

XTRIBE TERMS AND CONDITIONS OF USE

PLEASE READ THESE TERMS AND CONDITIONS OF USE CAREFULLY BEFORE USING THE SERVICES OFFERED BY XTRIBE USA CORP. ("XTRIBE"). THE TERMS AND CONDITIONS OF USE SET FORTH THE LEGALLY BINDING TERMS AND CONDITIONS FOR YOUR USE OF XTRIBE'S MOBILE APPLICATION (THE "APP") AND THE SERVICES, FEATURES, CONTENT, APPLICATIONS OR WIDGETS OFFERED BY XTRIBE ON THE XTRIBE WEBSITE (THE "WEBSITE") (COLLECTIVELY WITH THE APP AND WEBSITE, THE "SERVICE").

A. **THE SERVICE: CONDITIONS TO ACCESS**

ACCESS TO AND USE OF THE SERVICE IS SUBJECT TO THESE TERMS AND CONDITIONS OF USE. PLEASE READ THESE TERMS AND CONDITIONS OF USE BEFORE USING THE SERVICE, THE APP, THE WEBSITE AND/OR DOWNLOADING MATERIALS AND/OR INFORMATION FROM THEM. PRINT A COPY OF THESE TERMS AND CONDITIONS OF USE FOR YOUR RECORDS. THIS IS A LEGAL AGREEMENT BETWEEN YOU AND XTRIBE GOVERNING YOUR USE OF THE APP AND WEBSITE AND YOUR USE OF THE SERVICES OFFERED THROUGH XTRIBE. BY ACCESSING THE APP OR WEBSITE OR USING ANY TOOLS OR SERVICES PROVIDED BY XTRIBE OR ITS WEBSITE, YOU BECOME A USER AND AGREE TO, AND ARE BOUND BY, THESE TERMS AND CONDITIONS OF USE. THESE TERMS AND CONDITIONS OF USE ARE A LEGALLY ENFORCEABLE CONTRACT BETWEEN YOU AND XTRIBE. YOU REPRESENT AND WARRANT THAT YOU ARE NOT A MINOR WHERE YOU LIVE, AND THAT THESE TERMS AND CONDITIONS OF USE ARE BINDING UPON YOU. IF YOU ARE A MINOR AND ARE NOT AN EMANCIPATED MINOR, OR IF YOU HAVE NOT OBTAINED THE CONSENT OF YOUR PARENT OR GUARDIAN TO ENTER INTO THIS AGREEMENT ON YOUR BEHALF, YOU SHALL NOT USE THE APP OR THE WEBSITE AND YOUR MEMBERSHIP OR SUBSCRIPTIONS MAY BE TERMINATED, AND ACCESS TO THE WEBSITE OR APP OR ANY PART THEREOF MAY BE DENIED, WITHOUT NOTICE. IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS OF USE PLEASE DO NOT USE OR ATTEMPT TO USE AND/OR DOWNLOAD MATERIALS FROM THE APP OR WEBSITE. YOUR USE AND/OR ATTEMPTED USE OF THE SERVICE, THE WEBSITE OR THE APP CONSTITUTES ACKNOWLEDGMENT AND ACCEPTANCE OF THESE TERMS AND CONDITIONS OF USE, XTRIBE'S PRIVACY POLICY (WHICH CAN BE VIEWED BY CLICKING [HERE Link](#)).

UNLESS EXPLICITLY STATED IN WRITING BY XTRIBE, ANY NEW OR ADDITIONAL FEATURES OF THE APP, THE WEBSITE OR SERVICES, INCLUDING THE RELEASE OF NEW PRODUCTS AND/OR SERVICES SHALL BE SUBJECT TO THESE TERMS AND CONDITIONS OF USE.

