

TERMS OF USE

(Effective as of May 2017)

IMPORTANT – THIS IS A LEGAL AGREEMENT (“AGREEMENT,” “TERMS” OR “TERMS OF USE”) BETWEEN EACH END USER (REFERENCED HEREIN AS “USER,” “GUIDE,” “YOU” OR “YOUR”) ON THE ONE HAND, AND SMOOVE-APP, INC., A DELAWARE CORPORATION. SMOOVE-APP, INC., AS WELL AS ITS OFFICERS, MANAGERS, EMPLOYEES, AGENTS, AFFILIATES AND ASSIGNS SHALL BE COLLECTIVELY REFERENCED HEREIN AS “SMOOVE”. THIS AGREEMENT GOVERNS YOUR USE OF THE SMOOVE WEBSITE LOCATED AT WWW.SMOOVEAPP.COM (“WEBSITE”) AND THE SMOOVE MOBILE APPLICATION (“APP”) AND THE GOODS AND SERVICES OFFERED IN CONNECTION THERETO (COLLECTIVELY REFERENCED HEREIN AS THE “SERVICE(S)”).

BY USING THE SERVICE, YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THIS AGREEMENT, AND THAT YOU AGREE TO BE BOUND LEGALLY BY IT. YOU ALSO AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF ANY THIRD PARTY GOODS AND/OR SERVICE PROVIDERS ASSOCIATED WITH THE SERVICES. IF YOU DO NOT AGREE WITH ALL OF THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT, YOU ARE NOT GRANTED PERMISSION TO USE THE SERVICE AND YOU MUST IMMEDIATELY STOP USE OF THE SERVICE.

PLEASE BE ADVISED: THIS AGREEMENT CONTAINS PROVISIONS THAT GOVERN HOW CLAIMS YOU AND SMOOVE MAY HAVE AGAINST EACH OTHER CAN BE BROUGHT. THESE PROVISIONS WILL, WITH LIMITED EXCEPTION, REQUIRE YOU TO SUBMIT ANY CLAIMS YOU HAVE AGAINST SMOOVE TO BINDING AND FINAL ARBITRATION ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS, GROUP OR REPRESENTATIVE ACTION OR PROCEEDING.

MODIFICATIONS TO TERMS: SMOOVE may update these terms and conditions at any time by posting or sending you a revised version of the Agreement, and may do so without advance notice to you. Accordingly, please review the terms and conditions found at this location on a periodic basis. Each time you access the Service, you agree to be bound by the Agreement in effect at the time you access the Service. If you do not agree to the revised terms, do not use the Service.

1. **INTRODUCTION.** SMOOVE is designed especially with foreign exchange students, out-of-state students, expatriates, professionals, and others in mind, so that their transition to a new city and country is as easy as possible. SMOOVE is a concierge service (accessible through the SMOOVE website and mobile application, which allows a user (“User”) to order a personal guide (“Guide”) for the purposes of finding accommodations and other general concierge services. SMOOVE and the SMOOVE Guides are not agents, brokers or in any way affiliated with the prospective leased properties beyond the guide services provided. For more information, see the DISCLAIMERS and the LIMITATION OF LIABILITY provisions of this Agreement.
2. **LICENSE GRANT.** Subject to your continued compliance with this Agreement, SMOOVE provides to you a single, revocable, limited, non-exclusive, non-transferable, and non-sublicensable license to access and use the Services during the term of this Agreement on your computer, mobile phone, or other computing device and only for personal or internal business purposes. The content layout, formatting, features of and online or remote access processes or privileges for the Services shall be as specified by SMOOVE in its sole discretion. You also acknowledge and agree to the following: (i) SMOOVE has the right to control and direct the means, manner, and method by which the Service is provided; (ii) SMOOVE may engage independent contractors, consultants, or subcontractors to aid SMOOVE in providing the Service or use thereof, and (iii) SMOOVE has the right to provide the Service to others.
3. **RESTRICTIONS ON USE.** All rights not expressly granted under this Agreement are hereby reserved to SMOOVE. Accordingly, you are hereby prohibited from using the Service in any manner that is not expressly and unambiguously authorized by this Agreement. You therefore may not modify, reproduce,

duplicate, copy, download, store, further transmit, disseminate, transfer, disassemble, reverse engineer, decompile, extract source code, broadcast, publish, remove or alter any proprietary notices or labels, license, sublicense, sell, mirror, frame, rent, lease, private label, grant a security interest in, create derivative works of, or otherwise exploit the Service, or any portion of the Service, without SMOOVE's prior written consent except as expressly and unambiguously authorized herein. Moreover, you may not (a) attempt to gain unauthorized access to any portion or feature of the Service or any other system(s) or network(s) connected to the Service or to any SMOOVE server or to any of the services offered on or through the Service by hacking, password "mining," or any other illegitimate or prohibited means; (b) probe, scan, or test the vulnerability of the Service or any network(s) connected to the Service, nor breach the security or authentication measures on the Service or any network(s) connected to the Service; (c) reverse look-up, trace, or seek to trace any information on any other user of or visitor to the Service; (d) use any device, software, or routine to interfere with the proper working of the Service or any transaction conducted on the Service, or with any other person's use of the Service; (e) forge headers, impersonate a person, or otherwise manipulate identifiers in order to disguise your identity or the origin of any message or transmittal you send to SMOOVE on or through the Service; (f) delete, obscure, or in any manner alter any warning or link that appears in the Service; or (g) use the Services in an unlawful manner, including, without limitation, to post, upload, transmit, or otherwise make available any material which violates, misappropriates, or infringes in any way upon the rights of others, is unlawful, threatening, abusive, defamatory, invasive of privacy or publicity rights, vulgar, obscene, profane, or otherwise objectionable, or encourages conduct that would constitute unlawful conduct.

