

Konviv's Terms of Service

December 2017 Version

These Terms of Service (hereinafter the "Terms") represent an agreement between you and Konviv Inc. (hereinafter "Konviv") and contain the terms and conditions governing your use of and access to our website at www.konviv.com, all affiliated websites owned and operated by us, our products, services, and mobile applications (together, the "Services", "Konviv Service", or "Services"). "You" and "your" mean the person who uses or accesses the Services. "We", "us", and "our" mean Konviv and its successors, affiliates and assignees. As used in these Terms, "Konviv Account" means the account you have with us for the Services.

Your use of and access to the Services are subject at all times to these Terms and our [Privacy Policy](#). Please read these Terms and our Privacy Policy carefully. By using or accessing the Services, you represent that you have read and understand these Terms and our Privacy Policy and you agree to be bound by these Terms and our Privacy Policy. If you do not agree to all the terms and conditions of these Terms and our Privacy Policy, do not use or access the Services.

THESE TERMS INCLUDE, AMONG OTHER THINGS, YOUR AUTHORIZATION TO MONITOR BANK AND CREDIT CARD ACCOUNTS, PROVIDE ALERTS, AND A BINDING ARBITRATION PROVISION CONTAINING A CLASS ACTION WAIVER.

I. ACCEPTANCE OF TERMS AND CONDITIONS

By signing up for Konviv or using the Services, you agree to be bound by these Terms. You may not use any of the Services and you may not accept these Terms if you are not legally authorized to accept and be bound by these terms or are not at least 18 years of age and, in any event, of legal age to form a binding contract with us.

II. DESCRIPTION OF SERVICES

A. What Does My Konviv Account Do?

The Services, which are provided free of charge, allow you to consolidate, budget, and track your financial information. Konviv monitors and analyzes your current and historical transactions (your "[Transaction Information](#)") of the the bank and/or credit card accounts you add to your Konviv Account (your "[Designated Account\(s\)](#)") and, based on our analysis of your Transaction Information, we:

1. Identify and categorize your Transaction Information into the various spending categories you determine and set for your Konviv Account (your "Spending Buckets");
2. Analyze your Transaction Information to assist you in reaching the savings goals you determine and set for your Konviv Account (your "Savings Goals"); and
3. Identify changes that you can instruct Konviv to make to the Spending Buckets and Savings Goals (collectively, your "Konviv Goals") you set for your Konviv Account.

You can modify your Konviv Goals by logging into your Konviv Account.

B. How Will Konviv Communicate With Me?

Konviv may communicate with you electronically by sending messages to you via the mobile application (your "App Alerts"), email, or to your mobile device number or other text message address you provided us ("SMS/Text Messages") (collectively, the "Electronic Alerts"). Konviv may send you App Alerts when:

1. Konviv identifies individual or blanket changes that you can instruct Konviv to make to help you reach the Konviv goals you determined and set for yourself;
2. The balance in your Spending Buckets reaches 25% and 50% of the amount you budgeted;
3. You reach 50%, 75%, and 90% of your Savings Goals; and
4. You pay a bill.

Konviv may, at its discretion, change the default frequency of Electronic Alerts and send you Electronic Alerts it deems necessary. You can modify the frequency of the Electronic Alerts at any time by logging into your Konviv Account.

C. Responsibilities of the Parties.

You are solely responsible for determining whether your Konviv Goals are acceptable to you. We are not responsible for any third-party fees that may be incurred as a result of using the Services, including, but not limited to, third-party fees incurred as a result of insufficient funds or credit in your Designated Account(s).

The Services provided are intended for personal financial information management. Konviv is not a financial adviser, and the Services are not intended to provide legal or financial advice. Your financial situation is unique, and any information obtained through or suggested by Konviv is broad in scope and may not be appropriate for your situation. We are not responsible for ensuring your Designated Account(s) have sufficient funds or credit for your needs, purposes, or transactions. We do not make any representations, warranties, or guarantees of any kind that

the Services are appropriate for you. Before using the Services, you should consider obtaining additional information and advice from a financial adviser who is fully aware of your individual circumstances.

For more information about the Services, please review these Terms and visit our Frequently Asked Questions page on the Website.