B. EXPLANATION OF THE XTRIBE SERVICES

XTRIBE is committed to making your experience with the Services enjoyable. There are several ways you can find stores or vendors ("Product Vendors") or other users of the XTRIBE App or Website ("XTRIBE Users") that sell the type of product or service that you are looking for through the XTRIBE Services. By using Services within the App or Website, you will be able to find Product Vendors or other XTRIBE Users near your geographic location who carry inventory or are willing to sell goods or services responsive to your search. Notwithstanding the foregoing, XTRIBE urges you to consider the following:

- i. Product and Services Search Criteria. Upon entering your product search criteria within the App or Website, the XTRIBE Service will attempt to match you with Product Vendors near your geographic location, who may be in physical possession of the product or available to provide the services that you are searching for. However, XTRIBE does not guarantee that it will be able to match your product or service needs within or without your geographic location, or that there will be Product Vendors in your area that are either capable or willing to furnish your product or service needs.
- ii. Used Products Sold by XTRIBE Users. XTRIBE also allows XTRIBE Users to purchase used goods from each other privately. The use of this platform is free of charge. Upon entering your product search criteria within the App or Website, the XTRIBE Service will attempt to match you with XTRIBE Users near your geographic location, who may be in physical possession of the product you are seeking. However, XTRIBE does not guarantee that it will be able to match your product needs within or without your geographic location, or that there will be other XTRIBE Users in your area that are either capable or willing to furnish your product needs.

- iii. No Guarantees or Endorsements. XTRIBE takes no steps to examine the credentials of the Product Vendors or other XTRIBE Users listed on the Website or the App. XTRIBE makes no guarantees, warranties or representations regarding the skills, undertakings or product inventory of any such Product Vendor or XTRIBE Users or the quality of the goods or services that he or she may be in possession of or willing to provide. XTRIBE does not endorse or recommend the products or services of any particular Product Vendor or other XTRIBE Users.

- iv. No Representations or Warranties. XTRIBE does not independently verify Product Vendor's or other XTRIBE user's representations about their services, or products, nor validate any reviews. It is entirely up to you to evaluate the Product Vendor or XTRIBE User and its qualifications, and to purchase the products or services directly from them. XTRIBE does not guarantee or warrant any Product Vendor's or XTRIBE User's goods or services. The Product Vendors or other XTRIBE Users are not employees or agents of XTRIBE, nor is XTRIBE an agent of the Product Vendors or XTRIBE Users.

- v. No Pricing or Quality Guarantee. XTRIBE may inform you of certain offers or discounts provided by a Product Vendor or XTRIBE User through the XTRIBE Service. Such offers or discounts are made solely by the Product Vendor or XTRIBE User, and XTRIBE does not guarantee or warrant the pricing or discounts that a Product Vendor or XTRIBE User may offer you. Any quotes provided by Product Vendor or XTRIBE User via the Website or App, are not contractually binding offers, are for informational purposes only, and cannot be accepted on or via the Website or App. No contractual arrangement is created based upon the prices provided to you from the Product Vendor or XTRIBE User via XTRIBE. To purchase the good(s) or services you are seeking by using the App or Website, you must contact the Product Vendor or XTRIBE User directly. XTRIBE does not make available, and is not responsible for, any of the goods, products or services requested by you. Your rights under any purchase agreement with any Product Vendor or XTRIBE User are governed by the terms of such agreements and by applicable federal, state, provincial and local laws. XTRIBE is not and will not be a party to such agreements.

All payments and applicable taxes must be made directly to the Product Vendors or XTRIBE User, as applicable, shall be made in accordance with such agreements.

- vi. Release from Damages or Claims. Should you have a dispute with respect to any products or services provided by a Product Vendor or XTRIBE User for the fees charged by any Product Vendor or XTRIBE User, you must address such dispute with the Product Vendor or XTRIBE User directly, YOU HEREBY AGREE TO RELEASE XTRIBE (AND OUR OFFICERS, DIRECTORS, SHAREHOLDERS, AFFILIATES, EMPLOYEES AND AGENTS) FROM ANY DAMAGES OR CLAIMS (INCLUDING CONSEQUENTIAL AND INCIDENTAL DAMAGES) OF EVERY KIND OR NATURE, SUSPECTED AND UNSUSPECTED, KNOWN AND UNKNOWN, AND DISCLOSED OR UNDISCLOSED, ARISING OUT OF OR IN ANY WAY CONNECTED WITH SUCH DISPUTES AND YOUR DEALINGS WITH PRODUCT VENDORS.

