

SMART LUNCHES, INC.

Terms of Service

1. ACCEPTANCE OF TERMS

Smart Lunches, Inc. ("Smart Lunches") welcomes you to its online community. SMART LUNCHES provides its service (the "Service") to you ("You") via its web site (the "Site"), subject to the following Terms of Service ("TOS"), which may be updated by us from time to time without notice to you. You can review the most current version of the TOS at any time at: [http://cdn.smartlunches.com/policies/terms_of_service.pdf]. In addition, when using particular SMART LUNCHES owned or operated services, you shall be subject to any posted policies, guidelines or rules applicable to such services. All such policies, guidelines and rules are hereby incorporated by reference into the TOS. You further agree that, except as otherwise expressly provided in this TOS, there shall be no third party beneficiaries to this Agreement. This document is a electronic contract that sets forth the legally binding terms that govern your use of the Service and the Site. Your use of the Service and the Site constitute acceptance of these terms.

2. DESCRIPTION OF SERVICES

The Site is a communications platform designed to connect educational and other institutions (the "Partners") and caterers (the "Caterers") with You to provide online ordering and meal delivery services for your family members (the "Lunchers").

3. ELIGIBILITY AND COPPA COMPLIANCE

Our services are available only to individuals, Partners, and Caterers that can form legally binding contracts under applicable law. Without limiting the foregoing, our services are not available to minors under the age of eighteen (18) or to anyone who may not legally work within the jurisdiction of the United States. By requesting to use, registering to use and/or using the Site, you represent and warrant that you have the right, authority and capacity to enter into this Agreement and you commit to abide by all of the terms and conditions hereof.

The Service is intended for people 18 or over. SMART LUNCHES will not knowingly collect any personally identifiable information from children under 13. You must identify your age during the registration process. SMART LUNCHES takes the Children's Online Privacy Protection Act of 1998 (COPPA) as well as all FTC regulations very seriously. You acknowledge and agree that the Service requires you to provide a Luncher profile (the "Profiles") so that we can deliver meals that meet your child's particular dietary and safety requirements. The Profiles will not be linked to any personally identifiable information and will be completely anonymous. You authorize SMART LUNCHES to collect the information needed for the Profile. That being said, we do not assume any responsibility for any misrepresentations regarding your age or parental consent when using this Site. Should we determine that you provided any false information to us when using this Site, Your membership will be terminated immediately.

NOTWITHSTANDING THE FOREGOING, SMART LUNCHES DISCLAIMS ANY LIABILITY WHATSOEVER FOR ANY MISSTATEMENTS AND/OR MISREPRESENTATIONS MADE BY ANY USERS OF THE SITE WHETHER POSTED ON THE SITE OR INCLUDED IN A PROFILE. USERS DO HEREBY REPRESENT, UNDERSTAND AND AGREE TO HOLD SMART LUNCHES HARMLESS FOR ANY MISSTATEMENTS AND/OR MISREPRESENTATIONS MADE BY ANY USERS OF THIS SITE WHETHER POSTED ON THE SITE OR INCLUDED IN A PROFILE.

4. RELEASE.

By using this Site, you do hereby represent, understand, and expressly agree to hold SMART LUNCHES harmless for any claim or controversy that may arise from any disputes between you and any other user(s) of the Site. SMART LUNCHES will use its reasonable efforts to monitor user, Partner, and Caterer profiles, actions, comments, and general usage of the Site and suspend privileges to any party not adhering to the policies of the Site. You agree to take reasonable precautions in all interactions with other users of the Site. By using this Site, you do hereby agree to report any alleged improprieties of any users therein to SMART LUNCHES immediately by notifying SMART LUNCHES of the same via electronic correspondence.

5. SMART LUNCHES PRIVACY POLICY

Personal and certain other information about You is subject to our Privacy Policy. As a condition of using the Service, You agree to the terms of the Privacy Policy, as it may be changed from time to time. For more information, see our full Privacy Policy at [<http://cdn.smartlunches.com/policies/privacy.pdf>].