III. AUTHORIZATIONS TO MONITOR AND ANALYZE DESIGNATED ACCOUNT(S), PROVIDE ELECTRONIC ALERTS, ETC.

A. Authorizations.

By agreeing to these Terms, you agree to the following:

1. Authorize Konviv to electronically monitor analyze your Designated Account(s) in order to, in its sole discretion, identify and categorize your Transaction Information into the Spending Buckets you determined and set for your Konviv Account.
2. Authorize Konviv to analyze your Transaction Information to assist you in reaching the Savings Goals you determined and set for your Konviv Account.
3. Authorize Konviv to provide you Electronic Alerts, as prescribed in section II of these Terms.
4. Authorize Konviv, in its own discretion, to communicate with you via Electronic Alerts on matters concerning your Konviv Account; and
5. Authorize Konviv to provide you its newsletter and marketing and other promotional communications via email. If at any time you would like to stop receiving these communications, you may follow the opt-out instructions contained in any such email.

You acknowledge that the electronic authorization contained in this Section represents your written authorization for the above-described actions and will remain in full force and effect until you notify Konviv that you wish to revoke this authorization by contacting us via Konviv's Contact page located at <http://www.konviv.com/contact/>. Please include "Revoke Authorization" in the subject line. Please allow Konviv up to ten (10) Business Days to process the revocation of this authorization. This action will result in the termination of your Konviv Account.

For purposes of these Terms, "Business Day" means Monday through Friday, excluding federal banking holidays.

IV. USING THE SERVICES

A. Requirements.

In Order to use the Services you must:

1. Accept and agree to these Terms and our Privacy Policy;
2. Register for a Konviv Account;
3. Be at least 18 years of age (or of legal age if you reside in a state where the majority age is older);
4. Have a bank and/or credit card account, in your name, with a U.S. financial institution;
5. Agree to abide by all applicable laws, regulations and rules in connection with your use of the Services;
6. Agree that you are solely responsible for all acts or omissions associated with your access and use of the Services and the access and use of the Services by anyone on your behalf;
7. Expressly consent to receive SMS/Text Messages relating to the Services (third-party data and message fees may apply);
8. Expressly consent to receive important notices via Electronic Alerts;
9. Authorize Konviv to verify your mobile device and make any inquiries we consider necessary to verify your mobile device including, but not limited to, sending you a code via SMS/Text Message (third-party data and message fees may apply);
10. Provide all information requested by Konviv, such as your name, email address, mobile device number or other text message address, online credentials for your Designated Account(s), and such other information as we may request from time to time (collectively, "User Information");
11. Take steps to verify your User Information;
12. Authorize Konviv to, either directly or through a third-party, obtain, verify your User Information and Designated Account(s);
13. Agree to update any of your User Information that changes by contacting Konviv ; and
14. Authorize Konviv to take any reasonable actions to ensure the provision of the Services.

You represent and warrant that all User Information you provide us from time to time is truthful, accurate, current, and complete, and you agree not to misrepresent your identity or your User Information. You agree to promptly notify us of changes to your User Information including, but not limited to, the closure of your Designated Account(s) by updating your Konviv Account. If we approve your registration, you will be authorized to use the Services, subject to these Terms.

By using the Services and providing User Information to us, you automatically authorize us to obtain, directly or indirectly through our third party service providers and without any time limit or the requirement to pay any fees, information about you and your Designated Account(s) from the financial institution holding your Designated Account(s) and other third-party websites and databases as necessary to provide the Services to you. For purposes of such authorization, you hereby grant Konviv and our third-party service providers a limited power of attorney, and you hereby appoint Konviv and our third-party service providers as your true and lawful

