



## AHILLZ TERMS & CONDITIONS

*Last updated: March 7, 2020*

**PLEASE READ THIS TERMS OF SERVICE AGREEMENT (“Agreement”, “Terms,” or “Terms of Service”) CAREFULLY.**

Ahillz, Inc. (“Ahillz”, “we”, “us”, “our” or similar terms) provides its Services (as defined below) to you subject to these Terms of Service, wherein “you” are a donor, charitable fundraiser organizer (“Organizer”), beneficiary of a fundraiser, or other type of user of the Services – each also referred to herein as a “User”.

“Services” means our products and services related to our public website (“Website”), mobile application SDK (“SDK”) and donation forms (“Forms”), whether hosted by us or a third party, and the management sites available to donors, fundraiser beneficiaries, and Organizers.

BY ACCESSING OR USING ANY OF OUR SERVICES IN ANY WAY, INCLUDING:

MAKING AN ONLINE PAYMENT,

SETTING UP AN ORGANIZER ACCOUNT,

SUBMITTING/PROVIDING AHILLZ WITH CHARITABLE CAUSE INFORMATION,

COMPLETING ANY OTHER ACCOUNT REGISTRATION PROCESS,

MAKING AN MOBILE IN-APP DONATIONS,

USING THE AHILLZ MOBILE SDK

AND/OR BROWSING THE WEBSITE,

YOU REPRESENT THAT (1) YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY THE TERMS OF SERVICE, (2) YOU ARE OF LEGAL AGE TO FORM A BINDING CONTRACT WITH AHILLZ, AND (3) YOU HAVE THE AUTHORITY TO ENTER INTO THE TERMS OF SERVICE. IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS OF SERVICE, YOU MAY NOT ACCESS OR USE THE SERVICES. If Ahillz, or any third-party service provider acting on our behalf, at any time discovers that the information you provided about you or your use of any Service is incorrect or violates any of these Terms, the Services may be suspended and/or terminated with immediate effect.

If you are under thirteen (13) years of age, you are not authorized to use the Services, with or without registering. In addition, if you are under eighteen (18) years of age, you may only use the Services, with or without registering, with the approval of your parent or legal guardian.

If you are using the Services on behalf of an organization or entity (“Organization”), then you are agreeing to these Terms on behalf of that Organization and you represent and warrant that you have the authority to bind the Organization to these Terms. In that case, “you” and “your” refers to you and that Organization.

We may link to or present additional terms for certain of our Services. If you use those Services, you agree to follow our “Additional Terms” for such Services (and those Additional Terms will be deemed to be part of these Terms). In the event that those Additional Terms, either in whole or in part, are in conflict with any portion of

these Terms, the Additional Terms will control with respect to such Services.

This Agreement incorporates both our Privacy Policy and our Acceptable Use Policy, available at [https://www.ahillz.com/ahillz\\_terms.pdf](https://www.ahillz.com/ahillz_terms.pdf) and [https://www.ahillz.com/ahillz\\_acceptable\\_terms.pdf](https://www.ahillz.com/ahillz_acceptable_terms.pdf) and [https://www.ahillz.com/ahillz\\_privacy.pdf](https://www.ahillz.com/ahillz_privacy.pdf).

We know that your privacy is important, so we created a privacy policy that describes our collection, use and disclosure practices regarding any personal information that you provide to us: it is available at [https://www.ahillz.com/ahillz\\_privacy.pdf](https://www.ahillz.com/ahillz_privacy.pdf). You understand and agree that while we take reasonable steps to ensure the safety of your personal information, such steps do not guarantee that the Services are invulnerable to all security breaches or immune from security threats or other vulnerabilities. We reserve the right to cooperate with local, state, provincial and national authorities in investigations of improper or unlawful activities and this may require the disclosure of your personal information.

THE TERMS OF SERVICE REQUIRE THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS, AND ALSO LIMIT THE REMEDIES AVAILABLE TO YOU IN THE EVENT OF A DISPUTE.

We may change or stop providing any features of the Services, or the Services themselves, at any time without any notice.

We may at our sole discretion change, add, or delete portions of these Terms at any time on a going-forward basis. It is your responsibility to check these Terms for changes prior to use of the Services, and in any event your continued use of the Services following the posting of changes to these Terms constitutes your acceptance of any changes. We will notify you of any such material changes by posting notice of the changes at [https://www.ahillz.com/ahillz\\_terms.pdf](https://www.ahillz.com/ahillz_terms.pdf) and/or, in our sole discretion, by email.

## **How It Works**

Our Services include systems that accept and process donations (“Donations”) from donors and then re-grant those Donations to charities and other qualifying tax-exempt organizations in the Ahillz database (a “Charity” or “Charities”). Ahillz works with Stripe, a payment processor, to collect donations and distribute them to charities. You first make a Donation to Stripe, and then you may make regrant recommendations for portions of that Donation to one or more Charities (each, a “Recommendation”), at which point Ahillz with Stripe will, as described below, remit certain amounts to a Charity (“Regrant”).

The Services also allow donors or Organizers to see their respective Donations.

## **Our Role**

Ahillz provides a platform for processing Donations and facilitating Donation transactions. We have no control over any Charity, or donor, their conduct, or the information they provide.

We do not verify information provided by a Charity. Each Charity creates the description of the fundraiser, provides Ahillz with photo and/or video materials. Similarly, Charities are able to edit some of the information in our database and presented on our Website and Mobile SDK and to other websites and mobile applications using our tools. We expressly disclaim any liability or responsibility for the accuracy of information about any Charity or fundraiser, or whether Donations are used as described or in accordance with the law. Those responsibilities are solely with the respective Charity or personal fundraiser host.

We review Charities to ensure that they are in good standing with the Internal Revenue Service or their domestic regulatory authority. We review personal fundraisers for potentially fraudulent activity, misuse of funds, or other indications that the funds will not be used as represented. If you become aware of any such behavior, please contact us at [support@ahillz.com](mailto:support@ahillz.com).

Our Website may contain pages featuring Charities to receive Re grants of Donations, but the existence of these pages on the Website or Services does not constitute a solicitation of donations.

We are not a financial, tax, or law firm. Do not rely on information we provide to assess the implications of using the Services, especially making or receiving donations. Consult your own professional advisors.

## **Donations to Charities and Contributions to Personal Fundraisers**

If you are a donor, it is your responsibility to:

- ensure that you are donating to the correct charity or personal fundraiser; and
- understand how your money will be used; and
- understand the tax, legal, and other implications of your Donations. We will email you a receipt immediately after processing indicating that your payment was to a charity, but your own tax situation will determine the deductibility of any donation to a charity.

