

## BOOKM.COM

### **Contractual Provisions/Terms of Use**

The following contractual provisions/terms of use (this “**Agreement**”) apply to your use of (1) the “BOOKM” website at [www.BOOKM.ca](http://www.BOOKM.ca) and all related websites or web-based spaces owned and operated by “BOOKM Inc.” (collectively, the “**BOOKM Site**”), (2) the appointment services made available by “BOOKM Inc.” through the BOOKM Site, any BOOKM-branded application for your mobile or other device (collectively, the “**BOOKM Application**”), and any other online properties of BOOKM or third parties, as described in Part I hereunder (the “**Appointment Services**”), (3) any BOOKM Application, and (4) any other services or features made available by BOOKM through the BOOKM Site or any BOOKM Application. Together, the items in (1) through (4) are the “**Services**”.

In this Agreement, “**BOOKM**” and “**we**” mean BOOKM Inc., and “**User**” and “**you**” mean the user of the Services. For clarity, and notwithstanding anything to the contrary, the User/you will be deemed to have accepted all terms and conditions of use of the Services contained herein by virtue of utilization of the Services, the BOOKM Site and/or any BOOKM Application without need for further proof of User/your consent or agreement to said terms and conditions. This Agreement incorporates BOOKM’s standard policies, procedures, and terms and conditions for use of the Services that are referenced by name or by links in this Agreement (collectively, the “**BOOKM Policies**”).

FOR GOOD AND VALUABLE CONSIDERATION including the provision of the right to access or use of the Services (1) you acknowledge that you have read, understand, and agree to be bound by this Agreement, and (2) you represent and warrant that you are of legal age and not prohibited by law from accessing or using the Services. THIS AGREEMENT CONTAINS, AMONG OTHER THINGS, AN ARBITRATION PROVISION CONTAINING A CLASS ACTION WAIVER.

BOOKM may update or revise this Agreement (including any BOOKM Policies) from time to time without any liability to the User. You agree that you will review this Agreement periodically. You are free to decide whether or not to accept a modified version of this Agreement, but accepting this Agreement, as modified, is required for you to continue using the Services. You may have to click “accept” or “agree” to show your acceptance of any modified version of this Agreement. If you do not agree to the terms of this Agreement or any modified version of this Agreement, your sole recourse is to terminate your use of the Services, in which case you will no longer have access to your Account (as defined below). Except as otherwise expressly stated by BOOKM, any use of the Services is subject to the version of this Agreement in effect at the time of use.

### **Part I - Appointment Services**

1. **Appointments.** BOOKM provides the User with a platform by which the User is assisted in securing personal service appointments (the “Appointment Services”) with participating third-party personal service providers (each, a “**Service Provider**”). In

response to a User's request for an appointment through the BOOKM Site or BOOKM Application, BOOKM directly contacts the requested service provider and/or the requested service provider's computerized database for appointments. The availability of appointment space is determined at the time of the User's query. Once an appointment is made by the User through the BOOKM Site or BOOKM Application, BOOKM will provide confirmation of the appointment to the User by email. By using the Appointment Services, the User agrees to receive appointment confirmations by email after booking an appointment through the Appointment Services.

2. **No-Show Policy.** In order to avoid creating operational difficulties for service providers, Users must cancel any reservations that they will be unable to honor at least 30 minutes in advance of the reservation. You may cancel your reservation via the BOOKM Site or BOOKM Application or by calling the service provider directly. If you are unable to keep your reservation and you fail to cancel at least 30 minutes in advance of the reservation, BOOKM will send you an email letting you know that our records indicate that you were a no-show. By using the Appointment Services, User agrees to receive no-show notifications by email after a report that your reservation was not honored, whether or not that was in fact the case. Your Account will be terminated if you are a no-show for five reservations within a 12-month period. If you receive a no-show notification email in error, please contact us for information on how to dispute it. User agrees that all final no-show determinations will be made by BOOKM in its sole discretion.

4. **Usage Guidelines.** User agrees to use the Appointment Services only to book appointments with Service Providers and then honor those reservations by arriving at the Service Provide on time and paying for the services reserved. User further agrees not to book more than one reservation for User's personal use during any one hour block. Resale or attempted resale of reservations is prohibited and is grounds for, among other things, cancellation of your reservations or termination of your access to the Services.

