

## **TERMS OF USE**

### **Acceptance of Terms of Use**

These Terms of Use govern your use of the online and mobile web site (the "Website" or, collectively, the "Websites"), and the tablet, smartphone and other applications and platforms, available through third party devices, (the "Application" or, collectively, the "Applications"), owned and/or operated by Giant Pizza, Inc. and its affiliates and franchisees (hereinafter "Giant" or "Giant Pizza"). If you do not agree to these Terms of Use, you should not use the Websites or Applications. These Terms of Use are an ongoing contract between you and Giant Pizza and apply to your use of the Websites or Applications. These Terms of Use affect your rights and you should read them carefully.

### **Changes to Terms of Use**

Giant Pizza reserves the right, from time to time, with or without notice to you, to change these Terms of Use (other than the arbitration provision) in our sole and absolute discretion. The most current version of these Terms of Use can be reviewed by clicking on the "Terms of Use" located at the bottom of the pages of the online Website or on the Applications. The most current version of the Terms of Use will supersede all previous versions.

### **Privacy and Personal Information**

Giant Pizza is committed to protecting the privacy of the personal information you provide us on our Websites and Applications. Any information submitted on the Websites and Applications is subject to our Privacy Policy, the terms of which are incorporated herein. Please review our Privacy Policy to understand our practices. The date of any changes to our Privacy Policy will be noted at the bottom of our Privacy Policy.

### **Your Account**

If you use the Websites or Applications, you are responsible for maintaining the confidentiality of your account and password and for restricting access to your computer, smartphone or tablet, and you agree to accept responsibility for all activities that occur under your account or password. The Websites and Applications sell products to adults, who can purchase with a credit card. If you are under 18, you may use the Websites and Applications only with involvement of a parent or guardian. Giant Pizza and its affiliates reserve the right to refuse service, terminate accounts, remove or edit content, or cancel orders in their sole discretion.

### **Giant Pizza Websites and Applications**

These Terms of Use apply to all users of the Websites and Applications, including users who are also contributors of video content, voice content, information, and other materials or services on the Websites or Applications. The Websites and Applications may contain links to third party websites or applications, or may be made available through third party devices, that are not owned or controlled by Giant Pizza. Giant Pizza has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third party websites, applications or devices. In addition, Giant Pizza will not and cannot censor or edit the content of any third-party site, application or device. By using the Websites or Applications, you expressly relieve Giant Pizza from any and all liability arising from your use of any third-party website, application or device. Accordingly, we encourage you to be aware when you

leave the Websites or Applications and to read the terms and conditions and privacy policy of each other website, application and device that you visit.

### **Website/Application Access**

A. Giant Pizza hereby grants you permission to use the Websites and Applications as set forth in this Terms of Use, provided that: (i) your use of the Websites and Applications as permitted are solely for your personal, noncommercial use; (ii) you will not copy or distribute any part of the Websites or Applications in any medium without Giant Pizza prior written authorization; (iii) you will not alter or modify any part of the Websites or Applications other than as may be reasonably necessary to use the Websites or Applications for their intended purpose; and (iv) you will otherwise comply with the terms and conditions of these Terms of Use.

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

C. You agree not to use or launch any automated system, including without limitation, "robots," "spiders," "offline readers," etc., that accesses the Websites or Applications in a manner that sends more request messages to the Giant Pizza servers in a given period of time than a human can reasonably produce in the same period by using a convention on-line web browser. Notwithstanding the foregoing, Giant Pizza grants the operators of public search engines permission to use spiders to copy materials from the site for the sole purpose of creating publicly available searchable indices of the materials, but not caches or archives of such materials. Giant Pizza reserves the right to revoke these exceptions either generally or in specific cases. You agree not to collect or harvest any personally identifiable information, including account names, from the Websites or Applications, nor to use the communication systems provided by the Websites or Applications for any commercial solicitation purposes. You agree not to solicit, for commercial purposes, any users of the Websites or Applications with respect to their User Submissions.

