

**JOEL'S PLACE FOR CHILDREN TERMS OF SERVICE**

Effective Date: August 15, 2016

**PLEASE READ THIS AGREEMENT CAREFULLY. IT SETS FORTH THE LEGALLY BINDING TERMS AND CONDITIONS FOR YOUR USE OF THE SERVICE, SUCH AS YOUR GRANTS AND WAIVERS OF RIGHTS, THE LIMITATIONS OF OUR LIABILITY, YOUR INDEMNITY OF US, AND OUR ARBITRATION OF CERTAIN DISPUTES.**

**The information and content on this Service is for your general educational information only and we do not provide any medical, psychological, or therapeutic services. IF YOU ARE EXPERIENCING A EMERGENCY, YOU SHOULD NOT RELY ON INFORMATION ON THIS SITE AND SHOULD SEEK APPROPRIATE EMERGENCY ASSISTANCE, SUCH AS CALLING 911.**

**Introduction and Overview**

**To download/print our Privacy Policy, click [here](#). To download/print our Terms of Service ("Terms"), click [here](#). To review the full Terms, keep reading.**

Welcome! You have arrived at [www.joelsplaceforchildren.org](http://www.joelsplaceforchildren.org) and/or are otherwise interacting with our Service (defined below), which is owned and operated by Joel's Place for Children ("Joel's Place," "we," "our," or "us"). These Terms govern your use of any online service location (e.g., website) that posts a link to these Terms ("Site") (including both mobile and online versions). It also applies to your use of all features, widgets, plug-ins, applications, content, downloads and/or other services that we own and control and make available through a Site, and/or that post or link to these Terms (collectively, with the Site, the "Service"), regardless of how you access or use it, whether via computer, mobile device or otherwise. By using the Service, you acknowledge and accept the Service's [Privacy Policy](#) and consent to the collection and use of your data in accordance with the [Privacy Policy](#). By interacting with and/or using the Service, you signify your assent and agreement to these Terms. If you do not agree to these Terms, you must not use the Service.

You should read these entire Terms; but here is a partial list of some of the terms that we want to bring to your initial attention. Click on section references for details, which terms and not summaries govern. Capitalized terms have the meanings given to them where defined in these Terms.

- Each time you use the Service, the Terms and any applicable Additional Terms (defined below) then posted apply (subject to [Section 13](#)), so you should check back each time you return for any updates
- Click [here](#) for a summary of each section of these Terms. You may click on the topic heading or the "[More](#)" button for full details.
- You may only use the Content (defined below) on the Service in connection with your permitted activities on the Service and not in an offline environment or in connection with another site or service. ([Section 1](#) and [Section 2](#)).
- Except as set forth in the [Privacy Policy](#) that applies to the Service, you and we do not have a confidential, fiduciary, or any other special relationship by virtue of your use of the Service or your communications to us through or related to the Service.
- You consent to our [Privacy Policy](#) and our practices detailed in it.

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- As permitted by law, many types of disputes that may arise in connection with your access to and use of the Service are subject to mandatory arbitration – which includes your waiver of a right to a jury trial and to class action relief. ([Section 8](#))
- We are providing the Service to you on an “as-is” basis, without any warranty of any kind, and our liability to you in connection with your use of the Service is very limited. Many other limitations and disclaimers relate to your use of the Service. ([Section 9](#) and [Section 10](#))

**If You Want to Use This Service,**

then carefully read these entire Terms (including all links to details), as they constitute a written agreement between you and us and they affect your legal rights and obligations. The summaries of provisions and section headings are provided for convenience only and shall not limit the full Terms. If you are under the age of majority in your jurisdiction of residence, you may use the Service only with involvement of a parent or guardian who agrees to these Terms and to be responsible for your use.

Each time you access and/or use the Service (other than to simply read these Terms), you agree to be bound by and comply with these Terms and any applicable Additional Terms then posted (subject to [Section 9](#)). Therefore, ***do not use the Service if you do not agree.*** The business realities associated with operating the Service are such that, without the conditions that are set forth in these Terms – such as your grants and waivers of rights, the limitations on our liability, your indemnity of us, and our arbitration of certain disputes – we would not make the Service available to you.

In some instances, both these Terms and separate guidelines, rules, or terms of service or sale setting forth additional or different terms and/or conditions will apply to your use of the Service or to a service offered via the Service (in each such instance, and collectively “**Additional Terms**”). To the extent there is a conflict between these Terms and any Additional Terms, the Additional Terms will control unless the Additional Terms expressly state otherwise. Please also review the Service’s [Privacy Policy](#), which you accept by using the Service.

**Linkable Terms**

**These Terms are posted in interactive format to ease your review, especially using smart phones and other devices with small screens. It is important that you read and understand these entire Terms before using the Service. Each section below includes a brief introductory summary and a link to the full explanation. Please note that the complete provisions, and not the headings or summaries shall govern. You can click on the headings and “More” buttons to be taken to the full explanation**

**[Service Content, Ownership, Limited License, and Rights of Others](#)**

We only grant you a limited revocable license to use the Service for your own non-commercial use subject to rules and limitations. [More](#)

**1. [Service and Content Use Restrictions](#)**

Your use of our Service is subject to various restrictions designed to protect the Service and our users. We may change or discontinue our Service in whole or in part. [More](#)

**2. [Procedure for Alleging Infringement of Other Intellectual Property](#)**

You can also give notice of trademark and other infringements that you think occur on the Service. [More](#)

3. [Notices and Questions](#)

Click [here](#) to contact us for questions. You agree we may provide you notices, including of new terms and conditions, by posting notice on the home page or by other reasonable means, such as to the email you may provide in the "Contact Us" link on our website. [More](#)

4. [Links By You to the Service](#)

