

LoyaltyPlant Terms of Use and End User License Agreement

These terms constitute an agreement between loyaltyplant inc., the owner of the loyaltyplant.Com website, and its affiliates (“loyaltyplant”, “we” or “us”) and you. These terms of use (“terms”) apply to your access and use of the loyaltyplant online services, including use of websites, mobile/tablet applications and/or other online programs developed by loyaltyplant and operated by loyaltyplant or its affiliates, and the materials, software and content available in or through them (altogether, “loyaltyplant online services”).

Please read these terms carefully before using any of the loyaltyplant online services. By accessing, downloading or using any of the loyaltyplant online services, you affirm that you are able and legally competent to accept and agree to these terms, our [privacy policy](#), and any additional terms as described herein, and you acknowledge that you have read and agree to be bound by them. If you disagree with any part of these terms or our privacy policy, then please do not access or use any of the loyaltyplant online services. Please note that these terms contain provisions that govern the resolution of disputes between us and you and limit our liability to you, and we recommend that you print out a copy of these terms for your records.

1. Terms, Supplemented and Additional Terms

Certain services offered by through the LoyaltyPlant Online Services, including mobile applications, loyalty programs, gift cards, sweepstakes and other promotions, may be governed by additional terms and conditions presented in conjunction with them (“Additional Terms”). You must agree to the Additional Terms before using such services. These Terms and any Additional Terms will apply equally. In the event of an irreconcilable inconsistency between any Additional Terms and these Terms, the Additional Terms will prevail.

2. Changes to Terms

We may change these Terms so please check back from time to time. If we make material changes to these Terms, we will inform you in advance by posting a notice within the LoyaltyPlant Online Services. We may also notify you of such material changes via electronic communication, and we may ask you to affirmatively accept changes to these Terms at the time of your next account login, access or use of the LoyaltyPlant Online Services. By continuing to use the LoyaltyPlant Online Services after such notice and/or acceptance, you agree to be bound by these Terms as modified. All changes are effective when we post them and apply to your access and use of the LoyaltyPlant Online Services thereafter. Changes to the Dispute Resolution provisions below do not apply to any dispute for which you or we have actual notice prior to the date that the revised Terms are effective.

3. Users and Accounts

The LoyaltyPlant Online Services are not intended for use by anyone under age 13. **YOU MUST BE AT LEAST AGE 13 TO ACCESS AND USE THE LOYALTYPLANT ONLINE SERVICES.** By accessing, using and/or submitting information to or through the LoyaltyPlant Online Services, you represent that you are at least age 13.

Anyone between age thirteen (13) and eighteen (18) may only use the LoyaltyPlant Online Services under the supervision of his/her parent or a legal guardian. IF YOU ARE A PARENT/LEGAL GUARDIAN AND YOU PROVIDE YOUR CONSENT TO YOUR TEENAGER'S ACCESS TO AND USE OF THE LOYALTYPLANT ONLINE SERVICES, YOU AGREE TO BE BOUND BY THESE TERMS. Parental control protections (such as computer hardware, software or filtering services) are commercially available that may assist you in limiting access to material that is harmful to minors.

You may need to create and register an account in order to use certain LoyaltyPlant Online Services. In creating an account, you agree to:

- create only one account;
- provide honest, accurate, truthful, current and complete information;
- keep your information updated and accurate;
- maintain the security of your account by not sharing your password with others and restricting access to your account and your computer;
- promptly notify LoyaltyPlant if you discover or suspect that your account has been hacked or its security breached; and
- take responsibility for all activities that occur under your account and accept all risks of unauthorized access.

You are responsible for providing the equipment and services that you need to access and use the LoyaltyPlant Online Services. We do not guarantee that the LoyaltyPlant Online Services are accessible on any particular equipment or device or with any particular software or service plan.

We reserve the right, without notice and in our sole discretion at any time, to terminate your right to access and use the LoyaltyPlant Online Services or any component of them and to block or prevent future access to and use of the LoyaltyPlant Online Services and to delete your account and any related information. Any obligation or liability incurred prior to our termination of your access to the LoyaltyPlant Online Services will survive such termination.

4. Personal Use End User License Agreement

The LoyaltyPlant Online Services are owned by LoyaltyPlant and licensed to you either directly or through our Affiliates for your personal, non-commercial use only. Except as expressly provided in these Terms, you may not copy, distribute, publish, transmit, modify, transmit, publicly display or perform, create derivative works of or otherwise exploit any part of the LoyaltyPlant Online Services. You may not save or archive a significant portion of the material appearing in or on the LoyaltyPlant Online Services. All rights not expressly granted herein are reserved by LoyaltyPlant.

