

# TERMS OF USE AGREEMENT

## **1. Your Acceptance**

Welcome to Moonjee.com. Your use of <http://www.Moonjee.com> or other web sites owned or operated by Moonjee (the "Moonjee Sites") and the services provided through or in connection with the Moonjee Sites and viewing of the content available at the Moonjee Sites, is subject to this Terms of Use Agreement and the current Moonjee Privacy Policy published at <http://moonjee.com/privacypolicy.php>, which is incorporated herein by reference. Each time you use the Moonjee Sites, you agree to be bound by the following Terms of Use and the Privacy Policy. If you do not agree to any of these terms, then you must immediately discontinue your use of the Moonjee Sites.

## **2. Moonjee Sites**

These Terms of Use apply to all customers, visitors, users, and others who view the Moonjee Sites ("Users"), including Users who are also contributors of images, video, information, and other materials or services on the Moonjee Sites. The Moonjee Sites may contain links to third-party websites that are not owned or controlled by Moonjee. Moonjee has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third party websites. In addition, Moonjee will not and cannot censor or edit the content of any third-party site. By using the Moonjee Sites, you expressly relieve Moonjee from any and all liability arising from your use of any third-party website. Accordingly, we encourage you to be aware when you leave the Moonjee Sites and to read the Terms of Use and Privacy Policy of each other website that you visit.

## **3. Use of the Moonjee Sites**

A. Moonjee hereby grants you permission to use the Moonjee Sites as set forth in this Terms of Use, provided that: (i) your use of the Moonjee Sites as permitted is solely for your personal, noncommercial use; (ii) you will not copy or distribute any part of the Moonjee Sites in any medium without Moonjee's prior written authorization; (iii) you will not alter or modify any part of the Moonjee Sites other than as may be reasonably necessary to use the Moonjee Sites for their intended purpose; and (iv) you will otherwise comply with the terms and conditions of these Terms of Use. Notwithstanding the foregoing, Moonjee grants the operators of public search engines permission to use spiders to copy materials from Moonjee Sites for the sole purpose of creating publicly available searchable indices of the materials, but not caches or archives of such materials. Moonjee reserves the right to revoke these exceptions either generally or in specific cases.

B. In order to access some features of the Moonjee Sites, you will have to create an account. You may never use another's account without permission. When creating your account, you must provide accurate and complete information. You are solely responsible for the activity that occurs on your account, and you must keep your account password secure. You must notify Moonjee immediately of any breach of security or unauthorized use of your account. Although Moonjee will not be liable for your losses caused by any

unauthorized use of your account, you may be liable for the losses of Moonjee or others due to such unauthorized use.

C. Moonjee may permanently or temporarily terminate, suspend, or otherwise refuse to permit User's access to the Moonjee Sites without notice and liability, if, in Moonjee's sole determination, User violates any of the terms of use, including the following prohibited actions, which you agree you will not do: (i) use the Moonjee Sites for any illegal purpose or to submit, transmit or facilitate the distribution of information or content that is unlawful, harmful, abusive, racially or ethnically offensive, vulgar, obscene, sexually explicit, defamatory, infringing, invasive of personal privacy or publicity rights, harassing, libelous, threatening, misrepresentative, or in a reasonable person's view, objectionable, or that may give rise to civil liability, violate any law, or is otherwise inappropriate; ; (ii) attempt to interfere with, compromise the system integrity or security or decipher any transmissions to or from the servers running the Moonjee Sites; (iii) take any action that imposes, or may impose at our sole discretion an unreasonable or disproportionately large load on our infrastructure; (iv) collect, copy, use, distribute or harvest any personally identifiable information, including account names, any Content (as defined in Section 4 below) or any User Submissions (as defined in Section 5 below) for any purpose, including for any commercial solicitation purpose, or use the communication systems provided by the Moonjee Sites for any commercial solicitation purposes or otherwise post advertisements or solicitations of business; (v) upload invalid data, viruses, worms, or other software agents through the Moonjee Sites; (vi) use any robot, spider, scraper or other automated system to access the Moonjee Sites for any purpose , including but not limited to for the purpose of sending more request messages to the Moonjee servers in a given period of time than a human can reasonably produce in the same period by using a conventional on-line web browser; (vii) impersonate another person or otherwise misrepresent User's affiliation with a person or entity, conduct fraud, hide or attempt to hide User's identity; (viii) submit, upload, post, email, transmit or otherwise make available any information or content that User does not have a right to make available under any law or under contractual or fiduciary relationships; (ix) interfere with the proper working of the Moonjee Sites; or, (x) bypass the measures we may use to prevent or restrict access to the Moonjee Sites. Upon termination for any reason, User continues to be bound by this Agreement.