If the Organizer has set a goal, your donation will be processed (virtually immediately), whether or not the goal is met.

## **Charitable Donations and Re grants**

Donations to Charities made through the Services are complete and final charitable gifts to the Charities of your choice. Donations may be refundable — please refer to the Ahillz Refund Policy available at [https://www.ahillz.com/ahillz\\_refund\\_policy.pdf](https://www.ahillz.com/ahillz_refund_policy.pdf).

If you are an Organizer, it is your responsibility to select the correct charity. Many organizations have similar names, or chapters operating in different regions.

Ahillz makes every reasonable effort to respect the wishes of its donors. In the unusual event that donor's recommended Charity does not satisfy the Ahillz's criteria or we are unable to reasonably deliver payment (e.g., lost IRS charity designation, suspicion of illegal activities, moved and unable to redeliver payment), the Ahillz may select an alternate Charity to receive those Donations. We will attempt to find an organization with a similar mission in the same geographic area.

The amount of any Re grant will be based on the donor's Recommendation less applicable processing fees. The Ahillz may pool Re grants from multiple Users together, but will generally make Re grants to the advised Charity within 45 days or less following receipt of your Recommendation, unless the combined total to be paid to the Charity is less than \$20 or there are deliverability problems. Ahillz reserves the right to establish minimum amounts and other restrictions for any Re grant.

The Services may offer a donor the ability to indicate preferences for specific use of the funds by a Charity in a Recommendation. Such preference will be noted in the communication to the Charity accompanying the Re grant, but this does not guarantee that funds will be used in a manner consistent with any such preference, and neither we nor the Ahillz are responsible for or will be held liable for the ultimate handling of such preferences. You hereby acknowledge that any designation of a Donation's use is merely an expression of preference and does not give rise to any contractual obligations. Ahillz reserves the right in its sole discretion to remove text from this field before it is provided to the designated Charity, for example, if Ahillz deems it inappropriate, offensive or misrepresentative.

## **Payments**

You agree to pay all charges due to us, including Donations or any other charges made through your Account, at the time such payment is due and payable. You must provide Ahillz with a valid credit card (Visa, MasterCard,

or any other issuer we accept) or other payment method we make available. Your payment provider agreement governs your use of the designated credit card account, and you must refer to that agreement and not this Agreement to determine your rights and liabilities. By providing Ahillz with your credit card number and associated payment information, you agree that Ahillz is authorized to immediately invoice your Account for all fees and charges due and payable to Ahillz hereunder and that no additional notice or consent is required. You agree to immediately notify Ahillz of any change in your billing address or the credit card used for payment hereunder.

## Recurring Donations

If you select a recurring Donation, you accept responsibility for all recurring charges prior to cancellation. WE MAY SUBMIT PERIODIC CHARGES (E.G., MONTHLY) WITHOUT FURTHER AUTHORIZATION FROM YOU, UNTIL YOU PROVIDE PRIOR NOTICE (RECEIPT OF WHICH IS CONFIRMED BY US) THAT YOU HAVE TERMINATED THIS AUTHORIZATION OR WISH TO CHANGE YOUR PAYMENT PROVIDER. SUCH NOTICE WILL NOT AFFECT CHARGES SUBMITTED BEFORE WE REASONABLY COULD ACT. TO TERMINATE YOUR AUTHORIZATION OR CHANGE YOUR PAYMENT METHOD, GO TO AHILLZ.COM.

## Disputes

You must notify us in writing within seven (7) days after receiving your credit card statement if you dispute any of our charges on that statement or such dispute will be deemed waived. Billing disputes should be submitted by reaching out to Ahillz support at [support@ahillz.com](mailto:support@ahillz.com).

## Our Fees

Any payment to us made via a payment card, whether intended for a charitable organization or personal fundraiser, is assessed a fee imposed by Stripe (a Payment Processing Fee) — our payment processor partner. This amount is deducted from the amount regranted to the designated charity or paid to the personal fundraiser beneficiary and is primarily used to pay third party payment processor costs. To see the most up-to-date fees imposed by Stripe, please visit their website.

Exceptions:

- If you mark a “Cover transaction fees” checkbox, the payment card amount is increased and the payment card processing fee is not deducted from the donation. See description in the next section.
- A commercial partner or sponsor has agreed to pay for payment card processing for donations on a specific site or to a specific cause or charitable organization.

## Technology Fee for Individual Donations

There is a Technology and Licensing Fee deducted from the amount regranted to the designated charity. This fee is separate from Payment Processing Fee stipulated above, and is imposed by Ahillz as a compensation for the temporary provision of Ahillz Intellectual Property (used for, among other things, charitable fundraising and cause marketing) to third-party partners (including Websites and Mobile Apps using Ahillz SDK).

The Technology Fee is custom per each partner and depends on a variety of factors, including the size of the partner and the amount of donations we deliver to the partner.

Exceptions:

- Technology Fee and Processing Fee are mutually exclusive
- The donor may see an option to “cover transaction costs” during the donation process. If selected, the payment card processing fees will be added on top of the donation / contribution amount, and the

donor will pay the combined total. Ahillz Technology and License Fees, however, would not be covered, and still will be deducted from the donation prior to regranteeing.

## **Per-Check Fees for Disbursements to US Charitable Organizations**

At the end of every calendar month, we calculate the amounts received for every charitable organization, net of the fees above, and send US charitable organizations payment for all amounts greater than \$20. We charge a \$5 processing fee per paper check.

## **Use of the Services and Ahillz Premises**

Our Services and the information and content they deliver (as these terms are defined below) (collectively, the "Ahillz Premises") are protected by copyright and other intellectual property laws throughout the world. As between you and us, we are the sole owner of all rights, title and interest in and to the Ahillz Premises, including any intellectual property rights contained therein. Subject to the Terms, Ahillz hereby grants you a limited license to reproduce portions of the Ahillz Premises for the sole purpose of using the Services for your personal or internal business purposes. Unless otherwise specified by Ahillz in a separate license, your right to use any Ahillz Premises is subject to the Terms.

## **Ahillz Software**

Use of any downloadable software (such as our mobile applications and SDK that can be embedded into third-party mobile applications) and associated documentation (jointly, "Software") is governed by the terms of the license agreement that accompanies or is included with the Software, or by the license agreement expressly stated on the website page(s) accompanying the Software. These license terms may be posted with the Software downloads or at the website page where the Software can be accessed. You shall not use, download or install any Software that is accompanied by or includes a license agreement unless you agree to the terms of such license agreement. At no time will Ahillz provide you with any tangible copy of our Software. Ahillz shall deliver access to the Software via electronic transfer or download and shall not use or deliver any tangible media in connection with the:

- delivery, installation, updating or problem resolution of any Software (including any new releases); or
- delivery, correction or updating of documentation. For the purposes of this section tangible media shall include, but not be limited to, any tape disk, compact disk, card, flash drive, or any other comparable physical medium.