You acknowledge that certain software that is part of the LoyaltyPlant Online Services is subject to export controls under the laws and regulations of the United States. In connection with these laws, you certify that you are not and are not affiliated with any person or entity (a) on any of the U.S. Treasury Department's lists of Specially Designated Nationals (including officials of the Government of Iran, Government of Sudan, or Government of Cuba, or prohibited members of the Cuban Communist Party); (b) on the U.S. Commerce Department's Denied Persons List, Entity List, Unverified List, or Consolidated Screening List (see www.bis.doc.gov); or (c) on the U.S. State Department's Debarred List or Nonproliferation List, and that you are not engaged in the design, development, production, stockpiling or use of nuclear, chemical or biological weapons,

or missiles. You also certify that you are not (i) a citizen or resident of an embargoed country; (ii) affiliated with any entity, wherever located, that is owned or controlled by the government of an embargoed country and that you will not export, reexport, transfer, divert, make available or provide access to the LoyaltyPlant Online Services to any such person or entity.

5. Privacy, Confidentiality and Noncompetition

The privacy and security of your information is important to LoyaltyPlant. Our [Privacy Policy](#) is incorporated into these Terms and also governs your use of the LoyaltyPlant Online Services. To the extent there is a conflict between the terms of the Privacy Policy and these Terms, these Terms govern. The Privacy Policy describes the data that we gather about or from users of the LoyaltyPlant Online Services and how we process, use and share that data. By using the LoyaltyPlant Online Services, you consent to all actions that we take with respect to your data consistent with our Privacy Policy.

You acknowledge that the LoyaltyPlant Online Services incorporate confidential and proprietary information developed or acquired by, or licensed to, LoyaltyPlant (“Confidential Information”). You agree to take all reasonable precautions necessary to safeguard the confidentiality of this Confidential Information, including those that LoyaltyPlant or its designee may prescribe from time to time. You will not remove or deface of any confidentiality or proprietary notice placed on the LoyaltyPlant Online Services, and you agree that placement of a copyright notice on any part of the LoyaltyPlant Online Services will not constitute publication or otherwise impair its confidential nature. You agree that you will not use the LoyaltyPlant Online Services with the intention of producing competing services or software applications. You acknowledge that the unauthorized use or dissemination of such confidential and proprietary information will cause irreparable harm to LoyaltyPlant for which there is no adequate remedy at law, and that LoyaltyPlant will be entitled to injunctive relief in such event without necessity of posting bond or other security.

6. Responsible Use of the LoyaltyPlant Online Services

You may use the LoyaltyPlant Online Services for lawful purposes and in accordance with these Terms. You may not use the LoyaltyPlant Online Services:
for any purpose that is unlawful or prohibited by these Terms or the LoyaltyPlant Acceptable Use Policy;
to cause harm or damage to any person or entity;
interfere with the proper operation of the LoyaltyPlant Online Services; or
to upload, post or transmit any material that violates any law, infringes on the rights of any third party or contains defamatory, libelous, abusive, obscene or otherwise objectionable material (as determined by LoyaltyPlant in its sole discretion).

YOU AGREE TO DEFEND, INDEMNIFY AND HOLD HARMLESS LOYALTYPLANT AND ITS PARENTS, AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, FRANCHISEES, AGENTS, LICENSORS, BUSINESS ASSOCIATES, AND SUPPLIERS FROM AND AGAINST ANY ACTUAL OR THREATENED CLAIMS, ACTIONS OR DEMANDS, LIABILITIES AND SETTLEMENTS (INCLUDING, WITHOUT LIMITATION, REASONABLE LEGAL AND ACCOUNTING FEES) RESULTING (OR ALLEGED TO RESULT) FROM YOUR USE OF ANY LOYALTYPLANT ONLINE SERVICES IN ANY MANNER THAT VIOLATES OR IS ALLEGED TO VIOLATE APPLICABLE LAW OR THESE TERMS.

7. Provision of the LoyaltyPlant Online Services

We are constantly improving the LoyaltyPlant Online Services to provide the best possible experience for you and other users. You acknowledge and agree that the LoyaltyPlant Online Services, or certain features of the LoyaltyPlant Online Services, may change from time to time without notice to you. Any new feature that augments, enhances or modifies the current LoyaltyPlant Online Services is subject to these Terms.

You acknowledge and agree that we may decline to provide access to the LoyaltyPlant Online Services or stop (permanently or temporarily) providing the LoyaltyPlant Online Services (or any feature, program or content within the LoyaltyPlant Online Services) to you or other users at our sole discretion, without notice or liability to you. You may stop using any part of the LoyaltyPlant Online Services at any time. You do not need to specifically inform us when you stop using the LoyaltyPlant Online Services.