C. **USE OF THE XTRIBE SERVICES**

You acknowledge that your use of XTRIBE's Services is for personal use only, and not for commercial or advertising purposes. You will not permit others to use the Services without your consent. You are not permitted to attempt to violate the security or systems of XTRIBE. If you are allowing a minor to use the Services, you represent and warrant that you are the legal parent or guardian of such minor, and you agree: (a) to assume all liabilities resulting from the minor's use of the Services including, but not limited to, payment of any fees associated with the minor's use of the Services, (b) to exercise supervision over such use by the minor, and (c) that you assume all risks of any kind associated with the minor's use of the Services and the information contained therein. Furthermore, you will not attempt to, or otherwise authorize, encourage or assist others to circumvent, reverse-engineer, decrypt, break or otherwise alter or interfere with any part Services in any manner. You may only use those portions of the App or Website made available to you. Any user suspected of engaging, directly or indirectly, in any fraudulent, abusive, harassing, manipulative, illegal or questionable activity, including, without limitation, participating in, or benefiting from, a syndicate, group or block guessing process, may have his/her membership terminated, all access denied, and, if applicable, a XTRIBE User may be referred to appropriate law enforcement agencies, in XTRIBE's sole discretion.

XTRIBE reserves the right to initiate, without notice, appropriate legal actions or proceedings, to seek appropriate remedies and/or damages, including but not limited to legal fees, costs, expenses, and to seek other equitable remedies for actions in violation of this section. Any equipment that you use to access and/or use the Services shall not interfere with the App, the Website and/or XTRIBE's systems and/or operations.

D. YOUR ACCOUNT

You may be required to provide an email account and create a login. In the event that you are required to create a login, you (or your legal representative) may cancel your account at any time during the term of such account by accessing the appropriate sections on the App or Website, providing the information requested or click [here](#). You agree that you will not impersonate someone else, or forge or mislead XTRIBE about your identity when contacting XTRIBE, creating a login or using the Services. You represent and warrant that the information provided by you (or any minor using the Services) is true and accurate, belongs to you (or the minor) and not someone else, and that you have the right to use such information. For more information on how we use the information provided by you, please refer to XTRIBE's Privacy Policy (click here: [Link](#)). You agree that you will not authorize and/or permit others to use your account and/or account information. You should promptly notify XTRIBE of any unauthorized, or potentially unauthorized, use of your account.

E. CONTENT

All content, whether publicly posted or privately transmitted, is the sole responsibility of the person who originated such content. XTRIBE cannot guarantee the authenticity of any content or data which XTRIBE Users and Product Vendors may provide about themselves or the products they are purporting to sell, offer for rent, or purchase. You acknowledge that all content accessed by you using the Services is at your own risk and you will be solely responsible and liable for any damage or loss to you or any other party resulting therefrom. For purposes of these Terms and Conditions of Use, the term "Content" includes, without limitation, any location information, "shouts", videos, audio clips, comments, information, data, text, photographs, software, scripts, graphics, and interactive features generated, provided, or otherwise made accessible by XTRIBE on or through the Service.

XTRIBE reserves the right, but not the obligation, to edit or abridge, or to refuse to post, or to remove any Content that you or any other users post on the App or Website if XTRIBE determines (in its sole discretion) that such content is (i) offensive, harmful and/or contains abusive language; (ii) references to illegal activity; (iii) contains statements that are or appear to be false or disparage XTRIBE or any of the XTRIBE Entities (as defined below). You acknowledge that, in order to ensure compliance with legal obligations, XTRIBE may be required to review certain Content submitted to the App or Website to determine whether it is illegal or whether it violates these Terms and Conditions of Use (such as when unlawful content is reported to XTRIBE). XTRIBE may also modify, prevent access to, delete, or refuse to display content that it believes violates the law or these Terms and Conditions of Use. However, XTRIBE has no obligation to monitor or review any content submitted to the App or Website