Unless the accompanying license agreement expressly allows otherwise, any copying or redistribution of the Software is prohibited, including any copying or redistribution of the Software to any other server or location, or redistribution or use on a service bureau basis. If there is any conflict between the Terms and the license agreement, the license agreement shall take precedence in relation to that Software (except as provided in the following sentence). If the Software is a pre-release version, then, notwithstanding anything to the contrary included within an accompanying license agreement, you are not permitted to use or otherwise rely on the Software for any commercial or production purposes. If no license agreement accompanies use of the Software, use of the Software will be governed by the Terms. Subject to your compliance with the Terms, Ahillz hereby grants you a non-assignable, non-transferable, non-sublicensable, revocable non-exclusive license to use the Software for the sole purpose of enabling you to use the Services in the manner permitted by the Terms. Some Software may be offered under an open source license that we will make available to you. There may be provisions in the open source license that expressly override some of these Terms.

## **Updates**

You understand that the Ahillz Premises are evolving. As a result, Ahillz may require you to accept updates to

the Ahillz Premises that you have installed on your computer or mobile device. You acknowledge and agree that Ahillz may update the Ahillz Premises with or without notifying you. You may need to update third-party software from time to time in order to use the Ahillz Premises.

## **Certain Restrictions**

The rights granted to you in the Terms are subject to the following restrictions.

- you shall not license, sell, rent, lease, transfer, assign, reproduce, distribute, host or otherwise commercially exploit the Ahillz Premises or any portion of the Ahillz Premises, including the Website;
- you shall not frame or utilize framing techniques to enclose any trademark, logo, or other Ahillz Premises (including images, text, page layout or form) of Ahillz;
- you shall not use any metatags or other “hidden text” using Ahillz’s name or trademarks;
- you shall not modify, translate, adapt, merge, make derivative works of, disassemble, decompile, reverse compile or reverse engineer any part of the Ahillz Premises except to the extent the foregoing restrictions are expressly prohibited by applicable law;
- you shall not use any manual or automated software, devices or other processes (including but not limited to spiders, robots, scrapers, crawlers, avatars, data mining tools or the like) to “scrape” or download data from any web pages contained in the Website (except that we grant the operators of public search engines revocable permission to use spiders to copy materials from the Website for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials);
- access the Ahillz Premises in order to build a similar or competitive website, application or service;
- except as expressly stated herein, no part of the Ahillz Premises may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means; and
- you shall not remove or destroy any copyright notices or other proprietary markings contained on or in the Ahillz Premises. Any future release, update or other addition to the Ahillz Premises shall be subject to the Terms. Ahillz, its suppliers and service providers reserve all rights not granted in the Terms. Any unauthorized use of the Ahillz Premises terminates the licenses granted by Ahillz pursuant to the Terms.

## **Third-Party Materials**

As a part of the Ahillz Premises, you may have access to materials that are hosted by another party. You agree that it is impossible for Ahillz to monitor such materials and that you access these materials at your own risk.

## **Location-based Information**

When you use our Services on a mobile device, we may also collect location information from the GPS functionality on your device. You hereby authorize us and our Services to take such actions and access such data. You hereby authorize the Application to access such components of your mobile device. You can grant or revoke your consent at any time and prevent us from continuing to access your GPS information by changing the settings on your device.

## **Registration and Your Account**

In order to access certain features of the Ahillz Premises you may be required to become a Registered User. For purposes of the Terms, a “Registered User” is a User who has registered an account (“Account”) or has a valid account on the social networking service (“SNS”) such as Google, Twitter, Facebook, or LinkedIn through which the User has connected to the Services (each such account, a “Third-Party Account”).

## **Registration Data**

In registering for the Services, you agree to (1) provide true, accurate, current and complete information about yourself as prompted by the Services' registration form (the "Registration Data"); and (2) maintain and promptly update the Registration Data to keep it true, accurate, current and complete. You represent that you are (1) at least thirteen (13) years old; (2) of legal age to form a binding contract; and (3) not a person barred from using the Ahillz Premises under the laws of the United States, your place of residence or any other applicable jurisdiction. You are responsible for all activities that occur under your Account. You agree that you shall monitor your Account to restrict use by minors, and you will accept full responsibility for any unauthorized use of the Ahillz Premises by minors. You may not share your Account or password with anyone, and you agree to (1) notify Ahillz immediately of any unauthorized use of your password or any other breach of security; and (2) exit from your Account at the end of each session. If you provide any information that is untrue, inaccurate, not current or incomplete, or Ahillz has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, Ahillz has the right to suspend or terminate your Account and refuse any and all current or future use of the Ahillz Premises (or any portion thereof). You agree not to create an Account using a false identity or information, or on behalf of someone other than yourself. You agree that you shall not have more than one Account per platform at any given time. Ahillz reserves the right to remove or reclaim any usernames at any time and for any reason, including but not limited to, claims by a third party that a username violates the third party's rights. You agree not to create an Account or use the Ahillz Premises if you have been previously removed by Ahillz, or if you have been previously banned from any of the Ahillz Premises.

## **Necessary Equipment and Software**

You must provide all equipment and software necessary to connect to the Ahillz Premises, including but not limited to, a mobile device that is suitable to connect with and use the Ahillz Premises, in cases where the Services offer a mobile component. You are solely responsible for any fees, including Internet connection or mobile fees, that you incur when accessing the Ahillz Premises.

## **Responsibility for Content**

You acknowledge that all Content, including the Ahillz Premises, is the sole responsibility of the party from whom such Content originated. This means that you, and not Ahillz, are entirely responsible for all Content that you upload, post, e-mail, transmit or otherwise make available ("Make Available") through the Ahillz Premises ("Your Content"), and other Users of the Ahillz Premises, and not Ahillz, are similarly responsible for all Content they Make Available through the Ahillz Premises ("User Content").

## **No Obligation to Pre-Screen Content**

You acknowledge that Ahillz has no obligation to pre-screen Content (including, but not limited to, Your Content and User Content), although Ahillz reserves the right in its sole discretion to pre-screen, refuse or remove any Content. By entering into the Terms, you hereby provide your irrevocable consent to such monitoring. You acknowledge and agree that you have no expectation of privacy concerning the transmission of Your Content, including without limitation chat, text, or voice communications. In the event that Ahillz pre-screens, refuses or removes any Content, you acknowledge that Ahillz will do so for Ahillz's benefit, not yours. Without limiting the foregoing, Ahillz shall have the right to remove any Content that violates the Terms or is otherwise objectionable.