## **Part II – Terms for All Services**

5. **Privacy Policy.** BOOKM is committed to helping you safeguard your privacy online. Please review our for details about how we collect, use, and disclose information in connection with the Services.

6. **Your Account.** You are required to create an account with BOOKM through the BOOKM Site or BOOKM Application ("Account") in order to use the Appointment Services. When registering for an Account, you must provide true, accurate, current, and complete data about yourself on the BOOKM registration form ("Registration Data") and you will hereby be deemed to provide a representation and warranty to this effect. You also agree to promptly update the Registration Data to keep it true, accurate, current, and complete. You are solely responsible for maintaining the confidentiality of your Account and the information in your Account, and, except as otherwise required by applicable law, you are solely responsible for all use of your Account, whether or not authorized by you. You agree to immediately notify BOOKM of any unauthorized use of your Account or any other breach of security related to your use of the Services.

**7. Communications from BOOKM.** The BOOKM Application may use GPS locator capabilities to identify your current location. If you provide a mobile phone number, you hereby expressly consent to receive SMS text messages from BOOKM regarding the Service. The communication standards for the Services include, but are not limited to: SMS, GPS, and web-based browser technology. In order to use the SMS-based Services, you must maintain an active account with a carrier that includes the connectivity and account capabilities required in order effect the foregoing communications. It is solely your responsibility to ensure that your mobile account includes the connectivity and account settings required for optimal communications.

**8. Technical Requirements.** Use of the Services requires Internet access through your computer or mobile device. You are responsible for all mobile carrier charges resulting from your use of the Services, including from any notifications provided by the Services. BOOKM does not warrant or guarantee that the Services will be compatible with all devices or will be supported by all mobile carriers. You may be required to have JavaScript (or similar technologies) enabled to use the BOOKM Site, and some features and portions of the BOOKM Site (including, but not limited to, making, modifying, or canceling reservations) may not be accessible with JavaScript disabled.

**9. Modifications to Services.** BOOKM reserves the right, in its sole discretion, to modify the Services from time to time and without notice, including, without limitation, by removing, adding, or modifying portions of the BOOKM Site, BOOKM Application, Service Providers, and/or other aspects of the BOOKM platform. BOOKM shall have no liability to you for any of the foregoing actions. If you object to any such changes, your sole recourse shall be to cease using the Services. Continued use of the Services following any such changes shall indicate your acknowledgment of such changes and satisfaction with all the Services.

**10. Intellectual Property Rights and Grant of Rights to User.** The features, information, and materials provided and depicted through the Services are protected by copyright, trademark, patent, and other intellectual property laws. All text, graphical content, video, data, and other content made available through the Services (collectively, the “**BOOKM Content**”) are provided to the User by BOOKM or its partners or licensors solely to support the User’s permitted use of the Services. The BOOKM Content may be modified from time to time by BOOKM in its sole discretion. Except as expressly set forth herein, no license is granted to the User for any other purpose, and any other use of the Services or the BOOKM Content by the User shall constitute a material breach of this Agreement. BOOKM retains all rights in the Services and BOOKM Content and any associated patents, trademarks, copyrights, mask work rights, trade secrets, or other intellectual property rights. No license, right, or interest in any trademarks of BOOKM or any third party is granted under this Agreement.

**11. Application License.** Subject to the terms and conditions of this Agreement, BOOKM grants User a non-exclusive, non-transferable, revocable license to use the BOOKM Application, in object code form only, on User’s compatible mobile devices, solely to support User’s permitted use of the Services.

