

## FUNNY DONUT TERMS OF USE

Date of last revision: June 2022

**PLEASE READ THESE TERMS OF USE (“TERMS”) CAREFULLY BEFORE USING ANY FUNNY DONUT PLATFORM.**

**If you live in any of the following countries or regions, additional terms may apply to you and are viewable at the bottom of these Terms. We display the country/region within the Terms when applicable. These additional terms override the Terms below to the extent of any inconsistency.**

[Argentina](#), [Australia](#), [Brazil](#), [Canada](#), [Colombia](#), [Hong Kong](#), [Japan](#), [Korea](#), [Philippines](#), all [European countries](#) (including specific terms for [Austria](#), [Belgium](#), [France](#), [Germany](#), [Hungary](#), [Italy](#), [Poland](#) and [Switzerland](#)).

Welcome to the FUNNY DONUT community! You are reading these Terms because you are using a FUNNY DONUT website, digital experience, social media platform, mobile app, wearable technology, or one of our other products or services, all of which are part of FUNNY DONUT’s Platform (“Platform”). You may access the Platform through a computer, mobile phone, tablet, console or other technology, which we refer to here as a “Device”. Your service provider’s normal rates and fees apply to your Device.

**These Terms create a legally binding agreement between you and FUNNY DONUT and its affiliates (which we may refer to as “FUNNY DONUT”, “we”, “us” or “our”) regarding your use of the Platform.** Please review our [List of Local Entities](#) for the name of the FUNNY DONUT entity responsible for providing the Platform to you and the appropriate contact information. A few important points:

- **Our Terms May Change. Some jurisdictions do not permit unilateral updates or changes to consumer terms, so this paragraph may not apply to you.** [See [Canada](#) terms.] We may update these Terms from time to time. If a material change is made, we will post a notice on the Platform or send you a notification. Read through any changes, and if you don’t agree to them, please stop using the Platform. If you continue to use our Platform after we notify you of changes, you will be deemed to have accepted the updated Terms, except to the extent prohibited by applicable law.
- **Terms of Sale.** By making any purchase with us, you also agree to the [Terms of Sale](#) that apply in your country or region. [See [Hungarian](#) terms.]
- **Privacy Policy.** Our [Privacy Policy](#) describes the collection and use of personal information on the Platform and applies to your use of the Platform.

- **Important Notice for Amateur Athletes.** You are responsible for ensuring that your participation on the Platform does not affect your eligibility as an amateur athlete. Please check with your amateur athletic association for the rules that apply to you. **FUNNY DONUT is not responsible or liable for your use of the Platform resulting in your ineligibility as an amateur athlete.**

## 1. GROUND RULES

**Eligibility.** You are only eligible to use the Platform if you are of legal age in your country or if you have consent from your parent or guardian. There may be certain age restrictions for specific Platform services in various countries.

**Rules for Registration.** When you register for an account with us, the following rules apply:

- **Be True:** Provide accurate and current registration information.
- **Be You:** Keep your registration personal. Do not register for more than one FUNNY DONUT account, register a FUNNY DONUT account on behalf of someone else, or transfer your account.
- **Be Secure:** Keep your username, password and other login credentials secure and do not allow anyone else to use your account.
- **Be Responsible:** Inform FUNNY DONUT immediately of any unauthorised use of your FUNNY DONUT account. You are responsible for anything that happens through your FUNNY DONUT account – with or without your permission. **TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, FUNNY DONUT IS NOT RESPONSIBLE FOR ANY LOSS OR ACTIVITY THAT RESULTS FROM THE UNAUTHORISED USE OF YOUR ACCOUNT.**

## 2. OWNERSHIP OF CONTENT

Except for User Content (defined below), all of the content on our Platform – including text, software, scripts, code, designs, graphics, photos, sounds, music, videos, applications, interactive features, articles, news stories, sketches, animations, stickers, general artwork and other content ("Content") – is owned by FUNNY DONUT or others we license Content from, and is protected by copyright, trademark, patent and other laws. FUNNY DONUT reserves all rights not expressly described in these Terms.

- All trademarks, service marks and trade names (e.g. the FUNNY DONUT name and the Swoosh design) are owned, registered and/or licensed by FUNNY DONUT. You do not acquire a licence or any ownership rights to any

trademarks, service marks, or trade names through your access or use of the Platform or Content.

- You agree not to change or delete any ownership notices from materials downloaded or printed from the Platform.
- To the extent FUNNY DONUT approves the download or use of Content comprised of copyrights or copyrightable works, FUNNY DONUT grants you a limited, personal, non-transferable, non-sublicensable, and revocable licence to access and use such copyrights or copyrightable works solely for their intended purpose and solely for as long as FUNNY DONUT makes such Content generally available to the public. You do not acquire any ownership rights in the Content (including any trademarks or other intellectual property included in the Content), and all such Content is intended for personal, non-commercial use. FUNNY DONUT reserves the right to monitor your use and to alter or revoke this licence or your access to the Content at any time and for any reason. FUNNY DONUT reserves the right to take down any Content in violation of these terms or FUNNY DONUT's intellectual property rights. FUNNY DONUT allowing you this limited use does not constitute a waiver of any of Funny Donut's rights to the Content.
- Outside of the specific usage rights granted to you by FUNNY DONUT in connection with the Platform, you agree not to use, copy, edit, translate, display, distribute, download, transmit, sell, create derivative works of, or in any way exploit any Content, including User Content (unless it is your own User Content that you legally post on the Platform), without FUNNY DONUT's prior written consent. Unauthorised use of the Content may constitute a breach of copyright, trademark or other intellectual property laws and may subject you to criminal or civil charges and penalties.