F. XTRIBE'S RIGHT TO MONITOR

XTRIBE may monitor your access to, and your use of the Services as part of the Service functionality and in order to aggregate data and in compliance with our Privacy Policy. You shall not, among other things: (i) use the Services in violation of these Terms and Conditions of Use, (ii) exploit, thwart or attempt to thwart the Services, or any program affiliated thereto, (iii) engage, directly or indirectly, in questionable, damaging, deceitful, fraudulent, or unlawful activity, (iv) use automated or cooperative means to break any restrictions in the App or Website, including, but not limited to, the use of automated "bots", software programs or collusive play involving other users or software programs; (v) submit inaccurate or fraudulent information; and/or (vi) directly or indirectly aid and/or abet others in any of the foregoing. XTRIBE may keep track of your downloads, chat history, and other activities in accordance with XTRIBE's Privacy Policy. XTRIBE reserves the right, in its sole discretion, to interrupt, suspend or cancel part of the whole of the App or Website and/or its Services at any time for whatever reason and XTRIBE and any affiliate or subsidiary thereof, will bear no responsibility for any damage or loss caused by such interruption, suspension or cancellation by XTRIBE.

G. USER SUBMISSIONS

Content added, created, uploaded, submitted, distributed, posted or otherwise obtained through the Service by XTRIBE Users, including Content that is added to the Service in connection with users linking their accounts to third party websites and services, is collectively referred to as, "User Submissions." You agree that all content and information provided by you (or agents or designees) including but not limited to, photographs, review, comments, etc. is the sole and exclusive property of XTRIBE, and that you have no right to reproduce, post or publish any such information other than for your personal use related to the Services. By posting or providing any Content to XTRIBE, you represent and warrant to XTRIBE that you own or have all necessary rights to use the Content, and grant to XTRIBE the rights granted below. The foregoing representation includes, but is not limited to a representation and warranty that you own or have the necessary rights (including any necessary releases) to grant all rights granted below in relation to any persons, places or intellectual property pictured in any photographic Content that you provide. In addition, if you post or otherwise provide any Content that is protected by copyright, you represent that you have obtained any necessary permissions or releases from the applicable copyright owner.

H. GRANT OF LICENSE

When you provide to XTRIBE data or Content, you grant XTRIBE and XTRIBE Users a perpetual, irrevocable, unlimited territory, for free and transferable, assignable, sub-licensable right to license all data and Content provided, and related copyright, publication and use in any format. You grant to XTRIBE a nonexclusive, irrevocable, worldwide valid, perpetual, unrestricted, transferable and sub-licensable, not subject to royalty, license to use, store, copy, reproduce, modify, distribute, prepare derivative works of, improve, distribute, publish, remove, process, analyze, use and commercialize, in any manner now known or to be discovered in the future, any data, content or information you provide, directly or indirectly to XTRIBE in any manner that XTRIBE deems appropriate or necessary.

I. INTERACTIONS WITH OTHER USERS

You are personally and solely responsible for your interactions with other users. XTRIBE and community members work together to keep the App and Website working in an efficient and safe manner. We encourage you to notify us of any problems, inappropriate or offensive behavior, or any violation of law by other users.

If XTRIBE believes, in its sole discretion, that a XTRIBE User has performed or caused to perform actions that are inappropriate or offensive in any way and/or may incur legal liability to itself, other users and/or XTRIBE, XTRIBE will take appropriate measures that include but are not limited to, restricting, pausing, or terminating the user's account, prohibit access to the App or Website.

J. RESPONSIBILITY

XTRIBE is in no way responsible for the identity of users or data and Content provided by them. XTRIBE has no role in the sale, barter, in the provision of goods and services, which take place directly between XTRIBE Users and/or Product Vendors as a result of their activities on the App or Website. XTRIBE has no control and no responsibility for the quality, safety, legality of goods and services that are sold, purchased, rented or bartered by XTRIBE Users and/or Product Vendors. XTRIBE gives no warranty or guarantee with regard to merchantability, suitability, legality of goods and services offered by the XTRIBE Users and/or Product Vendors. XTRIBE has no obligation to verify the accuracy and adequacy of its members and/or users and has no obligation to monitor the use of the App and Website by other XTRIBE Users and/or Product Vendors.