**12. Use Restrictions.** The Appointment Services and BOOKM Content are offered solely for the User's personal use for the purposes described in this Agreement. Any and all other uses are prohibited. BOOKM expressly reserves all its rights and remedies under applicable law. BOOKM reserves the right, in its sole discretion, to refuse service, terminate Accounts, remove or edit content, cancel appointments, or deny access to the Appointment Services. You agree not to (and not to allow any third party to): (1) use any deep-link, robot, spider, scraper, or other automatic or manual device, process, or means to access, copy, search, or monitor any portion of the Appointment Services or BOOKM Content, except as expressly authorized by BOOKM; (2) take any action that imposes or may impose (in BOOKM's sole determination) an unreasonable or a disproportionately large load on the Services or BOOKM's 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 BOOKM Content to a third party; (5) use any portion of the Services or BOOKM Content to provide, or incorporate any portion of the Services or BOOKM Content into, any product or service provided to a third party; (6) reverse engineer, decompile, disassemble, or otherwise seek to obtain the source code or non-public APIs to the Services, except to the extent expressly permitted by applicable law (and then only upon advance notice to BOOKM); (7) modify any Services or BOOKM Content or create any derivative product from any of the foregoing; (8) remove or obscure any proprietary or other notices contained in the Services or BOOKM Content; (9) use the Services or BOOKM Content for any illegal purpose; or (10) publicly disseminate information regarding the performance of the Services or BOOKM Content or access or use the Services or BOOKM Content for competitive analysis or benchmarking purposes; and/or (11) utilize the Services, the BOOKM Site or the BOOKM Application in a manner that is contrary to applicable law.

**13. Termination.** BOOKM may suspend your ability to use all or any element of the Services or may terminate this Agreement effective immediately, without notice or explanation. Without limiting the foregoing, BOOKM may suspend your access to the Services if we believe you to be in violation of any part of this Agreement (including any BOOKM Policies). After any suspension or termination, you may or may not be granted permission to use the Services or re-establish an Account. You agree that BOOKM shall not be liable to you for any termination of this Agreement or for any effects of any termination of this Agreement. You are always free to discontinue your use of the Services at any time. You understand that any termination of your Account may involve deletion of any content stored in your Account for which BOOKM will have no liability whatsoever.

**14. Reviews, Comments, Communications, and Other Content.** The Services may permit you to submit reviews, comments, and ratings; send emails and other communications; and submit suggestions, ideas, comments, questions, or other information for publication and distribution ("**User Content**"). Any such 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, any form of "spam" or

references to illegal activity, malpractice, purposeful overcharging, false advertising, or health code violations (e.g., foreign objects in food, food poisoning, etc.). You may not use a false email address, impersonate any person or entity, or otherwise mislead as to the origin of User Content. BOOKM reserves the right (but has no obligation) to monitor, remove, or edit User Content in BOOKM's sole discretion, including if User Content violates this Agreement (including any BOOKM Policies), but you acknowledge that BOOKM may not regularly review submitted User Content. If you do submit User Content, and unless we indicate otherwise, you grant BOOKM 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. BOOKM takes no responsibility and assumes no liability for any User Content submitted by you or any other User or third party.

**15. Your Representations and Indemnity.** You represent and warrant that you own or otherwise control all of the rights to any User Content submitted by you; that all User Content submitted by you is accurate; and that exploitation of such User Content by BOOKM and its other Users, partners, and licensees will not violate this Agreement, cause injury to any person or entity, or infringe any third-party rights (including, without limitation, intellectual property rights and rights of privacy or publicity). You will indemnify, hold harmless, and (at BOOKM's request) defend BOOKM, its affiliates, and its and their representatives, agents, directors, managers, officers, employees, and shareholders (collectively, the "**BOOKM Parties**") from and against all claims resulting from (1) any User Content submitted by you, (2) your use of the Services, or (3) any breach or alleged breach by you of this Agreement.

**16. Liability Limitations.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL THE BOOKM PARTIES BE LIABLE FOR ANY INJURIES, LOSSES, CLAIMS, OR DIRECT DAMAGES OR ANY SPECIAL, EXEMPLARY, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, WHETHER BASED IN CONTRACT, TORT, OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHICH ARISE OUT OF OR ARE ANY WAY CONNECTED WITH (1) THIS AGREEMENT, (2) ANY USE OF THE SERVICES, THE BOOKM CONTENT, OR THE USER CONTENT, (3) ANY FAILURE OR DELAY (INCLUDING, BUT NOT LIMITED TO, THE USE OR INABILITY TO USE ANY COMPONENT OF THE APPOINTMENT SERVICES), OR (4) YOUR VISIT TO ANY SERVICE PROVIDER OR THE PERFORMANCE, NON-PERFORMANCE, CONDUCT, OR POLICIES OF ANY SERVICE PROVIDER OR THIRD PARTY IN CONNECTION WITH THE SERVICES. IN ADDITION, YOU SPECIFICALLY UNDERSTAND AND AGREE THAT ANY THIRD PARTY DIRECTING YOU TO THE BOOKM SITE BY REFERRAL, LINK, OR ANY OTHER MEANS IS NOT LIABLE TO USER FOR ANY REASON WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, DAMAGES OR LOSS ASSOCIATED WITH THE USE OF THE SERVICES OR THE BOOKM CONTENT. BOOKM IS NEITHER AN AGENT OF NOR OTHERWISE ASSOCIATED WITH ANY SERVICE PROVIDER OR THIRD PARTY FOR WHICH A USER HAS MADE AN APPOINTMENT OR OTHERWISE