## **Storage**

Unless expressly agreed to by Ahillz in writing elsewhere, Ahillz has no obligation to store any of Your Content that you Make Available on the Ahillz Premises. Ahillz has no responsibility or liability for the deletion or

accuracy of any Content, including Your Content; the failure to store, transmit or receive transmission of Content; or the security, privacy, storage, or transmission of other communications originating with or involving use of the Ahillz Premises. Certain Services may enable you to specify the level at which such Services restrict access to Your Content. You are solely responsible for applying the appropriate level of access to Your Content. If you do not choose, the system may default to its most permissive setting. You agree that Ahillz retains the right to create reasonable limits on Ahillz's use and storage of the Content, including Your Content, such as limits on file size, storage space, processing capacity, and similar limits described in the web pages accompanying the Services and as otherwise determined by Ahillz in its sole discretion.

## **Ownership**

Except with respect to Your Content and User Content, you agree that Ahillz and its suppliers own all rights, title and interest in the Ahillz Premises. You will not remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying the Services, or the Ahillz Premises.

## **Trademarks**

Ahillz and other related graphics, logos, service marks and trade names used on or in connection with the Ahillz Premises or in connection with the Services are the trademarks of Ahillz and may not be used without permission in connection with any third-party products or services. Other trademarks, service marks and trade names that may appear on or in the Ahillz Premises are the property of their respective owners.

## **Other Content**

Except with respect to Your Content, you agree that you have no right or title in or to any Content that appears on or in the Ahillz Premises.

## **Your Content**

Ahillz does not claim ownership of Your Content. However, when you as a User post or publish Your Content on or in the Ahillz Premises, you represent and warrant that you own and/or have a royalty-free, perpetual, irrevocable, worldwide, non-exclusive right (including any moral rights) and license to use, license, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, derive revenue or other remuneration from, and communicate to the public, perform and display Your Content (in whole or in part) worldwide and/or to incorporate it in other works in any form, media or technology now known or later developed, for the full term of any worldwide intellectual property right that may exist in Your Content.

## **License to Your Content**

Subject to any applicable account settings that you select, you grant Ahillz a fully paid, royalty-free, perpetual, irrevocable, worldwide, royalty-free, non-exclusive and fully sublicensable right (including any moral rights) and license to use, license, distribute, reproduce, modify, adapt, publicly perform, publicly display, derive revenue or other remuneration from, and communicate to the public, Your Content (in whole or in part) and/or to incorporate it in other works in any form, media or technology now known or later developed, for the full term of any worldwide intellectual property right, including moral rights, that may exist in Your Content. Please remember that other Users may search for, see, use, modify and reproduce any of Your Content that you submit to any "public" area of the Ahillz Premises. You warrant that the holder of any worldwide intellectual property right, including moral rights, in Your Content, has completely and effectively waived all such rights and validly and irrevocably granted to you the right to grant the license stated above. You agree that you, not Ahillz, are responsible for all of Your Content that you Make Available on or in the Ahillz Premises.



## **Username**

Notwithstanding anything contained herein to the contrary, by submitting Your Content to any forums, comments or any other area on the Ahillz Premises, you hereby expressly permit Ahillz to identify you by your username (which may be a pseudonym) as the contributor of Your Content in any publication in any form, media or technology now known or later developed in connection with Your Content.

## **Your Account**

Notwithstanding anything to the contrary herein, you acknowledge and agree that you shall have no ownership or other property interest in your Account, and you further acknowledge and agree that all rights in and to your Account are and shall forever be owned by and inure to the benefit of Ahillz.

## **Your Profile**

Any Content posted by you in your profile may not contain nudity, violence, sexually explicit, or offensive subject matter. You may not post or submit for print services a photograph of another person without that person's permission.

## **Feedback**

You agree that submission of any ideas, suggestions, documents, and/or proposals to Ahillz through its suggestion, feedback, wiki, forum or similar pages ("Feedback") is at your own risk and that Ahillz has no obligations (including without limitation obligations of confidentiality) with respect to such Feedback. You represent and warrant that you have all rights necessary to submit the Feedback. You hereby grant to Ahillz a fully paid, royalty-free, perpetual, irrevocable, worldwide, non-exclusive, and fully sublicensable right and license to use, reproduce, perform, display, distribute, adapt, modify, re-format, create derivative works of, and otherwise commercially or non-commercially exploit in any manner, any and all Feedback, and to sublicense the foregoing rights, in connection with the operation and maintenance of the Ahillz Premises.

## **User Conduct**

You agree to comply with our Acceptable Use Policy.

## **Commercial Activities**

You agree that you will not, under any circumstances (except to the extent expressly authorized by the Terms):

- Reproduce, duplicate, copy, sell, trade, resell or exploit for any commercial purpose any portion of the Ahillz Premises (including your Account), or access to or use of the Ahillz Premises;
- Upload, post, e-mail, transmit or otherwise make available any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation;
- Use the Ahillz Premises or any part thereof for any commercial purpose, including, but not limited to communicating or facilitating any commercial advertisement or solicitation;
- Engage in any chain letters, contests, junk email, pyramid schemes, spamming, surveys or other duplicative or unsolicited messages (commercial or otherwise); or
- Market any goods or services for any business purposes.

## **Investigations**

Ahillz may, but is not obligated to, monitor or review the Ahillz Premises and Content at any time. Without limiting the foregoing, Ahillz shall have the right, in its sole discretion, to remove any of Your Content for any reason (or no reason), including if such Content violates the Terms or any applicable law. Although Ahillz does not generally monitor user activity occurring in connection with the Ahillz Premises or Content, if Ahillz becomes aware of any possible violations by you of any provision of the Terms, Ahillz reserves the right to investigate such violations, and Ahillz may, at its sole discretion, immediately terminate your license to use the Ahillz Premises, or change, alter or remove Your Content, in whole or in part, without prior notice to you.

## **Interactions with Other Users**

You are solely responsible for your interactions with other Users of the Services and any other parties with whom you interact through the Services; provided, however, that Ahillz reserves the right, but has no obligation, to intercede in such disputes. You agree that Ahillz will not be responsible for any liability incurred as the result of such interactions.

## **Content Provided by Other Users**

The Ahillz Premises may contain User Content provided by other Users. Ahillz is not responsible for and does not control User Content. Ahillz has no obligation to review or monitor, and does not approve, endorse or make any representations or warranties with respect to User Content. You use all User Content and interact with other Users at your own risk.

