

## **Grovara™ B2B Global Marketplace Brand Terms of Service**

Last Updated: February 4, 2021

Thanks for using the Grovara “B2B Global Marketplace” (including its website, and mobile and web-based applications, and any other tools, products, or services provided by Grovara, LLC that link to or reference these Terms) (collectively, the “Services”). The Services are provided by Grovara, LLC (“Grovara”, “we,” “our,” or “us”), located at 21 S 11th Street, The Yard, Philadelphia, PA 19107, U.S.A.

By using our Services, you are agreeing to these Brand Terms of Service (together with any supplements, these “Terms”). Please read them carefully. Our Services are very diverse, so sometimes additional terms or product requirements (including age requirements) may apply. If additional terms or conditions are available with or applicable to the relevant Services, then those additional terms become part of your agreement with us if you use those Services. By accessing or using the Services, you intend and agree to be legally bound by these Terms. You may wish to print or save a local copy of the Terms for your records.

YOU ACKNOWLEDGE AND AGREE THAT THESE TERMS OF SERVICE LIMIT OUR LIABILITY AND THAT YOU ARE RELEASING US FROM VARIOUS CLAIMS IN SECTION 17-18 BELOW. THESE TERMS ALSO CONTAIN A BINDING ARBITRATION PROVISION IN SECTION 22 THAT AFFECT YOUR RIGHTS UNDER THESE TERMS WITH RESPECT TO THE SERVICES. THESE TERMS ALSO CONTAIN AN EXCLUSIVITY PROVISION IN SECTION 3 BELOW.

### **1. Brands and Buyers**

“Buyer” means a retailer or other buying partner with an account for placing orders on our Services. “Brand” means anyone making products (“Products”) available for sale on our Services. If you are accessing the services on behalf of a Brand, you represent and warrant that you have the authority to agree to these Terms on its behalf. “You” or “Your” means you, together with the Brand you are acting on behalf of.

### **2. Term**

The term of these Terms shall begin on the date You register as a Brand and shall continue for three (3) years thereafter, and shall automatically renew for additional one (1) year periods unless written notice of non-renewal is provided by a party to the other party at least one hundred and eighty (180) days prior to the expiration of the then-current term or unless earlier terminated by a party in accordance with these Terms (collectively, the “Term”). Notwithstanding the preceding, if the term of a Subscription Plan (as defined in Section 8 below) extends beyond the Term, the Term will automatically extend to the end of the applicable Subscription Plan term.

### **3. Exclusivity**

During the Term, You agree to use Grovara’s B2B Global Marketplace as your exclusive online international business-to-business global marketplace for sale of Your Products.

### **4. Warranties**

a. You represent and warrant that: (i) if You are a business, You are duly organized, validly existing, and in good standing under the laws of the jurisdiction in which the business is registered; (ii) You have

all requisite right, power, and authority to agree to these Terms, to perform Your obligations hereunder, and to accept orders and conduct all related business transactions and activities on the Services as contemplated under these Terms; (iii) all documents, videos, pictures, text, information, and other content that You submit, upload, and/or share with Grovara or to the Services will be complete, accurate, truthful, non-misleading, and provided in accordance with Applicable Laws, and neither such content nor Your act of disclosing any such content to Grovara or the Services will violate the intellectual property, trade secret, privacy, proprietary, or other rights of any third party; and (iv) the Products will at all times comply with all requirements of any applicable domestic or foreign federal, state, provincial or local law, regulation, staff report or guidance, ordinance or judicial decree of the place where the Products are produced, packaged or sold (collectively, "Applicable Laws").

b. You represent and warrant that all Products (including packaging and labels), at the time of receipt at the "Ship To" address in the Purchase Order:

- i. will be sellable, fit for their particular purposes and free from defects, whether patent or latent;
- ii. will include packaging that is in compliance with all in-country reasonable safety standards;
- iii. will not pose a health or safety hazard when used for their intended purpose in accordance with applicable Product Specifications, including Product labeling;
- iv. will not be contaminated with a foreign substance or contain any rancid or spoiled ingredient;
- v. will not include any ingredient that has not been disclosed in the Product Specifications;
- vi. will not include any allergen or be processed in a facility that uses an allergen in production processes unless it has been disclosed on the label in accordance with Applicable Laws;
- vii. will not include any illegal, misleading or untrue label or packaging claim;
- viii. will not be prepared, packed or held under insanitary conditions;
- ix. will not be adulterated or misbranded within the meaning of Applicable Law;
- x. will not infringe or misappropriate any third party copyright, trademark, patent, or trade secret right, or any third party privacy right or any other proprietary right of any third party; and
- xi. will be consistent with its original quality at all times during its designated shelf life (assuming proper storage and handling after delivery).

c. You further represent and warrant that:

- i. upon payment to You, the buyer will own the Product shipment free of any security interest, lien, pledge or other encumbrance of any nature;
- ii. You and all employees and agents involved in the manufacturing, processing or delivery of the Products will adhere to all Applicable Laws with respect to the operation of Your production facilities and Your other business and labor practices, including, but not limited to, the California Transparency in Supply Chains Act of 2010; and
- iii. You will have a products liability insurance policy providing coverage for at least \$1,000,000 and any other insurance necessary for You to meet Your indemnity and other obligations under these Terms.