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### **User Submissions**

A. The Websites or Applications may now or in the future permit the submission of photos, audio files, videos or other communications submitted by you and other users ("User Submissions") and the hosting, sharing, and/or publishing of such User Submissions. You understand that whether or not such User Submissions are published, Giant Pizza does not guarantee any confidentiality with respect to any submissions. You agree that Giant Pizza may publish your name and User Submission on the Websites, Applications or in other press releases or media items.

B. You shall be solely responsible for your own User Submissions and the consequences of posting or publishing them. In connection with User Submissions, you affirm, represent, and/or warrant that: (i) you own or have the necessary licenses, rights, consents, and permissions to use and authorize Giant to use all patent, trademark, trade secret, copyright or other proprietary rights in and to any and all User Submissions to enable inclusion and use of the User Submissions in the manner contemplated by the Websites, Applications and these Terms of Use; and (ii) you have the written consent, release, and/or permission of each and every identifiable individual person in the User Submission to use the name or likeness of each and every such identifiable individual person to enable inclusion and use of the User Submissions in the manner contemplated by the Websites, Applications and these Terms of Use. User agrees that any BFD name registrations become the property of Giant Pizza, Inc may use such submissions in any manner in the sole discretion of Giant Pizza. For clarity, you retain all of your ownership rights in your other User Submissions. However, by submitting the User Submissions to Giant Pizza, you hereby grant Giant Pizza a perpetual worldwide, non-exclusive, royalty-free, sublicensable and transferable license to use, reproduce, distribute, prepare derivative works of, display, and perform the User Submissions in connection with the Websites, Applications and the Giant Pizza (and its successor's) business, including without limitation for promoting and redistributing part or all of the Websites or Applications (and derivative works thereof) in any media formats and through any media channels. You also hereby grant each recipient of any User Submission a non-exclusive license to access your User Submissions through the Website or Applications, and to use, reproduce, distribute, prepare derivative works of, display and perform such User Submissions as permitted through the functionality of the Websites, Applications and under these Terms of Use.

C. In connection with User Submissions, you further agree that you will not: (i) submit material that is copyrighted, protected by trade secret or otherwise subject to third party proprietary rights, including privacy and publicity rights, unless you are the owner of such rights or have permission from their rightful owner to post the material and to grant Giant Pizza all of the license rights granted herein; (ii) publish falsehoods or misrepresentations that could damage Giant Pizza or any third party; (iii) submit material that is unlawful, obscene, defamatory, libelous, threatening, pornographic, harassing, hateful, racially or ethnically offensive, or encourages conduct that would be considered a criminal offense, give rise to civil liability, violate any law, or is otherwise inappropriate; (iv) post advertisements or

solicitations of business: (v) impersonate another person. Giant Pizza does not endorse any User Submission or any opinion, recommendation, or advice expressed therein, and Giant Pizza expressly disclaims any and all liability in connection with User Submissions. Giant Pizza does not permit copyright infringing activities and infringement of intellectual property rights on its Websites or Applications, and Giant Pizza will block and remove all Content and User Submissions if properly notified that such Content or User Submission infringes on another's intellectual property rights. Giant Pizza reserves the right to remove Content and User Submissions without prior notice. Giant Pizza will also terminate a User's access to its Websites or Applications, if they are determined to be a repeat infringer. A repeat infringer is a User who has been notified of infringing activity twice and/or has had a User Submission removed from the Websites or Applications. Giant Pizza also reserves the right to decide whether Content or a User Submission is appropriate and complies with these Terms of Use for violations other than copyright infringement and violations of intellectual property law, such as, but not limited to, pornography, obscene or defamatory material, or excessive length. Giant Pizza may remove such User Submissions and/or terminate a User's access for uploading such material in violation of these Terms of Use at any time, without prior notice and at its sole discretion. In addition, you agree that you will not email any of your User Submissions or links to your User Submissions to individuals with whom you are not acquainted.