You may link to our Service, subject to some basic requirements. [More](#)

5. [Third Party Services; Advertisements; Dealings With Third Parties](#)

We are not responsible for third parties or their content, advertisement(s), apps or sites. For instance, portions of the Service may be integrated into third-party sites, platforms and apps that we do not control. Similarly, we may make third-party content or services, which we also may not control, available to you on or via our Service. This may include the ability to post content on third party sites and services using their plug-ins made available on our Services. Use caution when dealing with third parties. [More](#)

6. [Promotional Emails](#)

You may cancel or modify the frequency of the email promotional communications you receive from us by following the instructions contained within our promotional emails. [More](#)

7. [Dispute Resolution](#)

To the extent not prohibited by applicable laws, you agree to arbitrate most disputes and waive jury trial and class actions. [More](#)

8. [Disclaimer of Representations and Warranties](#)

We disclaim most warranties and provide the Service "As Is". [More](#)

9. [Limitations of Our Liability](#)

Our liability is greatly limited as more fully explained in this section. [More](#)

10. [Waiver of Injunctive or Other Equitable Relief](#)

You waive equitable or injunctive relief. [More](#)

11. [Updates to Terms](#)

These Terms and applicable Additional Terms posted on the Service at each time of use apply to that use, and the Terms may be prospectively updated as our Service evolves. Posting of new Terms on the Service is notice to you thereof. [More](#)

12. [General Provisions](#)

You agree to various other terms and conditions, which you should read here, including regarding (a) our control and discretion; (b) the law that governs these Terms; (c) your indemnity of us; (d) accessing the Service from outside of the United States; (e) restriction on the Service for those countries subject to U.S. export controls; (f) enforcement and interpretation of these Terms; (g) electronic communications

and contracting; (h) investigations, cooperation with law enforcement, termination and survival; (i) limit on assignment and delegation of rights and obligations; (j) how waivers may be made; and (k) our access to your Device and your responsibility for your connectivity and our Device access. [More](#)

**Full Details of Terms of Service**

**1. SERVICE CONTENT, OWNERSHIP, LIMITED LICENSE, AND RIGHTS OF OTHERS**

**A. Content.** The Service may contain a variety of: (i) materials and other items relating to Joel's Place and its services, and similar items from other third parties, including all layout, information, articles, posts, text, data, files, images, scripts, designs, graphics, button icons, instructions, illustrations, photographs, audio clips, music, sounds, pictures, videos, advertising copy, URLs, technology, software, interactive features, the "look and feel" of the Service, and the compilation, assembly, and arrangement of the materials of the Service and any and all copyrightable material (including source and object code); (ii) trademarks, logos, trade names, trade dress, service marks, and trade identities of various parties, including those of Joel's Place (collectively, "**Trademarks**"); and (iii) other forms of intellectual property (all of the foregoing, collectively "**Content**").

**B. Ownership.** The Service (including past, present, and future versions) and the Content are owned or controlled by Joel's Place and our licensors and certain other third parties. All right, title, and interest in and to the Content available via the Service is the property of Joel's Place or certain other third parties, and is protected by U.S. and international copyright, trademark, trade dress, patent and/or other intellectual property and unfair competition rights and laws to the fullest extent possible. Joel's Place owns the copyright in the selection, compilation, assembly, arrangement, and enhancement of the Content on the Service.

**C. Limited License.** Subject to your strict compliance with these Terms and the Additional Terms, Joel's Place grants you a limited, non-exclusive, revocable, non-assignable, personal, and non-transferable license to download and copy (temporary storage only of web site content), display, view, use, play the Content on a personal computer, browser, laptop, tablet, mobile phone or other wireless device, smart TV, or other Internet-enabled device (each, a "**Device**"), and/or print one copy of the Content (excluding source and object code in raw form or otherwise) as it is displayed to you, in each case for your personal, non-commercial use only. The foregoing limited license (i) does not give you any ownership of, or any other intellectual property interest in any Content, and (ii) may be immediately suspended or terminated for any reason, in Joel's Place's sole discretion, and without advance notice or liability. In some instances, we may permit you to have greater access to and use of Content, subject to certain Additional Terms.

**D. Rights of Others.** In using the Service, you must respect the intellectual property and other rights of Joel's Place and others. Your unauthorized use of Content may violate copyright, trademark, privacy, publicity, communications, and other laws, and any such use may result in your personal liability, including potential criminal liability. Joel's Place respects the intellectual property rights of others. If you believe another's work has been infringed by means of an improper posting or distribution of it via the Service, then please see [Section 3](#) below.

**E. Reservation of All Rights Not Granted As To Content and Service.** These Terms and any applicable Additional Terms include only narrow, limited grants of rights to Content and to use and access the Service. No right or license may be construed, under any legal theory, by implication, estoppel, industry custom, or otherwise. All rights not expressly granted to you are reserved by Joel's Place and other third parties. ***Any unauthorized use of any Content or the Service for any purpose is prohibited.***

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## **2. SERVICE AND CONTENT USE RESTRICTIONS**

**A. Service Use Restrictions.** You agree that you will not: (i) use the Service for any political or commercial purpose (including, without limitation, for purposes of advertising, soliciting funds, collecting product prices, and selling products); (ii) use any meta tags or any other “hidden text” utilizing any Trademarks; (iii) engage in any activities through or in connection with the Service that seek to attempt to or do harm any individuals or entities or are unlawful, offensive, obscene, lewd, lascivious, filthy, violent, threatening, harassing, or abusive, or that violate any right of any third party, or are otherwise objectionable to Joel’s Place; (iv) to the maximum extent not prohibited by applicable law, reverse engineer, decompile, disassemble, reverse assemble, or modify any Service source or object code or any software, or other services or processes accessible through any portion of the Service; (v) engage in any activity that interferes with a user’s access to the Service or the proper operation of the Service, or otherwise causes harm to the Service, Joel’s Place, or other users of the Service; (vi) interfere with or circumvent any security feature of the Service or any feature that restricts or enforces limitations on use of or access to the Service, the Content, or the UGC; (vii) harvest or otherwise collect or store any information (including personally identifiable information about other users of the Service, including email addresses, without the express consent of such users); (viii) attempt to gain unauthorized access to the Service, other computer systems or networks connected to the Service, through password mining or any other means; or (ix) otherwise violate these Terms or any applicable Additional Terms.