## **5. Product Requirements**

a. **Labeling and Documentation Requirements.** You agree to upload all label, packaging and other information relating to the Products required by the Services or Applicable Laws, including all Brand or Products registration and shipping documentation required for exports, in addition to nutritional panel information that complies with all Applicable Laws, and all required permissions or authorizations

(collectively, “Product Documentation”). We may assist in directing You to the right government agencies or other sources for procurement and drafting of Product Documentation. However, You will be solely responsible for procuring, completing and confirming that all Product Documentation, including label claims, are in compliance with Applicable Laws. Grovara and/or buyers may reject or return any Products if the Products packaging is not consistent with the approved packaging or if the Products or Product Documentation fails to comply with any Applicable Law.

b. **Product Specifications.** You agree to provide and continue to provide us with complete and accurate information regarding Your production processes and record keeping practices and Products specification data. “Product Specifications” means all Product Documentation, Products specifications, Products labeling claims or any other Product information provided by You. You represent and warrant that all Product Specifications comply with Applicable Laws and that all Product Specifications are true and correct. You agree to maintain appropriate documentation evidencing compliance with this Section 5 and agree to grant us reasonable access to this documentation for purposes of verifying such compliance. No proposed change to the Product Specifications will be deemed accepted by us unless we agree to the change in writing. You agree to promptly notify us in writing if You become aware that any Product fails to comply with any Product Specification.

c. **Label Claims and Certifications.** If a Product is subject to a Grovara requirement, or makes any label claims such as organic, gluten free, kosher, “Non-GMO,” “Non-GMO Verified” or includes any other certification mark on its packaging, You agree to provide us with a copy of the applicable certificates of compliance upon our request.

## **6. Shipping**

You agree to ship the Products in strict compliance with these Terms and the purchase terms between You and the buyer (the “Purchase Order”). Title and risk of loss will pass in accordance with the Incoterms applicable to the Purchase Order. You agree to comply with all policies and requirements of Grovara of which we have provided You notice prior to acceptance of the relevant Purchase Order, including policies relating to purchase orders, deliveries, invoices, bills of lading and pallet requirements. You agree to promptly notify the buyer or Grovara of any Product shortages, decreased availability or “out of stocks” impacting delivery under any Purchase Order, through the Services or by other industry-standard notification procedures. Your failure to adequately notify Grovara in accordance with industry-standard notification practices, may result in damages to Grovara.

## **7. Pricing and Payment**

Product prices will be listed as marked-up pricing on the platform. Buyer’s payment term options available in the Services include: Cash in advance, NET 21, NET 30, NET 45, NET 60, NET 90. Unless otherwise agreed to in writing by us, the applicable transaction fee earned by Grovara for each Purchase Order shall be the transaction fee as set forth in Exhibit A at the end of these Terms. The date of shipment shall be the date Products are actually picked up from Your facilities, as documented by a signed “Bill of Lading of Packing List.” Payments are made and processed via wire transfer or Stripe.

You agree to pay all amounts owed to us for the Services, including any Premium Plans (as defined in Section 8 below), under these Terms and any other terms, policies or written or electronic agreement we may have in place. We may require You to maintain valid credit card or other payment account information with us in order to receive the Services, and if so, You hereby authorize us to charge Your

credit card or other payment account for the Services. Any failure to maintain valid, up-to-date payment information with us or to keep Your payments current will constitute a material breach of these terms, for which we may suspend or terminate Your access to the Services immediately without notice. Interest will be charged on all unpaid delinquent amounts at the rate of 1.5% per month or the highest rate permitted by applicable law, whichever is lesser. You agree to reimburse us for all collection agency fees, attorneys' fees and other costs we may incur to collect delinquent amounts You owe to us.

## **8. Premium Services**

As part of the Services, Grovara offers several levels of subscription plans (each, a "Subscription Plan") for Brands. A basic Subscription Plan is available at no cost to You (the "Free Plan"). The "Bronze Plan," the "Silver Plan" and the "Gold Plan" (collectively, "Premium Plans") are available for a fee. More information about Subscriptions Plans is available on the plan comparison page. You may select a Subscription Plan through the Services.