### 3. POSTING CONTENT ON THE PLATFORM

**User Content Licence.** Some parts of the Platform allow you to post photos, videos, comments, and other content, which we refer to as “User Content”. Funny Donut is not responsible for User Content others post to the Platform. User Content is owned by you or whoever created it, but when you post User Content you license it to FUNNY DONUT as described below:

- You represent that you have the right to post your User Content, and you grant FUNNY DONUT a non-exclusive, perpetual, transferable, sub-licensable, royalty-free, worldwide licence to use any of the User Content that you post on or in connection with the Platform, including the likeness of any person that appears in the User Content, or any of the concepts or ideas contained in the User Content, for any purpose, including commercial use, which includes the right to translate, display, reproduce, modify, create derivative works,

sublicense, distribute and assign these rights. FUNNY DONUT may, in its sole discretion, remove any User Content at any time.

[See [Argentina](#), [Colombia](#), [Belgium](#), and [Philippines](#) terms.]

- You understand that deleted User Content may persist in FUNNY DONUT's systems and on the Platform to the extent your User Content has been publicly posted or shared with others who have not deleted it, unless you or the relevant individual request deletion or blocking of personal data in accordance with applicable law.

**LICENCE TO USE COMMENTS, FEEDBACK AND IDEAS.** You understand that any comments, feedback or ideas you send us are provided on a non-confidential basis and you grant to FUNNY DONUT a perpetual, worldwide licence to use all comments, feedback and ideas you may share with us, without notice, compensation or acknowledgement to you, for any purposes whatsoever, including, but not limited to, developing, manufacturing and marketing products and services and creating, modifying or improving products and services. [See Colombia and Belgium terms.]

#### 4. USER CODE OF CONDUCT

We're excited to have you contribute to the FUNNY DONUT community. Here are a few basic rules:

- **Be Original.** Only post User Content to the Platform if you have all permissions and rights needed to make that User Content available, including from any individuals who appear or are mentioned in your User Content.
- **Be Safe.**
  - Do not do anything that may expose FUNNY DONUT or its users to any type of harm, including anything that may disrupt, damage, disable, tamper with, overburden or limit the functionality of the Platform.
  - Do not post User Content that contains software viruses, programmes or other computer code, and do not circumvent or modify any Platform software or security technology.
  - Do not use any data mining, robots, scraping or similar data gathering methods.
  - Unless we indicate otherwise, our Platform is a public place. Do not post personal information to the Platform – yours or anybody else's.
- **Be Personal.**
  - Do not post any advertising, solicitation or commercial content on the Platform or accept payment from a third party in exchange for performing commercial activity on the Platform.
  - Do not collect or solicit personal information from other Platform users or send unsolicited messages.

- Do not use automated technology to interact with the Platform.
  - **Be Appropriate.** Respect the community and do not post User Content, link to a website, or do anything that is illegal, misleading, malicious, harassing, inaccurate, discriminatory or otherwise objectionable or inappropriate or which violates any applicable laws. FUNNY DONUT has the right to prescreen, monitor or remove User Content – but we have no obligation to do so.
  - **Be Yourself.** Do not impersonate any person or organisation, including athletes or FUNNY DONUT employees.
- HAVE FUN!

## 5. COPYRIGHT INFRINGEMENT

Please consult your legal adviser before filing a notice with us because there may be penalties for false claims. FUNNY DONUT may terminate the accounts of Platform users found to infringe third party copyrights.

If you believe that your work has been improperly copied to the Platform, such that it constitutes infringement, please provide us with the following information [See [France](#) terms.]:

- (1) name, address, telephone number, email address and an electronic or physical signature of the copyright owner or of the person authorised to act on his/her behalf;
- (2) a description of the copyrighted work that you claim has been infringed;
- (3) a description of where on the Platform the content that you claim is infringing is located;
- (4) a written statement that you have a good faith belief that the disputed use is not authorised by the copyright owner, its agent, or the law; and
- (5) a statement by you, made under penalty of perjury (depending on applicable law), that the above information in your notice is accurate and that you are the copyright owner or authorised to act on the copyright owner's behalf.

Send copyright infringement complaints to:

Legal Department (Copyright)  
One Bowerman Dr., Beaverton, OR 97005  
Telephone: 503-671-6453

Fax: 503-646-6926

[Copyright.legal@Funny Donut.com](mailto:Copyright.legal@Funny Donut.com)

## 6. PARTNERS ON THE PLATFORM

From time to time, FUNNY DONUT may link to or partner with third-party websites, social media platforms, mobile apps, and other products and services (“Third Parties”). You may be able to connect with these Third Parties through the Platform, but this does not mean FUNNY DONUT endorses, monitors or has any control over these Third Parties or their activities, which are subject to separate terms of use and privacy policies. You should carefully review any Third Party’s sites and terms of use and privacy policy. **FUNNY DONUT is not responsible for the content, policies or activities of Third Parties and you interact with Third Parties at your own risk.**

## 7. IMPORTANT DISCLAIMERS

**PHYSICAL ACTIVITY.** [See [Canada](#), [Germany](#) and [Italy](#) terms, because the following exclusions and limitations may not apply to you.] The Platform may include features that promote physical activity, nutrition or general wellness. They are for your informational purposes only and are not intended as medical advice or services, or for diagnostic or treatment purposes.