4. **RESTRICTED ACTIVITIES.** With respect to your use of the SMOOVE App and your participation in the Services, you agree that you will not:

- a) impersonate any person or entity;
- b) stalk, threaten, or otherwise harass any person, or carry any weapons;
- c) violate any law, statute, rule, permit, ordinance, or regulation;
- d) interfere with or disrupt the Services of the SMOOVE app;
- e) post information or interact on the SMOOVE App in a manner which is false, inaccurate, misleading, defamatory, libelous, abusive, obscene, profane, offensive, sexually oriented, threatening, harassing, or illegal;
- f) use the SMOOVE app in any way that infringes any third party's rights, including but not limited to: intellectual property rights, copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy;
- g) post, email or otherwise transmit any malicious code, files or programs designed to interrupt, damage, destroy or limit the functionality of any computer software or hardware or telecommunications equipment or surreptitiously intercept or expropriate any system, data or personal information;
- h) transfer or sell your User account, password and/or identification to any other party
- i) discriminate against or harass anyone on the basis of race, national origin, religion, gender, gender identity, physical or mental disability, medical condition, marital status, age or sexual orientation; or
- j) cause any third party to engage in the restricted activities above.

5. **THIRD PARTY PRODUCTS AND SERVICES.** You acknowledge that portions of the Services may be made available or accessed in connection with third party products, property and/or services that SMOOVE does not control, including but not limited to: (i) services from transportation network companies, such as Uber and Lyft; (ii) products and services from cellular phone service providers; (iii) products from subscriber identification module ("SIM card") manufacturers; (iv) third party payment processing services, and (v) prospective rental properties and the corresponding property owners, managers, agents, employees and others. You acknowledge that different terms of use and privacy policies may apply to your use of such third party products and services. SMOOVE does not endorse such third party products or services and in no event shall SMOOVE be responsible or liable for any products or services of such third party providers. Such third parties are not parties to this contract. Users further acknowledge that any SIM card supplied by SMOOVE in connection with your purchased plan will only include phone calls and text messages within the United States, and does not include international calling or messaging. SMOOVE expressly releases any and all liability and shall in no way be liable for any

wrongful acts performed by you in connection with your use of the SIM card.

6. **GENERAL RIGHTS YOU GRANT US.** You permit SMOOVE the right (i) to allow the Service to use the processor, bandwidth, and storage hardware on your mobile device or other device used to access the Service in order to facilitate the operation of the Service, (ii) to provide advertising and other information to you, and (iii) to allow our business partners to do the same.

If you are utilizing SMOOVE as a User, then you hereby grant SMOOVE the limited right to share your information with potential third party landlords, leasing offices, as well as SMOOVE Guides and other relevant third parties, including but not limited to your name, social security number, apartment budget, and references, should such information be necessary in order to rent a property.

If you are utilizing SMOOVE as a Guide, then you hereby grant SMOOVE the right to share your date of birth, physical address, Social Security number, driver's license information, and additional business license or permitting information with third parties for the sole purpose of conducting background checks on Guides to help protect the SMOOVE community.

You further grant to SMOOVE a non-exclusive, transferable, sub-licensable, royalty-free, perpetual, irrevocable, fully paid, worldwide right and license to use, reproduce, display, publish, translate, modify, create derivative works from, and distribute the data and information you submit or provide to the Service that is gathered by SMOOVE in connection with your use of the Service through any medium, whether alone or in combination with other content or materials, in any manner and by any means, method or technology, whether now known or hereafter created; *provided* that such data is used in a form that does not personally identify you.

7. **ELIGIBILITY.** You must be at least 18 years of age, to create an account on SMOOVE and use the Service. If you are under 18 years of age and using the Service, you represent and warrant that your parent or legal guardian consents to these terms. By creating an account and using the Service, you represent and warrant that you are not a person who is barred from using the Service under the laws of the United States or any other applicable jurisdiction—meaning that you do not appear on the U.S. Treasury Department's list of Specially Designated Nationals or face any other similar prohibition and that you have never been convicted of a felony or been required to register as a sex offender with any state, federal or local sex offender registry. By creating an account and using the Service, you further represent that you are at least of the legally required age in the jurisdiction in which you reside, and are otherwise capable of entering into binding contracts.
8. **USER AND GUIDE OBLIGATIONS.** By downloading, accessing, or using the Service, you covenant that you have the right, authority and capacity to enter into this Agreement, you will abide by all applicable local, state, and national laws and regulations with respect to your use of the Service. You further covenant you will at all times provide true, accurate, current, and complete information (and updates thereto) when submitting information to SMOOVE through the Service, and agree to provide SMOOVE reasonable cooperation in connection with operation of or support for the Service. You also acknowledge and agree that additional notices, terms, and conditions may apply to the use of other SMOOVE services or solutions. SMOOVE will provide notice of any application notices, terms, and conditions for its services or solutions.
9. **ACCOUNT.** You may be required to register to use the Service. Each registration is for a single user only, unless otherwise expressly agreed upon by SMOOVE. Registration for access to and use of the Service may also require access credentials, such as a user name and a password, or adherence to other particular access requirements as designated by SMOOVE in its sole discretion from time to time. You hereby agree to consider your access credentials, such as a user name and password, as confidential information and not to disclose such information to any third party without the prior express written consent of SMOOVE, which may be withheld in its sole discretion. In addition, you agree to assume all responsibility concerning your use of the Service, including being held responsible for any and all activity occurring through your user name and password (and the related account access). You shall immediately notify SMOOVE if you suspect or become aware of any loss or theft of your password or any unauthorized use of your user name and password.
10. **LODGING DISCLAIMERS; USER INDEMNIFICATION.** As part of the Services, SMOOVE will attempt to connect Users with, hotels, rental properties for lease, and/or other temporary or permanent living accommodations as the case may be (collectively, "Lodging Facilities"). Neither SMOOVE nor the