Each Premium Plan begins with a free trial. Bronze Plans receive a one month free trial. Silver Plans receive a two month free trial. Gold Plans receive a three month free trial. You may cancel Your free trial during the trial period through the Subscriptions page of Services in which event You will not be charged for a Premium Plan. You may upgrade or downgrade Your Premium Plan trial during the trial period through the Subscriptions page of Services. If You upgrade to a higher Premium Plan during the trial Your trial period will be extended to the length of Your new Premium Plan trial less the number days You already received a free trial. If You downgrade to a lower Premium Plan and Your new Premium Plan trial would not have expired if You had selected the lower Premium Plan initially, then Your free trial will continue until such lower Premium Plan trial would have expired. If You downgrade to a lower Premium Plan and Your new Premium Plan trial would already have expired if You had selected the lower Premium Plan initially, then Your free trial will end the following day. Immediately upon the expiration of Your trial period, provided that You have not canceled Your free trial, Your paid Premium Plan will begin (the "Premium Subscription Start Date").

The term for each Subscription Plan is one (1) year from Your Premium Subscription Start Date or the date You select such Free Plan, as applicable. During the term of Your Subscription Plan, You may upgrade to a higher tier through the Services, in which event (i) you will begin a new one (1) year Subscription Plan term with a Premium Subscription Start Date of the date You select the higher tier Premium Plan, and (ii) the applicable new Premium Plan fees will be in effect from the new Premium Subscription Start Date. Each Subscription Plan will automatically renew for successive one (1) year terms unless You elect to not renew by turning off auto-renewal through the Subscriptions page of Services. You may renew Your Subscription Plan at a lower tier, including moving from a Premium Plan to the Free Plan, by changing Your subscription settings through the Services prior to the date of Your annual Subscription Plan renewal, in which event the new fees will be in effect from the date of Your annual Subscription Plan renewal.

Fees for Premium Plans are billed monthly and are nonrefundable. We may change our prices at any time by posting a notice of the new prices and the effective date in the Services or by email notice.

## **9. Taxes**

You are solely responsible for all sales, use or other similar taxes levied by any governmental authority with respect to amounts payable to Grovara by You under these Terms, except for any taxes based upon Grovara's net income or unless You provide in writing documentation of an applicable exemption.

## **10. Using our Services**

You must follow any policies made available to You within the Services.

Don't misuse our Services. For example, don't interfere with our Services, try to access them using a method other than the interface and the instructions that we provide, or extensively or automatically copy any content from the Services (in other words, no scraping). You may use our Services only as permitted by law, including applicable export and re-export control laws and regulations. We may suspend or stop providing our Services to You if You do not comply with our terms or policies, if we are investigating suspected misconduct, or for any other reason.

Using our Services does not give You ownership of any intellectual property rights in our Services or the content You access through them ("Content"). You may not use Content, except as permitted in these Terms, by its owner, or as otherwise permitted by law. These Terms do not grant You the right to use any branding or logos used in our Services, including the Grovara name and logo. Don't remove, obscure, or alter any legal notices displayed in or along with our Services.

Our Services display some Content that is not our own. For example, Content belonging to other Buyers or Brands, our advertisers, other third parties, You, or other users (collectively, "Third Party Content"). We are not responsible for, and You waive all of our liability with respect to, Third Party Content. Third Party Content is the sole responsibility of the individual or entity that makes it available to You via the Services. We may review Third Party Content to determine whether it is illegal or violates our policies, and we may remove or refuse to display Third Party Content that we believe violates our policies or the law. But we do not generally review content beforehand, and we are not obligated to do so.

In connection with Your use of the Services, we may send You service announcements, administrative messages, and other information. You consent to receiving such communications, including marketing emails. However, You may change Your email or in-Service notification settings, including opting out of our marketing emails, by clicking on the "Manage Email Subscriptions" link (or equivalent) in our emails or texting "Stop" or "Do Not Send" in response to text messages or updating the notifications configurations in the Services' settings. Please be aware that there may be a brief period before we are able to process Your changes.

Some of our Services are available on mobile devices or may utilize SMS/iMessage, which may cause You to incur SMS or data charges with Your wireless provider. Please be aware that we have no control over these charges, and if You do not wish to be charged, You should stop using the mobile or SMS/iMessage features (as applicable). When You send SMS/iMessage messages using the Services, You represent and warrant You have the recipient's prior consent to send him or her messages.

## **11. Your Grovara Account**

You may need an account in order to use the Services. If You create Your own account, You agree that all registration information You give us will be accurate and current. If Your account has been assigned to You by an administrator, such as Your employer, different or additional terms may apply and Your

administrator may be able to access or disable Your account. You will timely notify us of any changes to any of the foregoing information. You are responsible for controlling access to any PCs, mobile devices, or other end points that You allow to store Your Services password, or on which You enable a "Remember Me" or similar functionality ("Activated Device"). Accordingly, You agree that You will be solely responsible for all activities that occur under Your Services accounts, including the activities of any individual with whom You share Your Services account or an Activated Device.