K. COPYRIGHTS AND INTELLECTUAL PROPERTY RIGHTS

The App and Website contain information and materials, including, without limitation, photographs, icons, graphics, audio, video, messages, files, documents, images or other materials (collectively the "Material") which is copyrighted. Any unauthorized use of any Material may violate copyright, trademark, and /or other intellectual property laws or other laws in the United States and elsewhere. The trademarks, logos and service marks displayed on The App or Website are the property of XTRIBE or third-party owners in the United States and other countries. Users are prohibited from using any such marks for any purpose without the prior written permission of XTRIBE or such third party that may own the marks. Users are not granted any rights whatsoever to use the trademarks, logos and/or service marks by virtue of using or accessing the App and/or Website. You will be solely responsible for any damages resulting from any infringement of copyright, trademark, or other proprietary right, or any other harm resulting from your use of the App and/or Website.

L. DISCLAIMER OF WARRANTIES

By using the Services, you expressly understand and agree that any material, services and/or products are provided "AS IS" with no warranties by XTRIBE or any of its agents, employees, parents, subsidiaries, affiliates, licensors, business partners and/or suppliers (the "XTRIBE Entities"). XTRIBE and the XTRIBE Entities expressly disclaim to the fullest permitted by law all express, implied, and statutory warranties, including, without limitation, the warranties of merchantability, fitness for a particular purpose, and non-infringement of proprietary rights. You understand and agree that your use of the Services is at your own discretion and risk and that you will be solely responsible for any content or personal information that you disclose to the App or Website, other XTRIBE Users or that is disclosed to you. The App, and/or Website and the XTRIBE Entities disclaim any warranties that the Services will meet your requirements or satisfaction, or that your access to the same will be uninterrupted or without error. You are solely responsible for any damages to your equipment, computer system, smart phone, tablets or similar equipment or loss of data that results from your use of the Services. The App and/or Website and the XTRIBE Entities disclaim any warranties for services or goods received through or advertised on the App and/or Website or received through any links provided by the App and/or Website. Some states or other jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental or consequential damages so the above exclusions may not apply to you. You may also have other rights that vary from state to state and jurisdiction to jurisdiction. XTRIBE EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND YOU AGREE THAT XTRIBE SHALL HAVE NO LIABILITY FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL (INCLUDING LOST PROFIT), EXEMPLARY OR PUNITIVE DAMAGES (EVEN IF XTRIBE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) ARISING OUT OF THIS AGREEMENT OR ANY CONSEQUENCES WHICH FLOW FROM IT. SOME STATES AND PROVINCES DO NOT ALLOW LIMITATIONS ON OR EXCLUSION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES. IN SUCH STATES AND PROVINCES, THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

M. LIMITATION OF LIABILITY

UNDER NO CIRCUMSTANCES, SHALL XTRIBE OR THE XTRIBE ENTITIES, BE LIABLE FOR ANY UNAUTHORIZED USE OF THE SERVICES. UNDER NO CIRCUMSTANCES, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, SHALL XTRIBE OR ITS AFFILIATES, THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF DATA OR PROFIT, ARISING OUT OF THE USE OF, RELIANCE ON, OR THE INABILITY TO USE THE APP OR WEBSITE OR FROM THE INTERRUPTION, NON-PERFORMANCE, SUSPENSION, OR TERMINATION OF XTRIBE (INCLUDING SUCH DAMAGES INCURRED BY THIRD PARTIES). WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, UNDER NO CIRCUMSTANCES WILL XTRIBE'S AGGREGATE LIABILITY, IN ANY FORM OF ACTION WHATSOEVER IN CONNECTION WITH THIS AGREEMENT, THESE TERMS AND CONDITIONS OF USE OR THE USE OF XTRIBE SERVICES, EXCEED THE FEES PAID BY YOU FOR YOUR MEMBERSHIP, OR, IF YOU HAVE NOT PAID XTRIBE FOR THE USE OF ANY SERVICE, THE AMOUNT OF TEN US DOLLARS (\$10.00) OR ITS EQUIVALENT.