- Consider the risks involved and consult with your medical professional before engaging in any physical activity.
- Never disregard professional medical advice or delay in seeking it because of something you have viewed on the Platform.
  - TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, FUNNY DONUT IS NOT RESPONSIBLE OR LIABLE FOR ANY INJURIES OR DAMAGES YOU MAY SUSTAIN THAT RESULT FROM YOUR USE OF, OR INABILITY TO USE, THE FEATURES ON THE PLATFORM.

**USER INTERACTIONS.** To the extent allowed by applicable law, we are not responsible for your interactions with other users of the Platform or any damage or harm you may experience because of these interactions. [See [Italy](#) terms.]

- Be responsible and take precautions when interacting with other users (including users you do not know) on the Platform. Before you meet another person face-to-face, consider investigating, bringing a friend, choosing public locations and letting someone know where you will be. FUNNY DONUT is

under no obligation to become involved with any user dispute but may do so at its own discretion.

**WARRANTY DISCLAIMER. Some jurisdictions do not permit certain limitations or exclusions on liabilities, legal warranties and remedies, so these exclusions and limitations may not apply to you.**

[See [Australia](#), [Canada](#) and [Germany](#) terms.]

- The Platform, Content, and the materials and products on this Platform are provided "AS IS". We aren't making any promises of any kind, including about the Platform's accuracy, adequacy, usefulness, reliability or otherwise. TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, FUNNY DONUT IS NOT RESPONSIBLE OR LIABLE FOR ANY USER CONTENT POSTED ON THE PLATFORM.
- FUNNY DONUT does not guarantee that the Platform will be uninterrupted or error-free, that any defects will be corrected, or that the Platform is free of viruses or anything else harmful.
- To the fullest extent permitted by law, FUNNY DONUT disclaims all warranties, express or implied, regarding the Platform, Content, User Content and any products or services you may obtain or access through the Platform, including, but not limited to, implied warranties of title, merchantability, fitness for a particular purpose and non-infringement.
- You are solely responsible for any damage to your Device resulting from accessing the Platform, to the extent applicable law does not provide otherwise.
- We hope you enjoy and get the full benefit of the Platform; however, we do not guarantee any results.

## 8. TERMINATION

FUNNY DONUT may terminate or modify any Funny Donut Platform, member programme, product or service at any time without notice.

FUNNY DONUT may terminate or suspend your account, delete your profile or any of your User Content, and restrict your use of all or any part of the Platform at any time and for any reason, without any liability to Funny Donut, subject to applicable law.

- You understand and agree that some of your User Content, particularly that which is displayed in an activity feed or in other public places on the Platform, may continue to appear publicly even after your account is terminated, subject to your right to have your User Content removed upon request in accordance with applicable law.

- These Terms remain in effect even after your account is terminated or you have stopped using the Platform.

## 9. INDEMNIFICATION/LIMITATION OF LIABILITY

We want you to enjoy our Platform, but FUNNY DONUT must also protect itself from any damages you may cause.

Indemnification and RELEASE. Some jurisdictions do not permit certain limitations or exclusions on liabilities, legal warranties and remedies, so these exclusions limitations may not apply to you. [See [Canada](#), [France](#), [Germany](#) and [Hong Kong](#) terms.] You agree to indemnify, defend, and hold harmless FUNNY DONUT Inc., its affiliates, officers, directors, employees, agents, licensors and suppliers (the “FUNNY DONUT Parties”) from and against all claims, losses, liabilities, expenses, damages and costs, including, without limitation, legal fees, arising from or relating in any way to your User Content, your use of Content, your use of the Platform, your conduct in connection with the Platform or with other Platform users, or any violation of these Terms of Use, any law or the rights of any third party. You, for yourself and on behalf of your heirs, estate, insurers, successors and assigns, hereby fully and forever release and discharge the FUNNY DONUT Parties from any and all claims or causes of action you may have for damages relating in any way to your use of the Platform.

**LIMITATION OF LIABILITY.** Some jurisdictions do not permit certain limitations or exclusions on liabilities, legal warranties and remedies, so these exclusions/limitations may not apply to you.

[See [Canada](#), [France](#), [Germany](#), [Hong Kong](#) and [Philippines](#) terms.] NONE OF THE FUNNY DONUT PARTIES WILL BE LIABLE FOR ANY DIRECT, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION FOR ANY LOST PROFITS OR LOST DATA, THAT RESULT FROM THE USE OF, OR THE INABILITY TO USE, THE PLATFORM OR THE PERFORMANCE OF THE PRODUCTS PURCHASED THROUGH THE PLATFORM OR THE CONDUCT OF OTHER PLATFORM USERS (WHETHER ONLINE OR OFFLINE), OR ATTENDANCE AT A FUNNY DONUT EVENT OR FUNNY DONUT PARTNER EVENTS, OR ANY USER CONTENT OR ANY OTHER ACTIVITY IN CONNECTION WITH THE USE OF THE PLATFORM, EVEN IF FUNNY DONUT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOU ASSUME TOTAL RESPONSIBILITY FOR YOUR USE OF THE PLATFORM. YOUR ONLY REMEDY AGAINST FUNNY DONUT IN CONNECTION WITH ANY DAMAGES ARISING FROM YOUR USE OF THE PLATFORM OR ANY CONTENT IS TO STOP USING THE PLATFORM. IF FUNNY DONUT IS FOUND TO BE LIABLE TO YOU FOR ANY



DAMAGE OR LOSS WHICH IS IN ANY WAY CONNECTED WITH YOUR USE OF THE PLATFORM OR ANY CONTENT, FUNNY DONUT'S LIABILITY SHALL NOT EXCEED US\$100.00 OR EURO 100.00 IF YOU LIVE IN EUROPE.