SMOOVE Guides are agents, brokers, owners, manages, employees, or affiliates of the Lodging Facilities, and neither SMOOVE nor SMOOVE Guides have authority to bind the Lodging Facility or hold any property for Users. **For the avoidance of doubt, SMOOVE does NOT guarantee the availability of the Lodging Facilities and has no responsibility in the event that the Lodging Facilities is rented out or sold to another party before the User is able to secure accommodations.** SMOOVE operates merely as a conduit between any potential lessor and lessee, and for this reason SMOOVE cannot be aware of the conditions and/or situations of any residence.

SMOOVE disclaims any and all liability in regards to issues involving the availability, structural soundness, habitability, or qualities of any Lodging Facilities at any point before, during, and after the Services are rendered. Furthermore, any User, through his or her use of SMOOVE's app and Services, assumes full responsibility for any damage or issues in Lodging Facilities created by the User before, during, and after SMOOVE's Services have been performed. Further, Users agree to hold harmless and fully indemnify SMOOVE against any and all claims, damages or other form of liability that may arise in connection with the User's activities at or in relation to the Lodging Facilities.

11. **USE OF THIRD PARTY TRANSPORTATION SERVICES.** Guides may be utilizing Uber, Lyft and other online transportation services in connection with the SMOOVE Services ("Third Party Transportation Services"). Users and Guides acknowledge that neither SMOOVE nor SMOOVE Guides are agents, employees, affiliates or in any way related to the Third Party Transportation Services beyond that of a customer of such services. SMOOVE DISCLAIMS ALL LIABILITY THAT MAY ARISE FROM THE USE OF ANY THIRD-PARTY TRANSPORTATION SERVICE. Accordingly, Users and Guides waive any and all liability against SMOOVE in connection with any claims that may arise from the use of third party transportation services. Further, all Users and Guides agree to the terms and conditions of the Third Party Transportation Services, including without limitation, the following: the Lyft terms of use can be found at: <https://www.lyft.com/terms>; the Uber terms of use can be found at: <https://www.uber.com/legal/terms/us/>. In the event that SMOOVE is able to obtain a discounted rate for the Uber or Lyft services, Users and Guides may only use such discounts in connection with SMOOVE, and not for any personal use.
12. **BILLING.** SMOOVE is a package-based Service. The price of the Service will be based upon which package you choose to purchase through the App. Each package contains varying goods and services. Charges are facilitated through a third-party payment processing service (e.g., Stripe, Inc.). Users will be required to provide their credit card and/or bank account details to SMOOVE and the third-party payment processing service retained by SMOOVE. SMOOVE HEREBY DISCLAIMS ALL LIABILITY FROM ISSUES RESULTING FROM THE THIRD-PARTY PAYMENT PROCESSING SERVICE'S ACTIONS, including but not limited to any instances of credit card fraud or identity theft. SMOOVE may replace its third-party payment processing services without notice to you. Charges shall only be made through the SMOOVE Platform. You are only allowed to purchase SMOOVE goods and services through the App and not in any other way. You agree to pay all fees and applicable taxes incurred by you or anyone using your SMOOVE account. SMOOVE may revise the pricing for the goods and services offered through the SMOOVE App. All prices displayed on SMOOVE are displayed per person and include all applicable taxes. YOU ACKNOWLEDGE THAT SMOOVE IS NOT REQUIRED TO PROVIDE A REFUND FOR ANY REASON, AND THAT YOU WILL NOT RECEIVE MONEY OR OTHER COMPENSATION FOR UNUSED GOODS OR SERVICES WHEN AN ACCOUNT IS CLOSED, WHETHER SUCH CLOSURE WAS VOLUNTARY OR INVOLUNTARY.
13. **GUIDE PAYMENT.** If you are a Guide, you will receive payment for your provision of Services. To ensure payment, it is necessary for SMOOVE to keep information about Guides' bank routing numbers, tax information, and any other payment information provided by Guides.
14. **RELATIONSHIP BETWEEN SMOOVE AND THE GUIDES.** As a Guide on the SMOOVE App, you acknowledge and agree that you and SMOOVE are in a direct business relationship, and the relationship between the parties under this Agreement is solely that of independent contracting parties. You and SMOOVE expressly agree that: (i) this is not an employment agreement and does not create an employment relationship between you and SMOOVE; and (ii) no joint venture, franchisor-franchisee partnership, or agency relationship is intended or created by this Agreement. You have no authority to bind SMOOVE, and you undertake not to hold yourself out as an employee, agent or authorized representative of SMOOVE.

