

# Terms and Conditions

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THESE TERMS AND CONDITIONS CONTAIN AN ARBITRATION AGREEMENT AND CLASS ACTION WAIVER. PLEASE READ THEM CAREFULLY, SINCE THEY AFFECT YOUR LEGAL RIGHTS.

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implied, by considering it. You further understand that we shall exclusively own all known or hereafter existing rights to the idea everywhere in the world, and that such idea is hereby irrevocably assigned to us. Without limiting the foregoing, to the extent any such assignment is deemed unenforceable, and or to the extent necessary for Company to utilize your submission, you hereby grant Company an irrevocable, perpetual, world-wide license to use the idea and any associated intellectual property in any manner, in any medium now known or hereafter developed, without compensation to you.

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IN NO EVENT WILL COMPANY BE LIABLE UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY LOST PROFITS, LOST DATA, LOST OPPORTUNITIES, COSTS OF COVER, EXEMPLARY, PUNITIVE, PERSONAL INJURY/WRONGFUL DEATH, SPECIAL, INCIDENTAL, INDIRECT OR OTHER CONSEQUENTIAL DAMAGES. FURTHER, TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL COMPANY BE LIABLE FOR ANY DIRECT DAMAGES EXCEEDING THE GREATER OF THE FEES YOU PAID TO COMPANY FOR PRODUCTS AND SERVICES IN THE TWELVE MONTHS PRECEDING THE CLAIM OR ONE HUNDRED UNITED STATES DOLLARS.

**Changes:** All information posted on the Website is subject to change without notice. In addition, these Terms and Conditions may be changed at any time without prior notice. We will make such changes by posting them on the Website. You should check the Website for such changes frequently. Your continued access of the Website after such changes conclusively demonstrates your acceptance of those changes.

**Indemnification:** You agree to indemnify, defend and hold harmless Company, its employees, directors, officers, agents, business partners, affiliates, contractors, distribution partners and representatives from and against any and all claims, demands, liabilities, costs or expenses, including attorney's fees and costs, arising from, or related to (i) your use of the Website, (ii) any breach by you of any of these Terms and Conditions, (iii) any violation of applicable law.

**Severability:** If any part of these Terms and Conditions shall be held or declared to be invalid or unenforceable for any reason by any court of competent jurisdiction, such provision shall be ineffective but shall not affect any other part of these Terms and Conditions, and in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.

**Waiver; Remedies:** The failure of Company to partially or fully exercise any rights or the waiver of Company of any breach of these Terms and Conditions by you shall not prevent a subsequent exercise of such right by Company or be deemed a waiver by Company of any subsequent breach by you of the same or any other term of these Terms and Conditions. The rights and remedies of Company under these Terms and Conditions and any other applicable agreement between you and Company shall be cumulative, and the exercise of any such right or remedy shall not limit Company's right to exercise any other right or remedy.

**Governing Law; Dispute Resolution; Arbitration:** The laws of the State of New York shall govern these Terms and Conditions. While we will make reasonable efforts to resolve any disagreements you may have with Company, if these efforts fail you agree that all claims, disputes or controversies against Company arising out of these Terms and Conditions, or the purchase of any products or services ("Claims") shall be exclusively submitted to binding arbitration (except for matters that may be taken to small claims court), no matter what legal theory they are based on or what remedy (damages, or injunctive or declaratory relief) they seek. This includes Claims based on contract, tort (including intentional tort), fraud, agency, your or our negligence, statutory or regulatory provisions, or any other sources of law; Claims made as counterclaims, cross-claims, third-party claims, interpleaders or otherwise; and Claims made independently or with other claims. The party filing arbitration must submit Claims to the American Arbitration Association and follow its rules and procedures for initiating and pursuing arbitration. Any arbitration hearing that you attend will be held at a place chosen by the American Arbitration Association in the same city as the U.S. District Court closest to your then current residential address, or at some other place to which you and Company agree in writing, and the arbitrator shall apply New York law consistent with the Federal Arbitration Act. **YOU SHALL NOT BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS IN ARBITRATION BY OR AGAINST OTHER USERS OR TO ARBITRATE ANY CLAIM AS A REPRESENTATIVE OR MEMBER OF A CLASS OR IN A PRIVATE ATTORNEY GENERAL CAPACITY.** You may obtain copies of the current rules, and forms and instructions for initiating arbitration by contacting the American Arbitration Association at using the contact information noted below.

American Arbitration Association  
Website: [www.adr.org](http://www.adr.org)

A single, neutral arbitrator will resolve Claims. The arbitrator will be either a lawyer with at least ten (10) years' experience or a retired or former judge, selected in accordance with the rules of the American Arbitration Association. The arbitration will follow the procedures and rules of the American Arbitration Association which are in effect on the date the arbitration is filed unless those procedures and rules are inconsistent with these Terms and Conditions, in which case these Terms and Conditions will prevail. Those procedures and rules may limit the discovery available to you or us. The arbitrator will take reasonable steps to protect your customer account information and other confidential information if requested to do so by you or us. Each party to the arbitration will bear the expense of that party's attorneys, experts, and witnesses, and other expenses, regardless of which party prevails, but a party may recover any or all expenses from another party if the arbitrator, applying applicable law, so determines. The arbitrator's award is final and binding on the parties.

**ANY CLAIM YOU HAVE MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE DATE THE CLAIM ARISES. AS NOTED ABOVE, YOU AND COMPANY HEREBY VOLUNTARILY AND KNOWINGLY WAIVE ANY RIGHT EITHER MAY HAVE TO A JURY TRIAL.**

We will not choose to arbitrate any Claim you bring in small claims court. However, if such a Claim is determined by the court to be outside its jurisdiction, the parties agree that the dispute shall then be submitted to arbitration.

**Privacy Policy:** Use of the Website is also governed by our [Privacy Policy](#), which is incorporate herein by reference.

**Questions:** Should you have any questions regarding these Terms and Conditions you may contact us at [support@brandzooka.com](mailto:support@brandzooka.com).