

agree to arbitration in writing with respect to an Excluded Dispute) within sixty (60) days of receipt of the notice, then ANY AND ALL DISPUTES ARISING BETWEEN YOU AND LALA MUST BE RESOLVED BY FINAL AND BINDING ARBITRATION. THIS INCLUDES ANY AND ALL DISPUTES BASED ON ANY PRODUCT, SERVICE OR ADVERTISING CONNECTED TO THE PROVISION OR USE OF THE SITE (WHETHER BASED IN CONTRACT, STATUTE, REGULATION, ORDINANCE, TORT – INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, FRAUD, ANY OTHER INTENTIONAL TORT OR COMMON LAW, CONSTITUTIONAL PROVISION, RESPONDEAT SUPERIOR, AGENCY OR ANY OTHER LEGAL OR EQUITABLE THEORY – AND WHETHER ARISING BEFORE OR AFTER THE EFFECTIVE DATE OF THESE TERMS. The Federal Arbitration Act (“FAA”) shall govern the arbitrability of all disputes between LALA and you regarding these Terms (and any Additional Terms) and the Site, including the No Class Action Matters section below. BY AGREEING TO ARBITRATE, EACH PARTY IS GIVING UP ITS RIGHT TO GO TO COURT AND HAVE ANY DISPUTE HEARD BY A JUDGE OR JURY.

A Dispute will be resolved solely by binding arbitration in accordance with the then-current Commercial Arbitration Rules (“**Rules**”) of the American Arbitration Association (“**AAA**”), except as modified herein, and in accordance with the AAA’s Supplementary Procedures for Consumer Related Disputes. The arbitration will be administered by the AAA. If an in-person arbitration hearing is required, then it will be conducted in the “metropolitan statistical area” (as defined by the U.S. Census Bureau) where you are a resident at the time the Dispute is submitted to arbitration. You and we will pay the administrative and arbitrator’s fees and other costs in accordance with the applicable arbitration rules; but if applicable arbitration rules or laws require LALA to pay a greater portion or all of such fees and costs in order for this Section 10 to be enforceable, then LALA will have the right to elect to pay the fees and costs and proceed to arbitration. The arbitrator will apply and be bound by these Terms and any Additional Terms, and will determine any Dispute according to applicable law and facts based upon the record and no other basis, and will issue a reasoned award only in favor of the individual party seeking relief and only to the extent to provide relief warranted by that party’s individual claim. Issues relating to the enforceability of the arbitration and class action waiver provisions contained herein are for the court to decide. This arbitration provision shall survive termination of these Terms or the Site. You can obtain AAA procedures, rules, and fee information as follows: 800.778.7879 and <http://www.adr.org>.

c. **Limited Time to File Claims.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IF YOU OR WE WANT TO ASSERT A DISPUTE (BUT NOT AN EXCLUDED DISPUTE) AGAINST THE OTHER, THEN YOU OR WE MUST COMMENCE IT (BY DELIVERY OF WRITTEN NOTICE AS SET FORTH IN SECTION 10(A)) WITHIN ONE (1) YEAR AFTER THE DISPUTE ARISES — OR IT WILL BE FOREVER BARRED. Commencing means, as applicable: (a) by delivery of written notice as set forth above in Section 10(A); (b) filing for arbitration with the AAA as set forth in Section 10(B); or (c) filing an action in state or Federal court. The parties expressly waive any contrary statute of limitations or time bars,



both legal and equitable, to the Disputes.

- d. **Injunctive Relief**. The foregoing provisions of this Section 10 will not apply to any legal action taken by LALA to seek an injunction or other equitable relief in connection with, any loss, cost, or damage (or any potential loss, cost, or damage) relating to the Site, any Content, your User-Generated Content and/or LALA's intellectual property rights (including such LALA may claim that may be in dispute), LALA's operations, and/or LALA's products or services.
- e. **No Class Action Matters**. YOU AND LALA AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING OR AS AN ASSOCIATION. Disputes will be arbitrated only on an individual basis and will not be joined or consolidated with any other arbitrations or other proceedings that involve any claim or controversy of any other party. There shall be no right or authority for any Dispute to be arbitrated on a class action basis or on any basis involving Disputes brought in a purported representative capacity on behalf of the general public, or other persons or entities similarly situated. But if, for any reason, any court with competent jurisdiction holds that this restriction is unconscionable or unenforceable, then our agreement in Section 10(B) to arbitrate will not apply and the Dispute must be brought exclusively in court pursuant to Section 10(F). Notwithstanding any other provision of this Section 10, any and all issues relating to the scope, interpretation and enforceability of the class action waiver provisions contained herein (described in this "No Class Action Matters" section), are to be decided only by a court of competent jurisdiction, and not by the arbitrator. The arbitrator does not have the power to vary these class action waiver provisions.
- f. **Federal and State Courts in Dallas County, Texas**. Except where arbitration is required above, small claims actions, or with respect to the enforcement of any arbitration decision or award, any action or proceeding relating to any Dispute or Excluded Dispute arising hereunder may only be instituted in state or Federal court in Dallas County, Texas. Accordingly, you and LALA consent to the exclusive personal jurisdiction and venue of such courts for such matters.
- g. **Small Claims Matters Are Excluded from Arbitration Requirement**.
Notwithstanding the foregoing, either of us may bring qualifying claim of Disputes (but not Excluded Disputes) in small claims court of competent jurisdiction.