SMOOVE does not and shall not be deemed to direct or control you generally or in your performance under this Agreement specifically, including in connection with your provision of Services your acts or omissions. You retain the sole right to determine when, where, and for how long you will utilize the SMOOVE app. You retain the option to accept or to decline a User's request for Services via the SMOOVE app, or to cancel an accepted request for Services via the SMOOVE app, subject to SMOOVE's then-current cancellation policies and for the designated acceptance/decline period specifically provided by SMOOVE. Any decline of a User must occur at least 48 hours before the scheduled meeting time. Any notice of cancellation within 48 hours will impact Guides eligibility and opportunity to get future appointments. Any no shows will result in immediate termination from the App. You acknowledge and agree that you have complete discretion to provide Services or otherwise engage in other business or employment activities.

15. **CANCELLATION POLICY.** In the event that a User cancels the Service less than forty-eight (48) hours before the day of the appointment, the User will be charged the full amount of the package. Any changes made by a User to an appointment must be made at least forty-eight (48) hours prior to the already agreed upon meeting time. In the event that a User agrees to lease a residence prior to being shown all of the residences included in his or her package, the User will not be entitled to any refund or discount, regardless of which package the User purchased. In the event a User does not appear for his/her scheduled appointment within thirty (30) minutes of the scheduled meeting start time, then SMOOVE shall have the option to terminate the Service without any refund or credit to the User.
16. **MOBILE SERVICES.** The Service offers various tools or display functionality that are available to you via your mobile phone or other mobile computing device (collectively, "Mobile Services"). Please note that your mobile carrier's normal messaging, data, and other rates and fees will apply to your use of the Mobile Services. In addition, downloading, installing, or using certain Mobile Services may be prohibited or restricted by your mobile carrier, and not all Mobile Services may work with all carriers or devices or in all locations. Therefore, you are solely responsible for checking with your mobile carrier to determine if the Mobile Services are available for your mobile devices; what restrictions, if any, may be applicable to your use of the Mobile Services; and how much such use will cost you. Nevertheless, all use of the Service shall be strictly in accordance with this Agreement.
17. **SOCIAL NETWORKS.** Certain features allow you to synchronize your profile information with the information contained on your social networks and platforms (Facebook, Google+, VK, LinkedIn, etc.), including information made available by your contacts or friends on such social networks (e.g. birthdays, photos, status, etc.). These features will enhance the performance of our Service and allow you to better integrate and harmonize our Service with your updated profile information and information stored on social media networks. When you use our Service and interact with social media networks, we will receive information from the social network such as your profile information, profile picture, gender, user name, user ID associated with your social media account, age range, language, country, friends list, and any other information you permit the social network to share with third parties. However, the data we receive is dependent upon your privacy settings with the social network. You should always review, and if necessary, adjust your privacy settings on these social networks and platforms before linking or connecting them to the Service.
18. **DATA COLLECTION, COMMUNICATIONS & UPDATES.** By installing, accessing, or using the Service, you agree to allow SMOOVE to collect (on behalf of itself and its business partners) certain information regarding your use of the Service (including, without limitation, certain data regarding your mobile device (e.g., type of device, unique device ID, etc.), operating software, feature utilization, navigation, and personal information (e.g., name, email, etc.)). In particular, if you elect to use certain location-based features or services, SMOOVE may collect your precise location. You authorize SMOOVE to locate your device and to record, compile, and/or display your location. SMOOVE shall use reasonable skill and due care in providing the Service, but neither SMOOVE nor any of its service and/or content providers guarantees the availability, accuracy, completeness, reliability, or timeliness of location data or any other data displayed by the Service.

Subject to the rights granted to SMOOVE above, we maintain location information only so long as is reasonable to provide the Service and then delete location data tied to your personal information.

SMOOVE may maintain de-identified location data for a longer period of time in order to analyze aggregate trends and metrics or pursuant to Section 4. If you want to opt-out of the collection of your location data, please adjust your settings in your mobile device to limit the App's access to your location data. SMOOVE may use and/or share location information with third parties for purposes of targeting advertising to the device. You also agree to receive electronic communications from SMOOVE. These electronic communications may include notices about applicable fees and charges, transactional information, and other information concerning or related to the Service or SMOOVE's other products, solutions, or services. These electronic communications are part of your relationship with SMOOVE and you receive them as part of your use of the Service. You therefore hereby agree that any such notices, agreements, disclosures or other communications that we send you electronically will satisfy any legal communication requirements. Further, you understand and agree that installation of the Service permits the downloading of updates and upgrades, including for the purpose(s) of fixing product defects or providing enhancements. You will be given notice and an opportunity to accept or refuse any update or upgrade that we provide; provided, however, that refusal of an update or upgrade may impact performance of the Service.