**B. Content Use Restrictions.** Without limiting the restrictions in [Section 1](#) or in any applicable Additional Terms, you also agree that, in using the Service, you: (i) will not monitor, gather, copy, or distribute the Content (except as may be a result of standard search engine activity or use of a standard browser) on the Service by using any robot, rover, “bot”, spider, scraper, crawler, spyware, engine, device, software, extraction tool, or any other automatic device, utility, or manual process of any kind; (ii) will not frame or utilize framing techniques to enclose any such Content (including any images, text, or page layout); (iii) will keep intact all Trademark, copyright, and other intellectual property notices contained in such Content; (iv) will not make any modifications to such Content; (v) will not copy, modify, reproduce, archive, sell, lease, rent, exchange, create derivative works from, publish by hard copy or electronic means, publicly perform, display, disseminate, distribute, broadcast, retransmit, circulate or transfer to any third party or on any third-party application or website, or otherwise use or exploit such Content in any way for any purpose except as specifically permitted by these Terms or any applicable Additional Terms or with the prior written consent of an officer of Joel’s Place or, in the case of Content from a licensor, the owner of the Content; and (vi) will not insert any code or product to manipulate such Content in any way that adversely affects any user experience.

**C. Availability of Service and Content.** Joel’s Place may immediately suspend or terminate the availability of the Service and Content (and any elements and features of them), in whole or in part, for any reason, in Joel’s Place’s sole discretion, and without advance notice or liability.

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## **3. PROCEDURE FOR ALLEGING INFRINGEMENT OF OTHER INTELLECTUAL PROPERTY**

**Note: We include this language here in the event Joel’s Place has plans to allow users to post any user generated content in the future.**

If you own intellectual property other than copyrights and believe that your intellectual property has been infringed by an improper posting or distribution of it via the Service, then you may send us a written notice to the addresses set forth above that includes all of the following:

- (a) a legend or subject line that says: “Intellectual Property Infringement Notice”;

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- (b) a description of the intellectual property that you claim has been infringed;
- (c) a description of where the material that you claim is infringing or is the subject of infringing activity is located that is reasonably sufficient to permit us to locate the material (please include the URL of the Service on which the material appears);
- (d) your full name, address, telephone number, and email address;
- (e) a statement by you that you have a good faith belief that use of the material in the manner complained of is not authorized by the owner of the intellectual property, its agent, or the law;
- (f) a statement by you, made under penalty of perjury, that all the information in your notice is accurate, and that you are the owner of the intellectual property at issue (or, if you are not the owner, then your statement must indicate that you are authorized to act on the behalf of the owner of the intellectual property that is allegedly infringed); and
- (g) your electronic or physical signature.

We will act on such notices in our sole discretion. Any user of the Service that fails to respond satisfactorily to Joel's Place with regard to any such notice is subject to suspension or termination. We may send the information that you provide in your notice to the person who provided the allegedly infringing material.

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#### **4. NOTICES AND QUESTIONS**

You agree that: (1) we may give you notices of new, revised or changed terms and other important matters by prominently posting notice on the home page of the Service, emailing you at the email address provided in the "Contact Us" link, or in another reasonable manner; and (2) we may contact you by email sent to the address provided by you. You agree to promptly notify us if you change your email address. **NOTE: we would not necessarily rely on home page posting as sufficient notice.** All legal notices to us must be sent to **P.O. Box 180, Avon, OH 44011.**

If you have a question regarding using the Service, you may contact Joel's Place by visiting our website [here](http://www.joelsplaceforchildren.org/#!/contact-us/c14f0) <http://www.joelsplaceforchildren.org/#!/contact-us/c14f0> or calling us at 440.248.4412

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#### **5. LINKS BY YOU TO THE SERVICE**

We grant you a limited, non-exclusive, revocable, non-assignable, personal, and non-transferable license to create hyperlinks to the Service, so long as: (a) the links only incorporate text, and do not use any Trademarks, (b) the links and the content on your website do not suggest any affiliation with Joel's Place or cause any other confusion, and (c) the links and the content on your website do not portray Joel's Place or its services in a false, misleading, derogatory, or otherwise offensive matter, and do not contain content that is unlawful, offensive, obscene, lewd, lascivious, filthy, violent, threatening, harassing, or abusive, or that violate any right of any third party or are otherwise objectionable to Joel's Place. Joel's Place reserves the right to suspend or prohibit linking to the Service for any reason, in its sole discretion, without advance notice or any liability of any kind to you or any third party.