You acknowledge and agree that if we disable access to your account, you may be prevented from accessing the LoyaltyPlant Online Services, your account details, or any files or other content which are contained in your account.

If you use a mobile device to access the LoyaltyPlant Online Services, the following additional terms and conditions ("Mobile Terms") also apply:

You agree that you are solely responsible for all message and data charges that apply to use of your mobile device to access the LoyaltyPlant Online Services. All such charges are billed by and payable to your mobile service provider. Please contact your participating mobile service provider for pricing plans, participation status and details. You understand that wireless service may not be available in all areas at all times and may be affected by product, software, coverage or service changes made by your service provider or otherwise.

Additional terms and conditions may apply to your use of our mobile applications based on the type of mobile device that you use.

If you opt in to participate in one of our text message programs, you provide your advance consent to receive text messages from an automated system. Your consent was not and is not required as a condition of purchasing any property, goods, or services from us. If you wish to withdraw your consent and unsubscribe, please text STOP to the appropriate short code.

Message frequency depends on the program.

YOUR ACCESS TO AND USE OF THE LOYALTYPLANT ONLINE SERVICES VIA YOUR MOBILE DEVICE CONFIRMS YOUR AGREEMENT TO THE MOBILE TERMS, AS WELL AS THE REST OF THESE TERMS.

8. Service-Specific Terms and Conditions

8.1. LoyaltyPlant Members, Accounts and Update Program.

The term "Member" as used in these Terms means an individual user of the LoyaltyPlant Online Services who creates an LoyaltyPlant account ("Account") by providing his/her name, password, valid email address, zip code of his/her primary residence and date of birth. To become a Member, you must reside in and have a valid zip code in the 48 contiguous U.S. states or Washington D.C. Groups, clubs or organizations cannot be Members, and the Program is void outside the 48 contiguous U.S., states and Washington D.C. and where otherwise prohibited, restricted or taxed.

When you become an LoyaltyPlant Member, you will be automatically enrolled in the LoyaltyPlant Update Program (“Update Program”) to receive emails, SMS text messages, direct mail and other communications (“Communications”) with the latest news from LoyaltyPlant Affiliates, special offers, and coupons. When creating an Account, you may choose not to receive certain Communications (see Opting Out of Communications, below) but your email address and other contact information may be retained indefinitely in our Update Program database for administrative purposes. If you choose not to receive Communications, you may not receive Update Program benefits, such as special offers or coupons that LoyaltyPlant Affiliates may make available to Members from time to time, and which may be subject to specific terms, restrictions and conditions.

Creating an Account does not guarantee receipt of any Communications or the availability to you of any coupons, special or promotional offers. The Update Program or any component of it is subject to change or termination without notice. Continued participation in the Update Program constitutes acceptance of its then-current terms and conditions.

Members are responsible for updating their Accounts. We are not responsible for any Communications sent to an incorrect or incomplete address or number, or for any lost, late, misdirected, damaged, postage-due or illegible mailings or other Communications. We reserve the right to correct and not honor errors made in our Communications with you.

You consent to receiving Communications from LoyaltyPlant and its Affiliates, and acknowledge that Communications from LoyaltyPlant Affiliates is provided by them and, as such, LoyaltyPlant disclaims all responsibility and liability for those Communications. Specifically, you acknowledge that LoyaltyPlant is not responsible for the accuracy, usefulness, safety or intellectual property rights of or relating to any Communication. AFFILIATES ARE THE SOLE PARTIES RESPONSIBLE FOR CONTENT. Further, you understand and acknowledge that you may be exposed to Communications that are inaccurate, offensive, indecent, or objectionable, and you hereby agree to waive, and do waive, any legal or equitable rights or remedies you have or may have against LoyaltyPlant in this respect.

8.2. LoyaltyPlant Mobile Application

LoyaltyPlant makes its mobile application available through its Affiliates. Regarding the LoyaltyPlant Mobile Application (“Mobile App”), these Terms supplement and incorporate (a) the Apple, Inc. (“Apple”) Terms and Conditions (located at www.apple.com) including, without limitation, the Licensed Application End User License Agreement provided therein (“Apple Terms”); and (b) the relevant terms of the Google Inc. (“Google”) Google Play Developer Distribution Agreement (“Supplemented Terms”). You must agree to these Supplemented Terms as well as these Terms before using the LoyaltyPlant Mobile App. In the event of an irreconcilable inconsistency between any Supplemented Terms and these Terms, these Terms will prevail.