19. **PRIVACY POLICY & OPT-OUT.** Please see SMOOVE's Privacy Policy for more details on SMOOVE's collection and use of data including location-based information or personally identifiable information. Your use of the Service and the collection of location-based or personally identifiable information by and through the Service is addressed by SMOOVE's Privacy Policy. You may opt-out of certain information collection, such as location-based information, by adjusting the settings on your device or following any further details set forth in SMOOVE's Privacy Policy. Please note that your opt-out choice may apply only to the particular browser or device you are using when you opt out.
20. **FEEDBACK.** SMOOVE welcomes your feedback and suggestions about SMOOVE's products or services or with respect to how to improve the Service. By transmitting any suggestions, information, material, or other content (collectively, "Feedback") to SMOOVE, you represent and warrant that such Feedback does not infringe or violate the intellectual property or proprietary rights of any third party (including, without limitation, patents, copyrights, or trademark rights) and that you have all rights necessary to convey to SMOOVE and enable SMOOVE to use such Feedback. In addition, any Feedback received by SMOOVE will be deemed to include a royalty-free, perpetual, irrevocable, transferable, non-exclusive right and license from you for SMOOVE to adopt, publish, reproduce, disseminate, transmit, distribute, copy, use, create derivative works of, and display (in whole or in part) worldwide, or act on such Feedback without additional approval or consideration, in any form, media, or technology now known or later developed for the full term of any rights that may exist therein, and you hereby waive any claim to the contrary.
21. **LINKS TO OTHER SITES.** The Service may connect to certain third party websites or online networks (collectively, "Third Party Sites"). These Third Party Sites have not necessarily been reviewed by SMOOVE and are owned, controlled and/or maintained solely by third parties over whom SMOOVE exercises no control. Your correspondence or any other dealings with third parties found through any Third Party Sites on the Service is solely between you and such third party. Accordingly, SMOOVE hereby expressly disclaims and shall not have any liability or responsibility for any Third Party Sites.
22. **PROPRIETARY RIGHTS.** This Agreement provides only a limited license to access and use the Service in accordance with the terms of this Agreement. Accordingly, you hereby agree that SMOOVE transfers no ownership or intellectual property interest or title in and to the Service or any other SMOOVE intellectual property to you or anyone else in connection with your use of the Service. All text, graphics, user interfaces, visual interfaces, photographs, sounds, artwork, computer code (including html code), programs, software, products, information, and documentation as well as the design, structure, selection, coordination, expression, "look and feel," and arrangement of any content contained on or available through the Service are exclusively owned, controlled, and/or licensed by SMOOVE, Inc. or its licensor(s) or affiliate(s). SMOOVE, and all other marks identifying the products or services of SMOOVE are proprietary trademarks of SMOOVE, Inc., and any use of such marks, including, without limitation, as domain names, account identifiers, or in connection with any search engine optimization practice(s), without the prior express written permission of SMOOVE is hereby strictly prohibited.
23. **CONFIDENTIALITY.** You acknowledge and agree that the Service contains proprietary trade secrets and confidential or nonpublic information of SMOOVE and/or its licensors (the "Confidential

Information”). You agree to secure and protect the confidentiality of the Confidential Information of SMOOVE (and/or its licensors) in a manner consistent with the maintenance of SMOOVE’s rights therein, using at least as great a degree of care as you use to maintain the confidentiality of your own confidential information of a similar nature, but in no event using less than reasonable efforts. You shall not, nor permit any third party to, sell, transfer, publish, disclose, or otherwise make available any portion of the Confidential Information to third parties, except as expressly authorized in this Agreement.