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**6. THIRD PARTY SERVICES; ADVERTISEMENTS; DEALINGS WITH THIRD PARTIES**

**A. Third-Party Content and Sites; Advertisements.** The Service may contain or may interact with or otherwise be associated with third party platforms, services, plug-ins, applications, ads, tools and/or other content, and/or links to third-party websites or other services that are not owned, controlled or operated by Joel's Place (collectively, "**Third-Party Services**"), including services operated by advertisers, licensors, licensees, and certain other third parties who may have business relationships with Joel's Place. This may include the ability to make donations to us via Third party Services and to post content on third party sites and services using their plug-ins made available on our Services. The Third Party Services to which our site currently links include Facebook, Twitter, and PayPal, for the purpose of processing contributor donations. We may also host our content on Third Party Services. Joel's Place may have no control over the content, operations, policies, terms, or other elements of Third Party Services, and Joel's Place does not assume any obligation to review any Third Party Services. Joel's Place does not necessarily endorse, approve, or sponsor any Third Party Services, or any third-party content, advertising, information, materials, products, services, or other items. Furthermore, Joel's Place is not responsible for the quality or delivery of the products or services offered, accessed, obtained by or advertised at such Third Party Services. Some Third Party Services may impose fees for access to their resources through our Service and you are responsible for all such fees. Finally, we will under no circumstances be liable for any direct, indirect, incidental or special loss or other damage, whether arising from negligence, breach of contract, defamation, infringement of copyright or other intellectual property rights, caused by the exhibition, distribution or exploitation of any information or content contained within these Third Party Services. Any activities you engage in in connection with any of the same are subject to the privacy and other policies, terms and conditions of use and/or sale, and rules issued by the operator of the Third Party Services. Joel's Place disclaims all liability in connection therewith.

**B. Dealings with Third Parties.** Any interactions, correspondence, transactions, and other dealings that you have with any third parties found on or through the Service (including on or via Third Party Services or advertisements) are solely between you and the third party (including issues related to the content of third-party advertisements, payments, privacy and data security, and the like). You hereby agree to indemnify Joel's Place against all claims, injury and/or damages including, without limitation, attorneys' fees, that arise out of your use of any Third Party Service, including without limitation from any material that you post on any forum or social networking site in connection with us and/or any other claim related to your use of social media.

You hereby grant Joel's Place an irrevocable perpetual license to use, reproduce, edit, create derivative works from, distribute, display, copy, transmit or otherwise use in any way, commercially or otherwise, any material that you post to any social networking site or other Third Party Service in connection with us or our Service.

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**7. PROMOTIONAL EMAILS:**

You may cancel or modify the frequency of the email promotional communications you receive from us by following the instructions contained within our promotional emails. This will not affect subsequent subscriptions and if your opt-out is limited to certain types of emails the opt-out will be so limited. Please note that we reserve the right to send you certain communications relating to your use of our Service, such as administrative and service announcements and these transactional messages may be unaffected if you choose to opt-out from receiving our marketing communications.

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**8. DISPUTE RESOLUTION**

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Certain portions of this Section 8 are deemed to be a "written agreement to arbitrate" pursuant to the Federal Arbitration Act. You and Joel's Place agree that we intend that this Section 8 satisfies the "writing" requirement of the Federal Arbitration Act. This Section 8 can only be amended by mutual agreement.

**A. First – Try to Resolve Disputes and Excluded Disputes.** If any controversy, allegation, or claim arises out of or relates to the Site, the Content, your UGC, these Terms, or any Additional Terms, whether heretofore or hereafter arising (collectively, "**Dispute**"), or to any of Joel's Place's actual or alleged intellectual property rights (an "**Excluded Dispute**"), then you and we agree to send a written notice to the other providing a reasonable description of the Dispute or Excluded Dispute, along with a proposed resolution of it. Our notice to you will be sent to you based on the most recent contact information that you provide us. But if no such information exists or if such information is not current, then we have no obligation under this Section **Error! Reference source not found.** Your notice to us must be sent to: **Joel's Place (Attn: Legal), P.O. Box 180, Avon, OH 4401.** For a period of sixty (60) days from the date of receipt of notice from the other party, Joel's Place and you will engage in a dialogue in order to attempt to resolve the Dispute or Excluded Dispute, though nothing will require either you or Joel's Place to resolve the Dispute or Excluded Dispute on terms with respect to which you and Joel's Place, in each of our sole discretion, are not comfortable.

**B. Forums for Alternative Dispute Resolution**

(i) **Arbitration.** If we cannot resolve a Dispute as set forth in [Section 8.A](#) within sixty (60) days of receipt of the notice, then either you or we may submit the Dispute to formal arbitration in accordance with this Section 8.B. If we cannot resolve an Excluded Dispute as set forth in [Section 8.A](#) within sixty (60) days of receipt of the notice, then either you or we may submit the Excluded Dispute to formal arbitration only if you and Joel's Place consent, in a writing signed by you and an Officer or legal representative of Joel's Place, to have that Excluded Dispute subject to arbitration. In such a case, (and only in such a case), that Excluded Dispute will be deemed a "Dispute" for the remainder of this Section 8.A.

Upon expiration of the applicable sixty-day period and to the fullest extent not prohibited by applicable law, a Dispute will be resolved solely by binding arbitration in accordance with the then-current Commercial Arbitration Rules of the American Arbitration Association ("**AAA**"). If the Dispute has a claimed value of not more than \$250,000, then the arbitration will be heard and determined by a single neutral arbitrator who is a retired judge or a lawyer with not less than fifteen (15) years' experience as a practicing member of the bar in the substantive practice area related to the Dispute, who will administer the proceedings in accordance with the AAA's Supplementary Procedures for Consumer Related Disputes. If the Dispute has a claimed value of more than \$250,000, or if Joel's Place elects in its sole discretion to bear the costs of arbitration in excess of those that would occur for a proceeding before a single neutral arbitrator, then the arbitration will be heard and determined by a three-member panel, with one member to be selected by each party and the third (who will be chair of the panel) selected by the two party-appointed members or by the AAA in accordance with the Commercial Arbitration Rules. The arbitrator or arbitration panel, as the case may be, will apply applicable law and the provisions of these Terms and any Additional Terms, will be bound by these Terms and any Additional Terms, will determine any Dispute according to the applicable law and facts based upon the record and no other basis, and will issue a reasoned award only in favor of the individual party seeking relief and only to the extent to provide relief warranted by that party's individual claim. If you and Joel's Place do not both consent to the arbitration of an Excluded Dispute as set forth in the immediately preceding paragraph of this Section 8.A, then this paragraph and the remainder of this Section 8.A will not apply to the Excluded Dispute.

