or alteration of, User communications. Shopguide is not responsible for any problems or technical malfunction of any telephone network or lines, computer online systems, servers or providers, computer equipment, software, failure of email or players on account of technical problems or traffic congestion on the Internet or on the Application, including injury or damage to Users or to any other person's computer or mobile phone related to or resulting from participating or downloading materials in connection with the Application. Under no circumstances will Shopguide be responsible for any loss or damage, including any loss or damage to Your Content, financial damages or lost profits, loss of business, or personal injury or death, resulting from anyone's use of the Application, Your Content, Seller Content or Shopguide Content on the Application, or any interactions between Users, whether online or offline.

Shopguide reserves the right to change any content contained in the Application at any time without notice. Reference to any products, services, processes or other information, by trade name, trademark, manufacturer, supplier or otherwise does not constitute or imply their endorsement, sponsorship or recommendation, or any affiliation with them, by Shopguide.

#### Limitation on Liability

EXCEPT IN JURISDICTIONS WHERE SUCH PROVISIONS ARE RESTRICTED, TO THE FULL EXTENT PERMITTED BY APPLICABLE LAWS, IN NO EVENT WILL SHOPGUIDE OR ITS DIRECTORS, EMPLOYEES OR AGENTS BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, INCLUDING FOR ANY LOST PROFITS OR LOST DATA ARISING FROM YOUR USE OF THE APPLICATION OR ACCESSING SITE OR ANY OF THE SHOPGUIDE CONTENT OR OTHER MATERIALS ON OR ACCESSED THROUGH THE APPLICATION

OR SITE, EVEN IF SHOPGUIDE IS AWARE OR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THESE TERMS, TO THE FULL EXTENT PERMITTED BY APPLICABLE LAWS, SHOPGUIDE'S LIABILITY TO YOU FOR ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF THE ACTION, WILL AT ALL TIMES BE LIMITED TO THE AMOUNT PAID, IF ANY, BY YOU TO SHOPGUIDE DURING YOUR USE OF THE APPLICATION. IN NO CASE WILL SHOPGUIDE'S LIABILITY TO YOU EXCEED \$1,000. YOU ACKNOWLEDGE THAT IF NO FEES ARE PAID TO SHOPGUIDE FOR USE OF THE APPLICATION, YOU WILL BE LIMITED TO INJUNCTIVE RELIEF ONLY, UNLESS OTHERWISE PERMITTED BY LAW, AND WILL NOT BE ENTITLED TO DAMAGES OF ANY KIND FROM SHOPGUIDE, REGARDLESS OF THE CAUSE OF ACTION.

#### Governing Law; Venue and Jurisdiction

By accessing or using the Application or Site, you agree that the laws of the State of New York, without regard to any principles of conflict of laws that would require or permit the application of the laws of any other jurisdiction, will govern these Terms.

#### Indemnity

You agree to indemnify and hold Shopguide, its subsidiaries and affiliates, and each of their directors, officers, agents, contractors, partners and employees, harmless from and against any loss, liability, claim, demand, damages, costs and expenses, including reasonable attorney's fees, arising out of or in connection with Your Content that you post or share on or in connection with the use of the Application, your use of the Application, your conduct in connection with the Application, or any violation of these Terms or of any law or the rights of any third party.

#### Dispute Resolution

You can submit a claim regarding the operation of the Application to us via email at [info@my-shop-guide.com](mailto:info@my-shop-guide.com). You may also reach us in writing at the following address: Shopguide, Inc., 220 East 23rd St, suite 400; New York, NY 10010. We will consider your claim and provide you with an answer within 30 days.

BY USING THE APPLICATION OR SITE, YOU ACKNOWLEDGE THAT YOU HAVE READ THIS PROVISION CAREFULLY AND UNDERSTAND THAT IT LIMITS YOUR RIGHTS IN THE EVENT OF A DISPUTE BETWEEN YOU AND US.

(a) In this Arbitration Section:

(i) "You" and "your" mean the individual entering into these Terms, as well as any person claiming through such individual;

(ii) "We" and "us" means Shopguide, Inc., its affiliates, and any of each of their respective parents, subsidiaries, affiliates, predecessors, successors, and assigns, as well as the officers, directors, and employees of each of them;

(iii) "Claim" means any dispute, claim, or controversy (whether based on contract, tort, intentional tort, constitution, statute, ordinance, common law, or equity, whether pre-

existing, present, or future, and whether seeking monetary, injunctive, declaratory, or any other relief) arising from or relating to these Terms or the relationship between us and you (including claims arising prior to or after the date of the Terms, and claims that are currently the subject of purported class action litigation in which you are not a member of a certified class), and includes claims that are brought as counterclaims, crossclaims, third party claims or otherwise, as well as disputes about the validity or enforceability of these Terms or the validity or enforceability of this Arbitration Section.