## **Verification**

Ahillz does check the backgrounds of Charities, via independent third-party services using federal tax identification numbers. However, it cannot guarantee that all Charities are and will be who they say they are. NEITHER AHILLZ NOR ITS AFFILIATES OR LICENSORS IS RESPONSIBLE FOR THE CONDUCT, WHETHER ONLINE OR OFFLINE, OF ANY CHARITY IN THE SERVICE.

## **Third-Party Websites & Ads**

The Ahillz Premises may contain links to third-party websites ("Third-Party Websites"). When you click on a link to a Third-Party Website, we will not warn you that you have left the Ahillz Premises and are subject to the terms and conditions (including privacy policies) of another website or destination. Such Third-Party Websites are not under the control of Ahillz, and Ahillz is not responsible for any Third-Party Websites. Ahillz links to these Third-Party Websites only as a convenience and does not review, approve, monitor, endorse, warrant, or make any representations with respect to Third-Party Websites, or their products or services. You use all links in Third-Party Websites at your own risk. When you leave our Website, our Terms and policies no longer govern. You should review applicable terms and policies, including privacy and data gathering practices, of any Third-Party Websites, and should make whatever investigation you feel necessary or appropriate before proceeding with any transaction with any third party.

## **App Stores**

You acknowledge and agree that the availability of the Application and the Services is dependent on the third party from whom you received the Application license, e.g., the Apple iPhone or Android app stores ("App Store"). You acknowledge that the Terms are between you and Ahillz and not with the App Store. Ahillz, not the App Store, is solely responsible for the Ahillz Premises, including the Application, the content thereof, maintenance, support services, and warranty therefor, and addressing any claims relating thereto (e.g., product liability, legal compliance or intellectual property infringement). In order to use the Application, you

must have access to a wireless network, and you agree to pay all fees associated with such access. You also agree to pay all fees (if any) charged by the App Store in connection with the Ahillz Premises, including the Application. You agree to comply with, and your license to use the Application is conditioned upon your compliance with, all applicable third-party terms of agreement (e.g., the App Store's terms and policies) when using the Ahillz Premises, including the Application. You acknowledge that the App Store (and its subsidiaries) are third-party beneficiaries of the Terms and will have the right to enforce them.

## **iOS Application and mobile SDK**

Subject to your compliance with the Terms, in the event Ahillz offers a mobile application, Ahillz grants you a limited non-exclusive, non-transferable, non-sublicensable, revocable license to download, install and use a copy of the Application on a single mobile device or computer that you own or control and to run such copy of the Application solely for your own personal or internal business purposes. Furthermore, with respect to any Application accessed through or downloaded from the Apple App Store (an "App Store Sourced Application"), you will only use the App Store Sourced Application (i) on an Apple-branded product that runs the iOS (Apple's proprietary operating system) and (ii) as permitted by the "Usage Rules" set forth in the Apple App Store Terms of Service. Without limiting the foregoing, the following applies to any App Store Sourced Application:

You acknowledge and agree that

- the Terms are concluded between you and Ahillz only, and not Apple, and
- Ahillz, not Apple, is solely responsible for the App Store Sourced Application and content thereof. Your use of the App Store Sourced Application must comply with the App Store Terms of Service.

You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the App Store Sourced Application.

In the event of any failure of the App Store Sourced Application to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the App Store Sourced Application to you and to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App Store Sourced Application. As between Ahillz and Apple, any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be the sole responsibility of Ahillz.

You and Ahillz acknowledge that, as between Ahillz and Apple, Apple is not responsible for addressing any claims you have or any claims of any third party relating to the App Store Sourced Application or your possession and use of the App Store Sourced Application, including, but not limited to:

- product liability claims;
- any claim that the App Store Sourced Application fails to conform to any applicable legal or regulatory requirement; and
- claims arising under consumer protection or similar legislation.

You and Ahillz acknowledge that, in the event of any third-party claim that the App Store Sourced Application or your possession and use of that App Store Sourced Application infringes that third party's intellectual property rights, as between Ahillz and Apple, Ahillz, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by the Terms.

You and Ahillz acknowledge and agree that Apple, and Apple's subsidiaries, are third-party beneficiaries of the Terms as related to your license of the App Store Sourced Application, and that, upon your acceptance of the terms and conditions of the Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce the Terms as related to your license of the App Store Sourced Application against you as a third-party beneficiary thereof.

Without limiting any other terms of the Terms, you must comply with all applicable third-party terms of agreement when using the App Store Sourced Application.

## **Indemnification**

You agree to indemnify and hold Ahillz, its parents, subsidiaries, affiliates and the Ahillz, and their officers, employees, agents, partners and licensors (collectively, the "Ahillz Parties") harmless from any losses, costs, liabilities and expenses (including reasonable attorneys' fees) relating to or arising out of:

- Your Content;
- your use of, or inability to use, the Ahillz Premises;
- your violation of the Terms;
- your violation of any rights of another party, including any Users; or
- your violation of any applicable laws, rules or regulations.

Ahillz reserves the right, at its own cost, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will fully cooperate with Ahillz in asserting any available defenses. You agree that the provisions in this section will survive any termination of your Account, the Terms or your access to the Ahillz Premises.

## **Disclaimer of Warranties**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOUR USE OF THE AHILLZ PREMISES IS AT YOUR SOLE RISK, AND THE AHILLZ PREMISES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS. AHILLZ PARTIES EXPRESSLY DISCLAIM ALL WARRANTIES, REPRESENTATIONS, AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

THE AHILLZ PARTIES MAKE NO WARRANTY, REPRESENTATION OR CONDITION THAT:

- THE AHILLZ PREMISES WILL MEET YOUR REQUIREMENTS;
- YOUR USE OF THE AHILLZ PREMISES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE;
- THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE AHILLZ PREMISES WILL BE ACCURATE OR RELIABLE; OR
- ANY ERRORS IN THE AHILLZ PREMISES WILL BE CORRECTED.

ANY CONTENT DOWNLOADED FROM OR OTHERWISE ACCESSED THROUGH THE AHILLZ PREMISES IS ACCESSED AT YOUR OWN RISK, AND YOU SHALL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY OR PERSON, INCLUDING, BUT NOT LIMITED TO, YOUR COMPUTER SYSTEM AND ANY DEVICE YOU USE TO ACCESS THE AHILLZ PREMISES, OR ANY OTHER LOSS THAT RESULTS FROM ACCESSING SUCH CONTENT.