6. CONTENT

You understand that all information, data, text, software, music, sound, photographs, graphics, video, messages and/or other materials ("Content"), whether publicly posted or privately transmitted via the Service, are the sole responsibility of the person from which such Content originated. This means that you, and not SMART LUNCHES, are entirely responsible for all Content that you upload, post, email, transmit or otherwise make available via the Service. SMART LUNCHES does not control the Content posted via the Service and, as such, does not guarantee the accuracy, integrity or quality of such Content. You understand that by using the Service, you may be exposed to Content that is offensive, indecent or objectionable. Under no circumstances will SMART LUNCHES be liable in any way for any Content, including, but not limited to, for any errors or omissions in any Content, or for any loss or damage of any kind incurred as a result of the use of any Content posted, emailed, transmitted or otherwise made available via the Service.

You acknowledge that SMART LUNCHES may or may not pre-screen Content, but that SMART LUNCHES and its designees shall have the right (but not the obligation) in their sole discretion to pre-screen, refuse, or move any Content that is available via the Service. Without limiting the foregoing, SMART LUNCHES and its designees shall have the right to remove any Content that violates the TOS or is otherwise objectionable. You agree that you must evaluate, and bear all risks associated with, the use of any Content, including any reliance on the accuracy, completeness, or usefulness of such Content.

You acknowledge, consent and agree that SMART LUNCHES may access, preserve, and disclose your account information and Content if required to do so by law or in a good faith belief that such access, preservation, or disclosure is reasonably necessary to: (a) comply with legal process; (b) enforce the TOS; (c) respond to claims that any Content violates the rights of third-parties; (d) respond to your requests for customer service; or (e) protect the rights, property, or personal safety of SMART LUNCHES, its users and the public.

7. APPROPRIATE CONDUCT

You agree that you are responsible for your own conduct and communications while using the Service and for any consequences thereof. You agree to use the Service only to send and receive messages and material that are legal and proper. By way of example, and not as a limitation, you agree that when using the Service, you will not:

- defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights

- of privacy and publicity) of others;
- post any inappropriate, defamatory, infringing, obscene, libelous or unlawful Content;
 - post any mature, adult, or sexually explicit Content;
 - post any Content that infringes any patent, trademark, copyright, trade secret or other proprietary right of any party (the "Rights"), unless you are the owner of the Rights or have the permission of the owner to post such Content;
 - download any file posted by another user that you know, or reasonably should know cannot be legally distributed in such manner;
 - impersonate another person or entity, or falsify or delete any author attributions, legal or other proper notices or proprietary designations or labels of the origin or source of software or other material contained in a file that is posted;
 - remove any copyright, trademark or other proprietary rights notices contained in or on the Service;
 - interfere with or disrupt the Service or servers or networks connected to the Service, or disobey any requirements, procedures, policies or regulations of networks connected to the Service;
 - use any robot, spider, site search/retrieval application, or other device to retrieve or index any portion of the Service or collect information about users for any unauthorized purpose;
 - submit Content that falsely expresses or implies that such Content is sponsored or endorsed by SMART LUNCHES;
 - promote or provide instructional information about illegal activities or promote physical harm or injury against any group or individual; or
 - transmit any viruses, worms, defects, spam, Trojan horses, or any items of a destructive nature.

International users agree to comply with their own local rules regarding online conduct and acceptable content, including laws regulating the export of data to the United States or your country of residence.

While SMART LUNCHES prohibits the conduct and Content described above in connection with the Service, you understand and agree that you nonetheless may be exposed to such conduct and/or Content and that you use the Service at your own risk.

8. REGISTRATION AND MEMBERSHIP

In order to use certain aspects of the Service, you are required to register and establish an online account with SMART LUNCHES. We refer to registered users as members ("Members") and subject Members to the Member Terms and Conditions (the "Terms") located at [http://cdn.smartlunches.com/policies/terms_and_conditions.pdf].

9. SMART LUNCHES GROUPS

SMART LUNCHES may offer an element of the Service that enables Members to create and maintain their own "SMART LUNCHES Group." A SMART LUNCHES Group consists of Internet based tools and other functionalities that allow participants in the SMART LUNCHES Group to communicate and provide services to one another.