If a party properly submits the Dispute to the AAA for formal arbitration and the AAA is unwilling or unable to set a hearing date within sixty (60) days of the filing of a "demand for arbitration," then either party can elect to have the arbitration administered by the Judicial Arbitration and Mediation Services Inc. ("**JAMS**") using JAMS' streamlined Arbitration Rules and Procedures, or by any other arbitration administration service that you and an officer or legal representative of Joel's Place consent to in writing. The substantive practice area requirements for the arbitrator and the \$250,000 threshold for a the number of

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arbitrators assigned to the Dispute set forth in the paragraph above for the AAA arbitration will also apply to any such arbitration under JAMS or another arbitration service.

You can obtain AAA and JAMS procedures, rules, and fee information as follows:

AAA: 800.778.7879

JAMS: 800.352.5267

<http://www.adr.org/>

<http://www.jamsadr.com/>

**(ii) Nature, Limitations, and Location of Alternative Dispute Resolution.** In arbitration, as with a court, the arbitrator must honor the terms of these Terms (and any Additional Terms) and can award the prevailing party damages and other relief. **HOWEVER, WITH ARBITRATION (A) THERE IS NO JUDGE OR JURY, (B) THE ARBITRATION PROCEEDINGS AND ARBITRATION OUTCOME ARE SUBJECT TO CERTAIN CONFIDENTIALITY RULES, AND (C) JUDICIAL REVIEW OF THE ARBITRATION OUTCOME IS LIMITED.** All parties to the arbitration will have the right, at their own expense, to be represented by an attorney or other advocate of their choosing. If an in-person arbitration hearing is required, then it will be conducted in the “metropolitan statistical area” (as defined by the U.S. Census Bureau) where you are a resident at the time the Dispute is submitted to arbitration. You and we will pay the administrative and arbitrator’s fees and other costs in accordance with the applicable arbitration rules; but if applicable arbitration rules or laws require Joel’s Place to pay a greater portion or all of such fees and costs in order for this Section 8 to be enforceable, then Joel’s Place will have the right to elect to pay the fees and costs and proceed to arbitration. Discovery will be permitted pursuant to the applicable arbitration rules. The arbitrator’s decision must consist of a written statement stating the disposition of each claim of the Dispute, and must provide a statement of the essential findings and conclusions on which the decision and any award (if any) is based. Judgment on the arbitration decision and award (if any) may be entered in or by any court that has jurisdiction over the parties pursuant to Section 9 of the Federal Arbitration Act. This arbitration provision shall survive termination of these Terms or the Service.

**C. Limited Time To File Claims.** TO THE FULLEST EXTENT NOT PROHIBITED BY APPLICABLE LAW, IF YOU OR WE WANT TO ASSERT A DISPUTE (BUT NOT AN EXCLUDED DISPUTE) AGAINST THE OTHER, THEN YOU OR WE MUST COMMENCE IT (BY DELIVERY OF WRITTEN NOTICE AS SET FORTH IN [SECTION 8.A](#)) WITHIN ONE (1) YEAR AFTER THE DISPUTE ARISES – OR IT WILL BE FOREVER BARRED.

**D. Injunctive Relief.** The foregoing provisions of this Section 8 will not apply to any legal action taken by Joel’s Place to seek an injunction or other equitable relief in connection with, any loss, cost, or damage (or any potential loss, cost, or damage) relating to the Site, any Content, your UGC and/or Joel’s Place’s intellectual property rights (including such Joel’s Place may claim that may be in dispute), Joel’s Place’s operations, and/or Joel’s Place’s services.

**E. No Class Action Matters.** Disputes will be arbitrated only on an individual basis and will not be joined or consolidated with any other arbitrations or other proceedings that involve any claim or controversy of any other party. YOU AND JOEL’S PLACE AGREE THAT EACH MAY 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 REPRESENTATIVE PROCEEDING. There shall be no right or authority for any Dispute to be arbitrated on a class action basis or on any basis involving Disputes brought to a purported representative capacity on behalf of the general public, or other persons or entities similarly situated. But if, for any reason, any court with competent jurisdiction holds that this restriction is unconscionable or unenforceable, then our agreement in Section 8.A to arbitrate will not apply and the Dispute must be brought exclusively in court pursuant to Section 8.F. Notwithstanding any other provision of this Section 8, any and all issues relating to the scope, interpretation and enforceability of this Section 8.E, including

the class action waiver provisions contained herein, are to be decided only by a court of competent jurisdiction, and not by the arbitrator.

**F. Federal and State Courts in Lorain County, Ohio.** Except to the extent that arbitration is required in Section 8.A, and except as to the enforcement of any arbitration decision or award, any action or proceeding relating to any Dispute or Excluded Dispute may only be instituted in state or Federal court in Avon, Lorain County, Ohio. Accordingly, you and Joel's Place consent to the exclusive personal jurisdiction and venue of such courts for such matters.

**G. Small Claims Matters Are Excluded From Arbitration Requirement.** Notwithstanding the foregoing, either of us may bring qualifying claim of Disputes (but not Excluded Disputes) in small claims court, subject to Section 8.F.

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## **9. DISCLAIMER OF REPRESENTATIONS AND WARRANTIES**

YOUR ACCESS TO AND USE OF THE SERVICE IS AT YOUR SOLE RISK.