THE SERVICES MAY BE SUBJECT TO DELAYS, CANCELLATIONS AND OTHER DISRUPTIONS. AHILLZ MAKES NO WARRANTY, REPRESENTATION OR CONDITION WITH RESPECT TO SERVICES, INCLUDING BUT NOT LIMITED TO, THE QUALITY, EFFECTIVENESS, REPUTATION AND OTHER CHARACTERISTICS OF SERVICES.

NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM AHILLZ OR THROUGH THE AHILLZ PREMISES WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN.

From time to time, Ahillz may offer new "beta" features or tools with which its users may experiment. Such features or tools are offered solely for experimental purposes and without any warranty of any kind, and may be modified or discontinued at Ahillz's sole discretion. The provisions of this section apply with full force to

such features or tools.

## **No Liability for Conduct of Third Parties**

YOU ACKNOWLEDGE AND AGREE THAT THE AHILLZ PARTIES ARE NOT LIABLE, AND YOU AGREE NOT TO SEEK TO HOLD THE AHILLZ PARTIES LIABLE, FOR THE CONDUCT OF THIRD PARTIES, INCLUDING OPERATORS OF EXTERNAL SITES, AND THAT THE RISK OF INJURY FROM SUCH THIRD PARTIES RESTS ENTIRELY WITH YOU. AHILLZ MAKES NO WARRANTY THAT THE SERVICES PROVIDED BY THIRD PARTIES WILL MEET YOUR REQUIREMENTS.

## **No Liability for Conduct of Other Users**

YOU ARE SOLELY RESPONSIBLE FOR ALL OF YOUR COMMUNICATIONS AND INTERACTIONS WITH OTHER USERS OF THE AHILLZ PREMISES. YOU UNDERSTAND THAT AHILLZ DOES NOT MAKE ANY ATTEMPT TO VERIFY THE STATEMENTS OF USERS OF THE AHILLZ PREMISES. AHILLZ MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE CONDUCT OF USERS OF THE AHILLZ PREMISES OR THEIR COMPATIBILITY WITH ANY CURRENT OR FUTURE USERS OF THE AHILLZ PREMISES. YOU AGREE TO TAKE REASONABLE PRECAUTIONS IN ALL COMMUNICATIONS AND INTERACTIONS WITH OTHER USERS OF THE AHILLZ PREMISES, PARTICULARLY IF YOU DECIDE TO MEET OFFLINE OR IN PERSON. YOU ACKNOWLEDGE AND AGREE THAT AHILLZ DOES NOT CONDUCT BACKGROUND CHECKS ON ANY USER.

## **Limitation of Liability**

YOU UNDERSTAND AND AGREE THAT IN NO EVENT SHALL AHILLZ PARTIES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE AHILLZ PREMISES, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES RESULTING FROM LOSS OF USE, DATA, OR PROFITS, WHETHER OR NOT AHILLZ HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY DAMAGES FOR PERSONAL OR BODILY INJURY OR EMOTIONAL DISTRESS ARISING OUT OF OR IN CONNECTION WITH THE TERMS, OR FROM ANY COMMUNICATIONS, INTERACTIONS OR MEETINGS WITH OTHER USERS OF THE AHILLZ PREMISES, ON ANY THEORY OF LIABILITY, RESULTING FROM: (1) THE USE OR INABILITY TO USE THE AHILLZ PREMISES; (2) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED FOR TRANSACTIONS ENTERED INTO THROUGH THE AHILLZ PREMISES; (3) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (4) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE AHILLZ PREMISES; OR (5) ANY OTHER MATTER RELATED TO THE AHILLZ PREMISES, WHETHER BASED ON WARRANTY, COPYRIGHT, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY.

## **Cap on Liability**

UNDER NO CIRCUMSTANCES WILL THE AHILLZ PARTIES BE LIABLE TO YOU FOR MORE THAN FIFTY DOLLARS (\$50).

## **User Content**

THE AHILLZ PARTIES ASSUME NO RESPONSIBILITY FOR THE TIMELINESS, DELETION, MIS-DELIVERY OR FAILURE TO STORE ANY CONTENT (INCLUDING, BUT NOT LIMITED TO, YOUR CONTENT AND USER CONTENT), USER COMMUNICATIONS OR PERSONALIZATION SETTINGS.

## **Basis of the Bargain**

THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN AHILLZ AND YOU.

## **EXCLUSION OF DAMAGES**

CERTAIN JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

## **Procedure for Making Claims of Copyright Infringement**

It is Ahillz's policy to terminate membership privileges of any User who repeatedly infringes copyright upon prompt notification to Ahillz by the copyright owner or the copyright owner's legal agent. Without limiting the foregoing, if you believe that your work has been copied and posted on the Ahillz Premises in a way that constitutes copyright infringement, please provide our Copyright Agent with the following information: (1) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; (2) a description of the copyrighted work that you claim has been infringed; (3) a description of the location on the Ahillz Premises of the material that you claim is infringing; (4) your address, telephone number and e-mail address; (5) a written statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent or the law; and (6) a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf. Contact information for Ahillz's Copyright Agent for notice of claims of copyright infringement is as follows: Ahillz, 8 The Green, STE A, Kent, DE 19901.

## **Term and Termination**

The Terms commence on the date when you accept them (as described in the preamble above) and remain in full force and effect while you use the Ahillz Premises, unless terminated earlier in accordance with the Terms.

## **Prior Use**

Notwithstanding the foregoing, if you used the Ahillz Premises prior to the date you accepted the Terms, you hereby acknowledge and agree that the Terms commenced on the date you first used the Ahillz Premises (whichever is earlier) and will remain in full force and effect while you use the Ahillz Premises, unless earlier terminated in accordance with the Terms.

## **Termination of Services by Ahillz**

Ahillz reserves the right to modify, suspend or terminate any Services provided to you at any time for any reason. You agree that all terminations for cause shall be made in Ahillz's sole discretion and that Ahillz shall not be liable to you or any third party for any termination of your Account.

## **Termination of Services by You**

If you want to terminate the Services provided by Ahillz, you may do so by (a) notifying Ahillz at any time and (b) closing your Account for all of the Services that you use. Your notice should be sent, in writing, to Ahillz's address set forth below.

## **Effect of Termination**

Termination of any Service includes removal of access to such Service and barring of further use of the Service. Termination of all Services also includes deletion of your password and all related information, files and Content associated with or inside your Account (or any part thereof), including Your Content. Upon termination of any Service, your right to use such Service will automatically terminate immediately. You understand that any termination of Services may involve deletion of Your Content associated therewith from our live databases. Ahillz will not have any liability whatsoever to you for any suspension or termination, including for deletion of Your Content. All provisions of the Terms which by their nature should survive, shall survive termination of Services, including without limitation, ownership provisions, warranty disclaimers, and limitation of liability.