In addition, the Mobile App may make special offers available from time to time (“App Offers”). App Offers may be based on your particular location or purchasing history using the Mobile App. App Offers also may be subject to additional terms and conditions as described in the App Offer. These App Offers are an integrated feature of the Mobile App. If you do not wish to receive App Offers, you must delete the Mobile App from your mobile device(s).

By downloading and using the Mobile App you acknowledge and agree that you accept the Supplemented Terms, and that LoyaltyPlant is solely responsible for the Mobile App and the content thereof, and not Apple or Google.

8.3. LoyaltyPlant Rewards Program

LoyaltyPlant Affiliates may offer rewards programs using LoyaltyPlant technology included in the LoyaltyPlant Online Services (each such program being a “Rewards Program”). To participate, you will need to enroll separately, and accept certain Rewards Program specific terms and conditions. Those Rewards Program terms and conditions will be in addition to these Terms, however, these Terms shall also govern your participation in any such Rewards Program. To the extent there is a conflict between the terms of any Rewards Program and these Terms, these terms will govern. LoyaltyPlant is in no way responsible for providing or redeeming any loyalty points or rewards on behalf of any Affiliate. AFFILIATES ARE THE SOLE PARTIES RESPONSIBLE FOR PROVIDING AND REDEEMING ANY LOYALTY POINTS OR REWARDS. You agree to abide by the terms and conditions that any Affiliate may impose on any loyalty points or rewards provided by such Affiliate, and you shall fully indemnify LoyaltyPlant for your violation of any such terms and conditions.

8.4. LoyaltyPlant Gift Card Program

LoyaltyPlant Affiliates may offer gift card programs using LoyaltyPlant technology included in the LoyaltyPlant Online Services (each such program being a “Gift Card Program”). To participate, you will need to enroll separately, and accept certain Gift Card Program specific terms and conditions. Those Gift Card Program terms and conditions will be in addition to these Terms, however, these Terms shall also govern your participation in any such Gift Card Program. To the extent there is a conflict between the terms of any Gift Card Program and these Terms, these terms will govern.

You acknowledge that gift cards, if any, sold through the LoyaltyPlant Online Services will be issued by LoyaltyPlant’s Affiliate (in this case, the “Issuer”), and not LoyaltyPlant. You agree to abide by the terms and conditions that any Issuer may impose on any gift cards provided by such Issuer, and you shall fully indemnify LoyaltyPlant for your violation of any such terms and conditions.

Gift Card Programs using LoyaltyPlant technology may not be targeted towards, nor intended for use by, anyone under the age of 13. If you are between the ages of 13 and 18, you may only enroll in LoyaltyPlant Affiliate Gift Card Programs under the supervision of a parent or legal guardian who agrees to be bound by these terms and conditions.

Gift Card Programs must also provide that gift cards may only be purchased in the United States for redemption at participating locations in the United States, ensure that gift cards do not expire, and that no fees for inactivity or service fees apply.

You agree that the Issuer of any gift card is solely responsible for the operation and maintenance of its Gift Card Program, that Issuer is the sole legal obligor to gift card holders who purchase gift cards, and that LoyaltyPlant shall have no responsibility or liability for any gift cards or gift card programs. You hereby release LoyaltyPlant and its affiliates from any and all liability or claims of any nature whatsoever arising in connection with any gift card you obtain through the Software.

Gift cards are not debit or credit cards, and should be treated like cash. Lost, damaged or stolen cards may not be replaced. Issuers may only give refunds for unused gift cards with the original receipt as required by law, and the dollar value on any gift card purchased through the Gift Card Program may be otherwise nonrefundable and may not be redeemed for cash or credit, or applied as payment to any credit or other account. Gift

cards may only be redeemed for purchases of food and beverages, and due to limitations within the LoyaltyPlant Online Services, gift cards may only be applied to purchases that are equal to or higher than the dollar value of any gift card that is being redeemed. The dollar value on such gift cards also is not insured by the Federal Deposit Insurance Corporation (FDIC), nor does it earn interest.

Gift Card Programs can allow gift cards to be purchased or reloaded using the LoyaltyPlant Online Services or at participating Issuer locations in the United States. In addition, you may be allowed to use a credit or debit card to purchase a digital gift card that will be sent by the Issuer via email to your own or a third party's email address as a gift. By purchasing a gift card, you represent to LoyaltyPlant and the Issuer that you have the right to provide the email address and other information requested by Issuer, and you authorize the Issuer to charge your credit card, debit card at the time you purchase your gift card regardless of the date you choose for delivery. You also agree to obtain the consent of any person to whom you give a gift card, and their agreement to be bound by these terms and conditions.