ATTENDS DIRECTLY OR INDIRECTLY THROUGH THE BOOKM SITE OR THE BOOKM APPLICATION OR THROUGH THE SERVICES.

IF THE DISCLAIMER OF DIRECT DAMAGES ABOVE IS NOT PERMITTED BY LAW, YOU EXPRESSLY AGREE THAT OUR (BOOKM) LIABILITY TO YOU FOR ANY DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT (FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION) WILL AT ALL TIMES BE LIMITED TO \$50.00.

You and BOOKM understand and agree that the disclaimers, exclusions, and limitations herein are essential elements of this Agreement and that they represent a reasonable allocation of risk. In particular, you understand that BOOKM would be unable to make the Services available to you except on these terms and agree that this Agreement will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose.

**17. Disclaimer of Warranties.** THE SERVICES, ALL BOOKM CONTENT, AND ANY OTHER INFORMATION, PRODUCTS, AND MATERIALS CONTAINED IN OR ACCESSED THROUGH THE SERVICES AND OR PROVIDED BY SERVICE PROVIDERS, ARE ACCEPTED BY THE USER ON AN “AS IS” BASIS AND WITHOUT WARRANTY OF ANY KIND FROM BOOKM. BOOKM EXPRESSLY DISCLAIMS ALL REPRESENTATIONS, WARRANTIES, CONDITIONS, OR INDEMNITIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT, OR ANY WARRANTY ARISING FROM A COURSE OF DEALING, PERFORMANCE, OR TRADE USAGE. BOOKM DOES NOT WARRANT THAT YOUR USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, THAT BOOKM WILL REVIEW THE INFORMATION OR MATERIALS MADE AVAILABLE THROUGH THE SERVICES FOR ACCURACY OR THAT IT WILL PRESERVE OR MAINTAIN ANY SUCH INFORMATION OR MATERIALS WITHOUT LOSS. BOOKM SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES, OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE THE REASONABLE CONTROL OF BOOKM.

THE FOREGOING DISCLAIMERS APPLY TO THE MAXIMUM EXTENT PERMITTED BY LAW. YOU MAY HAVE OTHER STATUTORY RIGHTS. HOWEVER, THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

**18. Links to Third-Party Websites.** The Services may contain hypertext links to websites operated by parties other than BOOKM. Such hypertext links are provided for User’s reference only, and BOOKM does not control such websites and is not responsible for their content. BOOKM’s inclusion of any hypertext links to such websites does not imply any endorsement of the material on such websites or any association with their operators.

BOOKM assumes no liability whatsoever for any such third-party websites or any content, features, products, or services made available through such third-party websites.

19. **Release.** Service Providers are solely responsible for their interactions with you and any and all claims, injuries, illnesses, damages, liabilities, and costs (“**Claims**”) suffered by you as a result of your interaction with or visit to a Service Provider or from any product or service of a Service Provider. You hereby release the BOOKM Parties from any and all such Claims. IN CONNECTION WITH THE FOREGOING, YOU HEREBY WAIVE ANY STATUTORY OR LEGISLATIVE PROVISIONS WHICH STIPULATE THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH A PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH, IF KNOWN BY HIM OR HER MAY HAVE MATERIALLY AFFECTED HIS OR HER AGREEMENT TO RELEASE AND/OR SETTLEMENT.” You hereby expressly waive and relinquish all rights and benefits under any such provision and any law of any jurisdiction of similar effect with respect to the release of any unknown or unsuspected claims you may have against the BOOKM Parties pertaining to the subject matter of this Agreement.