N. INDEMNIFICATION

By using XTRIBE, you agree to indemnify and hold XTRIBE, its affiliates, their respective officers, directors, employees, agents and third parties, successors and assigns, harmless for any violation or against any direct or indirect third-party claim, liabilities, losses, costs, damages and expenses, including reasonable attorneys' fees, which may relate to or arise as a result of your use of XTRIBE Services for any reason whatsoever. This indemnification obligation will survive these Terms and Conditions of Use, any subscription and/or your use of the App and/or Website. XTRIBE hereby reserves the right to assume the defense and control of any matter otherwise subject to indemnification by you, in which event you will cooperate with XTRIBE in asserting any available defenses.

O. LINKS TO THIRD PARTY SITES

Links to third party websites within the XTRIBE Website or App are not under the dominion or control of XTRIBE and XTRIBE is not responsible for the contents or functionality of any linked site, or any changes or updates to such sites. Your use of such third party linked sites is governed by the terms and conditions, and privacy policies, of such linked sites.

P. RATINGS & REVIEWS ARE NOT ENDORSED BY XTRIBE

All Ratings and Reviews of a Product Vendor displayed to you reflect the opinions of other consumers, and do not reflect or represent the opinions or representations of XTRIBE. XTRIBE disclaims any and all representations or warranties with regard to the Ratings and Reviews. XTRIBE does not assume responsibility or liability for any Review or for any claims, damages, or losses resulting from any use of the Site or the materials contained therein.

Q. COMPLIANCE WITH LAWS

The App and Website are hosted in the Italy. If you are accessing the App and/or Website from anywhere outside of the Italy, you agree to comply with all applicable laws, rules and/or regulations relevant to your use of the App and/or Website in your territory, including, without limitation, laws, rules and/or regulations relating to export of data, import of any prize, use/download of any app, import of software etc.

R. MISCELLANEOUS

- i. These Terms and Conditions of Use constitute the entire agreement between you and XTRIBE with respect to the Services and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written, between the you and XTRIBE with respect to the Services. No additions, deletions, or modifications to these Terms and Conditions of Use shall be effective against XTRIBE unless set forth in writing and executed by XTRIBE. The failure of either party to enforce any provision of these Terms and Conditions of Use in any instance shall not be deemed a waiver of that provision in that or any other instance.
- ii. **DISPUTE RESOLUTION AND ARBITRATION**
IMPORTANT: PLEASE READ THIS SECTION CAREFULLY. IT MAY AFFECT YOUR RIGHTS.

BY ENTERING INTO THIS AGREEMENT AND ACCEPTING THE TERMS AND CONDITIONS OF USE, YOU AND XTRIBE BOTH AGREE TO RESOLVE ANY CLAIM, CONTROVERSY OR DISPUTE BETWEEN YOU AND XTRIBE, INCLUDING, WITHOUT LIMITATION, ANY CLAIM, CONTROVERSY OR DISPUTE ARISING OUT THE SERVICES PROVIDED BY XTRIBE THROUGH BINDING ARBITRATION (OR, IF THE CASE QUALIFIES, BY COMMENCING AN INDIVIDUAL ACTION IN SMALL CLAIMS COURT) INSTEAD OF IN COURTS OF GENERAL JURISDICTION.

PLEASE NOTE THAT ARBITRATION IS MORE INFORMAL THAN LITIGATION. THERE IS NO JUDGE OR JURY IN AN ARBITRATION PROCEEDING BUT THERE IS A NEUTRAL ARBITRATOR INSTEAD AND THE PROCEDURES MAY BE DIFFERENT THAN IN A COURT. ARBITRATION ALLOWS FOR MORE LIMITED DISCOVERY AND LIMITED APPELLATE REVIEW BUT AN ARBITRATOR CAN AWARD THE SAME DAMAGES AND RELIEF AS A COURT, INCLUDING ATTORNEYS' FEES, IF APPLICABLE.