Gift cards may not be resold by any unauthorized vendor under penalty of law; unlawful resale or attempted resale is grounds for seizure and cancellation without compensation. Issuers generally will not honor gift cards purchased through an unauthorized vendor, including any Internet auction sites.

9. Opting Out of Update Communications

To opt-out of LoyaltyPlant Update communications, except "transactional or relationship" communications as defined in our Privacy Policy, you may click on the unsubscribe link at the bottom of any LoyaltyPlant email or update your LoyaltyPlant account if you have one. To opt-out of SMS text messages from LoyaltyPlant, you can update your LoyaltyPlant account if you have one OR text STOP to the appropriate short code from the mobile device where you received the SMS text message. If you wish to stop receiving "transactional or relationship" Electronic Communications, you must delete your LoyaltyPlant user account.

10. DISCLAIMER OF WARRANTY AND LIMITATION OF LIABILITY

MANY JURISDICTIONS HAVE LAWS PROTECTING CONSUMERS AND OTHER CONTRACT PARTIES, LIMITING THEIR ABILITY TO WAIVE CERTAIN RIGHTS AND RESPONSIBILITIES. WE RESPECT SUCH LAWS, AND NOTHING HEREIN SHALL WAIVE RIGHTS OR RESPONSIBILITIES THAT CANNOT BE WAIVED.

TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, LOYALTYPLANT DOES NOT MAKE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE COMPLETENESS, ACCURACY, AVAILABILITY, TIMELINESS, PROPRIETY, SECURITY OR RELIABILITY OF ANY OF THE LOYALTYPLANT ONLINE SERVICES. WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SENTENCE, LOYALTYPLANT SPECIFICALLY DISCLAIMS, TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PURPOSE, AND ALL WARRANTIES OF TITLE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS, WITH RESPECT TO ALL OF ITS ONLINE SERVICES AND ALL MATERIALS ACCESSIBLE THROUGH THE LOYALTYPLANT ONLINE SERVICES.

YOU AGREE THAT YOUR ACCESS AND USE OF THE LOYALTYPLANT ONLINE SERVICES ARE AT YOUR OWN RISK, AND THAT THEY ARE PROVIDED "AS IS" AND "AS AVAILABLE". WE ARE NOT LIABLE FOR ANY HARM RESULTING FROM: (A)

CONTENT POSTED BY OTHER USERS; (B) THE CONDUCT OF OTHER USERS, E.G. ILLEGAL CONDUCT; (C) YOUR USE; OR (D) OUR REPRESENTATIONS.

TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, LOYALTYPLANT IS NOT LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR OTHER DAMAGES ARISING FROM YOUR USE OF, OR INABILITY TO USE, ANY OF THE LOYALTYPLANT ONLINE SERVICES OR ANY MATERIALS AVAILABLE IN ANY LOYALTYPLANT ONLINE SERVICE.

LOYALTYPLANT DOES NOT GUARANTEE THAT THE FUNCTIONS CONTAINED IN ANY OF THE LOYALTYPLANT ONLINE SERVICES WILL BE SECURE, UNINTERRUPTED OR ERROR-FREE, THAT EACH THE LOYALTYPLANT ONLINE SERVICES WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT DEFECTS WILL BE CORRECTED EVEN IF LOYALTYPLANT IS AWARE OF THEM.

IN NO EVENT WILL LOYALTYPLANT AND ITS PARENT'S OR AFFILIATES' TOTAL LIABILITY TO YOU FOR DAMAGES, LOSSES AND CAUSES OF ACTION (WHETHER IN CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), OR OTHERWISE) EXCEED THE AMOUNT PAID BY YOU, IF ANY, FOR ACCESSING THE LOYALTYPLANT ONLINE SERVICES OR \$100, WHICHEVER IS LESS. YOU AGREE TO BRING ANY AND ALL ACTIONS WITHIN ONE (1) YEAR FROM THE DATE OF THE ACCRUAL OF THE CAUSE OF ACTION AND THAT ACTIONS BROUGHT AFTER THIS DATE WILL BE BARRED.

NOTHING IN THESE TERMS WILL EXCLUDE OR LIMIT LOYALTYPLANT' LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY OUR NEGLIGENCE.

11. Copyright and Trademark

Unless otherwise noted, all materials published on any LoyaltyPlant Online Service are protected as the copyrights, trade dress, trademarks and/or other intellectual properties owned by LoyaltyPlant and/or its affiliates or by other parties that have licensed their material to LoyaltyPlant ("LoyaltyPlant Marks"). LoyaltyPlant Marks displayed in the LoyaltyPlant Online Services represent some of the proprietary rights currently owned or controlled by LoyaltyPlant in the United States and/or in other countries and are not intended to be a comprehensive compilation of all LoyaltyPlant' worldwide proprietary ownership rights.