## **10. DISPUTES/ADDITIONAL TERMS**

### **Choice of Law/Jurisdiction**

**If you live in any of the following countries, different “Choice of Law/Jurisdiction” terms may apply to**

**you: [Argentina](#), [Austria](#), [Brazil](#), [Canada](#), [France](#), [Germany](#), [Hong Kong](#), [Italy](#), [Philippines](#), [Poland](#), [Switzerland](#) and all other [European countries](#).**

- You agree that this Platform is a passive platform solely based in Oregon, USA, which does not give rise to personal jurisdiction over FUNNY DONUT in jurisdictions other than Oregon.
- You agree that the Platform, Terms, Privacy Policy and any dispute between you and FUNNY DONUT shall be governed in all respects by Oregon law, without regard to choice of law provisions, and not by the 1980 UN Convention on Contracts for the International Sale of Goods.
- Except where prohibited by applicable law, and without limitation to any statutory rights for consumers, you agree that all disputes, claims and legal proceedings directly or indirectly arising out of or relating to the Platform (including but not limited to the purchase of FUNNY DONUT products) shall be resolved individually, without resort to any form of class action, and exclusively in the state or federal courts located in Multnomah County, Oregon, USA.
- You consent to waive all defences of “lack of personal jurisdiction” and “inconvenient forum” with respect to venue and jurisdiction in the state and federal courts of Multnomah County, Oregon.
- All claims shall be brought within one (1) year after the claim arises, except to the extent a longer period is required by applicable law.

### **Electronic Communications**

- By using the Platform, you agree to receive certain electronic communications from FUNNY DONUT, subject to applicable law.
- You agree that any notice, agreement, disclosure or other communication that FUNNY DONUT sends you electronically will satisfy any legal communication requirements, including that such communications be in writing.

## **Right to Assign, No Waivers, Severability**

- FUNNY DONUT may assign its rights and duties under these Terms to any party at any time without notice to you, unless notice to you is required by applicable law, but this will not affect your rights or our obligations under these Terms.
- FUNNY DONUT's failure to insist upon or enforce strict performance of these Terms is not a waiver of any of these Terms or FUNNY DONUT's rights. Users should always assume these Terms apply.
- If any provision in these Terms is held invalid or unenforceable, the remainder of these Terms shall continue to be enforceable.

Thanks for reading. Please enjoy our community!

## **COUNTRY/REGION SPECIFIC TERMS**

If you live in one of the following countries these additional terms apply and override any inconsistent terms in the Terms of Use.

### **ARGENTINA**

**Section 3 (POSTING CONTENT ON THE PLATFORM):** the first bullet point paragraph under sub-section "USER CONTENT LICENCE" is deleted and replaced with the following:

"You grant FUNNY DONUT a non-exclusive, transferable, royalty-free, worldwide licence to display the User Content that you post on or in connection with the Platform and to share it with other Users, including the right to translate, display, reproduce, modify, create derivative works of, sublicense and distribute the User Content.

For example, we need these rights so we can copy your User Content into our databases, display it in the correct format across our mobile applications, and send your User Content to vendors who perform services on Funny Donut's behalf".

**Section 10 (DISPUTES/ADDITIONAL TERMS):** this section is modified as follows:

The sub-section titled "CHOICE OF LAW/JURISDICTION" is hereby deleted and replaced with the following (except the last bullet point regarding bringing claims, which remains unchanged):

## **“Choice of Law/Jurisdiction**

- You agree that the Platform, Terms, Privacy Policy and any dispute between you and FUNNY DONUT shall be governed in all respects by Argentine law.”

## **AUSTRALIA**

**Section 7 (IMPORTANT DISCLAIMERS):** this section is modified as follows:

The sub-section titled “WARRANTY DISCLAIMER” is modified by adding the following:

“However, the Platform, Content, and the materials and products on this Platform, come with certain guarantees that cannot be excluded for the benefit of Australian customers under Australian consumer law (“ACL”), including guarantees as to the acceptable quality and fitness of purpose of products. Nothing in these Terms will be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by the ACL and which by law cannot be excluded, restricted or modified, even if any other term of these Terms would otherwise suggest that this might be the case.”

## **BRAZIL**

**Section 10 (DISPUTES/ADDITIONAL TERMS):** this section is modified as follows:

The sub-section titled “CHOICE OF LAW/JURISDICTION” is deleted and replaced with the following:

## **“Choice of Law/Jurisdiction**

- You agree that the Platform, Terms, Privacy Policy and any dispute between you and FUNNY DONUT shall be governed in all respects by Brazilian law, without regard to choice of law provisions, and not by the 1980 UN Convention on Contracts for the International Sale of Goods.
- Except where prohibited, you agree that all disputes, claims and legal proceedings directly or indirectly arising out of or relating to the Platform (including but not limited to the purchase of FUNNY DONUT products) shall be resolved individually, without resort to any form of class action, and exclusively in Brazil.”

## **CANADA**

## **Introductory Paragraph:**

The section titled “Our Terms May Change” is qualified by the following:

“(a) Funny Donut must send to you, at least 30 days before the amendment comes into force, a written notice drawn up clearly and legibly, setting out the new clause and the date of the coming into force of the amendment; and

(b) you may refuse the amendment and rescind or, in the case of a contract involving sequential performance, cancel the contract without cost, penalty or cancellation indemnity by sending Funny Donut a notice to that effect no later than 30 days after the amendment comes into force, if the amendment entails an increase in your obligations or a reduction in Funny Donut’s obligations.”