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

- i. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- ii. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;
- iii. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled and information reasonably sufficient to permit the service provider to locate the material;
- iv. Information reasonably sufficient to permit the service provider to contact you, such as an address, telephone number, and, if available, an electronic mail;
- v. A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and

E. You understand that when using the Websites and Applications, you may be exposed to User Submissions from a variety of sources, and that Giant Pizza is not responsible for the accuracy, usefulness, safety, or intellectual property rights of or relating to such User Submissions. You further understand and acknowledge that you may be exposed to User Submissions that are inaccurate, offensive, indecent, or objectionable, and you agree to waive, and hereby do waive, any legal or equitable rights or remedies you have or may have against Giant Pizza with respect thereto, and agree to indemnify and hold Giant Pizza, its Owners/Operators, affiliates, and/or licensors, harmless to the fullest extent allowed by law regarding all matters related to your use of the site.

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## **Limitation of Liability**

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

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## **Indemnity**

You agree to defend, indemnify and hold harmless Giant Pizza, its parent corporations, affiliates officers, directors, employees and agents, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from: (i) your use of and access to the Websites and Applications; (ii) your violation of any term of these Terms of Use; (iii) your violation of any third party right, including without limitation any copyright, property, or privacy right; or (iv) any claim that one of your User Submissions caused damage to a third party. This defense and indemnification obligation will survive these Terms of Use and your use of the Websites and Applications.

## **Ability to accept Terms of Service**

You affirm that you are either more than 18 years of age, or an emancipated minor, or possess legal parental or guardian consent, and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in these Terms of Use, and to abide by and comply with these Terms of Use. In any case, you affirm that you are over the age of 13, as the Websites and Applications are not intended for children under 13. If you are under 13 years of age, then

please do not use the Websites or Applications - there are lots of other great web sites and applications for you. Talk to your parents about what sites and applications are appropriate for you.

### **Assignment**

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### **SMS**

- A. Your carrier's standard messaging rates apply to your entry or submission message, our confirmation and all subsequent SMS correspondence. Giant Pizza does not charge for any content however downloadable content may incur additional charges from your cell phone provider. Please contact your wireless carrier for information about your messaging plan. Your carrier may impose message or charge limitations on your account that are outside our control. All charges are billed by and payable to your mobile service provider
- B. You represent that you are the owner or authorized user of the wireless device you use to subscribe for the service, and that you are authorized to approve the applicable charges.
- C. We will not be liable for any delays or failures in your receipt of any SMS messages as delivery is subject to effective transmission from your network operator and processing by your mobile device. SMS message services are provided on an AS IS, AS AVAILABLE basis.
- D. Data obtained from you in connection with this SMS service may include your cell phone number, your carrier's name, and the date, time and content of your messages and other information

that you may provide. We may use this information to contact you and to provide the services you request from us, and to otherwise operate, develop and improve the service. Your wireless carrier and other service providers may also collect data about your SMS usage, and their practices are governed by their own policies. We will only use information you provide to the service to transmit your text message or as otherwise described in this document. Nonetheless, we reserve the right at all times to disclose any information as necessary to satisfy any law, regulation or governmental request, to avoid liability, or to protect our rights or property. When you complete forms online or otherwise provide us information in connection with the service, you agree to provide accurate, complete, and true information.

E. The service and the content and materials received through the service are proprietary to us or our licensors, and is for your personal, non-commercial use only. You shall not damage, impair, interfere with or disrupt the service or its functionality.

F. The service is available only in the United States.

G. We reserve the right to alter charges and/or these terms and conditions from time to time. We may suspend or terminate the service to you if we believe you are in breach of our terms and conditions. Your service is also subject to termination in the event that your wireless service terminates or lapses. We may discontinue the service at any time.