Other trademarks, service marks, graphics and logos used in connection with the LoyaltyPlant Online Services are the trademarks of their respective owners (collectively "Third Party Marks").

The LoyaltyPlant Marks and Third Party Marks may not be copied, imitated, or used, in whole or in part, without the prior written permission of the applicable trademark holder. You may not remove or alter any copyright, trademark or other proprietary right notice in the LoyaltyPlant Online Services. All rights not expressly granted are reserved.

12. Digital Millennium Copyright Act ("DMCA") Policy

This DMCA statement constitutes part of the legal terms and conditions governing all users of the LoyaltyPlant Online Services. In compliance with the DMCA (Title 17, United States Code), LoyaltyPlant will respond to proper notifications of claimed copyright infringement with respect to material posted by users, and will take appropriate action including removing and disabling access to the allegedly infringing material. LoyaltyPlant

also reserves the right to remove and disable access to any user-posted material which, in LoyaltyPlant' sole judgment, may be infringing or violating another's intellectual property right, whether or not LoyaltyPlant has been notified by the rights holder.

12.1. Repeat Infringer Policy

In accordance with the DMCA and other applicable law, LoyaltyPlant has adopted a policy of terminating, in appropriate circumstances, the accounts of registered users who are determined by LoyaltyPlant to be repeat infringers. LoyaltyPlant may also, in its sole discretion, suspend and/or terminate the account of any registered user who infringes another's intellectual property right, whether or not there is repeat infringement.

12.2. Designated Agent

In compliance with the DMCA, the Designated Agent for LoyaltyPlant to receive notifications of claimed infringement relating to any of the LoyaltyPlant Online Services is registered at copyright.gov

Name: Daniil Rubinstein

Designated DMCA Agent

By mail: LoyaltyPlant Inc.

55 Broad Street

New York, NY 10004

By telephone: 1-844-431-9998

12.3. Notice of Claimed Copyright Infringement

If you believe that your copyright has been infringed or violated by any material posted on any of the LoyaltyPlant Online Services, please notify our Designated Agent listed above in writing and provide the following:

12.3.1 a physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;

12.3.2 identification of the copyrighted work claimed to have been infringed, or if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;

12.3.3 identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material;

12.3.4 information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and if available, an electronic mail address;

12.3.5 a statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and

12.3.6 a statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

12.4. Counter-Notification to Claimed Copyright Infringement

Under the DMCA, if a notice of copyright infringement has been filed against material posted by you on any of the LoyaltyPlant Online Services, you may make a counter-notification with our Designated Agent listed above, provided that such counter-notification must be in writing and contain the following:

12.4.1 your physical or electronic signature;

12.4.2 identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled;

12.4.3 a statement by you under penalty of perjury that you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification; and
12.4.4 your name, address, and telephone number, and a statement that you consent to the jurisdiction of Federal District Court for the judicial district in which you are located (or in the State of New York, U.S.A., if you reside outside of the U.S.A.), and that you will accept service of process from the person who filed the notice of copyright infringement or an agent of such person.

If LoyaltyPlant receives a valid counter-notification, it may reinstate the removed or disabled material in accordance with the DMCA.

12.5. Liability for Misrepresentation under the DMCA

Please note that, pursuant to the DMCA, any person who knowingly materially misrepresents that any material or activity is infringing, or that any material or activity was removed or disabled by mistake or misidentification, will be liable for damages, including costs and attorneys' fees, incurred by the alleged infringer, by any copyright owner or copyright owner's authorized licensee, or by an online service provider, who is injured by such misrepresentation, as the result of the service provider relying upon such misrepresentation in removing or disabling access to the material or activity claimed to be infringing, or in replacing the removed material or ceasing to disable access to it. Accordingly, if you are not sure whether certain material or activity infringes your or another's copyright, please consult with a qualified attorney.

13. Links

Links provided within the LoyaltyPlant Online Services will allow you to connect to other websites and services that are not under LoyaltyPlant' control. We do not endorse and are not responsible for the content of such websites and/or services. You access such websites and use such services at your own risk.

14. Errors, Inaccuracies and Moderation.

The LoyaltyPlant Online Services may contain errors, inaccuracies or omissions related to product descriptions, pricing, promotions, offers, availability and other information. If any information in the LoyaltyPlant Online Services is inaccurate, incomplete or out of date, we reserve the right to correct, change or update such information or to cancel orders related to such information (including after you have submitted an order) without prior notice and issue a refund for amounts paid. We cannot guarantee that your computer's display of color or other product features is accurate. If anything that you purchase through the LoyaltyPlant Online Services is not satisfactory to you, your sole remedy is to return it (unused) for a refund.