**MULTIPLE SECTIONS:** The terms set forth in the sections titled “Physical Activity”, “Warranty Disclaimer”, “Indemnification/Limitation of Liability” and “Limitation of Liability” are qualified by the following:

**“Consumer protection laws in some jurisdictions, including Quebec, do not allow for the limitations and exclusions of warranties on purchased products. If these laws apply to you, the exclusions or limitations in the following sections may not apply: Physical Activity, Warranty Disclaimer, Indemnification/Limitation of Liability and Limitation of Liability.”**

SECTION 10 (DISPUTES/ADDITIONAL TERMS): this section is modified as follows:

The sub-section titled “CHOICE OF LAW/JURISDICTION” is modified by adding the following at the beginning of the section:

**“Consumer protection laws in some jurisdictions, such as Quebec, might require that your agreement be governed by the laws of your jurisdiction and heard by competent courts in your jurisdiction. In addition, such laws may not allow you to waive your right to be part of a class action or to limit your time limitation to commence legal proceedings. If these laws apply to you, the following limitations may not be applicable.”**

**COLOMBIA**

**Section 3 (POSTING CONTENT ON THE PLATFORM):** the sub-section titled “USER CONTENT LICENCE” is modified as follows:

The first bullet point paragraph under USER CONTENT LICENCE is deleted and replaced with the following:

“You grant FUNNY DONUT a non-exclusive, indefinite, transferable, sub-licensable, royalty-free, worldwide licence to use any of the User Content that you post on or in connection with the Platform, including the likeness of any person that appears in the User Content, or any of the concepts or ideas contained in the User Content, for any purpose, including commercial use, which includes the right to translate, display, reproduce, modify, create derivative works, sublicense, distribute and assign these rights.”

**Section 3 (POSTING CONTENT ON THE PLATFORM):** the sub-section titled “LICENCE TO USE COMMENTS, FEEDBACK AND IDEAS” is deleted in its entirety and replaced with the following:

“AUTHORISATION TO USE COMMENTS, FEEDBACK AND IDEAS. You grant to FUNNY DONUT an indefinite, worldwide authorisation to use all comments, feedback and ideas you may share with us, without notice, compensation or acknowledgement to you, for any purposes whatsoever, including, but not limited to, developing, manufacturing and marketing products and services and creating, modifying or improving products and services.”

## **HONG KONG**

Funny Donut, Inc., an entity registered in the State of Oregon, USA and with its address at One Bowerman Drive, Beaverton, OR 97005, USA) is: (1) the operator and manager of the NRC and NTC Apps, and (2) our contracting entity for these Terms with you.

**Section 9 (INDEMNIFICATION / LIMITATION OF LIABILITY):** This section is deleted and replaced with the following:

"Indemnification and release. You agree to indemnify, defend, and hold harmless FUNNY DONUT Inc., its affiliates, officers, directors, employees, agents, licensors and suppliers (the “FUNNY DONUT Parties”) from and against all claims, losses, liabilities, expenses, damages and costs (including attorneys' fees), arising from or relating in any way to your User Content, your use of Content, your use of the Platform, your conduct in connection with the Platform or with other Platform users, or any violation of these Terms, any law or the rights of any third party.

Limitation of liability. Except to the extent permitted by applicable laws, you agree:

- that none of the FUNNY DONUT Parties will be liable for any special, incidental or consequential damages (including any lost profits or lost data) that result from the use of, or the inability to use, the Platform or the performance of the products purchased through the Platform or the conduct of other Platform Users (whether online or offline), or attendance at a FUNNY DONUT event or FUNNY DONUT partner events, or any User Content or any other activity in connection with the use of the Platform, even if FUNNY DONUT has been advised of the possibility of such damages;
- you assume total responsibility for your use of the Platform; and
- if FUNNY DONUT is found to be liable to you for any damage or loss which is in any way connected with your use of the Platform or any Content, FUNNY DONUT's liability shall not exceed the greater of: (1) the amount you have paid to us under these Terms for your use of the Platform or any Content, or (2) US\$100.00.”

Section 10 (DISPUTES/ADDITIONAL TERMS): The first bullet point under the sub-section titled "CHOICE OF LAW/JURISDICTION" is deleted in its entirety.

## **JAPAN**

**Section 9 (INDEMNIFICATION/LIMITATION OF LIABILITY):** this section is modified as follows:

The sub-section titled “LIMITATION OF LIABILITY” is deleted in its entirety and replaced with the following:

**LIMITATION OF LIABILITY.** NONE OF THE FUNNY DONUT PARTIES WILL BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION FOR ANY LOST PROFITS OR LOST DATA, THAT RESULT FROM THE USE OF, OR THE INABILITY TO USE, THE PLATFORM OR THE PERFORMANCE OF THE PRODUCTS PURCHASED THROUGH THE PLATFORM OR THE CONDUCT OF OTHER PLATFORM USERS (WHETHER ONLINE OR OFFLINE), OR ATTENDANCE AT A FUNNY DONUT EVENT OR FUNNY DONUT PARTNER EVENTS, OR ANY USER CONTENT OR ANY OTHER ACTIVITY IN CONNECTION WITH THE USE OF THE PLATFORM, EVEN IF FUNNY DONUT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOU ASSUME TOTAL RESPONSIBILITY FOR YOUR USE OF THE PLATFORM. YOUR ONLY REMEDY AGAINST FUNNY DONUT IN CONNECTION WITH ANY DAMAGES ARISING FROM YOUR USE OF THE

PLATFORM OR ANY CONTENT IS TO STOP USING THE PLATFORM. IF FUNNY DONUT IS FOUND TO BE LIABLE TO YOU FOR ANY DAMAGE OR LOSS WHICH IS IN ANY WAY CONNECTED WITH YOUR USE OF THE PLATFORM OR ANY CONTENT, FUNNY DONUT'S LIABILITY SHALL NOT EXCEED US\$100.00 OR EURO 100.00 IF YOU LIVE IN EUROPE.