## **Remedies**

If Ahillz becomes aware of any possible violations by you of the Terms, Ahillz reserves the right to investigate such violations. If, as a result of the investigation, Ahillz believes that criminal activity has occurred, Ahillz reserves the right to refer the matter to, and to cooperate with, any and all applicable legal authorities. Ahillz is entitled, except to the extent prohibited by applicable law, to disclose any information or materials on or in the Ahillz Premises, including Your Content, in Ahillz's possession in connection with your use of the Ahillz Premises, to:

- comply with applicable laws, legal process or governmental request;
- enforce the Terms,
- respond to any claims that Your Content violates the rights of third parties,
- respond to your requests for customer service, or
- protect the rights, property or personal safety of Ahillz, its Users or the public, and all enforcement or other government officials, as Ahillz in its sole discretion believes to be necessary or appropriate.

## **Breach**

In the event that Ahillz determines, in its sole discretion, that you have breached any portion of the Terms, or have otherwise demonstrated conduct inappropriate for the Ahillz Premises, Ahillz reserves the right to:

- Warn you via e-mail (to any e-mail address you have provided to Ahillz) that you have violated the Terms;
- Delete any of Your Content provided by you or your agent(s) to the Ahillz Premises;
- Discontinue your registration(s) with the any of the Ahillz Premises, including any Services or any Ahillz community;
- Discontinue your subscription to any Services;
- Notify and/or send Content to and/or fully cooperate with the proper law enforcement authorities for further action; and/or
- Pursue any other action which Ahillz deems to be appropriate.

## **No Subsequent Registration**

If your registration(s) with or ability to access the Ahillz Premises, or any other Ahillz community is discontinued by Ahillz due to your violation of any portion of the Terms or for conduct otherwise inappropriate for the community, then you agree that you shall not attempt to re-register with or access the Ahillz Premises or any Ahillz community through use of a different member name or otherwise, and you acknowledge that you will not be entitled to receive a refund for fees related to those Ahillz Premises to which your access has been terminated. In the event that you violate the immediately preceding sentence, Ahillz reserves the right, in its sole discretion, to immediately take any or all of the actions set forth herein without any notice or warning to you.

## **International Users**

The Ahillz Premises can be accessed from countries around the world and may contain references to Services and Content that are not available in your country. These references do not imply that Ahillz intends to announce such Services or Content in your country. The Ahillz Premises are controlled and offered by Ahillz from its facilities in the United States of America. Ahillz makes no representations that the Ahillz Premises are appropriate or available for use in other locations. Those who access or use the Ahillz Premises from other jurisdictions do so at their own volition and are responsible for compliance with local law.

## **General Provisions**

The communications between you and Ahillz use electronic means, whether you visit the Ahillz Premises or send Ahillz e-mails, or whether Ahillz posts notices on the Ahillz Premises or communicates with you via e-mail. For contractual purposes, you (1) consent to receive communications from Ahillz in an electronic form; and (2) agree that all terms and conditions, agreements, notices, disclosures, and other communications that Ahillz provides to you electronically satisfy any legal requirement that such communications would satisfy if it were to be in writing. The foregoing does not affect your statutory rights.

## **Release**

You hereby release the Ahillz Parties and their successors from claims, demands, any and all losses, damages, rights, and actions of any kind, including personal injuries, death, and property damage, that is either directly or indirectly related to or arises from your use of the Ahillz Premises, including but not limited to, any interactions with or conduct of other Users or Third-Party Websites of any kind arising in connection with or as a result of the Terms or your use of the Ahillz Premises. If you are a California resident, you hereby waive California Civil Code Section 1542, which states, "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."

## **Assignment**

The Terms, and your rights and obligations hereunder, may not be assigned, subcontracted, delegated or otherwise transferred by you without Ahillz's prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void.

## **Force Majeure**

Ahillz shall not be liable for any delay or failure to perform resulting from causes outside its reasonable control, including, but not limited to, acts of God, war, terrorism, riots, embargos, acts of civil or military authorities, fire, floods, accidents, strikes or shortages of transportation facilities, fuel, energy, labor or materials.

## **Compliance**

If you believe that Ahillz has not adhered to the Terms, please contact Ahillz by emailing [legal@Ahillz.com](mailto:legal@Ahillz.com). We will do our best to address your concerns. If you feel that your complaint has been addressed incompletely, we invite you to let us know for further investigation.

## **Limitations Period**

YOU AND AHILLZ AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE TERMS, THE AHILLZ



PREMISES OR THE CONTENT MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.

## Dispute Resolution

Any claim or dispute (excluding claims for injunctive or other equitable relief as set forth below) in connection with the Terms where the total amount of the award sought is less than Five Thousand U.S. Dollars (US \$5,000.00) may be resolved in a cost effective manner through binding non-appearance-based arbitration, at the option of the party seeking relief. Such arbitration shall be initiated through an established alternative dispute resolution provider (“ADR Provider”) that offers arbitration as set forth in this section and under the rules of such ADR Provider, except to the extent such rules are in conflict with the Terms. The party demanding arbitration will propose an ADR Provider and the other party shall not unreasonably withhold consent to use such ADR Provider. The ADR Provider and the parties must comply with the following rules:

- the arbitration shall be conducted by telephone, online and/or be solely based on written submissions, the specific manner shall be chosen by the party initiating the arbitration;
- all arbitration proceedings shall be held in English;
- the arbitration shall not involve any personal appearance by the parties or witnesses unless otherwise mutually agreed to by the parties; and
- any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

Each party shall bear its own costs (including attorney fees) and disbursements arising out of the arbitration, and shall pay an equal share of the fees and costs of the ADR Provider. Notwithstanding the foregoing, Ahillz may seek injunctive or other equitable relief to protect its intellectual property rights in any court of competent jurisdiction. Please note that the laws of the jurisdiction where you are located may be different from California law, including the laws governing what can legally be sold, bought, exported, offered or imported. You shall always comply with all the international and domestic laws, ordinances, regulations and statutes that are applicable to your use of the Ahillz Premises.

Any other dispute (including whether the claims asserted are arbitrable) shall be referred to and finally determined by binding and confidential arbitration. Arbitration shall be subject to the Federal Arbitration Act and not any state arbitration law. The arbitration shall be conducted before one commercial arbitrator with substantial experience in resolving commercial contract disputes from the American Arbitration Association (“AAA”). As modified by the Terms, and unless otherwise agreed upon by the parties in writing, the arbitration will be governed by the AAA’s Commercial Arbitration Rules and, if the arbitrator deems them applicable, the Supplementary Procedures for Consumer Related Disputes (collectively “Rules and Procedures”).