TO THE FULLEST EXTENT NOT PROHIBITED BY APPLICABLE LAW, THE SERVICE IS PROVIDED ON AN "AS IS", "AS AVAILABLE", AND "WITH ALL FAULTS" BASIS. Therefore, to the fullest extent permissible by law, Joel's Place for Children and its direct and indirect parents, subsidiaries, affiliates and each of their respective employees, directors, members, managers, shareholders, agents, vendors, licensors, licensees, contractors, members, successors, and assigns (collectively, "**Joel's Place Parties**") hereby disclaim and make no representations, warranties, endorsements, or promises, express or implied, in connection with, or otherwise directly or indirectly related to, the Service (including the Content and the UGC), including without limitation:

- (a) the functions, features, or any other elements on, or made accessible through, the Service;
- (b) any Content, services, or instructions offered, referenced, or linked through the Service;
- (c) security associated with your UGC, or other data or information;
- (d) whether the Service or the servers that make the Service available are free from any harmful components (including viruses, Trojan horses, and other technologies that could adversely impact your Device);
- (e) whether the information (including any instructions) on the Service is accurate, complete, correct, adequate, useful, timely, or reliable;
- (f) whether any defects to or errors on the Service will be repaired or corrected;
- (g) whether the Service will be compatible with any other specific hardware, software or service;
- (h) whether your access to the Service will be uninterrupted;
- (i) whether the Service will be available at any particular time or location; and
- (j) whether your use of the Service is lawful in any particular jurisdiction.

EXCEPT FOR ANY SPECIFIC WARRANTIES PROVIDED HEREIN OR IN ADDITIONAL TERMS PROVIDED BY A JOEL'S PLACE PARTY, JOEL'S PLACE PARTIES HEREBY FURTHER DISCLAIM

ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES, TITLE, CUSTOM, TRADE, QUIET ENJOYMENT, SYSTEM INTEGRATION, AND FREEDOM FROM COMPUTER VIRUS.

Some jurisdictions limit or do not allow the disclaimer of implied or other warranties so the above disclaimers may not apply to the extent such jurisdictions' laws are applicable, and you may have additional rights.

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## **10. LIMITATIONS OF OUR LIABILITY**

TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL ANY JOEL'S PLACE PARTIES BE RESPONSIBLE OR LIABLE FOR ANY LOSS OR DAMAGES OF ANY KIND, including personal injury or death or for any direct, indirect, economic, exemplary, special, punitive, incidental, or consequential losses or damages of any kind, including without limitation loss of profits, in connection with, or otherwise directly or indirectly related to the Service (including the Content and the UGC), including without limitation:

- (a) your use of or inability to use the Service, or the performance of the Service;
- (b) any action taken in connection with an investigation by Joel's Place Parties or law enforcement authorities regarding your access to or use of the Service;
- (c) any action taken in connection with copyright or other intellectual property owners or other rights owners;
- (d) any errors or omissions in the Service's technical operation or security or any compromise or loss of your user-generated content or other data or information; or
- (e) any damage to any user's computer, hardware, software, modem, or other equipment or technology, including damage from any security breach or from any virus, bugs, tampering, fraud, error, omission, interruption, defect, delay in operation or transmission, computer line, or network failure or any other technical or other malfunction, including losses or damages in the form of lost profits, loss of goodwill, loss of data, work stoppage, accuracy of results, or equipment failure or malfunction.

The foregoing limitations of liability will apply even if any of the foregoing events or circumstances were foreseeable and even if Joel's Place Parties were advised of or should have known of the possibility of such losses or damages, regardless of whether you bring an action based in contract, negligence, strict liability, or tort (including whether caused, in whole or in part, by negligence, acts of god, telecommunications failure, or destruction of the Service).

Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages of the sort that are described above, so the above limitation or exclusion may not apply to you, and you may have additional rights.

**EXCEPT AS MAY BE PROVIDED IN ANY APPLICABLE ADDITIONAL TERMS, TO THE FULLEST EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT WILL JOEL'S PLACE PARTIES' TOTAL LIABILITY TO YOU, FOR ALL POSSIBLE DAMAGES, LOSSES, AND CAUSES OF ACTION IN CONNECTION WITH YOUR ACCESS TO AND USE OF THE SERVICE**

**AND YOUR RIGHTS UNDER THESE TERMS, EXCEED AN AMOUNT EQUAL TO THE AMOUNT YOU HAVE PAID JOEL'S PLACE IN CONNECTION WITH THE TRANSACTION(S) THAT UNDERLIE THE CLAIM(S); PROVIDED, HOWEVER, THIS PROVISION WILL NOT APPLY IF A COURT OR TRIBUNAL WITH APPLICABLE JURISDICTION FINDS SUCH TO BE UNCONSCIONABLE.**

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**11. WAIVER OF INJUNCTIVE OR OTHER EQUITABLE RELIEF**

TO THE FULLEST EXTENT NOT PROHIBITED BY APPLICABLE LAW, IF YOU CLAIM THAT YOU HAVE INCURRED ANY LOSS, DAMAGES, OR INJURIES IN CONNECTION WITH YOUR USE OF THE SERVICE, THEN THE LOSSES, DAMAGES, AND INJURIES WILL NOT BE DEEMED IRREPARABLE OR SUFFICIENT TO ENTITLE YOU TO AN INJUNCTION OR TO OTHER EQUITABLE RELIEF OF ANY KIND. THIS MEANS THAT, IN CONNECTION WITH YOUR CLAIM, YOU AGREE THAT YOU WILL NOT SEEK, AND THAT YOU WILL NOT BE PERMITTED TO OBTAIN, ANY COURT OR OTHER ACTION THAT MAY INTERFERE WITH OR PREVENT THE DEVELOPMENT OR EXPLOITATION OF ANY WEBSITE, APPLICATION, CONTENT, UGC, SERVICE, OR INTELLECTUAL PROPERTY OWNED, LICENSED, USED OR CONTROLLED BY JOEL'S PLACE (INCLUDING YOUR LICENSED UGC) OR A LICENSOR OF JOEL'S PLACE.