H. Supported Carriers: AT&T, Verizon Wireless, Sprint, T-Mobile USA, Aio Wireless, Alaska Communications Systems (ACS), Appalachian Wireless (EKN), Bluegrass Cellular, Boost Mobile, Carolina West Wireless, CellCom, Cellular One of East Central IL (ECIT), Cellular One of Northeast Arizona, Cellular One of Northeast Pennsylvania, Chariton Valley Cellular, Cricket, Coral Wireless (Mobi PCS), Cross, C-Spire (CellSouth), Duet IP (Maximum Communications New Core Wireless), Element Mobile (Flat Wireless), Epic Touch (Elkhart Telephone), GCI, Golden State, Google Voice, Hawkeye (Chat Mobility), Hawkeye (NW Missouri), Illinois Valley Cellular, Inland Cellular, iWireless (Iowa Wireless), Keystone Wireless (Immix Wireless/PC Man), Metro PCS, Mosaic (Consolidated or CTC Telecom), MTA Communications, MTPCS (Cellular One Nation), Nex-Tech Wireless, Panhandle Communications, Peoples Wireless, Pine Cellular, Pioneer, RINA, Sagebrush Cellular (Nemont), SI Wireless/Mobile Nation, Symmetry (TMP Corporation), SouthernLinc, SRT Wireless, Thumb Cellular, Union Wireless, United Wireless, U.S. Cellular, Viaero Wireless, Virgin Mobile, and West Central (WCC or 5 Star Wireless).

#### **Arbitration**

**BECAUSE OF THE MUTUAL BENEFITS (SUCH AS REDUCED EXPENSE AND INCREASED EFFICIENCY) WHICH PRIVATE BINDING ARBITRATION CAN PROVIDE, BOTH YOU AND GIANT PIZZA AGREE THAT ANY CLAIM, DISPUTE, AND/OR CONTROVERSY ARISING OUT OF OR RELATING IN ANY WAY TO YOUR USE OF THE WEB SITES OR THE APPLICATIONS, ANY PRODUCTS SOLD BY GIANT PIZZA THROUGH THE WEBSITES OR THE APPLICATIONS, THESE TERMS OF USE, OR THE SCOPE OR VALIDITY OF THIS ARBITRATION AGREEMENT SHALL BE SUBMITTED TO AND RESOLVED EXCLUSIVELY BY BINDING ARBITRATION, RATHER THAN IN COURT, EXCEPT THAT YOU MAY ASSERT CLAIMS IN SMALL CLAIMS COURT IF YOUR CLAIMS QUALIFY. ALL MATTERS RELATING TO ARBITRATION WILL BE GOVERNED BY THE FEDERAL ARBITRATION ACT, 9 U.S.C. SECTIONS 1-16, AND NOT BY ANY STATE ARBITRATION LAW.**



Any arbitration pursuant to the Privacy Policy or Terms of Use shall be initiated with and conducted by the American Arbitration Association (AAA) in accordance with the AAA's Consumer Arbitration Rules and Supplementary Procedures for Consumer-Related Disputes, both of which may be obtained at <http://www.adr.org> or by calling (800)778-7879. Payment of all filing, administration and arbitrator fees will be governed by the AAA's rules. You may choose to have the arbitration conducted by telephone, based on written submissions, or in person in Washtenaw County, Michigan. Nothing herein shall prevent Giant Pizza or you from obtaining from a temporary restraining order or preliminary injunctive relief to preserve the status quo or to prevent any irreparable harm pending the arbitration of the underlying claim, dispute, and/or controversy.