24. **SERVICE DISCLAIMER.** THE SERVICE IS PROVIDED ON AN “AS-IS” BASIS AND MAY INCLUDE ERRORS, OMISSIONS, OR OTHER INACCURACIES. SMOOVE HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OR ANY OTHER IMPLIED WARRANTY UNDER THE UNIFORM COMPUTER INFORMATION TRANSACTIONS ACT AS ENACTED BY ANY STATE. TO THE EXTENT PERMISSIBLE BY APPLICABLE LAW, SMOOVE DOES NOT GUARANTEE OR WARRANT THAT ANY CONTENT YOU MAY STORE OR ACCESS THROUGH THE SERVICE WILL NOT BE SUBJECT TO INADVERTENT DAMAGE, CORRUPTION, LOSS, OR REMOVAL IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. SMOOVE ALSO MAKES NO REPRESENTATIONS OR WARRANTIES THAT THE SERVICE WILL OPERATE ERROR-FREE, UNINTERRUPTED, OR IN A MANNER THAT WILL MEET YOUR PARTICULAR REQUIREMENTS AND/OR NEEDS. THEREFORE, YOU ASSUME THE ENTIRE RISK REGARDING THE QUALITY AND/OR PERFORMANCE OF THE SERVICE. YOU SPECIFICALLY ACKNOWLEDGE THAT SMOOVE IS NOT LIABLE FOR THE DEFAMATORY, OFFENSIVE OR ILLEGAL CONDUCT OF OTHER USERS OR THIRD-PARTIES OVER WHICH IT HAS NO CONTROL.
25. **LIMITATION OF LIABILITY.** YOU ALSO EXPRESSLY ABSOLVE AND RELEASE SMOOVE FROM ANY CLAIM OF HARM RESULTING FROM A CAUSE BEYOND SMOOVE’S CONTROL, INCLUDING, BUT NOT LIMITED TO, CLAIMS ARISING FROM THE ACTIVITIES OF ANY THIRD PARTY PAYMENT PROCESSING SERVICES, THIRD PARTY TRANSPORTATION NETWORK COMPANIES, CELLULAR SERVICE PROVIDERS, OR SIM CARD MANUFACTURERS, FAILURE OF ELECTRONIC OR MECHANICAL EQUIPMENT OR COMMUNICATION LINES, TELEPHONE OR OTHER CONNECTION PROBLEMS, COMPUTER VIRUSES, UNAUTHORIZED ACCESS, THEFT, OPERATOR ERRORS, SEVERE WEATHER, EARTHQUAKES OR NATURAL DISASTERS, STRIKES OR OTHER LABOR PROBLEMS, WARS, OR GOVERNMENTAL RESTRICTIONS. MOREOVER, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL SMOOVE BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH ANY DEALINGS OR AGREEMENTS BETWEEN YOU AND A THIRD PARTY, THE USE OF THE SERVICE, WITH THE DELAY OR INABILITY TO USE THE SERVICE, THE COST OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES, OR FOR ANY INFORMATION, SOFTWARE FUNCTIONALITY (INCLUDING, DATA STORAGE), AND MATERIALS AVAILABLE THROUGH THE SERVICE, WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, AND EVEN IF SMOOVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ADDITION, TOTAL LIABILITY OF SMOOVE FOR ANY REASON WHATSOEVER RELATED TO USE OF THE SERVICE SHALL NOT EXCEED \$100 (US) OR THE AMOUNT PAID BY YOU TO SMOOVE (FOR USE OF THE SERVICE) DURING THE TWELVE (12) MONTHS PRECEDING ANY CLAIM, WHICHEVER IS GREATER.
26. **INDEMNIFICATION.** You agree to indemnify, defend, and hold SMOOVE (and its affiliated companies, contractors, employees, agents, and suppliers and partners) harmless from any and all claims, suits, actions, liabilities, losses, costs, damages, expenses, and any other liabilities, including without limitation attorneys’ fees, arising out of or related in any manner to your use or misuse of the Service, including without limitation your access to or use of the Service, any breach or alleged violation of the rights of any other person or entity by you, including without limitation any intellectual property right, publicity, confidentiality, property or privacy right and any breach or alleged violation by of this Agreement.
27. **SECURITY & ENFORCEMENT.** SMOOVE reserves the right in its sole discretion to review, monitor,

and/or record any information relating to your use of the Service (“User Information”) without any prior notice to or permission from you, including, without limitation, by archiving content and/or communications submitted to and/or sent by you through the Service. SMOOVE may share any User Information SMOOVE obtains from you with any law enforcement organization in connection with any investigation or prosecution of possible criminal or unlawful activity. SMOOVE will also disclose User Information as required by any court order and/or subpoena. In addition, SMOOVE hereby reserves the right in its sole discretion to, at any time and without notice, modify, suspend, terminate, and/or interrupt operation of or access to the Service, or any portion thereof, in order to protect the Service, SMOOVE’s intellectual property, SMOOVE, or the business interests of SMOOVE and/or its members and affiliates.

28. INJUNCTIVE RELIEF. You acknowledge that any breach, threatened or actual, of this Agreement, including, without limitation, violations or infringement of SMOOVE’s intellectual property or proprietary rights, may cause irreparable injury to SMOOVE, whereby such injury would not be quantifiable in monetary damages, and SMOOVE would not have an adequate remedy at law. In the event of such injury or potential for such injury you therefore hereby agree that SMOOVE shall be entitled, in addition to other available remedies, to seek and be awarded an injunction or other appropriate equitable relief from a court of competent jurisdiction restraining any breach, threatened or actual, of your obligations under any provision of this Agreement.

29. GOVERNING LAW. This Agreement has been made in and will be construed and enforced in accordance with the laws of the State of California as applied to agreements entered into and completely performed in the State of California. You agree to the personal jurisdiction by and venue in any federal or state court in the State of California and waive any objection to such jurisdiction or venue and further to a jury trial in any action. You also acknowledge and agree that any applicable state law implementation of the Uniform Computer Information Transactions Act (including any available remedies or laws) shall not apply to this Agreement and is hereby disclaimed. Any claim you might have against SMOOVE must be brought within one (1) year after the cause of action arises, or such claim or cause of action is barred. In any legal proceeding brought by SMOOVE, SMOOVE shall have the right to seek and be awarded all reasonable attorneys’ fees and costs in addition to any other relief, at law or in equity, to which SMOOVE may be entitled. A printed version of this Agreement and of any related notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this Agreement to the same extent as other documents and records originally generated and maintained in printed form. Please print a copy of this Agreement or contact SMOOVE if you wish to receive a printed copy of this Agreement.

30. DISPUTE RESOLUTION AND ARBITRATION AGREEMENT.

(a) Agreement to Binding Arbitration Between You and SMOOVE.

YOU AND SMOOVE MUTUALLY AGREE TO WAIVE OUR RESPECTIVE RIGHTS TO RESOLUTION OF DISPUTES IN A COURT OF LAW BY A JUDGE OR JURY AND AGREE TO RESOLVE ANY DISPUTE BY ARBITRATION, as set forth below. This agreement to arbitrate (“Arbitration Agreement”) is governed by the Federal Arbitration Act and survives after the Agreement terminates or your relationship with SMOOVE ends. ANY ARBITRATION UNDER THIS AGREEMENT WILL TAKE PLACE ON AN INDIVIDUAL BASIS; CLASS ARBITRATIONS AND CLASS ACTIONS ARE NOT PERMITTED. Except as expressly provided below, this Arbitration Agreement applies to all Claims (defined below) between you and SMOOVE, including our affiliates, subsidiaries, parents, successors and assigns, and each of our respective officers, directors, employees, agents, or shareholders.