To protect Your account, keep Your password confidential. You are responsible for the activity that happens on or through Your account. If You learn of any unauthorized use of Your password, please contact us at [support@grovara.com](mailto:support@grovara.com).

## **12. Privacy and Feedback**

Our privacy policy explains how we treat Your personal information and protect Your privacy when You use our Services. By using our Services, You agree that we can collect, use, and share data from You as described in our privacy policy. We are not responsible for any information or Content that You share with others via Your use of the Services. You assume all privacy, security, and other risks associated with providing any information, including personally identifiable information, to other users of the Service.

If You submit feedback or suggestions about our Services, You agree that we may use Your feedback or suggestions without obligation to You.

## **13. Content You Submit or Share**

You may submit, upload, and share videos, pictures, text and other content to or through the Services ("Your Content"), and in doing so You must follow these Terms and the rules and policies referenced in these Terms. You retain ownership of any intellectual property rights that You hold in Your Content. In short, what belongs to You stays Yours.

When You upload, submit, or otherwise share Your Content to or through our Services, You give us (and those we work with) a royalty-free, worldwide license to use, host, store, reproduce, modify, create derivative works (such as those resulting from translations, adaptations or other changes we make so that Your Content works better with our Services), communicate, publish, publicly perform, publicly display and distribute Your Content. The rights You grant in this license are for the limited purpose of operating, promoting, and improving our Services, and to develop new ones. This license continues even if You stop using our Services. Make sure You have the necessary rights to grant us this license for any content that You submit to our Services. In order for Grovara to provide the Services, Your name may be displayed in the Services to other users with whom You are conducting transactions and in certain administrative or transactional emails sent by the Services to Your Brand colleagues, to Grovara, and to Buyers. You consent to this use and disclosure of Your name.

We may publicly display Your profile information, posts, and actions You take on the Services or on third-party applications connected to Your account (such as reviews You write and comments You post) in our Services, including displaying in ads and other commercial content. You may request that we delete any of Your Content that You submit to the Services by sending us an email at [support@grovara.com](mailto:support@grovara.com). To the

extent within our control we'll remove Your Content from public display and mark it for future deletion if permitted by applicable law; however, it may persist in backup or residual copies for a reasonable period of time (but will not be available to other users through the Services). For purposes of clarification, once You submit or share Your Content with others via the Services (*e.g.*, other users or third parties), we no longer have control over those portions of Your Content and will not be able to delete it or prevent them from using it.

You agree that You will not use the Services to:

- Violate law or a third-party's rights;
- Submit excessive or unsolicited commercial messages or spam any users;
- Submit malicious content or viruses;
- Solicit other people's login information, credit card numbers, or other sensitive information;
- Harass or bully other users; or
- Post content that is hate speech, threatening or pornographic, that incites violence or that contains nudity or graphic or gratuitous violence.

#### **14. Intellectual Property Protection**

As we ask others to respect our intellectual property rights, we respect the intellectual property rights of others, and require our users and customers to do so. If You are a copyright owner or its agent and believe that any content residing on or accessible through the Services infringes upon Your copyrights, You may submit a notification under the Digital Millennium Copyright Act ("DMCA") by providing our Copyright Agent (the "Designated Agent") with the following information in writing (see 17 U.S.C § 512(c)(3) for further detail):

- Identification of the work or material being infringed.
- Identification of the material that is claimed to be infringing, including its location, with sufficient detail so that we are capable of finding it and verifying its existence.
- Contact information for the notifying party (the "Notifying Party"), including name, address, telephone number, and email address.
- A statement that the Notifying Party has a good faith belief that the material is not authorized by the copyright owner, its agent or law.
- A statement made under penalty of perjury that the information provided in the notice is accurate and that the Notifying Party is authorized to make the complaint on behalf of the copyright owner.
- A physical or electronic signature of a person authorized to act on behalf of the owner of the copyright that has been allegedly infringed.

Please also note that the information provided in a notice of copyright infringement may be forwarded to the user who posted the allegedly infringing content. After removing material in response to a valid DMCA notice, we will notify the user responsible for the allegedly infringing material that we have removed or disabled access to the material. We will terminate, under appropriate circumstances, users who are repeat copyright infringers, and we reserve the right, in our sole discretion, to terminate any user for actual or apparent copyright infringement.