**Section 10 (DISPUTES/ADDITIONAL TERMS):** this section is modified as follows:

The sub-section titled “CHOICE OF LAW/JURISDICTION” is deleted in its entirety and replaced with the following:

**“Choice of Law/Jurisdiction**

- You agree that the Platform, Terms, Privacy Policy and any dispute between you and FUNNY DONUT shall be governed in all respects by Japanese law, without regard to choice of law provisions, and not by the 1980 UN Convention on Contracts for the International Sale of Goods.
- Except where prohibited by applicable law, and without limitation to any statutory rights for consumers, you agree that all disputes, claims and legal proceedings directly or indirectly arising out of or relating to the Platform (including but not limited to the purchase of FUNNY DONUT products) shall be resolved individually, without resort to any form of class action, and exclusively in the courts located in Tokyo, Japan.
- All claims shall be brought within one (1) year after the claim arises, except to the extent a longer period is required by applicable law.

**KOREA**

**The following location-based service provider terms apply to your use of and access to the Funny Donut Running Club app and the Funny Donut Training Club app: [location-based service provider terms](#). In the event of any conflict between the location-based service provider terms and these Terms, these Terms shall govern.**

**PHILIPPINES**

**Section 2 (OWNERSHIP OF CONTENT):** The third bullet point of this Section is revised as follows:

- To the extent FUNNY DONUT approves the download or use of Content comprised of copyrights or copyrightable works, FUNNY DONUT grants you

a limited, personal, non-transferable, and non-assignable right to access and use such copyrights or copyrightable works solely for their intended purpose and solely for as long as FUNNY DONUT makes such Content generally available to the public. You do not acquire any ownership rights or any form of licence in the Content (including any trademarks or other intellectual property included in the Content), and all such Content is intended for personal, non-commercial use. FUNNY DONUT reserves the right to monitor your use and to alter or revoke the same or your access to the Content at any time and for any reason. FUNNY DONUT reserves the right to take down any Content in violation of these terms or FUNNY DONUT's intellectual property rights. FUNNY DONUT allowing you this limited use does not constitute a waiver of any of Funny Donut's rights to the Content.

**Section 3 (POSTING CONTENT OF THE PLATFORM):** This section is revised as follows:

**User Content Licence.** Some parts of the Platform allow you to post photos, videos, comments, and other content, which we refer to as "User Content". Funny Donut is not responsible for User Content others post to the Platform. User Content is owned by you or whoever created it, but when you post User Content you agree as follows:

- You represent that you have the right to post your User Content, and you agree to execute all relevant documents to grant FUNNY DONUT a non-exclusive, perpetual, transferable, sub-licensable, royalty-free, worldwide licence to use any of the User Content that you post on or in connection with the Platform, including the likeness of any person that appears in the User Content, or any of the concepts or ideas contained in the User Content, for any purpose, including commercial use, which includes the right to translate, display, reproduce, modify, create derivative works, sublicense, distribute and assign these rights. FUNNY DONUT may, in its sole discretion, remove any User Content at any time.
- You understand that deleted User Content may persist in FUNNY DONUT's systems and on the Platform to the extent your User Content has been publicly posted or shared with others who have not deleted it, unless you or the relevant individual request deletion or blocking of personal data in accordance with applicable law.

**Section 9 (INDEMNIFICATION/LIMITATION OF LIABILITY):** The subsection titled "LIMITATION OF LIABILITY" is deleted and replaced with the following:



"To the extent allowed under applicable law, none of the FUNNY DONUT parties will be liable for any special, incidental or consequential damages, including without limitation for any lost profits or lost data, that result from the use of, or the inability to use, the Platform or the performance of the products purchased through the Platform or the conduct of other Platform Users (whether online or offline), or attendance at a FUNNY DONUT event or FUNNY DONUT partner events, or any User Content or any other activity in connection with the use of the Platform, even if FUNNY DONUT has been advised of the possibility of such damages. If FUNNY DONUT is found to be liable to you for any damage or loss which is in any way connected with your use of the Platform or any Content, FUNNY DONUT's liability shall not exceed US\$100.00 or Euro 100.00 if you live in Europe, without prejudice to any applicable law."

**Section 10 (DISPUTES/ADDITIONAL TERMS):** The first bullet point under the sub-section titled "CHOICE OF LAW/JURISDICTION" is deleted in its entirety.