Except as expressly provided below, ALL DISPUTES AND CLAIMS BETWEEN US (EACH A “CLAIM” AND COLLECTIVELY, “CLAIMS”) SHALL BE EXCLUSIVELY RESOLVED BY BINDING ARBITRATION SOLELY BETWEEN YOU AND SMOOVE. These Claims include, but are not limited to, any dispute, claim or controversy, whether based on past, present, or future events, arising out of or relating to: this Agreement and prior versions thereof (including the breach, termination, enforcement, interpretation or validity thereof), the SMOOVE Platform, the Services, any other goods or services made available through the SMOOVE Platform, your relationship with SMOOVE, the threatened

or actual suspension, deactivation or termination of your User Account or this Agreement, payments made by you or any payments made or allegedly owed to you, any promotions or offers made by SMOOVE, any city, county, state or federal wage-hour law, trade secrets, unfair competition, compensation, breaks and rest periods, expense reimbursement, wrongful termination, discrimination, harassment, retaliation, fraud, defamation, emotional distress, breach of any express or implied contract or covenant, claims arising under federal or state consumer protection laws; claims arising under antitrust laws, claims arising under the Telephone Consumer Protection Act and Fair Credit Reporting Act; and claims arising under the Uniform Trade Secrets Act, Civil Rights Act of 1964, Americans With Disabilities Act, Age Discrimination in Employment Act, Older Workers Benefit Protection Act, Family Medical Leave Act, Fair Labor Standards Act, Employee Retirement Income Security Act (except for individual claims for employee benefits under any benefit plan sponsored by SMOOVE and covered by the Employee Retirement Income Security Act of 1974 or funded by insurance), and state statutes, if any, addressing the same or similar subject matters, and all other federal and state statutory and common law claims. All disputes concerning the arbitrability of a Claim (including disputes about the scope, applicability, enforceability, revocability or validity of the Arbitration Agreement) shall be decided by the arbitrator, except as expressly provided below.

BY AGREEING TO ARBITRATION, YOU UNDERSTAND THAT YOU AND SMOOVE ARE WAIVING THE RIGHT TO SUE IN COURT OR HAVE A JURY TRIAL FOR ALL CLAIMS, EXCEPT AS EXPRESSLY OTHERWISE PROVIDED IN THIS ARBITRATION AGREEMENT. This Arbitration Agreement is intended to require arbitration of every claim or dispute that can lawfully be arbitrated, except for those claims and disputes which by the terms of this Arbitration Agreement are expressly excluded from the requirement to arbitrate.

(b) Prohibition of Class Actions and Non-Individualized Relief.

YOU UNDERSTAND AND AGREE THAT YOU AND SMOOVE MAY EACH BRING CLAIMS IN ARBITRATION AGAINST THE OTHER ONLY IN AN INDIVIDUAL CAPACITY AND NOT ON A CLASS, COLLECTIVE ACTION, OR REPRESENTATIVE BASIS (“CLASS ACTION WAIVER”). YOU UNDERSTAND AND AGREE THAT YOU AND SMOOVE BOTH ARE WAIVING THE RIGHT TO PURSUE OR HAVE A DISPUTE RESOLVED AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS, COLLECTIVE OR REPRESENTATIVE PROCEEDING. NOTWITHSTANDING THE FOREGOING, THIS SUBSECTION (B) SHALL NOT APPLY TO REPRESENTATIVE PRIVATE ATTORNEYS GENERAL ACT CLAIMS BROUGHT AGAINST SMOOVE, WHICH ARE ADDRESSED SEPARATELY IN SECTION 17(C).

The arbitrator shall have no authority to consider or resolve any Claim or issue any relief on any basis other than an individual basis. The arbitrator shall have no authority to consider or resolve any Claim or issue any relief on a class, collective, or representative basis.

Notwithstanding any other provision of this Agreement, the Arbitration Agreement or the AAA Rules, disputes regarding the scope, applicability, enforceability, revocability or validity of the Class Action Waiver may be resolved only by a civil court of competent jurisdiction and not by an arbitrator. In any case in which: (1) the dispute is filed as a class, collective, or representative action and (2) there is a final judicial determination that the Class Action Waiver is unenforceable as to any Claims, the class, collective, and/or representative action on such Claims must be litigated in a civil court of competent jurisdiction, but the Class Action Waiver shall be enforced in arbitration on an individual basis as to all other Claims to the fullest extent possible.

(c) Representative PAGA Waiver.