attorney-in-fact and agent, with full power of substitution and resubstitution, for you and in your name, place, and stead, in any and all capacities, to access third-party websites, servers, and documents; retrieve information, and use your User Information, all as described above, with the full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection with such activities, as fully to all intents and purposes as you might or could do in person. YOU ACKNOWLEDGE AND AGREE THAT WHEN KONVIV OR OUR THIRD-PARTY SERVICE PROVIDERS ACCESS AND RETRIEVE INFORMATION FROM SUCH THIRD-PARTY WEBSITES, KONVIV AND OUR THIRD-PARTY SERVICE PROVIDERS ARE ACTING AS YOUR AGENT, AND NOT THE AGENT OR ON BEHALF OF THE THIRD PARTY. You agree that other third parties shall be entitled to rely on the foregoing authorization, agency, and power of attorney granted by you. You understand and agree that the Services are not endorsed or sponsored by any third-party account providers accessible through the Services. We make no effort to review information obtained from the financial institution(s) holding your Designated Account(s) and other third-party websites and databases for any purpose, including, but not limited to, accuracy, legality, or non-infringement. As between Konviv and our third-party service providers, Konviv owns all the information generated by your Konviv account including, but not limited to, your confidential User Information and Transaction Information. The information you provide us is subject to our [Privacy Policy](#).

V. FEES FOR USING THE SERVICE

There are no fees for the Services, but we reserve the right to charge fees for the Services in the future. We will notify you before charging a fee for the Services by delivering notice to you electronically. If you continue using the Services after such notice, you must pay all applicable fees for the Service.

VI. RESTRICTIONS ON USING THE SERVICES

A. Personal Use; Restrictions.

You may only use the Services for your own personal, non-commercial use and not on behalf of or for the benefit of any third party. Your use of the Services must comply with all applicable law. If your use of the Services is prohibited by applicable law, then you are not authorized to use the Services. We are not responsible if you use the Services in any manner that violates applicable law.

You agree not to authorize any other person or entity to use your username and password or mobile device to access the Services. You are solely responsible for the maintenance, confidentiality, and security of your username, password, and other User Information. Except as otherwise required by applicable law, you are responsible for all transactions and other activities authorized or performed using your username and password or mobile device, whether authorized or unauthorized by you. Except as otherwise expressly stated in these Terms or required by applicable law, we are not responsible for any losses arising out of the loss or theft of your User Information or your mobile device or from unauthorized or fraudulent

transactions associated with your Designated Account(s) or your Konviv Account. If you suspect or become aware of any unauthorized activity or access to your username, password, or mobile device, you must contact us immediately via Konviv's Contact page located at <http://www.konviv.com/contact/>. Please include "Unauthorized Activity" in the subject line.

We offer the Services and features, information, materials, and content provided and depicted through the Services (collectively, "Content") solely for your personal use for the purposes described therein and in these Terms. Any and all other uses are prohibited. You may not restrict or inhibit any other person from using or enjoying the Services or Content.

B. Konviv's Intellectual Property Rights; Restrictions.

The Services and Content are protected by copyright, trademark, patent, and other intellectual property laws. We expressly reserve all rights and remedies under applicable law. Except as expressly provided by these Terms or with our prior written consent, you may not use, modify, disassemble, decompile, reverse engineer, reproduce, distribute, rent, sell, license, publish, display, download, transmit, attempt to derive any source code or underlying ideas or algorithms of any part of the Services, or otherwise exploit any Content in any form by any means. Additionally, we may, but are not obligated to, monitor your use of the Services and Content. Without limiting the foregoing, you agree not to (and not to allow any third party to):

1. Use any robot, spider, scraper, or other automatic or manual device, process, or means to access the Services or copy any Content, except as expressly authorized by us;
2. Take any action that imposes or may impose (in our sole determination) an unreasonable or a disproportionately large load on the Services or our infrastructure;
3. Utilize any device, software, or routine that will interfere or attempt to interfere with the functionality of the Services;
4. Rent, lease copy, provide access to, or sublicense any portion of the Services or Content to a third party;
5. Use any portion of the Services or Content to a third party;
6. Reverse engineer, decompile, disassemble, or otherwise seek to obtain the source code of the Services or Content;
7. Modify the Services or Content in any way that is illegal, harmful, fraudulent, deceptive, threatening, harassing, defamatory, obscene, or otherwise objectionable, as we may determine in our sole discretion;
8. Remove or obscure any proprietary or other notices contained in the Services or Content;
9. Use the Services or Content in any way that is illegal, harmful, fraudulent, deceptive, threatening, harassing, defamatory, obscene, or otherwise objectionable, as we may determine in our sole discretion;

10. Jeopardize the security of your Konviv Account or any other person's Konviv Account (such as allowing someone else to use your username and password to access the Services);
11. Attempt, in any manner, to obtain the username, password, account, or other security information from any other user of the Services;
12. Violate the security of any computer network or crack any passwords or security encryption codes; or
13. Run any form of auto-responder or "spam," or any processes that run or are activated while you are not logged in to access the Services.