The arbitration proceedings shall be conducted by a single arbitrator. In addition to any requirements imposed by law, the arbitrator shall be a retired state or federal court judge, or a licensed attorney with arbitration experience and at least ten years' experience as a lawyer, and shall be subject to disqualification on the same grounds as would apply to a judge of a court in the relevant jurisdiction. The arbitrator shall follow controlling law and issue a decision in writing within 45 days of the arbitration hearing with a supporting opinion based on applicable law. The decision of the arbitrator (the "Decision") shall be final, binding, and conclusive on the parties and may be entered in any court of competent jurisdiction; provided, however, that You and Giant agree that the Decision may be appealed pursuant to the AAA's Optional Appellate Arbitration Rules ("Appellate Rules"), which may be obtained at <http://www.adr.org> or by calling (800)778-7879. The Decision shall not be considered final until after the time for filing the notice of appeal pursuant to the Appellate Rules has expired. Appeals must be initiated within thirty (30) days of receipt of the Decision, as defined by Rule A-3 of the Appellate Rules, by filing a Notice of Appeal with any AAA office. The single appellate arbitrator, who shall be chosen in the same manner described above, shall review the Decision applying the same standard(s) of review applicable in civil cases in the relevant jurisdiction and shall issue a reasoned award. The appellate arbitrator's decision shall be final, binding and conclusive on the parties, and may be entered in any court of competent jurisdiction. At either party's election, such decision and supporting opinion may be appealed to another arbitrator ("appellate arbitrator"), who shall be chosen in the same manner as described above. The appellate arbitrator shall apply to the underlying decision and opinion the same standard for review of civil cases as an appellate court in the relevant jurisdiction and issue a decision in writing with a supporting opinion based on such review and applicable law. The appellate arbitrator's decision shall be final, binding and conclusive on the parties and may be entered in any court of competent jurisdiction.

**WE EACH AGREE THAT ANY DISPUTE RESOLUTION PROCEEDINGS WILL BE CONDUCTED ONLY ON AN INDIVIDUAL BASIS, AND NOT ON A CLASS-WIDE, COLLECTIVE, MULTIPLE-PARTY, OR PRIVATE ATTORNEY GENERAL BASIS. WE ALSO AGREE THAT ANY ARBITRATION PROCEEDING BETWEEN US MAY NOT BE CONSOLIDATED WITH ANY OTHER ARBITRATION BETWEEN GIANT AND ANY OTHER PERSON. YOU AND GIANT PIZZA BOTH UNDERSTAND THAT BY AGREEING TO THIS BINDING ARBITRATION PROVISION, BOTH ARE GIVING UP THEIR RIGHT TO TRIAL BY JURY OF ANY INDIVIDUAL, CLASS-WIDE, COLLECTIVE, MULTIPLE-PARTY, PRIVATE ATTORNEY GENERAL, OR OTHER CLAIM EITHER MAY HAVE AGAINST THE OTHER, EXCEPT AS EXPRESSLY PROVIDED HEREIN.**

Should any term or provision or portion of this arbitration agreement be declared void or unenforceable or deemed in contravention of law, it shall be severed and/or modified and the remainder of this agreement shall be enforceable; provided, however, that if the provision above prohibiting class-wide, collective action, consolidated, or other group arbitration is deemed invalid, then this entire arbitration provision shall be null and void and shall not apply to that dispute, which shall be resolved in a judicial proceeding in Washtenaw County, Michigan.

### **General**

You agree that: (i) the Websites and Applications shall be deemed solely based in Michigan; and (ii) the Websites and Applications shall be deemed passive websites and applications that do not give rise to personal jurisdiction over Giant, either specific or general, in jurisdictions other than Michigan. These Terms of Use shall be governed by the internal substantive laws of the State of Michigan, without respect to its conflict of laws principles. These Terms of Use, together with the Privacy Policy and any other legal notices published by Giant on the Websites or Applications, shall constitute the entire agreement between you and Giant concerning the Websites and Applications. If any provision of these Terms of Use is deemed invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms of Use, which shall remain in full force and effect. No waiver of any term of this these Terms of Use shall be deemed a further or continuing waiver of such term or any other term, and the failure by Giant to assert any right or provision under these Terms of Use shall not constitute a waiver of such right or provision. Certain aspects of our mobile Applications are Licensed under one or more of the following United States patents: U.S. Patent No. 10,102,184; U.S. Patent No. 9,892,093; U.S. Patent No. 9,886,421; U.S. Patent No. 9,405,735; U.S. Patent No. 8,522,127. Giant reserves the right to amend these Terms of Use (other than the arbitration provision) at any time and without notice, and it is your responsibility to review these Terms of Use for any changes. YOU AND GIANT AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE WEBSITES AND APPLICATIONS MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.

These Terms of Use were updated as of November 1, 2023