## **EUROPEAN COUNTRIES**

**The following revisions apply to all European countries, except Austria, France, Germany, Italy, Poland and Switzerland, which have other specific revisions to these terms applicable to European Countries.**

**Section 10 (DISPUTES/ADDITIONAL TERMS):** this section is modified as follows:

The sub-section titled "CHOICE OF LAW/JURISDICTION" is deleted in its entirety and replaced with the following (except the last bullet point regarding bringing claims, which remains unchanged):

### **"Choice of Law/Jurisdiction**

- You agree that the Platform, Terms, and any dispute between you and FUNNY DONUT shall be governed in all respects by Dutch law, without regard to choice of law provisions, and not by the 1980 UN Convention on Contracts for the International Sale of Goods.
- Except where prohibited and without limitation to any statutory rights for consumers, you agree that all disputes, claims and legal proceedings directly or indirectly arising out of or relating to the Platform (including but not limited to the purchase of FUNNY DONUT products) shall be resolved and exclusively in the competent courts of Amsterdam, the Netherlands."

## **AUSTRIA**

**Section 10 (DISPUTES/ADDITIONAL TERMS):** this section is replaced with the version for European Countries below, except the following is added at the end:

“All claims shall be brought within three (3) years after the claim arises.”

## **BELGIUM**

**Section 3 (POSTING CONTENT ON THE PLATFORM):** this section is modified as follows:

The first bullet point paragraph under the sub-section titled “USER CONTENT LICENCE” is deleted in its entirety and replaced with the following:

“You grant FUNNY DONUT a non-exclusive, perpetual (or at least for the duration of the legal protection of the intellectual property rights/image rights which may lie in the User Content), transferable, sub-licensable, royalty-free, worldwide licence to use any of the User Content that you post on or in connection with the Platform, including the likeness of any person that appears in the User Content, or any of the concepts or ideas contained in the User Content, for any purpose, including commercial, promotional and operational use, which includes the right to translate, display, reproduce, modify, create derivative works, sublicense, distribute and assign these rights.”

The sub-section titled “LICENCE TO USE COMMENTS, FEEDBACK AND IDEAS” is deleted in its entirety and replaced with the following:

**“LICENCE TO USE COMMENTS, FEEDBACK AND IDEAS.** You grant to FUNNY DONUT a perpetual (or at least for the duration of the legal protection of the intellectual property rights/image rights which may lie in the comments, feedback and ideas), worldwide licence to use all comments, feedback and ideas you may share with us, without notice, compensation or acknowledgement to you, for any purposes whatsoever, including, but not limited to, developing, manufacturing and marketing products and services and creating, modifying or improving products and services.”

## **FRANCE**

**Section 5 (COPYRIGHT INFRINGEMENT):** the second paragraph in this section is deleted in its entirety and replaced with the following:

“If you believe that your work has been improperly copied to the Platform, such that it constitutes infringement, please provide us with the following information:

- (1) date of the notification;
- (2) if the claimant is a natural person: name, surname, profession, address, nationality, place and date of birth;
- (3) if the claimant is a legal person: name, form, registered office and the entity representing it for legal purposes;
- (4) name and address of the recipient, or if a legal person, its name and registered office;
- (5) a description of the facts at issue and the precise location;
- (6) the grounds on which the content should be withdrawn, including relevant legal provisions and justification of facts; and
- (7) a copy of the correspondence sent to the author or editor of the litigious information or activity requesting their interruption, withdrawal or modification or an explanation that the author or editor could not be contact.”

**Section 9 (INDEMNIFICATION/LIABILITY):** this section is modified as follows:

The sub-section titled “Indemnification and Release” is deleted in its entirety and replaced with the following:

**“Indemnification.** You agree to indemnify, defend, and hold harmless FUNNY DONUT Inc., its affiliates, officers, directors, employees, agents, licensors and suppliers (the “FUNNY DONUT Parties”) from and against all claims, losses, liabilities, expenses, damages and costs, including, without limitation, legal fees, arising from or relating in any way to your User Content, your use of Content, your use of the Platform, your conduct in connection with the Platform or with other Platform users, or any violation of these Terms of Use, any law or the rights of any third party.”

The sub-section titled “LIMITATION OF LIABILITY” is deleted in its entirety.

**Section 10 (DISPUTES/ADDITIONAL TERMS):** the sub-section titled “CHOICE OF LAW/JURISDICTION” is deleted in its entirety and replaced with the following:

**“Choice of Law/Jurisdiction**

Nothing in this paragraph shall deprive you of the protection afforded to consumers by the mandatory rules of law of the country in which you live.

- You agree that the Platform, Terms, and any dispute between you and FUNNY DONUT shall be governed in all respects by Dutch law, without regard to choice of law provisions, and not by the 1980 UN Convention on Contracts for the International Sale of Goods.
- Except where prohibited and without limitation to any statutory rights for consumers, you agree that all disputes, claims and legal proceedings directly or indirectly arising out of or relating to the Platform (including but not limited to the purchase of FUNNY DONUT products) shall be resolved and exclusively in the competent courts of Amsterdam, the Netherlands.
- If you have a complaint, please [contact us](#). If you feel your complaint is not adequately addressed you can – but are not obliged to – use the Online Dispute Resolution (ODR) platform that you can access through <http://ec.europa.eu/odr>. In addition, you have the right to initiate a mediation procedure by contacting the mediator (s) as follows: Association des médiateurs européens (197, Boulevard Saint-Germain, 75007 PARIS, téléphone: 09 53 01 02 69), <http://www.mediationconso-ame.com/>. The mediator(s) will attempt to, independently and impartially, reach an amicable resolution of the dispute. In case of mediation, each party is free to accept or reject the solution proposed by the mediator.”