11. DISCLAIMER OF REPRESENTATIONS AND WARRANTIES

YOUR ACCESS TO AND USE OF THE SITE IS AT YOUR SOLE RISK. THE SITE IS PROVIDED ON AN "AS IS", "AS AVAILABLE", AND "WITH ALL FAULTS" BASIS. Therefore, to the fullest extent permissible by law, LALA and its parents, subsidiaries and affiliates and each of their respective employees, directors, members, managers, shareholders, agents, vendors, licensors, licensees, contractors, customers, successors, and assigns (collectively, the "**LALA Parties**") hereby disclaim and make no representations, warranties, endorsements, or promises, express or implied, as to:

- a. the Site (including the Content and the User-Generated Content);



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

EXCEPT FOR ANY SPECIFIC WARRANTIES PROVIDED HEREIN OR IN ADDITIONAL TERMS PROVIDED BY A LALA PARTY, LALA PARTIES HEREBY FURTHER DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES, TITLE, CUSTOM, TRADE, QUIET ENJOYMENT, SYSTEM INTEGRATION, AND FREEDOM FROM COMPUTER VIRUS.

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

12. LIMITATIONS OF OUR LIABILITY

UNDER NO CIRCUMSTANCES WILL ANY LALA PARTIES BE RESPONSIBLE OR LIABLE FOR ANY LOSS OR DAMAGES OF ANY KIND, including personal injury or death or for any direct, indirect, economic, exemplary, special, punitive, incidental, or consequential losses or damages that are directly or indirectly related to:

- a. the Site (including the Content and the User-Generated Content);



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

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

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

EXCEPT AS MAY BE PROVIDED IN ANY ADDITIONAL TERMS, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL LALA PARTIES' TOTAL LIABILITY TO YOU, FOR ALL POSSIBLE DAMAGES, LOSSES, AND CAUSES OF ACTION IN CONNECTION WITH YOUR ACCESS TO AND USE OF THE SITE AND YOUR RIGHTS UNDER THESE TERMS, EXCEED AN AMOUNT EQUAL TO THE AMOUNT YOU HAVE PAID LALA IN CONNECTION WITH THE TRANSACTION(S) THAT UNDERLIE THE CLAIM(S); PROVIDED, HOWEVER, THIS PROVISION WILL NOT APPLY IF A TRIBUNAL WITH APPLICABLE JURISDICTION FINDS SUCH TO BE UNCONSCIONABLE.

13. Waiver of Injunctive or Other Equitable Relief

IF YOU CLAIM THAT YOU HAVE INCURRED ANY LOSS, DAMAGES, OR INJURIES IN CONNECTION WITH YOUR USE OF THE SITE, THEN THE LOSSES, DAMAGES, AND INJURIES WILL NOT BE IRREPARABLE OR SUFFICIENT TO ENTITLE YOU TO AN INJUNCTION OR TO OTHER



EQUITABLE RELIEF OF ANY KIND. THIS MEANS THAT, IN CONNECTION WITH YOUR CLAIM, YOU AGREE THAT YOU WILL NOT SEEK, AND THAT YOU WILL NOT BE PERMITTED TO OBTAIN, ANY COURT OR OTHER ACTION THAT MAY INTERFERE WITH OR PREVENT THE DEVELOPMENT OR EXPLOITATION OF ANY WEBSITE, APPLICATION, CONTENT, USER-GENERATED CONTENT, PRODUCT, SERVICE, OR INTELLECTUAL PROPERTY OWNED, LICENSED, USED OR CONTROLLED BY LALA (INCLUDING YOUR LICENSED USER-GENERATED CONTENT) OR A LICENSOR OF LALA.

14. Updates to Terms

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

15. General Provisions

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



- use of the Site. The provisions of these Terms and any Additional Terms, which by their nature should survive your suspension or termination will survive, including the rights and licenses you grant to LALA in these Terms, as well as the indemnities, releases, disclaimers, and limitations on liability and the provisions regarding jurisdiction, choice of law, no class action, and mandatory arbitration.
- i. **Assignment**. LALA may assign its rights and obligations under these Terms and any Additional Terms, in whole or in part, to any party at any time without any notice. These Terms and any Additional Terms may not be assigned by you, and you may not delegate your duties under them, without the prior written consent of an officer of LALA.
 - j. **No Waiver**. Except as expressly set forth in these Terms or any Additional Terms, (i) no failure or delay by you or LALA in exercising any rights, powers, or remedies under these Terms or any Additional Terms will operate as a waiver of that or any other right, power, or remedy, and (ii) no waiver or modification of any term of these Terms or any Additional Terms will be effective unless in writing and signed by the party against whom the waiver or modification is sought to be enforced.
 - k. **Connectivity**. You are responsible for obtaining and maintaining all Devices and other equipment and software, and all internet service provider, mobile service, and other services needed for your access to and use of the Site and you will be responsible for all charges related to them.