10. SPECIAL ADMONITIONS FOR INTERNATIONAL USE

Recognizing the global nature of the Internet, you agree to comply with all local rules regarding online conduct and acceptable Content. Specifically, you agree to comply with all applicable laws regarding the transmission of technical data exported from the United States or the country in which you reside.

11. INDEMNITY

You agree to indemnify and hold SMART LUNCHES, and its subsidiaries, affiliates, officers, directors, agents, co-branders or other partners, and employees, harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of Content you submit, post, transmit or make available through the Service, your use of the Service, your connection to the Service, your violation of the TOS, or your violation of any rights of another.

12. NO RESALE OF SERVICE

You agree not to reproduce, duplicate, copy, sell, trade, resell or exploit for any commercial purposes, any portion of the Service (including your SMART LUNCHES username) or Content you do not own, use of the Service or Content you do not own, or access to the Service or Content you do not own, without the express written consent of SMART LUNCHES.

13. GENERAL PRACTICES REGARDING USE AND STORAGE

You acknowledge that SMART LUNCHES may establish general practices and limits concerning use of the Service, including without limitation the maximum number of days that email messages, message board postings or other uploaded Content will be retained by the Service, the maximum number of email messages that may be sent from or received by an account on the Service, the maximum size of any email message that may be sent from or received by an account on the Service, the maximum disk space that will be allotted on SMART LUNCHES's servers on your behalf, and the maximum number of times (and the maximum duration for which) you may access the Service in a given period of time. You agree that SMART LUNCHES has no responsibility or liability for the deletion or failure to store any messages and other communications or other Content maintained or transmitted by the Service. You acknowledge that SMART LUNCHES reserves the right to log off accounts and deactivate usernames that are inactive for an extended period of time. You further acknowledge that SMART LUNCHES reserves the right to modify these general practices and limits from time to time.

14. MODIFICATIONS TO SERVICE

SMART LUNCHES reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Service (or any part thereof) with or without notice. You agree that SMART LUNCHES shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Service.

15. DEALINGS WITH ADVERTISERS

Your correspondence or business dealings with, or participation in promotions of, advertisers found on or through the Service, including payment and delivery of related goods or services from Providers, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such advertiser. You agree that SMART LUNCHES shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or as the result of the presence of such advertisers on the Service.

16. LINKS

The Service may provide, or third parties may provide, links to other World Wide Web sites or resources. Because SMART LUNCHES has no control over such sites and resources, you acknowledge and agree that SMART LUNCHES is not responsible for the availability of such links, external sites or resources, and does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from such sites or resources. You further acknowledge and agree that SMART LUNCHES shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such links,

site or resource, or any failures and/or disruption to your computer system that results from your use of any such links.

17. SMART LUNCHES'S PROPRIETARY RIGHTS

You acknowledge and agree that the Service and any necessary software used in connection with the Service ("Software") contain proprietary and confidential information that is the property of SMART LUNCHES and its licensors and is protected by applicable intellectual property and other laws. You further acknowledge and agree that Content contained in advertisements or information presented to you through the Service or advertisers is protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws. Except as expressly authorized by SMART LUNCHES or advertisers, you agree not to modify, rent, lease, loan, sell, distribute or create derivative works based on the Service or the Software, in whole or in part.

SMART LUNCHES grants you a personal, non-transferable and non-exclusive right and license to use the Service and Software on a single computer; provided that you do not (and do not allow any third party to) copy, modify, create a derivative work of, reverse engineer, reverse assemble or otherwise attempt to discover any source code, sell, assign, sublicense, grant a security interest in or otherwise transfer any right in the Software. You agree not to modify the Software in any manner or form, or to use modified versions of the Software, including (without limitation) for the purpose of obtaining unauthorized access to the Service. You agree not to access the Service by any means other than through the interface that is provided by SMART LUNCHES for use in accessing the Service.

SMART LUNCHES and the SMART LUNCHES logo are trademarks and service marks of SMART LUNCHES and other SMART LUNCHES logos and product and service names are trademarks and service marks of SMART LUNCHES (collectively, the "SMART LUNCHES Marks"). Without SMART LUNCHES's prior permission, you agree not to display or use in any manner, the SMART LUNCHES Marks.