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**12. UPDATES TO TERMS.**

These Terms (or if applicable Additional Terms), in the form posted at the time of your use of the applicable services to which it applies, shall govern such use (including transactions entered during such use). AS OUR SERVICE EVOLVES, THE TERMS AND CONDITIONS UNDER WHICH WE OFFER THE SERVICE MAY PROSPECTIVELY BE MODIFIED AND WE MAY CEASE OFFERING THE SERVICE UNDER THE TERMS OR APPLICABLE ADDITIONAL TERMS FOR WHICH THEY WERE PREVIOUSLY OFFERED. ACCORDINGLY, EACH TIME YOU SIGN IN TO OR OTHERWISE USE THE SERVICE YOU ARE ENTERING INTO A NEW AGREEMENT WITH US ON THE THEN APPLICABLE TERMS AND CONDITIONS AND YOU AGREE THAT WE MAY NOTIFY YOU OF NEW TERMS BY POSTING THEM ON THE SERVICE (OR IN ANY OTHER REASONABLE MANNER OF NOTICE WHICH WE ELECT), AND THAT YOUR USE OF THE SERVICE AFTER SUCH NOTICE CONSTITUTES YOUR GOING FORWARD AGREEMENT TO THE NEW TERMS FOR YOUR NEW USE AND TRANSACTIONS. Therefore, you should review the posted Terms and any applicable Additional Terms each time you use the Service (at least prior to each transaction or submission). Any new Terms or Additional Terms will be effective as to new use and transactions as of the time that we post them, or such later date as may be specified in them or in other notice to you. However, the Terms (and any applicable Additional Terms) that applied when you previously used the Service will continue to apply to such prior use and any specific term to which we previously committed to apply those terms (if applicable) (i.e., changes and additions are prospective only) unless mutually agreed. In the event any notice to you of new, revised or additional terms is determined by a tribunal to be insufficient, the prior agreement shall continue until sufficient notice to establish a new agreement occurs. You should frequently check the home page and the email address you may have input into our "Contact Us" form for notices, all of which you agree are reasonable manners of providing you notice. You can reject any new, revised or additional terms by discontinuing use of the Service and related services.

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**13. GENERAL PROVISIONS**

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**A. Joel's Place's Consent or Approval.** As to any provision in these Terms or any Additional Terms that grants Joel's Place a right of consent or approval, or permits Joel's Place to exercise a right in its "sole discretion," Joel's Place may exercise that right in its sole and absolute discretion. No Joel's Place consent or approval may be deemed to have been granted by Joel's Place without being in writing and signed by an officer of Joel's Place.

**B. Applicable Law.** These Terms and any applicable Additional Terms will be governed by and construed in accordance with, and any Dispute and Excluded Dispute will be resolved in accordance with, the laws of Ohio, without regard to its conflicts of law provisions that might apply the laws of another jurisdiction.

**C. Indemnity.** You agree to, and you hereby, defend (if we request), indemnify, and hold Joel's Place Parties harmless from and against any and all claims, damages, losses, costs, investigations, liabilities, judgments, fines, penalties, settlements, interest, and expenses (including attorneys' fees) that directly or indirectly arise from or are related to any claim, suit, action, demand, or proceeding made or brought against any Joel's Place Party, or on account of the investigation, defense, or settlement thereof, arising out of or in connection with, whether occurring heretofore or hereafter: (i) your UGC; (ii) your use of the Service and your activities in connection with the Service; (iii) your breach or alleged breach of these Terms or any applicable Additional Terms; (iv) your violation or alleged violation of any laws, rules, regulations, codes, statutes, ordinances, or orders of any governmental or quasi-governmental authorities in connection with your use of the Service or your activities in connection with the Service; (v) information or material transmitted through your Device, even if not submitted by you, that infringes, violates, or misappropriates any copyright, trademark, trade secret, trade dress, patent, publicity, privacy, or other right of any person or entity; (vi) any misrepresentation made by you; and (vii) Joel's Place Parties' use of the information that you submit to us (including your UGC) (all of the foregoing, "**Claims and Losses**"). You will cooperate as fully required by Joel's Place Parties in the defense of any Claim and Losses. Notwithstanding the foregoing, Joel's Place Parties retain the exclusive right to settle, compromise, and pay any and all Claims and Losses. Joel's Place Parties reserve the right to assume the exclusive defense and control of any Claims and Losses. You will not settle any Claims and Losses without, in each instance, the prior written consent of an officer of a Joel's Place Party.

**D. Operation of Service; Availability of Services; International Issues.** Joel's Place controls and operates the Service from its U.S.-based offices in the U.S.A., and Joel's Place makes no representation that the Service is appropriate or available for use beyond the U.S.A. If you use the Service from other locations, you are doing so on your own initiative and are responsible for compliance with applicable local laws regarding your online conduct and acceptable content, if and to the extent local laws apply. The Service may describe services that are available only in the U.S.A. (or only parts of it) and are not available worldwide. We reserve the right to limit the availability of the Service and/or the provision of any content, program, service, or other feature described or available on the Service to any person, entity, geographic area, or jurisdiction, at any time and in our sole discretion, and to limit the quantities of any content, program, service, or other feature that we provide. You agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to these Terms, or Additional Terms, or to any sale of goods carried out as a result of your use of the Service.