We do not grant you any licenses, express or implied, to our intellectual property or the intellectual property of our licensors, except as expressly stated in these Terms. We and our third-party licensors retain all right, title, and interest in and to the Services, Content, and any associated patents, trademarks, copyrights, mask work rights, trade secrets, and other intellectual property rights.

The Services may permit you to submit content, send communications, and provide other information for publication or distribution to third parties (collectively, "User Content"). Any User Content must not be illegal, threatening, obscene, racist, defamatory, libelous, pornographic, infringing of intellectual property rights, promoting of illegal activity or harm to groups and/or individuals, invasive of privacy, purposely false or otherwise injurious to third parties, or objectionable and must not consist of or contain software, computer viruses, commercial solicitation, political campaigning, chain letters, mass mailings, or any form of "spam." If you submit User Content, and unless we indicate otherwise, you grant us a nonexclusive, perpetual, royalty-free, irrevocable, and fully sublicensable (through multiple tiers) right to use, modify, reproduce, adapt, translate, publish, create derivative works from, distribute, display, and otherwise exploit such User Content throughout the world in any media. We take no responsibility and assume no liability for any User Content submitted by you or any other user or third party.

To the extent permitted by applicable law, we may, in our sole discretion and without liability to you, terminate (or suspend access to) your use of the Services, Content, or your Konviv Account for any reason, including, but not limited to, your breach of these Terms.

VII. LOST OR STOLEN MOBILE DEVICE; UNAUTHORIZED ACCESS OF KONVIV ACCOUNT

If your mobile device is lost or stolen or if you suspect someone has gained unauthorized access to your Konviv Account's username or password, you must contact us immediately via Konviv's Contact page located at <http://www.konviv.com/contact/>. Please include "Lost/Stolen Mobile Device" and/or "Unauthorized Access" in the subject line. In order to take any action, you may need to provide certain User Information so we can verify your identity.

VIII. UPDATING OR CANCELLING YOUR KONVIV ACCOUNT

You may update your User Information for your Konviv Account or stop using the Services, close your Konviv Account, and cancel these Terms at any time by contacting us via Konviv's Contact page located at <http://www.konviv.com/contact/>. Please include either "Update my Account" or "Cancel my Account" in the subject line. Your termination of these Terms will not affect any of our rights or your obligations arising under these Terms prior to termination. Provisions of these Terms that, by their nature, should survive termination of these Terms will survive termination of these Terms.

IX. CANCELLATION BY KONVIV

Konviv may terminate this Agreement or suspend or terminate your use of the Services for any reason at any time upon notice to you. In the event of cancellation, Konviv may suspend or close your Konviv Account. We will inform of our decision via electronic notifications, and you can always talk to our support team if you have questions. You agree that Konviv will not be liable to you or any third party for any termination of your Konviv Account.

X. GUARDING YOUR PRIVACY

Konviv takes your privacy very seriously. You understand that by using the Services, you consent to the collection, use, storage, and disclosure of your information as set forth in these Terms and our [Privacy Policy](#).

XI. ADDITIONAL TERMS

A. WARRANTY DISCLAIMER.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THESE TERMS, YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE SERVICES AND ALL INFORMATION, PRODUCTS, AND OTHER CONTENT (INCLUDING THAT OF THIRD PARTIES) INCLUDED IN OR ACCESSIBLE FROM THE SERVICES IS AT YOUR SOLE RISK. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE AND OUR THIRD-PARTY SERVICE PROVIDERS EXPRESSLY DISCLAIM ANY AND ALL CONDITIONS, REPRESENTATIONS, AND WARRANTIES OF ANY KIND AS TO THE SERVICES AND ALL INFORMATION, PRODUCTS, AND OTHER CONTENT (INCLUDING THAT OF THIRD PARTIES) INCLUDED IN OR ACCESSIBLE FROM THE SERVICES,

WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

WITHOUT LIMITING THE FOREGOING, WE AND OUR THIRD-PARTY SERVICE PROVIDERS MAKE NO WARRANTY THAT:

1. THE SERVICES WILL MEET YOUR REQUIREMENTS;
2. THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE;
3. THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE;
4. THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL OBTAINED BY YOU THROUGH THE SERVICES WILL MEET YOUR EXPECTATIONS; OR
5. ANY ERRORS IN THE SERVICES WILL BE CORRECTED. NO ORAL OR WRITTEN INFORMATION OR ADVICE OBTAINED BY YOU FROM US OR OUR THIRD-PARTY SERVICE PROVIDERS THROUGH OR FROM THE SERVICES WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TERMS.

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

B. LIMITATION OF LIABILITY.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU AGREE THAT KONVIV, ITS AFFILIATES, AND ITS AND THEIR RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS, AGENTS, AND THIRD-PARTY SERVICE PROVIDERS WILL NOT BE LIABLE TO YOU OR ANY THIRD PARTY, EITHER UNDER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER LEGAL OR EQUITABLE THEORY, FOR:

1. THE PERFORMANCE OF THE SERVICES OR THE INABILITY TO USE THE SERVICES;
2. CONTENT YOU ACQUIRED OR HAVE NOT ACQUIRED THROUGH THE SERVICES;

3. ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA, OR OTHER INTANGIBLE LOSSES, EVEN IF SUCH PERSONS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHICH ARISE OUT OF OR ARE IN ANY WAY CONNECTED WITH THESE TERMS, THE SERVICES, OR CONTENT;
4. ANY DIRECT DAMAGES EXCEEDING THE TOTAL FEES PAID BY YOU TO KONVIV IN THE TWELVE (12) MONTHS PRECEDING SUCH A CLAIM;
5. ANY EVENT BEYOND OUR REASONABLE CONTROL.

SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES, SO THE ABOVE LIMITATION AND EXCLUSIONS MAY NOT APPLY TO YOU. IN SUCH STATES KONVIV'S COLLECTIVE LIABILITY IS LIMITED TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW.

C. Indemnity.

At our request, and to the fullest extent permitted by applicable law, you agree to defend, indemnify, and hold harmless Konviv, its affiliates, and its and their respective employees, officers, directors, agents, and third-party service providers from and against any and all claims, suits, liabilities, damages (actual and consequential), losses, fines, penalties, costs, and expenses (including reasonable attorneys' fees) arising from or in any way related to any third-party claims relating to your use of the Services, violation of these Terms, applicable law or any third-party rights, or your fraud or willful misconduct. Such indemnified parties reserve the right to assume the exclusive defense and control of any matter subject to indemnification by you, in which event you will cooperate in asserting any available defenses.

D. Assignment.

You may not transfer, assign, or delegate these Terms or your rights or obligations hereunder or your Konviv Account in any way (by operation of law or otherwise) without our prior written consent. Any transfer, assignment, or delegation of these Terms that you make shall be null and void from the initial date thereof. To the extent permitted by applicable law, we may transfer, assign, or delegate these Terms and our rights and obligations hereunder without your consent.

E. Third-Party Beneficiary.

You agree that our third-party services providers are third-party beneficiaries of the applicable provisions of these Terms, with all rights to enforce such provisions as if such service providers were a party to these Terms.

F. Governing Law/Jurisdiction.

These Terms are made under and will be governed by and construed in accordance with the laws of the State of California, consistent with the Federal Arbitration Act, without regard to choice or conflicts of law principles.

Further, you and Konviv agree to the jurisdiction of the federal Northern District of California to resolve any dispute, claim, or controversy that relates to or arises in connection with the Services or these Terms (and any non-contractual disputes/claims relating to or arising in connection with them) and is not subject to mandatory arbitration under Section XII(G) of these Terms.