(b) Any Claim will be resolved by binding arbitration administered by the American Arbitration Association or JAMS, under the applicable arbitration rules of the administrator in effect at the time a Claim is filed ("Rules"). Any arbitration under these Terms will take place on an individual basis; class arbitrations and class actions are not permitted. You can obtain the Rules and other information about initiating arbitration by contacting the American Arbitration Association at 1633 Broadway, 10th Floor, New York, NY 10019, [www.adr.org](http://www.adr.org); or by contacting JAMS at 1920 Main Street, Suite 300, Irvine, CA 92614, (949) 224-1810, [www.jamsadr.com](http://www.jamsadr.com). The address for serving any arbitration demand or claim on us is Shopguide, Inc., 446 West 14th St, Second Floor; New York, NY 10014, Attention: Legal.

(c) Claims will be arbitrated by a single, neutral arbitrator, who will be a retired judge or a lawyer with at least ten years' experience.

(d) Any in-person arbitration hearing will be held in the city with the federal district court closest to your residence, or in such other location as you and we may mutually agree. The arbitrator will apply applicable substantive law consistent with the Federal Arbitration Act, 9 U.S.C. §§ 1-16, and, if requested by either party, provide written reasoned findings of fact and conclusions of law. The arbitrator will have the power to award any relief authorized under applicable law. Any appropriate court may enter judgment upon the arbitrator's award. The arbitrator's decision will be final and binding except that: (1) any party may exercise any appeal right under the FAA; and (2) any party may appeal any award relating to a claim for more than \$100,000 to a three-arbitrator panel appointed by the administrator, which will reconsider de novo any aspect of the appealed award. The panel's decision will be final and binding, except for any appeal right under the FAA.

(e) YOU AND WE AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN OUR INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both you and we agree otherwise in writing, the arbitrator may not consolidate more than one person's claims. The arbitrator will have no power to arbitrate any Claims on a class action basis or Claims brought in a purported representative capacity on behalf of the general public, other Users, or other persons similarly situated. The validity and effect of this paragraph (e) will be determined exclusively by a court, and not by the administrator or any arbitrator.

(f) If any portion of this Arbitration Section is deemed invalid or unenforceable for any reason, it will not invalidate the remaining portions of this section. The terms of this Arbitration Section will prevail if there is any conflict between the Rules and this section.

(g) YOU AND WE AGREE THAT, BY ENTERING INTO THESE TERMS, THE PARTIES ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION. YOU AND WE ACKNOWLEDGE THAT ARBITRATION WILL LIMIT OUR LEGAL RIGHTS, INCLUDING THE RIGHT TO PARTICIPATE IN A CLASS ACTION, THE RIGHT TO A JURY TRIAL, THE RIGHT TO CONDUCT FULL DISCOVERY, AND THE RIGHT TO APPEAL (EXCEPT AS PERMITTED IN PARAGRAPH (d) OR UNDER THE FEDERAL ARBITRATION ACT).

(h) You and we acknowledge and agree that the arbitration agreement set forth in this Arbitration Section is made pursuant to a transaction involving interstate commerce, and thus the Federal Arbitration Act will govern the interpretation and enforcement of this Arbitration Section. This Arbitration Section will survive the termination of these Terms.

(i) In the event that a dispute does not proceed to arbitration, these Terms and all other aspects of your use of the Application or Site will be governed by and construed in accordance with the laws of the United States and, to the extent applicable, to the laws of the State of New York, without regard to its conflict of laws principles. You agree that you will notify us in writing of any claim or dispute concerning or relating to the Application or Site and the information or services provided through it, and give us a reasonable period of time to address it before bringing any legal action, either individually, as a class member or representative, or as a private attorney general, against us.

#### Force Majeure

Shopguide will not be liable to you for any delay or failure in performance under these Terms due to causes beyond the reasonable control of Shopguide unable to perform, but only if those causes could not have been prevented by reasonable precautions and could not have been circumvented through the use of reasonable alternative sources, workaround plans, or other means. These causes include strikes, shortages, failure of suppliers, riots, insurrection, fires, floods, storms, earthquakes, acts of God, war, governmental action, labor conditions, and power outages.

#### Waiver

The failure of Shopguide to exercise or enforce any right or provision of these Terms will not constitute a waiver of such right or provision in that or any other instance. If any provision of these Terms is held invalid, the remainder of these Terms will continue in full force and effect. If any provision of these Terms will be deemed unlawful, void or for any reason unenforceable, then that provision will be deemed severable from these Terms and will not affect the validity and enforceability of any remaining provisions.