PLEASE ALSO NOTE THAT THE SUBJECT MATTER OF THIS AGREEMENT IS AN INTERSTATE COMMERCE TRANSACTION. CONSEQUENTLY, THE FEDERAL ARBITRATION ACT ("FAA") GOVERNS THE INTERPRETATION AND ENFORCEMENT OF THIS AGREEMENT.

In addition, you and XTRIBE both agree that:

(1) Reference to "XTRIBE" includes its parents, subsidiaries, affiliates, predecessors, successors, assigns, and its directors, officers, employees and agents. Reference to "you" includes your heirs, personal representative and all beneficiaries of this Agreement and all users of the products and/or services provided under this Agreement.

(2) BY ENTERING INTO THIS AGREEMENT AND ACCEPTING THE TERMS AND CONDITIONS OF USE, YOU AND XTRIBE ARE EACH WAIVING THE RIGHT TO A JURY TRIAL ("JURY TRIAL WAIVER") OR TO PARTICIPATE IN A CLASS ACTION OR CLASS ARBITRATION ("CLASS ACTION WAIVER"), INCLUDING, WITHOUT LIMITATION, CLASS ACTIONS OR CLASS ARBITRATIONS BEGUN BY OTHERS PRIOR TO THE DATE OF THIS

AGREEMENT EVEN IF APPLICABLE LAW OR THE AMERICAN ARBITRATION ASSOCIATION RULES WOULD ALLOW IT. YOU AND XTRIBE MAY EACH BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR CONSOLIDATED OR REPRESENTATIVE PROCEEDINGS. THE ARBITRATOR MAY AWARD DECLARATORY OR INJUNCTIVE RELIEF ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF WARRANTED BY THAT PARTY'S INDIVIDUAL CLAIM. IF THIS PARAGRAPH TWO (2) IS FOUND TO BE UNENFORCEABLE, THEN THE AGREEMENT TO ARBITRATE SHALL NOT APPLY.

(3) Any claim must first be brought to the attention of the other party by sending a written notice ("Claim Notice") to (a) your then-current (or last provided) billing address or email address, or (b) to XTRIBE at 401 Park Avenue South, 10th Floor New York, NY – 10016. In the unlikely event that the claim is not resolved within thirty (30) days after the Claim Notice is received, you or XTRIBE may commence arbitration proceedings pursuant to paragraph (4) below.

(4) The arbitration will be governed by the Consumer Arbitration Rules of the American Arbitration Association (the "AAA Rules"), as modified by this Agreement, and will be administered by the AAA. The AAA Rules are available by visiting www.adr.org or by calling +1 (800) 778-7879.

- iii. Unless you and XTRIBE agree otherwise, the arbitration will take place in the County (or equivalent) of your billing address, provided, however, that if your billing address is outside of the United States, the arbitration will take place in New York County, New York. There will be one single neutral arbitrator appointed pursuant to the AAA Rules. If your claim is for \$10,000.00 or less, you can choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, or by a hearing in-person or by phone. If your claim exceeds \$10,000.00, arbitration proceedings will be carried out in accordance with the AAA Rules.

XTRIBE may reimburse you for all AAA filings, administration and arbitrator fees (collectively the “Arbitration Fees”) for any arbitration proceedings commenced in accordance with this Dispute Resolution and Arbitration section. In the event you cannot pay the Arbitration Fees, you may request in the Claim Notice that XTRIBE pay the Arbitration Fees directly. If, however, the arbitrator finds that your claim, its substance or the relief sought is frivolous or brought for an improper purpose, you agree to reimburse XTRIBE for all monies disbursed by it that are otherwise your obligation to pay under the AAA Rules. The arbitration award shall be final and binding upon both you and XTRIBE. The language of the arbitration shall be English.

(5) UNLESS OTHERWISE PROVIDED IN THIS DISPUTE AND ARBITRATION SECTION, EACH PARTY IS RESPONSIBLE FOR HIS/HER/ITS OWN ATTORNEY’S FEES, THE EXPENSES OF HIS/HER/ITS OWN WITNESSES, EXPERTS AND/OR INTERPRETERS AND ALL OTHER EXPENSES CONNECTED WITH PRESENTING THE CASE.