20. **Severability.** If any of the provisions, or portions thereof, of this Agreement are found to be invalid under any applicable statute or rule of law, then, that provision (or portion thereof) notwithstanding, this Agreement shall remain in full force and effect and such provision or portion thereof shall be deemed omitted.

21. **Assignment.** This Agreement and the rights granted and obligations undertaken hereunder may not be transferred, assigned, or delegated in any manner by User, but may be freely transferred, assigned, or delegated by BOOKM.

22. **Waiver.** Any waiver of any provision of this Agreement, or a delay by any party in the enforcement of any right hereunder, shall neither be construed as a continuing waiver nor create an expectation of non-enforcement of that or any other provision or right.

23. **ARBITRATION AGREEMENT CLASS ACTION WAIVER, AND FORUM SELECTION CLAUSE.** Any and all controversies, disputes, demands, counts, claims, or causes of action (including the interpretation and scope of this clause, and the arbitrability of the controversy, dispute, demand, count, claim, or cause of action) between you and the BOOKM Parties or their successors or assigns shall exclusively be settled through binding and confidential arbitration.

Arbitration shall be subject to Provincial arbitration law. The arbitration shall be conducted before one commercial arbitrator with substantial experience in resolving commercial contract disputes. As modified by this Agreement, and unless otherwise agreed upon by the parties in writing, the arbitration will be governed such rules and processes stipulated by the arbitrator(the “**Rules and Procedures**”).

You are thus GIVING UP YOUR RIGHT TO GO TO COURT to assert or defend your rights EXCEPT for matters that you file in small claims court. 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 are SIMPLER AND MORE LIMITED THAN RULES APPLICABLE IN COURT. Arbitrator decisions are as enforceable as any court order and are subject to VERY LIMITED REVIEW BY A COURT.

You and BOOKM must abide by the following rules: (1) ANY CLAIMS BROUGHT BY YOU OR BOOKM MUST BE BROUGHT IN THE PARTY'S INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING; (2) 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; (3) the arbitrator shall honor claims of privilege and privacy recognized at law; (4) the arbitration shall be confidential, and neither you nor we may disclose the existence, content or results of any arbitration, except as may be required by law or for purposes of enforcement of the arbitration award; (5) the arbitrator may award any individual relief or individual remedies that are permitted by applicable law; and (6) each side pays its own attorneys' fees and expenses until an order is made with respect to costs by the arbitrator which order shall be binding upon the parties.

Notwithstanding the foregoing, either you or BOOKM may bring an individual action in small claims court. Further, claims of defamation, violations under computer fraud and abuse legislation, and infringement or misappropriation of the other party's patent, copyright, trademark, or trade secret shall not be subject to this arbitration agreement. Such claims shall be exclusively brought in the Province of Ontario, Canada. Additionally, notwithstanding this agreement to arbitrate, either party may seek emergency equitable relief before the courts located in the Province of Ontario, Canada in order to maintain the status quo pending arbitration, and hereby agree to submit to the exclusive personal jurisdiction of the courts located within the Province of Ontario, Canada for such purpose. A request for interim measures shall not be deemed a waiver of the right to arbitrate.

With the exception of subparts (1) and (2) in 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 shall remain in effect and shall be construed in accordance with its terms as if the invalid, unenforceable, illegal or conflicting part was not contained herein. If, however, either subpart (1) or (2) is found to be invalid, unenforceable, or illegal, then the entirety of this arbitration provision shall be null and void, and neither you nor BOOKM shall be entitled to arbitration. If for any reason a claim proceeds in court rather than in arbitration, the dispute shall be exclusively brought in in the Province of Ontario, Canada.

**24. Choice of Law.** This Agreement is made under and shall be governed by and construed in accordance with the laws of the Province of Ontario, Canada, without giving effect to any principles that provide for the application of the law of another jurisdiction.



25. **Enurement.** This Agreement shall benefit and bind the parties hereto together with each of their respective heirs, administrators, executors, personal representatives, successors and permitted assigns.