You are thus GIVING UP YOUR RIGHT TO GO TO COURT to assert or defend your rights EXCEPT for matters that may be taken to small claims court. Your rights will be determined by a NEUTRAL ARBITRATOR and NOT a judge or jury. You are entitled to a FAIR HEARING, BUT the arbitration procedures are SIMPLER AND MORE LIMITED THAN RULES APPLICABLE IN COURT. Arbitrator decisions are as enforceable as any court order and are subject to VERY LIMITED REVIEW BY A COURT.

You and Ahillz must abide by the following rules:

- ANY CLAIMS BROUGHT BY YOU OR AHILLZ MUST BE BROUGHT IN THE PARTIES’ INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING;
- THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON’S CLAIMS, MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING, AND MAY NOT AWARD CLASS-WIDE RELIEF;
- in the event that you are able to demonstrate that the costs of arbitration will be prohibitive as compared to costs of litigation, Ahillz will pay as much of your filing and hearing fees in connection

- with the arbitration as the arbitrator deems necessary to prevent the arbitration from being cost-prohibitive as compared to the cost of litigation;
- Ahillz also reserves the right in its sole and exclusive discretion to assume responsibility for all of the costs of the arbitration;
  - the arbitrator shall honor claims of privilege and privacy recognized at law;
  - the arbitration shall be confidential, and neither you nor we may disclose the existence, content or results of any arbitration, except as may be required by law or for the purposes of enforcement of the arbitration award;
  - the arbitrator may award any individual relief or individual remedies that are permitted by applicable law;
  - each side pays its own attorneys' fees and expenses unless there is a statutory provision that requires the prevailing party to be paid its fees and litigation expenses, and then in such instance, the fees and costs awarded shall be determined by applicable law.

The arbitral proceedings, and all pleadings and written evidence will be in the English language. Any written evidence originally in a language other than English will be submitted in English translation accompanied by the original or true copy thereof. The English language version will control. The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator will not have authority to award damages in excess of the amount, or other than the types, allowed by Section 13 of the Terms. Judgment on the award of the arbitrator may be entered by any court of competent jurisdiction. The arbitrator also shall be authorized to grant any temporary, preliminary or permanent equitable remedy or relief it deems just and equitable and within the scope of the Terms, including, without limitation, an injunction or order for specific performance. The arbitration award shall be final and binding upon the parties without appeal or review except as permitted by California law or United States federal law.

Notwithstanding the foregoing, either you or Ahillz may bring an individual action in small claims court. Further, claims of defamation, violation of the Computer Fraud and Abuse Act, and infringement or misappropriation of the other party's patent, copyright, trademark, or trade secret shall not be subject to this arbitration agreement. Such claims shall be exclusively brought in the state or federal courts located in Hollywood, California. Additionally, notwithstanding this agreement to arbitrate, either party may seek emergency equitable relief before the state or federal courts located in Hollywood, California, in order to maintain the status quo pending arbitration, and hereby agree to submit to the exclusive personal jurisdiction of the courts located within Hollywood, California for such purpose. A request for interim measures shall not be deemed a waiver of the right to arbitrate.

With the exception of (d)(i) and (ii) above (prohibiting arbitration on a class or collective basis), if any part of this arbitration provision is deemed to be invalid, unenforceable, or illegal, or otherwise conflicts with the Rules and Procedures, then the balance of this arbitration provision shall remain in effect and shall be construed in accordance with its terms as if the invalid, unenforceable, illegal or conflicting provision were not contained herein. If, however, either (d)(i) or (ii) is found to be invalid, unenforceable or illegal, then the entirety of this arbitration provision shall be null and void, and neither you nor Ahillz shall be entitled to arbitration. If for any reason, a claim proceeds in court rather than in arbitration, the dispute shall be exclusively brought in state or federal court in Hollywood, California. By using the Ahillz Premises in any manner, you agree to the above arbitration provision.

For more information on AAA, its Rules and Procedures, and how to file an arbitration claim, you may call AAA at 800-778-7879 or visit the AAA website at <http://www.adr.org>.

## **Governing Law**

The Terms and any action related thereto will be governed and interpreted by and under the laws of the State of Delaware, consistent with the Federal Arbitration Act, without giving effect to any principles that provide for the application of the law of another jurisdiction. The United Nations Convention on Contracts for the

International Sale of Goods does not apply to these Terms.

## **Choice of Language**

It is the express wish of the parties that the Terms and all related documents have been drawn up in English. C'est la volonté expresse des parties que la présente convention ainsi que les documents qui s'y rattachent soient rédigés en anglais.

## **Notice**

Where Ahillz requires that you provide an e-mail address, you are responsible for providing Ahillz with your most current e-mail address. In the event that the last e-mail address you provided to Ahillz is not valid, or for any reason is not capable of delivering to you any notices required/ permitted by the Terms, Ahillz's dispatch of the e-mail containing such notice will nonetheless constitute effective notice. You may give notice to Ahillz at the following address: Ahillz, 8 The Green, STE A, Kent, DE 19901. Such notice shall be deemed given when received by Ahillz by letter delivered by nationally recognized overnight delivery service or first-class postage prepaid mail at the above address.

## **Waiver**

Any waiver or failure to enforce any provision of the Terms on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

## **Severability**

If any provision of the Terms is, for any reason, held to be invalid or unenforceable, the other provisions of the Terms will remain enforceable, and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.

## **Export Control**

You may not use, export, import, or transfer the Ahillz Premises except as authorized by U.S. law, the laws of the jurisdiction in which you obtained the Ahillz Premises, and any other applicable laws. In particular, but without limitation, the Ahillz Premises may not be exported or re-exported (a) into any United States embargoed countries, or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Denied Person's List or Entity List. By using the Ahillz Premises, you represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties. You also will not use the Ahillz Premises for any purpose prohibited by U.S. law, including the development, design, manufacture or production of missiles, nuclear, chemical or biological weapons. You acknowledge and agree that products, services or technology provided by Ahillz are subject to the export control laws and regulations of the United States. You shall comply with these laws and regulations and shall not, without prior U.S. government authorization, export, re-export, or transfer the Ahillz products, services or technology, either directly or indirectly, to any country in violation of such laws and regulations.

## **Entire Agreement**

The Terms are the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior discussions between the parties with respect to such subject matter.