If You believe You are the wrongful subject of a DMCA notification, You may file a counter-notification with us by providing the following information to the Designated Agent at the address below:

- The specific URLs of material that we have removed or to which we have disabled access.
- Your name, address, telephone number, and email address.
- A statement that You consent to the jurisdiction of U.S. District Court for the Eastern District of Pennsylvania, and that You will accept service of process from the person who provided the original DMCA notification or an agent of such person.
- The following statement: "I swear, under penalty of perjury, that I have a good faith belief that the material was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled."
- Your signature.

Upon receipt of a valid counter-notification, we will forward it to Notifying Party who submitted the original DMCA notification. The original Notifying Party (or the copyright holder he or she represents) will then have ten (10) days to notify us that he or she has filed legal action relating to the allegedly infringing material. If we do not receive any such notification within ten (10) days, we may restore the material to the Services.

The contact information for our Designated Agent is:

Grovara, LLC  
 The Yard  
 Attention: Copyright Agent  
 21 S 11th Street  
 Philadelphia, PA 19107  
 support@grovara.com

If You believe that any of Your intellectual property rights other than copyrights have been infringed, please e-mail us at support@grovara.com. We reserve the right, in our sole and absolute discretion, to suspend or terminate any user who infringes the intellectual property rights of Grovara or others, and/or to remove, delete, edit or disable access to such person's content. You agree that we have no liability for any action taken under this section.

## **15. About Software in our Services**

You may be required to download software (such as a mobile or desktop app) to use the Services or certain features of the Services, and the Services may enable You to access software running on our (or our vendors') servers (collectively, "Software"). You agree that we retain the ownership of all rights, title, and interest in and to the Software. Certain Software may update automatically on Your device once a new version or feature is available, and You consent to such automatic updating.

Grovara gives You a personal, worldwide, royalty-free, non-assignable, and non-exclusive license to use the Software to access the Services. This license is for the sole purpose of enabling You to use and enjoy the benefit of the Services as provided by us, in the manner permitted by these Terms. You may not copy, modify, distribute, sell, or lease any part of our Services or Software, nor may You reverse engineer or attempt to extract the source code of the Services or Software, unless laws prohibit those restrictions or You have our written permission.

There may be software programs contained within certain Software that have been licensed to us by third parties. The term "Software" as used herein shall refer to this third-party software except where the term "Software" is used in the context of our ownership. The same terms and conditions, including all limitations and restrictions, set forth in these Terms apply to each third-party software program contained in the Software. You acknowledge and agree that any third-party components are owned by their applicable licensors. We do not make any representations or warranties about the operation or availability of such third-party software. Neither we, nor our licensors, shall be liable for any unavailability or removal of such third-party software. We are not responsible for any communications to or from such licensors, or for the collection or use of information by such licensors. You consent to the communications enabled and/or performed by such third-party software, including automatic updating of the third-party software without further notice. You agree that such third-party software licensors are intended third-party beneficiaries under these Terms.

## **16. Modifying and Terminating our Services**

We are constantly changing and improving our Services. We may add or remove functionalities or features, and we may suspend or stop a Service altogether, at any time, without any notice or liability. We may also modify the features of Subscription Plans by providing notice to You in the Services or by email. While we will try to maintain the features of Your Subscription Plan for the duration of then-current term of Your Subscription Plan, we cannot guarantee it. We may also stop providing Services to You, or add or create new limits to our Services, at any time.

Sections 4, 7, 9, and 16-22 will survive termination or expiration of these Terms indefinitely.

## **17. Our Warranties and Disclaimers**

GROVARA IS A MARKETPLACE PROVIDER ONLY AND ENABLES BUYERS AND BRANDS TO DIRECTLY ENGAGE IN TRANSACTIONS TO BUY AND SELL PRODUCTS. GROVARA IS NOT A MANUFACTURER OR A RESELLER OF PRODUCTS. GROVARA SHALL HAVE NO LIABILITY WHATSOEVER IN CONNECTION WITH THE PRODUCTS. FURTHERMORE, GROVARA HAS NO LIABILITY ARISING FROM ANY DISPUTE BETWEEN A BUYER AND A BRAND.

OTHER THAN AS EXPRESSLY SET OUT IN THESE TERMS, NEITHER GROVARA NOR ITS LICENSORS, SUPPLIERS, ADVERTISERS, OR DISTRIBUTORS MAKE ANY SPECIFIC PROMISES ABOUT THE SERVICES. FOR EXAMPLE, WE DON'T MAKE ANY COMMITMENTS ABOUT THE CONTENT WITHIN THE SERVICES, THE SPECIFIC FUNCTIONS OF THE SERVICES, OR THEIR RELIABILITY, AVAILABILITY, OR ABILITY TO MEET YOUR NEEDS. WE ALSO DO NOT MAKE ANY WARRANTIES OR COMMITMENT RELATING TO NON-INFRINGEMENT, FREEDOM FROM VIRUSES OR OTHER HARMFUL CODE, OR ERROR-FREE OR UNINTERRUPTED OPERATIONS. WE PROVIDE THE SERVICES "AS-IS."