G. ARBITRATION AGREEMENT.

1. Dispute Resolution By Binding Arbitration.

You and Konviv agree that any and all controversies, disputes, demands, claims, or causes of action between you and Konviv (including the interpretation and scope of this Section and the arbitrability of the controversy, dispute, demand, claim, or cause of action) relating in any way to the Services (whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory, and whether the claims arise during or after the termination of these Terms) or these Terms (as well as any related or prior agreement between you and Konviv), will be determined and resolved exclusively through binding and confidential arbitration. The arbitration will take place in San Francisco, California, unless you and Konviv otherwise agree in writing. As used in this Section, “we”, “us”, or “Konviv” mean Konviv and its subsidiaries, affiliates, predecessors, successors, and assigns and all of its and their respective employees, officers, directors, agents, and representatives. In addition, “we”, “us”, or “Konviv” include any third party providing any product, service, or benefit in connection with the Services or these Terms (as well as any related or prior agreement that you may have had with us) if such third party is named as a co-party with us in any controversy, dispute, demand, claim, or cause of action subject to this Section.

Arbitration is more informal than a lawsuit in court. You should review this Arbitration Agreement carefully. To the extent permitted by applicable law, you are **GIVING UP YOUR RIGHT TO GO TO COURT** to assert or defend your rights. Your rights will be determined by a **NEUTRAL ARBITRATOR** and **NOT A JUDGE OR JURY**. You are entitled to a **FAIR HEARING**, BUT the arbitration procedures may be **SIMPLER AND MORE LIMITED THAN RULES APPLICABLE IN COURT**. Arbitrators’ decisions are as enforceable as any court order and are subject to **VERY LIMITED REVIEW BY A COURT**.

2. Exceptions.

Notwithstanding the section above (XII(G)(1)), you and Konviv both agree that nothing in this Arbitration Agreement will be deemed to waive, preclude, or otherwise limit either of our rights, at any time, to (a) bring an individual action in a U.S. small claims court or (b) bring an individual action seeking only temporary or preliminary individualized injunctive relief in a court of law, pending a final ruling from the arbitrator. In addition, this Arbitration Agreement doesn't stop you or us from bringing issues to the attention of federal, state, or local agencies. Such agencies can, if the law allows, seek relief against us on your behalf (or vice versa).

3. Notice; Process.

A Party who intends to seek arbitration must first send a written notice of the dispute to the other, by certified mail, Federal Express, UPS, or Express Mail (signature required), or in the event that we do not have a physical address on file for you, by electronic mail (the "Notice"). Konviv's address for Notice is: Konviv, Inc., Attn: Legal, 2150 Shattuck Avenue, Penthouse, Berkeley, CA 94704. The Notice must (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought (the "Demand"). We agree to use good faith efforts to resolve the claim directly, but if we do not reach an agreement to do so within 30 days after the Notice is received, you or Konviv may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by you or Konviv shall not be disclosed to the arbitrator. All documents and information disclosed in the course of the arbitration or the enforcement of the arbitrator's decision and award shall not be disclosed except in confidence to persons who have a need to know for such purposes or as required by applicable law.

4. Arbitration Rules.

Arbitration will be subject to the Federal Arbitration Act and not any state arbitration law. The arbitration will be conducted before one commercial arbitrator from the American Arbitration Association ("AAA") with substantial experience in resolving commercial contract disputes. As modified by these Terms, and unless otherwise agreed upon by the parties in writing, the arbitration will be governed by the AAA's Commercial Arbitration Rules and, if the arbitrator deems them applicable, the Supplementary Procedures for Consumer Related Disputes (collectively, the "Rules and Procedures").

The following rules apply:

- a) In the event that you are able to demonstrate that the costs of arbitration will be prohibitive as compared to the costs of litigation, we will pay as much of your filing and hearing fees in connection with the arbitration as the arbitrator deems necessary to prevent

the arbitration from being cost-prohibitive as compared to the cost of litigation;

- b) We also reserve the right, in our sole and exclusive discretion, to assume responsibility for any or all of the costs of the arbitration;
- c) The arbitrator will honor claims of privilege and privacy recognized at law;
- d) The arbitration will be confidential, and neither you nor we may disclose the existence, content, or results of any arbitration, except as may be required by applicable law or for purposes of enforcement of the arbitration award;
- e) Subject to the limitation of liability provisions of these Terms, the arbitrator may award any individual relief or individual remedies that are expressly permitted by applicable law; and
- f) Each party will pay its own attorneys' fees and expenses, unless there is a statutory provision that requires the prevailing party to be paid its fees and litigation expenses and the arbitrator awards such attorneys' fees and expenses to the prevailing party, and, in such instance, the fees and costs awarded will be determined by the applicable law.