#### **4. Intellectual Property Rights**

The content on the Moonjee Sites, including without limitation, the text, software, scripts, graphics, photos, sounds, music, videos, interactive features and the like ("Content") and the trademarks, service marks and logos contained therein ("Marks"), are owned by or licensed to Moonjee subject to copyright and other intellectual property rights under United States and foreign laws and international conventions. Content on the Moonjee Sites is provided to you AS IS for your entertainment and personal use only and may not be used, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed, or otherwise exploited for any other purposes whatsoever without the prior written consent of the respective owners. Moonjee reserves all rights not expressly granted in and to the Moonjee Sites and the Content. If you download or print a copy of the Content for personal use, you must retain all copyright and other proprietary notices contained

therein. You agree not to circumvent, disable or otherwise interfere with security related features of the Moonjee Sites or features that prevent or restrict use or copying of any Content or enforce limitations on use of the Moonjee Sites or the Content therein.

## **5. User Submissions**

A. The Moonjee Sites may now or in the future permit the submission of images, sounds, videos or other communications submitted by you and other Users ("User Submissions") and the hosting, sharing, and/or publishing of such User Submissions. You understand that whether or not such User Submissions are published, Moonjee does not guarantee any confidentiality with respect to any User Submissions.

B. You shall be solely responsible for your own User Submissions and the consequences of posting or publishing them. In connection with User Submissions, you affirm, represent, and warrant that: (i) you own or have the necessary licenses, rights, consents, and permissions to use and authorize Moonjee to use all patent, trademark, trade secret, copyright or other proprietary rights, including rights of publicity, in and to any and all User Submissions to enable inclusion and use of the User Submissions in the manner contemplated by the Moonjee Sites and these Terms of Use and that you will not submit any content or material that does not comply with this provision; and (ii) you have the written consent, release, and/or permission of each and every identifiable individual person in the User Submission to use the name or likeness of each and every such identifiable individual person to enable inclusion and use of the User Submissions in the manner contemplated by the Moonjee Sites and these Terms of Use. For clarity, you shall retain all of your ownership rights in your User Submissions. However, by submitting the User Submissions to Moonjee you hereby grant Moonjee a worldwide, non-exclusive, fully paid-up, royalty-free, irrevocable, perpetual, sublicenseable and transferable license to use, reproduce, distribute, prepare derivative works of, display, perform and otherwise exploit the User Submissions in connection with the Moonjee Sites and Moonjee's (and its successor's) business, including without limitation for promoting and redistributing part or all of the Moonjee Sites (and derivative works thereof) in any media formats and through any media channels. You also hereby grant each User of the Moonjee Sites a non-exclusive license to access your User Submissions through the Site, and to use, reproduce, distribute, prepare derivative works of, display and perform such User Submissions as permitted through the functionality of the Moonjee Sites and under these Terms of Use.

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twice. Moonjee also reserves the right to decide whether Content or a User Submission is appropriate and complies with these Terms of Use for violations other than copyright infringement and violations of intellectual property law, such as, but not limited to, pornography, obscene or defamatory material. Moonjee may remove such User Submissions and/or terminate a User's access for uploading such material in violation of these Terms of Use at any time, without prior notice and at its sole discretion.

D. In particular, if you are a copyright owner or an agent thereof and believe that any User Submission or other content infringes upon your copyrights, you may submit a notification pursuant to the Digital Millennium Copyright Act ("DMCA") by providing our Copyright Agent with the following information in writing (see 17 U.S.C. 512(c)(3) for further detail):

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

(ii) 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;

(iii) 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;

(iv) Information reasonably sufficient to permit the service provider to contact you, such as an address, telephone number, and, if available, an electronic mail;

(v) A statement that you have 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

(vi) A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Moonjee's designated Copyright Agent to receive notifications of claimed infringement is:

Attn: Copyright email: [support@Moonjee.com](mailto:support@Moonjee.com)

You acknowledge that if you fail to comply with all of the requirements of this Section 5(D), your DMCA notice may not be valid.

E. You understand that when using the Moonjee Sites, you will be exposed to User Submissions from a variety of sources, and that Moonjee is not responsible for the accuracy, usefulness, safety, or intellectual property rights of or relating to such User Submissions. You further understand and acknowledge that you may be exposed to User

Submissions that are inaccurate, offensive, indecent, or objectionable, and you agree to waive, and hereby do waive, any legal or equitable rights or remedies you have or may have against Moonjee, its officers, directors, employees and agents, with respect thereto and you hereby release Moonjee, its officers, directors, employees and agents, from any and all claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with such disputes. If you are a California resident, you waive California Civil Code §1542, which says: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

F. Moonjee permits you to link to your own User Submissions hosted on the Moonjee Sites or User Submissions of other third parties available on the Moonjee Sites, for personal, non-commercial purposes only. You understand that the User Submissions, whether or not linked or embedded into other websites, are provided to you only on an as-available basis, and Moonjee does not guarantee that their availability will be uninterrupted or bug free. Moonjee reserves the right to discontinue any aspect to the Moonjee Sites at any time, including discontinuing any linked or embedded Content either generally or in specific cases.

#### **6. Opt Out**

We may use your information to notify you of important changes to the Moonjee Sites, services, and special offers. If you do not want to receive such notices, you may use the following options to opt out of receiving future communications:

Email to [unsubscribe@moonjee.com](mailto:unsubscribe@moonjee.com) to unsubscribe.