**E. Export Controls.** Software related to or made available by the Service may be subject to export controls of the U.S.A. that prohibit software from the Service from being downloaded, exported, or re-exported (i) into (or to a national or resident of) any country or other jurisdiction to which the U.S.A. has embargoed (which, as of the effective date of these Terms, includes Cuba, North Korea, Iran, Sudan, and Syria) has embargoed, or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders, or (iii) to anyone on the U.S. Department of Commerce's Bureau of Industry and Security Entities List as published in the Export Administration Regulations (including entities engaged in weapons of mass destruction proliferation in various countries and persons and entities that are suspected of diverting U.S. origin items to embargoed countries or terrorist end-uses). You are responsible for complying with all applicable trade regulations and laws both foreign and domestic. Except as authorized by

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U.S. law, you agree and warrant not to export or re-export the software to any country, or to any person, entity, or end-user subject to U.S. export controls or sanctions, including, without limitation, as set forth in subsections (i) – (iii) above.

**F. Severability; Interpretation.** If any provision of these Terms, or any Additional Terms, is for any reason deemed invalid, unlawful, void, or unenforceable by a court or arbitrator of competent jurisdiction, then that provision will be deemed severable from these Terms or the Additional Terms, and the invalidity of the provision will not affect the validity or enforceability of the remainder of these Terms or the applicable Additional Terms (which will remain in full force and effect). To the extent not prohibited by applicable law, you agree to waive, and you hereby waive, any applicable statutory and common law that may permit a contract to be construed against its drafter. Wherever the word “including” is used in these Terms or any applicable Additional Terms, the word will be deemed to mean “including, without limitation.” The summaries of provisions and section headings are provided for convenience only and shall not limit the full Terms.

**G. Electronic Communications and Contracting.** When you communicate with us electronically, such as via email and text message, you consent to receive communications from us electronically. We will try to promptly respond to all inquiries, but we are not obligated to do so. You agree that all agreements, notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing. You agree that any time you electronically transact, agree or consent via the Service is intended to be an electronic signature which binds you as if you had signed on paper. You agree that your use of the Service, other than to read the Terms and Privacy Policy, constitutes agreement to the Terms, and any applicable Additional Terms, then posted without further action by you.

**H. Investigations; Cooperation with Law Enforcement; Termination; Survival.** You agree that Joel's Place shall have the right, without limitation and without any obligation, to: (i) investigate any suspected breaches of its Service security or its information technology or other systems or networks, (ii) investigate any suspected breaches of these Terms and any applicable Additional Terms or any potential harm to our users or third parties, (iii) use and/or disclose any information obtained by Joel's Place in connection with the forgoing or to comply with law enforcement requests or legal requirements in accordance our [Privacy Policy](#), (iv) involve and cooperate with law enforcement authorities in connection with any of the foregoing matters, (v) prosecute violators of these Terms and any applicable Additional Terms, and (vi) discontinue the Service, in whole or in part, or, except as may be expressly set forth in any applicable Additional Terms, suspend or terminate your access to it, in whole or in part, at any time, without notice, for any reason and without any obligation to you or any third party. Any suspension or termination will not affect your obligations to Joel's Place under these Terms or any applicable Additional Terms. Upon suspension or termination of your access to the Service, or upon notice from Joel's Place, all rights granted to you under these Terms or any Additional Terms will cease immediately, and you agree that you will immediately discontinue use of the Service. The provisions of these Terms and any applicable Additional Terms, which by their nature should survive your suspension or termination will survive, including the rights and licenses you grant to Joel's Place in these Terms, as well as the indemnities, releases, disclaimers, and limitations on liability and the provisions regarding jurisdiction, choice of law, no class action, and mandatory arbitration.

**I. Assignment.** Joel's Place may assign its rights and obligations under these Terms and any applicable Additional Terms, in whole or in part, to any party at any time without any notice. These Terms and any applicable Additional Terms may not be assigned by you, and you may not delegate your duties under them, without the prior written consent of an officer of Joel's Place.

**J. Complete Agreement; No Waiver.** These Terms, and any applicable Additional Terms, reflect our complete agreement regarding the Service and supersede any prior agreements, representations, warranties, assurances or discussion related to the Services. Except as expressly set forth in these Terms or any applicable Additional Terms, (i) no failure or delay by you or Joel's Place in exercising any of rights, powers, or

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remedies under will operate as a waiver of that or any other right, power, or remedy, and (ii) no waiver or modification of any term of these Terms or any applicable Additional Terms will be effective unless in writing and signed by the party against whom the waiver or modification is sought to be enforced.

**K. Devices and Connectivity.** We do not warrant that the software provided by Joel's Place to utilize the Service or any other software used in connection with the Joel's Place Service will be compatible with other third party software nor do we warrant that operation of the Service and the associated software will not damage or disrupt other software or hardware. You are responsible for obtaining and maintaining all Devices and other equipment and software, and all internet service provider, mobile service, and other services needed for your access to and use of the Service and you will be responsible for all charges related to them. You further agree to look solely to the entity that manufactured and/or sold you the Device for any issues related to the Device and its compatibility with the Service.

By using the Service, you agree that Joel's Place may change, alter, or modify the settings or configurations on your Device in order to allow for or optimize your use of the Service (e.g., save content, access data, enable services, etc.).

You must be connected to the Internet for the entire time you are using the Service, the cost and provisions of which is your responsibility. The quality of the display of the Content may vary from Device to Device, and may be affected by a variety of factors, such as your Device, your location, the bandwidth available through and/or speed of your Internet connection. Joel's Place makes no representations or warranties about the quality of your Service experience on your Device or the ability of any Device to access or display the Content.

Any issues related to the Service, including any system requirements, are covered and limited by this Agreement. Please refer to the Disclaimer of Representations and Warranties and Limitations of Liability provisions set forth in these Terms.

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//End Terms of Use//

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