You agree we may moderate access and use to the LoyaltyPlant Online Services in our sole discretion, e.g. by blocking (e.g. IP addresses), filtering, deletion, delay, omission, verification, and/or access/account/license termination. You agree not to bypass said moderation, and you agree that we are not liable for moderating, not moderating, or representations as to moderating, and further, you agree that nothing we say or do waives our right to moderate, or not.

15. Feedback and Submissions

Unfortunately, LoyaltyPlant is unable to accept unsolicited ideas, and by submitting any material to us through any of the LoyaltyPlant Online Services, you expressly grant to

LoyaltyPlant and its affiliates a royalty-free, non-exclusive, fully transferable, assignable and sublicensable right and license to use, reproduce, modify, display, transmit, adapt, publish, translate, create derivative works from and distribute such material, throughout the world and in perpetuity, in all media now known or hereafter devised and for all lawful business purposes of LoyaltyPlant and its affiliates (including, without limitation, advertising, promotional and marketing purposes). You also acknowledge and agree that if and to the extent the material submitted by you identifies you by name, likeness, voice or otherwise ("your identification"), the foregoing license granted by you will automatically be deemed to cover and extend to our use of your identification in connection with our use of the material submitted by you. In addition, you warrant that all so-called "moral rights" have been waived.

16. Geographical Scope of the LoyaltyPlant Online Services

LoyaltyPlant controls and operates the LoyaltyPlant Online Services from within the United States. Unless otherwise specified on any LoyaltyPlant Online Services, the LoyaltyPlant Online Services are intended to promote only those LoyaltyPlant products that are sold by LoyaltyPlant in the United States; LoyaltyPlant makes no representation that the materials in the LoyaltyPlant Online Services or the products described thereby are appropriate or available for use in other locations. If you access the LoyaltyPlant Online Services from outside the United States, be advised the LoyaltyPlant Online Services may contain references to products and services that are not available or are prohibited in your country. All visitors to and users of the LoyaltyPlant Online Services are responsible for compliance with all local laws applicable to them with respect to the content and operation of the LoyaltyPlant Online Services.

This English-language set of terms is LoyaltyPlant's official statement of its terms of use for all the LoyaltyPlant Online Services. In case of any inconsistency between these English-language set of terms and its translation into another language, these English-language Terms prevail.

17. Acceptable Use

Certain materials on the LoyaltyPlant Online Services describe items for sale by third parties. They do not constitute an offering for the sale of items by LoyaltyPlant through the LoyaltyPlant Online Services. Any purchase or sale of such items shall take place between you and our Affiliate, and shall be subject your compliance with the various federal, state and local laws governing those transactions.

18. Governing Law

The documents relating to your use of the LoyaltyPlant Online Services, including these Terms, shall be governed by the laws of the State of New York. By using the LoyaltyPlant Online Services you agree to subject yourself to the exclusive jurisdiction of the Supreme Court of the State of New York, County of New York and/or the United States District Court for the Southern District of New York for the litigation of any claims arising out of or relating to the LoyaltyPlant Online Services that are not covered by the arbitration clause contained herein.

19. Entire Agreement

These Terms constitute the entire agreement between you and LoyaltyPlant with respect to the subject matter of these Terms, and supersede and replace any other prior or

contemporaneous agreements, or terms and conditions applicable to the subject matter of these Terms. These Terms create no third party beneficiary rights.

20. Waiver, Severability & Assignment

No delay or failure on the part of LoyaltyPlant to enforce any part of these Terms will constitute a waiver of any of LoyaltyPlant' rights under these Terms whether for past or future actions on the part of any person. Neither the receipt of any funds by LoyaltyPlant nor the reliance of any person on LoyaltyPlant' actions will be deemed to constitute a waiver of any part of these Terms. Only a specific, written waiver signed by an authorized representative of LoyaltyPlant will have any legal effect whatsoever.

If any provision of these Terms is determined to be illegal, invalid or unenforceable under present or future law, such provision will be deemed to be deleted without affecting the enforceability of all remaining provisions, and the remaining provisions will remain in full effect, and an enforceable term will be substituted reflecting our intent as closely as possible.

These Terms and the rights granted hereunder may be assigned by LoyaltyPlant but you may not assign them without the prior express written consent of LoyaltyPlant, and any such attempt will be void.