Opting out may prevent you from receiving email messages regarding updates, improvements, or special offers. If Moonjee has provided any third-party with your personal information, you will have to contact the third-party directly with any opt-out request.

#### **7. Warranty Disclaimer**

YOU AGREE THAT YOUR USE OF THE MOONJEE SITES SHALL BE AT YOUR SOLE RISK. THE MOONJEE SITES AND ANY CONTENT THEREIN IS PROVIDED "AS IS". TO THE FULLEST EXTENT PERMITTED BY LAW, MOONJEE, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH THE MOONJEE SITES AND YOUR USE THEREOF. MOONJEE MAKES NO WARRANTIES OR REPRESENTATIONS ABOUT THE ACCURACY OR COMPLETENESS OF THIS SITE'S CONTENT OR THE CONTENT OF ANY SITES LINKED TO THIS SITE AND ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT, (II) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF THE MOONJEE SITES, (III) ANY

UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR FINANCIAL INFORMATION STORED THEREIN, (IV) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE MOONJEE SITES, (IV) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE WHICH MAY BE TRANSMITTED TO OR THROUGH THE MOONJEE SITES BY ANY THIRD PARTY, AND/OR (V) FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE MOONJEE SITES. MOONJEE DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE MOONJEE SITES OR ANY HYPERLINKED WEBSITE OR FEATURED IN ANY BANNER OR OTHER ADVERTISING, AND MOONJEE WILL NOT BE A PARTY TO OR IN ANY WAY BE RESPONSIBLE FOR MONITORING ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES. AS WITH THE PURCHASE OF A PRODUCT OR SERVICE THROUGH ANY MEDIUM OR IN ANY ENVIRONMENT, YOU SHOULD USE YOUR BEST JUDGMENT AND EXERCISE CAUTION WHERE APPROPRIATE.

#### **8. Limitation of Liability**

IN NO EVENT SHALL MOONJEE, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS, BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER RESULTING FROM ANY CLAIM OF ANY KIND INCURRED AS A RESULT OF YOUR USE OF AND PARTICIPATION ON THE MOONJEE SITES, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT THE COMPANY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.

YOU SPECIFICALLY ACKNOWLEDGE THAT MOONJEE SHALL NOT BE LIABLE FOR USER SUBMISSIONS OR THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY AND THAT THE RISK OF HARM OR DAMAGE FROM THE FOREGOING RESTS ENTIRELY WITH YOU.

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#### **9. Indemnity**

You agree to defend, indemnify and hold harmless Moonjee and its officers, directors, employees and agents, from and against any and all claims, damages, obligations, losses,

liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from: (i) your use of and access to the Moonjee Sites; (ii) your violation of any term of these Terms of Use; (iii) your violation of any third party right, including without limitation any copyright, property, or privacy right; or (iv) any claim that one of your User Submissions caused damage to a third party. This defense and indemnification obligation will survive these Terms of Use and your use of the Moonjee Sites.

#### **10. Ability to Accept Terms of Use**

By your use of the Moonjee Sites, you affirm that you are either at least 18 years of age or possess legal parental or guardian consent, and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in these Terms of Use, and to abide by and comply with these Terms of Use. In any case, you affirm that you are over the age of 13, as the Moonjee Sites are not intended for children under 13. If you are under 13 years of age, then please do not use the Moonjee Sites. There are lots of other great websites for you. Talk to your parents about what websites are appropriate for you. We recommend that minors over the age of 13 ask their parents or guardians for permission before using or visiting the Moonjee Sites or sending any personal information to anyone over the Internet.

#### **11. Assignment**

These Terms of Use, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by Moonjee without restriction.

#### **12. General**

A. **Governing Law.** You agree that: (i) the Moonjee Sites shall be deemed solely based in California; and (ii) the Moonjee Sites shall be deemed passive websites that do not give rise to personal jurisdiction over Moonjee, either specific or general, in jurisdictions other than California. These Terms of Use shall be governed by the internal substantive laws of the State of California, without respect to its conflict of laws principles. Any claim or dispute between you and Moonjee that arises in whole or in part from the Moonjee Sites shall be decided exclusively by a court of competent jurisdiction located in San Mateo County, California.

B. **Entire Agreement/Severability.** These Terms of Use, together with the Privacy Policy at <http://moonjee.com/privacypolicy.php> and any other legal notices published by Moonjee on the Moonjee Sites, shall constitute the entire agreement between you and Moonjee concerning the Moonjee Sites. If any provision of these Terms of Use is deemed invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms of Use, which shall remain in full force and effect.

C. No waiver of any term of these Terms of Use shall be deemed a further or continuing waiver of such term or any other term, and Moonjee's failure to assert any right or provision under these Terms of Use shall not constitute a waiver of such right or provision. Moonjee reserves the right to amend these Terms of Use at any time and without notice, and it is your responsibility to review these Terms of Use for any changes.

Your use of the Moonjee Sites following any amendment of these Terms of Use will signify your assent to and acceptance of its revised terms.

YOU AND MOONJEE AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE MOONJEE SITES MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.