(6) An arbitration award and any judgment confirming such award apply only to that specific case and cannot be used in any other case except to enforce the award itself.

(7) The provisions set forth in this Dispute Resolution and Arbitration Section do not preclude you from bringing any issues you may have to the attention of federal, state or local government agencies, including, for example, the Federal Trade Commission, and if the law allows, such agencies can seek relief against XTRIBE on your behalf.

(8) The provisions set forth in this Dispute Resolution and Arbitration Section shall survive the termination of this Agreement or your contractual relationship with XTRIBE.

(9) NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT TO THE CONTRARY, EITHER YOU OR XTRIBE MAY ELECT TO BRING AN INDIVIDUAL ACTION IN SMALL CLAIMS COURT IF THE CASE QUALIFIES UNDER APPLICABLE LAW.

- iv. These Terms and Conditions of Use will inure the benefit of XTRIBE's successors, assigns and licensees. If for any reason a court of competent jurisdiction finds any provision of these Terms and Conditions of Use or portion thereof, to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to affect the intent of these Terms and Conditions of Use, and the remainder of these Terms and Conditions of Use shall continue in full force and effect. The total invalidity or unenforceability of any particular provision of these Terms and Conditions of Use shall not affect the other provisions hereof and these Terms and Conditions of Use shall be construed in all respects as if such invalid or unenforceable provision were omitted.
- v. These Terms and Conditions of Use will inure the benefit of XTRIBE's successors, assigns and licensees. If for any reason a court of competent jurisdiction finds any provision of these Terms and Conditions of Use or portion thereof, to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to affect the intent of these Terms and Conditions of Use, and the remainder of these Terms and Conditions of Use shall continue in full force and effect. The total invalidity or unenforceability of any particular provision of these Terms and Conditions of Use shall not affect the other provisions hereof and these Terms and Conditions of Use shall be construed in all respects as if such invalid or unenforceable provision were omitted.
- vi. XTRIBE reserves the right to modify these Terms and Conditions of Use at any time without notice. These Terms and Conditions of Use are binding upon you; therefore, you should review these Terms and Conditions of Use often and print a copy for your records.
- vii. These Terms and Conditions of Use shall be construed without any regard to any presumptions against the party causing the same to be prepared.
- viii. You may not assign, delegate, convey and/or subcontract any of your rights, duties or obligations hereunder.

- ix. You acknowledge that any breach of these Terms and Conditions of Use will cause substantial and irreparable harm to XTRIBE for which money damages would be an inadequate remedy. Accordingly, XTRIBE shall in any such event be entitled to obtain, from any Court of competent jurisdiction, injunctive and other forms of equitable relief to prevent such breach and to recover from you XTRIBE'S costs (including, without limitation, reasonable legal and accounting fees) incurred in connection with enforcing these Terms and Conditions of Use, in addition to any other rights or remedies available at law, in equity or by statute.
- x. XTRIBE may terminate these Terms and Conditions of Use at any time for any reason or no reason at all, effective immediately, which may result in the forfeiture and destruction of all information associated with your access to the App and/or Website. Such termination shall not affect any right to relief to which XTRIBE, its affiliates and respective suppliers may be entitled, either at law or in equity. Upon termination of these Terms and Conditions of Use, all rights granted to you shall immediately terminate and revert to XTRIBE, its affiliates and respective suppliers, as applicable. If you wish to terminate your account, you may do so by following the instructions on the App and/or Website. Any fees paid hereunder are non-refundable. All provisions of these Terms and Conditions of Use which by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnity and limitations of liability.
- xi. The headings used in these Terms and Conditions of Use are provided for convenience only, do not constitute a part of these Terms and Conditions of Use and shall not be used to construe meaning or intent.
- xii. The failure of XTRIBE to exercise or enforce any right or provision of the Terms and Conditions of Use shall not constitute a waiver of such right or provision. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Services or the Terms and Conditions of Use must be filed within one (1) year after such claim or cause of action arose or be forever barred.

xiii. Any rights not expressly granted herein are reserved.

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Comments and Questions: Any questions, comments or concerns should be sent to XTRIBE click [here](#).