For more information on the AAA, the Rules and Procedures, or the process for filing an arbitration claim, you may call the AAA at 1-800-778-7879 or visit the AAA website at <http://www.adr.org>.

5. NO CLASS OR REPRESENTATIVE PROCEEDINGS: CLASS ACTION WAIVER.

YOU AND KONVIV AGREE THAT ANY CLAIMS BROUGHT BY YOU OR US MUST BE BROUGHT IN THE PARTY'S INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. UNLESS YOU AND KONVIV AGREE, THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS, MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING, AND MAY NOT AWARD CLASS-WIDE RELIEF.

6. Survivability and Severability of Arbitration Agreement.

This Arbitration Agreement will survive termination of your Konviv Account and these Terms as well as any voluntary payment of any debt in full by you or any bankruptcy by you or us. With the exception of subpart(5)(G) of this Section (prohibiting arbitration on a class or collective basis), if any part of this arbitration provision is deemed to be invalid, unenforceable, or illegal,

or otherwise conflicts with the Rules and Procedures, then the balance of this arbitration provision will remain in effect and will be construed in accordance with its terms as if the invalid, unenforceable, illegal, or conflicting part was not contained herein. If, however, subpart (5)(G) of this Section is found to be invalid, unenforceable, or illegal, then the entirety of this Arbitration Agreement will be null and void, and neither you nor we will be entitled to arbitration, and you and us agree that the exclusive jurisdiction and venue described in Section XII(F) shall govern any claim in court arising out of or related to these Terms.

H. Payment of Taxes.

You will be responsible for paying, withholding, filing, and reporting all taxes, duties, and other governmental assessments associated with your activity in connection with the Services, provided that we may, in our sole discretion, do any of the foregoing on your behalf or for ourselves.

I. Waiver.

The failure of either you or us to exercise, in any way, any right herein will not be deemed a waiver of any further rights hereunder. To be effective, any waiver with regards to these Terms must be in writing and any such waiver shall apply only to the matter or instance specifically waived.

J. Severability.

If any provision of these Terms is found to be unenforceable or invalid, that provision will be limited or eliminated, to the minimum extent necessary, so that these Terms will otherwise remain in full force and effect and enforceable.

K. Headings.

You and Konviv agree that the headings of each Section of these Terms are for reference only and in no way affect the interpretation of this Agreement.

L. Entire Agreement.

These Terms, together with our [Privacy Policy](#), constitute the entire and sole agreement between you and us with respect to the Services and supersedes all prior understandings, arrangements, or agreements, whether written or oral, regarding the Services.

M. Miscellaneous.

You hereby acknowledge and agree that you are not an employee, agent, partner, or joint venture of Konviv, and you do not have any authority of any kind to bind Konviv in any respect whatsoever.

XII. CHANGES TO THESE TERMS OF SERVICES

Konviv may add to or terminate any of the Services or amend these Terms at any time, in our sole discretion, without providing notice to you, subject to applicable law. We reserve the right, subject to applicable law, to deliver to you any notice of changes to existing terms or the addition or new terms electronically. You are free to decide whether or not to accept a revised version of these Terms, but accepting these Terms, as revised, is required to you to continue accessing or using the Services. If you do not agree to these Terms or any revised version of these Terms, your sole recourse is to terminate your access or use the Services. Except as otherwise expressly stated by us, your access and use of the Services are subject to, and constitute your acceptance of, the version of these Terms in effect at the time of your access or use.

XIII. CONTACTING KONVIV

If you have any questions, comments, or concerns regarding these Terms or the Services, please contact us via Konviv's Contact page located at <http://www.konviv.com/contact/>, or by U.S. Mail at Konviv, Inc., 2150 Shattuck Avenue, Penthouse, Berkeley, CA 94704.