21. Dispute Resolution

YOU AND LOYALTYPLANT AGREE TO GIVE UP ANY RIGHTS TO LITIGATE CLAIMS IN A COURT OR BEFORE A JURY OR TO PARTICIPATE IN A CLASS ACTION OR REPRESENTATIVE ACTION WITH RESPECT TO A CLAIM. OTHER RIGHTS THAT YOU WOULD HAVE IF YOU WENT TO COURT, SUCH AS ACCESS TO DISCOVERY, ALSO MAY BE UNAVAILABLE OR LIMITED IN ARBITRATION.

Any dispute between you and LoyaltyPlant and its agents, employees, officers, directors, principals, successors, assigns, subsidiaries or affiliates (collectively for purposes of this section, "LoyaltyPlant") arising from or relating to these Terms and their interpretation or the breach, termination or validity thereof, the relationships which result from these Terms, including disputes about the validity, scope or enforceability of this arbitration provision (collectively, "Covered Disputes") will be settled by binding arbitration in Richmond County, in the State of New York administered by the American Arbitration Association (AAA) under its Commercial Arbitration Rules, in effect on the date thereof. Prior to initiating any arbitration, the initiating party will give the other party at least 60-days' advanced written notice of its intent to file for arbitration. LoyaltyPlant will provide such notice by e-mail to your e-mail address on file with LoyaltyPlant and you must provide such notice by completing the form on the LoyaltyPlant [website](#) with "Legal Dispute" appearing in the first line of the request box. During such 60-day notice period, the parties will endeavor to settle amicably by mutual discussions any Covered Disputes. Failing such amicable settlement and expiration of the notice period, either party may initiate arbitration.

Payment of all filing, administration and arbitrator fees will be governed by the AAA's rules. If, however, you are able to demonstrate that the costs of arbitration will be prohibitive as compared to the costs of litigation, LoyaltyPlant will pay as much of the filing, administration and arbitrator fees as the arbitrator deems necessary to prevent the arbitration from being cost-prohibitive for you. If the arbitrator determines the claim(s)

you assert in the arbitration are frivolous, you agree to reimburse LoyaltyPlant for all fees associated with the arbitration that LoyaltyPlant paid on your behalf, which you otherwise would be obligated to pay under the AAA's rules.

The arbitrator will have the power to grant whatever relief would be available in court under law or in equity and any award of the arbitrator(s) will be final and binding on each of the parties and may be entered as a judgment in any court of competent jurisdiction. The arbitrator will not, however, have the power to award punitive or exemplary damages, the right to which each party hereby waives, and the arbitrator will apply applicable law and the provisions of these Terms and the failure to do so will be deemed an excess of arbitral authority and grounds for judicial review. LoyaltyPlant and you agree that any Covered Dispute will be submitted to arbitration on an individual basis only. Neither LoyaltyPlant nor you are entitled to arbitrate any Covered Dispute as a class, representative or private attorney action and the arbitrator(s) will have no authority to proceed on a class, representative or private attorney general basis. If any provision of the agreement to arbitrate in this section is found unenforceable, the unenforceable provision will be severed and the remaining arbitration terms will be enforced (but in no case will there be a class, representative or private attorney general arbitration). Regardless of any statute or law to the contrary, notice on any claim arising from or related to these Terms must be made within one (1) year after such claim arose or be forever barred. For purposes of this section, these Terms and related transactions will be subject to and governed by the Federal Arbitration Act, 9 U.S.C. sec. 1-16 (FAA).

22. Taxes

You are solely responsible for any and all duties, taxes, levies or fees (including any sales, use or withholding taxes) imposed on or in connection with these Terms or the LoyaltyPlant Online Services by any authority.

23. Notice to California Residents

Under California Civil Code Section 1789.3, California residents are entitled to the following specific consumer rights information:

The provider of the LoyaltyPlant Online Services is LoyaltyPlant Inc., 55 Broad Street, New York, NY 10004.

To file a complaint regarding the LoyaltyPlant Online Services or to receive further information regarding use of the LoyaltyPlant Online Services, send a letter to the above address or contact LoyaltyPlant via the Contact form on the LoyaltyPlant [website](#) with "California Resident Request" appearing in the first line of the request box. You may also contact the Complaint Assistance Unit of the Division of Consumer Services of the Department of Consumer Affairs in writing at 400 R Street, Suite 1080, Sacramento, California 95814, or by telephone at 916.445.1254 or 800.952.5210.

24. General Provisions

The headings and captions contained herein are for convenience only. These Listing Terms will inure to the benefit of and will be binding upon each party's valid successors and assigns.

25. Contact LoyaltyPlant

If you have any questions regarding any of these Terms, you can contact us by using the Contact form on the LoyaltyPlant website <https://restaurants.loyaltyplant.com/support>.

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