## GERMANY

**Section 7 (IMPORTANT DISCLAIMERS):** this section is modified as follows:

The third bullet point in the summary box is deleted in its entirety and replaced with the following:

“FUNNY DONUT is not responsible for any damage (except liability for FUNNY DONUT’s wilful and gross negligent acts and FUNNY DONUT’s personal injuries) caused by your interactions with other users. Please be responsible and take precautions when interacting with people you don’t know.”

The last bullet point paragraph under the sub-section titled “PHYSICAL ACTIVITY” is deleted in its entirety and replaced with the following:

“To the maximum extent allowed by applicable law, FUNNY DONUT is not responsible or liable for any damages (except liability for FUNNY DONUT’s wilful and gross negligent acts and FUNNY DONUT’s personal injuries) you may sustain that result from your use of, or inability to use, the Platform.”

The sub-section titled “WARRANTY DISCLAIMER”, including all of the bullet points therein, is deleted in its entirety.

**Section 9 (INDEMNIFICATION/LIMITATION OF LIABILITY):** this section is modified as follows:

The sub-section titled “INDEMNIFICATION AND RELEASE” is deleted in its entirety.

The sub-section titled “LIMITATION OF LIABILITY” is deleted in its entirety and replaced with the following:

**“LIMITATION OF LIABILITY.** Any liability of FUNNY DONUT and its affiliates, and their officers, directors, shareholders, employees and agents (the “Released Parties”) is limited to cases of intent or gross negligence. In cases of slight negligence, the Released Parties are only liable if an essential contractual duty, whose violation endangers the purpose of the contract or whose performance is required to achieve this purpose and in whose performance the consumer trusts (so called “cardinal duties”) has been violated. In this case, the liability is limited to damages that are typical and foreseeable. This limitation of liability does not apply to claims under product liability law and in the case of bodily harm or death.”

**Section 10 (DISPUTES/ADDITIONAL TERMS):** this section is replaced with the version for European Countries above, except the following is added at the end:

“All claims shall be brought within two (2) years after the claim arises.”

## **HUNGARY**

**Introductory Paragraphs:** The second bullet point in the first section above titled “Terms of Sale” is amended by adding the following:

"These Terms constitute an implied agreement between you and FUNNY DONUT, unless otherwise meeting the requirements of written agreements under Hungarian Law."

## **ITALY**

**Section 7 (IMPORTANT DISCLAIMERS):** this section is modified as follows:

The last bullet point paragraph under the sub-section titled “PHYSICAL ACTIVITY” is deleted in its entirety and replaced with the following:

“To the maximum extent allowed by applicable law, FUNNY DONUT is not responsible or liable for any damages you may sustain that result from your use of, or

inability to use, the features on the Platform, except in the event of fraud or gross negligence by Funny Donut.”

The sub-section titled “USER INTERACTIONS” is deleted in its entirety and replaced with the following:

“USER INTERACTIONS. We are not responsible for your interactions with other users of the Platform or any damage or harm you may experience because of these interactions, except in the event of fraud or gross negligence by Funny Donut.

Be responsible and take precautions when interacting with other users (including users you do not know) on the Platform. Before you meet another person face-to-face, consider investigating, bringing a friend, choosing public locations and letting someone know where you will be. FUNNY DONUT is under no obligation to become involved with any user dispute (but may do so at its own discretion) except in the event of fraud or gross negligence by Funny Donut.”

**Section 10 (DISPUTES/ADDITIONAL TERMS):** the sub-section titled “CHOICE OF LAW/JURISDICTION” is deleted in its entirety and replaced with the following (except the last bullet point regarding bringing claims, which remains unchanged):

**“Choice of Law/Jurisdiction**

- You agree that the Platform, Terms, and any dispute between you and FUNNY DONUT shall be governed in all respects by Dutch law, without regard to choice of law provisions, and not by the 1980 UN Convention on Contracts for the International Sale of Goods, subject to any statutory provisions of applicable law which may apply regardless of any different choice of law.
- Except where prohibited and without limitation to any statutory rights for consumers, you agree that all disputes, claims and legal proceedings directly or indirectly arising out of or relating to the Platform (including but not limited to the purchase of FUNNY DONUT products) shall be resolved and exclusively in the court of the place where you are resident or domiciled.”

**POLAND**

**Section 10 (DISPUTES/ADDITIONAL TERMS):** the sub-section titled “CHOICE OF LAW/JURISDICTION” is deleted in its entirety and replaced with the following (except the last bullet point regarding bringing claims, which remains unchanged):

**“Choice of Law/Jurisdiction**

- The Platform, Terms, and any dispute between you and FUNNY DONUT shall be governed in all respects by Polish law.
- All disputes, claims and legal proceedings directly or indirectly arising out of or relating to the Platform (including but not limited to the purchase of FUNNY DONUT products) shall be resolved in the courts competent under applicable law.”

## **SWITZERLAND**

**Section 10 (DISPUTES/ADDITIONAL TERMS):** the sub-section titled “CHOICE OF LAW/JURISDICTION” is deleted in its entirety and replaced with the following (except the last bullet point regarding bringing claims, which remains unchanged):

### **“CHOICE OF LAW/JURISDICTION**

- You agree that the Platform, Terms, and any dispute between you and FUNNY DONUT shall be governed in all respects by the substantive laws of Switzerland, without regard to any international conflict of law provisions, and to the exclusion of the 1980 UN Convention on Contracts for the International Sale of Goods.
- You agree that all disputes arising directly or indirectly out of or in connection with the Platform and these Terms of Use, shall be subject to the exclusive jurisdiction of the competent courts of the city of Zurich, Switzerland.”