SOME JURISDICTIONS PROVIDE FOR CERTAIN WARRANTIES, LIKE THE IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. TO THE EXTENT PERMITTED BY LAW, WE DISCLAIM ALL WARRANTIES.

YOU AND YOUR HEIRS, SUCCESSORS, AND ASSIGNS HEREBY FOREVER IRREVOCABLY RELEASE, DISCHARGE, AND HOLD HARMLESS US, OUR AFFILIATES, AND OUR AND THEIR SUCCESSORS AND ASSIGNS, AND OUR AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS (COLLECTIVELY, "RELEASED PARTIES")

FROM, AND AGREE NOT TO SUE ANY RELEASED PARTY FOR, ANY LIABILITIES, CLAIMS, OBLIGATIONS, SUITS, ACTIONS, DEMANDS, EXPENSES, AND DAMAGES WHATSOEVER (COLLECTIVELY, "LIABILITIES") THAT YOU MAY HAVE AGAINST ANY RELEASED PARTY WHETHER EXISTING NOW OR IN THE FUTURE, WHETHER KNOWN OR UNKNOWN, ARISING OUT OF OR IN CONNECTION WITH YOUR OR A THIRD PARTY'S CONDUCT RELATED TO USE OF THE SERVICES. YOU UNDERSTAND AND ACKNOWLEDGE THAT THE FOREGOING SENTENCE RELEASES AND DISCHARGES ALL LIABILITIES, WHETHER OR NOT THEY ARE CURRENTLY KNOWN TO YOU, AND YOU WAIVE YOUR RIGHTS UNDER CALIFORNIA CIVIL CODE SECTION 1542. YOU UNDERSTAND THE MEANING OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH READS AS FOLLOWS: "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." BY AGREEING TO THESE TERMS AND THIS WAIVER, YOU ASSUME ALL RISK ARISING FROM YET UNKNOWN CLAIMS.

#### **18. Liability for our Services**

TO THE EXTENT NOT PROHIBITED BY LAW, GROVARA (AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS) AND OUR LICENSORS, SUPPLIERS, ADVERTISERS, AND DISTRIBUTORS, WILL NOT BE RESPONSIBLE FOR LOST PROFITS, REVENUES, OR DATA, FINANCIAL LOSSES OR INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES.

TO THE EXTENT NOT PROHIBITED BY LAW, THE TOTAL LIABILITY OF GROVARA (AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS) AND OUR LICENSORS, SUPPLIERS, ADVERTISERS, AND DISTRIBUTORS, FOR ANY AND ALL CLAIMS UNDER THESE TERMS OR RELATING TO YOUR USE OF THE SERVICES, INCLUDING FOR ANY IMPLIED WARRANTIES, IS LIMITED TO THE AMOUNT YOU PAID US TO USE THE SERVICES (OR, IF WE CHOOSE, TO SUPPLY YOU THE SERVICES AGAIN).

IN ALL CASES RELATING TO PROVIDING YOU THE SERVICES, GROVARA (AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS) AND ITS LICENSORS, SUPPLIERS, ADVERTISERS, AND DISTRIBUTORS, WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE THAT IS DUE TO EVENTS OUTSIDE OF OUR REASONABLE CONTROL, SUCH AS WARS, CRIMINAL ACTIVITIES, STORMS, NATURAL DISASTERS, ACTS OF GOVERNMENT, SUPPLY INTERRUPTIONS, OR TELECOMMUNICATION OR INTERNET FAILURES, AND ANY OTHER EVENT WHATSOEVER THAT IS OUTSIDE OF OUR REASONABLE CONTROL.

#### **19. Indemnification**

You hereby agree to indemnify, defend, and hold harmless Grovara, its affiliated companies, and its and their predecessors, successors, and assigns, and its and their respective directors, officers, employees, agents, representatives, partners, and contractors from and against all claims, losses, expenses, damages and costs (including, but not limited to, reasonable attorneys' fees), resulting from or arising out of (i) Your actual or alleged breach of these Terms, any content You provide through the Services, or Your use or misuse of the Services; (ii) any allegation of facts that, if true, would constitute a breach by You of Your representations, warranties, and/or obligations under the Terms, including these Terms, (ii) a dispute between You and a Buyer; (iii) any allegation that any Product, Product Documentation, or other information or materials provided by You or on Your behalf violate any Applicable Laws, including, without limitation, any allegation of infringement or misappropriation of any third party copyright, trademark, patent, trade secret, or privacy right; (iv) any Product, Product Documentation, Product labeling or shipments; or (v) any allegation of damage to tangible property, or illness, personal injury or death,

including, without limitation, any product liability or similar claims in connection with any Products. However, You will not be responsible for claims, damages, and costs which are found by a court of competent jurisdiction to have arisen solely from our violation of applicable law.