18. DISCLAIMER OF WARRANTIES

YOU EXPRESSLY UNDERSTAND AND AGREE THAT:

a. YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK. THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. SMART LUNCHES EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

b. SMART LUNCHES MAKES NO WARRANTY THAT (i) THE SERVICE WILL MEET YOUR REQUIREMENTS; (ii) THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE; (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE; (iv) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR EXPECTATIONS; AND (v) ANY ERRORS IN THE SOFTWARE WILL BE CORRECTED.

c. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

d. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM SMART LUNCHES OR THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TOS.

19. LIMITATION OF LIABILITY

YOU EXPRESSLY UNDERSTAND AND AGREE THAT SMART LUNCHES SHALL NOT BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF SMART LUNCHES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (i) THE USE OR THE INABILITY TO USE THE SERVICE; (ii) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICE; (iii) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (iv) STATEMENTS OR CONDUCT OF ANY THIRD PARTY INCLUDING ADVERTISERS ON THE SERVICE; (v) ANY OTHER MATTER RELATING TO THE SERVICE; OR (vi) INFORMATION YOU INCLUDE IN A PROFILE.

20. EXCLUSIONS AND LIMITATIONS

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS SET FORTH IN SECTIONS 16 AND 17 ABOVE MAY NOT APPLY TO YOU.

21. PAYMENTS AND REFUNDS

Member may be obligated to pay for certain services offered on the Site. In the event that a Member that signs up for a paid service the Member agrees to pay SMART LUNCHES all charges at the prices then in effect for any use of the paid service. In addition, the Member authorizes SMART LUNCHES to charge their chosen payment provider for use of the paid service. SMART LUNCHES reserves the right to correct any errors or mistakes that it makes even if it has already requested or received payment.

22. NOTICE

SMART LUNCHES may provide you with notices by email, regular mail, or postings on the Service.

23. NOTICE AND PROCEDURE FOR MAKING CLAIMS OF COPYRIGHT OR INTELLECTUAL PROPERTY INFRINGEMENT

SMART LUNCHES respects the intellectual property of others, and we ask our users to do the same. SMART LUNCHES may, in appropriate circumstances and at its discretion, disable and/or terminate the accounts of Members and prohibit the use of the Service by certain users who may be repeat infringers. If you believe that your work has been copied in a way that constitutes copyright infringement, or your intellectual property rights have been otherwise violated, please contact SMART LUNCHES immediately at info@smartlunches.com with the following information:

1. an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;
2. a description of the copyrighted work or other intellectual property that you claim has been infringed;
3. a description of where the material that you claim is infringing is located on the site;
4. your address, telephone number, and email address;
5. a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright or other intellectual property right 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 or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

24. GENERAL INFORMATION

Entire Agreement. The TOS constitutes the entire agreement between you and SMART LUNCHES and governs your use of the Service, superseding any prior agreements between you and SMART LUNCHES with respect to the Service. You also may be subject to additional terms and conditions, posted policies (including but not limited to the Terms and Privacy Policy), guidelines or rules that may apply when you use or purchase certain elements of the Service, affiliate or advertiser services, third-party content, or third-party software.

Independent Contractors. Nothing contained in the TOS shall be construed to constitute either party as a partner, employee or agent of the other party, nor shall either party hold itself out as such. Each party has no right or authority to incur, assume or create, in writing or otherwise, any warranty, liability or other obligation of any kind, express or implied, in the name of or on behalf of the other party, it being intended by both parties that each shall remain an independent contractor responsible for its own actions.

Choice of Law and Forum. The TOS and the relationship between you and SMART LUNCHES shall be governed by the laws of the Commonwealth of Massachusetts without regard to its conflict of law provisions. You and SMART LUNCHES agree to submit to the personal and exclusive jurisdiction of the courts located within the county of Suffolk, Massachusetts.

Waiver and Severability of Terms. The failure of SMART LUNCHES to exercise or enforce any right or provision of the TOS shall not constitute a waiver of such right or provision. If any provision of the TOS is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the TOS remain in full force and effect.

Statute of Limitations. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or the TOS must be filed within one (1) year after such claim or cause of action arose or be forever barred.

Violations. Please report any violations of the TOS to SMART LUNCHES at info@smartlunches.com.