## **20. About these Terms**

We may modify these Terms or any additional terms that apply to a Service for any reason, for example, to reflect changes to the law or changes to our Services. You should look at the Terms regularly and the “Last Updated” date at the beginning of these Terms. We’ll use reasonable efforts to give You notice of these modifications, such as posting notice of modifications to these Terms on this web page, through the Services, or via email. By continuing to use the Services after we make these modifications, You agree that You will be subject to the modified Terms. If You do not agree to the modified terms for a Service, You should discontinue Your use of that Service.

If there is a conflict between these Terms and any additional terms for a Service, the additional terms will control for that conflict with respect to the Service in question.

These Terms control the relationship between Grovara and You. They do not create any third-party beneficiary rights (except in the limited case of Section 21). If You do not comply with these Terms, and we don’t take action right away, this doesn’t mean that we are giving up any rights that we may have (such as taking action in the future). If it turns out that a particular term is not enforceable, this will not affect any other terms.

The laws of the United States and the Commonwealth of Pennsylvania, excluding Pennsylvania’s conflict of laws rules, will apply to any disputes arising out of or relating to these terms or the Services. The English language shall prevail in the interpretation and construction of this Agreement.

You may not assign or delegate Your rights or obligations relating to these terms or Your account for the Services without our prior written consent. We may assign these terms or assign or delegate any of our rights or obligations at any time.

For information about how to contact Grovara, please visit our contact page.

## **21. Third Party Terms**

You agree that in addition to these Terms, Your use of our mobile app is subject to the usage rules set forth in Apple’s App Store terms of service, if You download our app from the App Store, or in Google’s Play terms of service, if You download the app from Google Play, or any other third party platform, developer or distributor end-user license agreement and/or terms and conditions by which You agree to be bound when You download our mobile app or otherwise access the Services.

Without limiting the generality of the foregoing, if You downloaded our mobile app from Apple, You and Grovara acknowledge and agree to the following: This agreement is concluded between You and Grovara only, and not with Apple Inc. (“Apple”). The mobile app downloaded from Apple may only be used on Apple hardware products. Grovara, not Apple, is solely responsible for the app and the content thereof. Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the app. To the maximum extent permitted by applicable law, Apple will have no warranty obligation

whatsoever with respect to the app, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be Grovara's sole responsibility. Grovara, not Apple, is responsible for addressing any claims by You or any third party relating to the app or Your possession and/or use of the app, including, but not limited to: (i) product liability claims; (ii) any claim that the app fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation. In the event of any third-party claim that the app or Your possession and use of the app infringes that third party's intellectual property rights, Apple will have no responsibility for the investigation, defense, settlement and discharge of any such intellectual property infringement claim. 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. Apple, and Apple's subsidiaries, are third party beneficiaries of this agreement, and upon Your acceptance of the terms and conditions of the agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce the agreement against You as a third-party beneficiary thereof.

## **22. Binding Arbitration**

Without limiting Your waiver and release in Section 17, You agree to the following:

**a. Purpose.** Any and all Disputes (as defined below) involving You and Grovara will be resolved through individual arbitration. In arbitration, there is no judge or jury and there is less discovery and appellate review than in court. This Section 22 (the "Arbitration Provision") shall be broadly interpreted. Notwithstanding anything to the contrary in these Terms, this Section 22 does not apply to an action by either party to enjoin the infringement or misuse of its intellectual property rights, including copyright, trademark, patent or trade secret rights.

**b. Definitions.** The term "Dispute" means any claim or controversy related to the Services, the Products, or the Software, including but not limited to any and all: (1) claims for relief and theories of liability, whether based in contract, tort, fraud, negligence, statute, regulation, ordinance, or otherwise; (2) claims that arose before these Terms or any prior agreement; (3) claims that arise after the expiration or termination of these Terms; and (4) claims that are currently the subject of purported class action litigation in which You are not a member of a certified class. As used in this Arbitration Provision, "Grovara" means Grovara, LLC and any of its predecessors, successors, assigns, parents, subsidiaries and affiliated companies and each of their respective officers, directors, employees and agents, and "You" means You and any users or beneficiaries of Your access to the Services, the Products, or the Software.

**c. Initiation of Arbitration Proceeding/Selection of Arbitrator.** The party initiating the arbitration proceeding may open a case with JAMS, formerly Judicial Arbitration and Mediation Services, Inc., ("JAMS") by visiting its website ([www.jamsadr.com](http://www.jamsadr.com)) or calling its toll-free number (1-800-352-5267). You may deliver any required or desired notice to Grovara by mail to 21 S 11th Street, The Yard, Philadelphia, PA 19107, U.S.A.

**d. Right to Sue in Small Claims Court.** Notwithstanding anything in this Arbitration Provision to the contrary, either You or Grovara may bring an individual action in a small claims court in the area where You access the Services if the claim is not aggregated with the claim of any other person and if the amount in controversy is properly within the jurisdiction of the small claims court.

**e. Arbitration Procedures.** This Arbitration Provision shall be governed by the Federal Arbitration Act. Arbitrations shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and

Procedures (the “JAMS Rules”) as modified by the version of this Arbitration Provision that is in effect when You notify Grovara about Your Dispute. You can obtain the JAMS Rules from the JAMS by visiting its website ([www.jamsadr.com](http://www.jamsadr.com)) or calling its toll-free number (1-800-352-5267). If there is a conflict between this Arbitration Provision and the rest of these Terms, this Arbitration Provision shall govern. If there is a conflict between this Arbitration Provision and the JAMS rules, this Arbitration Provision shall govern. If JAMS will not administer a proceeding under this Arbitration Provision as written, the parties shall agree on a substitute arbitration organization. If the parties cannot agree, the parties shall mutually petition a court of appropriate jurisdiction to appoint an arbitration organization that will administer a proceeding under this Arbitration Provision as written applying the JAMS Rules. A single arbitrator will resolve the Dispute. Unless You and Grovara agree otherwise, any arbitration hearing will take place in Philadelphia, PA. The arbitrator will honor claims of privilege recognized by law and will take reasonable steps to protect customer account information and other confidential or proprietary information. The arbitrator shall issue a reasoned written decision that explains the arbitrator’s essential findings and conclusions. The arbitrator’s award may be entered in any court having jurisdiction over the parties only if necessary for purposes of enforcing the arbitrator’s award. An arbitrator’s award that has been fully satisfied shall not be entered in any court.

**f. Waiver of Class Actions and Collective Relief.** THERE SHALL BE NO RIGHT OR AUTHORITY FOR ANY CLAIMS TO BE ARBITRATED OR LITIGATED ON A CLASS ACTION, JOINT OR CONSOLIDATED BASIS OR ON BASES INVOLVING CLAIMS BROUGHT IN A PURPORTED REPRESENTATIVE CAPACITY ON BEHALF OF THE GENERAL PUBLIC (SUCH AS A PRIVATE ATTORNEY GENERAL), OTHER SUBSCRIBERS OR USERS, OR OTHER PERSONS. THE ARBITRATOR MAY AWARD RELIEF ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF WARRANTED BY THAT INDIVIDUAL PARTY’S CLAIM. THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON’S CLAIMS, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING.

**g. Arbitration Fees and Costs.** If Your claim seeks more than \$75,000 in the aggregate, the payment of the JAMS fees and costs will be governed by the JAMS Rules. If Your claims seek less than \$75,000 in the aggregate, the payment of the JAMS fees and costs will be Grovara’s responsibility. However, if the arbitrator finds that Your Dispute was frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), the payment of the JAMS’s fees and costs shall be governed by the JAMS Rules and You shall reimburse Grovara for all fees and costs that were Your obligation to pay under the JAMS Rules. You may hire an attorney to represent You in arbitration. You are responsible for Your attorneys’ fees and additional costs and may only recover Your attorneys’ fees and costs in the arbitration to the extent that You could in court if the arbitration is decided in Your favor. Notwithstanding anything in this Arbitration Provision to the contrary, Grovara will pay all fees and costs that it is required by law to pay.

**h. Severability and Waiver of Jury Trial.** If any part of subsection (f) of this Arbitration Provision is found to be illegal or unenforceable, the entire Arbitration provision will be unenforceable and the Dispute will be decided by a court. WHETHER IN COURT OR IN ARBITRATION, YOU AND GROVARA AGREE TO WAIVE THE RIGHT TO A TRIAL BY JURY TO THE FULLEST EXTENT ALLOWED BY LAW. If any other clause in this Arbitration Provision is found to be illegal or unenforceable, that clause will be severed from this Arbitration Provision and the remainder of this Arbitration Provision will be given full force and effect.

**i. Continuation.** This Arbitration Provision will survive the termination or expiration of these Terms.

## **23. Public Notice**

Grovara has not been served by any governmental law enforcement or intelligence authority with any order to provide user information. To Grovara's knowledge, no searches or surveillance by a governmental law enforcement or intelligence authority have been performed on Grovara's systems.

#### **Exhibit A**

All sales made through Grovara shall be subject to the following commission fees:

**Transaction Fees:** 20% of the total, gross price for Products payable to Brand for each Purchase Order, which Grovara shall retain from the applicable payments made by Buyer.