Notwithstanding any other provision of this Agreement or the Arbitration Agreement, to the fullest extent permitted by law: (1) you and SMOOVE agree not to bring a representative action on behalf of others under the Private Attorneys General Act of 2004 (“PAGA”), California Labor Code § 2698 et seq., in any court or in arbitration, and (2) for any claim brought on a private attorney general basis, including under the California PAGA, both you and SMOOVE agree that any such dispute shall be resolved in arbitration on an individual basis only (i.e., to resolve whether you have personally been aggrieved or subject to any

violations of law), and that such an action may not be used to resolve the claims or rights of other individuals in a single or collective proceeding (i.e., to resolve whether other individuals have been aggrieved or subject to any violations of law) (collectively, “representative PAGA Waiver”). Notwithstanding any other provision of this Agreement, the Arbitration Agreement or the AAA Rules, disputes regarding the scope, applicability, enforceability, revocability or validity of this representative PAGA Waiver may be resolved only by a civil court of competent jurisdiction and not by an arbitrator. If any provision of this representative PAGA Waiver is found to be unenforceable or unlawful for any reason: (i) the unenforceable provision shall be severed from this Agreement; (ii) severance of the unenforceable provision shall have no impact whatsoever on the Arbitration Agreement or the requirement that any remaining Claims be arbitrated on an individual basis pursuant to the Arbitration Agreement; and (iii) any such representative PAGA or other representative private attorneys general act claims must be litigated in a civil court of competent jurisdiction and not in arbitration. To the extent that there are any Claims to be litigated in a civil court of competent jurisdiction because a civil court of competent jurisdiction determines that the representative PAGA Waiver is unenforceable with respect to those Claims, the Parties agree that litigation of those Claims shall be stayed pending the outcome of any individual Claims in arbitration.

(d) Rules Governing the Arbitration.

Any arbitration conducted pursuant to this Arbitration Agreement shall be administered by the American Arbitration Association (“AAA”) pursuant to its Consumer Arbitration Rules that are in effect at the time the arbitration is initiated, as modified by the terms set forth in this Agreement. Copies of these rules can be obtained at the AAA’s website (www.adr.org) (the “AAA Rules”) or by calling the AAA at 1-800-778-7879. Notwithstanding the foregoing, if requested by you and if proper based on the facts and circumstances of the Claims presented, the arbitrator shall have the discretion to select a different set of AAA Rules, but in no event shall the arbitrator consolidate more than one person’s Claims, or otherwise preside over any form of representative, collective, or class proceeding.

As part of the arbitration, both you and SMOOVE will have the opportunity for reasonable discovery of non-privileged information that is relevant to the Claim. The arbitrator may award any individualized remedies that would be available in court. The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party’s individual claims. The arbitrator will provide a reasoned written statement of the arbitrator’s decision which shall explain the award given and the findings and conclusions on which the decision is based.

The arbitrator will decide the substance of all claims in accordance with applicable law, and will honor all claims of privilege recognized by law. The arbitrator shall not be bound by rulings in prior arbitrations involving different Users or Guides, but is bound by rulings in prior arbitrations involving the same User or Guide to the extent required by applicable law. The arbitrator’s award shall be final and binding and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof, provided that any award may be challenged in a court of competent jurisdiction.

(e) Arbitration Fees and Awards.

The payment of filing and arbitration fees will be governed by the relevant AAA Rules subject to the following modifications:

If you initiate arbitration under this Arbitration Agreement after participating in the optional Negotiation process described in subsection (j) below and are otherwise required to pay a filing fee under the relevant AAA Rules, SMOOVE agrees that, unless your claim is for \$5,000 or more, your share of the filing and arbitration fees is limited to \$50, and that, after you submit proof of payment of the filing fee to SMOOVE, SMOOVE will promptly reimburse you for all but \$50 of the filing fee. If, however, the arbitrator finds that either the substance of your claim or the relief sought in the claim is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all such fees will be governed by the AAA Rules.

If SMOOVE initiates arbitration under this Arbitration Agreement, SMOOVE will pay all AAA filing and arbitration fees.

With respect to any Claims brought by SMOOVE against a Guide, or for Claims brought by a Guide against SMOOVE that: (A) are based on an alleged employment relationship between SMOOVE and a Guide; (B) arise out of, or relate to, SMOOVE's actual deactivation of a Guide's User account or a threat by SMOOVE to deactivate a Guide's User account; (C) arise out of, or relate to, SMOOVE's actual termination of a Guide's Agreement with SMOOVE under the termination provisions of this Agreement, or a threat by SMOOVE to terminate a Guide's Agreement; or (D) arise out of, or relate to, Fares (as defined in this Agreement, including SMOOVE's commission on the Fares), tips, or average hourly guarantees owed by SMOOVE to Guides for Services, other than disputes relating to referral bonuses, other SMOOVE promotions, or consumer-type disputes (the subset of Claims in subsections (A)-(D) shall be collectively referred to as "Guide Claims"), SMOOVE shall pay all costs unique to arbitration (as compared to the costs of adjudicating the same claims before a court), including the regular and customary arbitration fees and expenses (to the extent not paid by SMOOVE pursuant to the fee provisions above). However, if you are the party initiating the Guide Claim, you shall be responsible for contributing up to an amount equal to the filing fee that would be paid to initiate the claim in the court of general jurisdiction in the state in which you provide Services to Users, unless a lower fee amount would be owed by you pursuant to the AAA Rules, applicable law, or subsection (e)(1) above. Any dispute as to whether a cost is unique to arbitration shall be resolved by the arbitrator.

Except as provided in Federal Rule of Civil Procedure 68 or any state equivalents, each party shall pay its own attorneys' fees and pay any costs that are not unique to the arbitration (i.e., costs that each party would incur if the claim(s) were litigated in a court such as costs to subpoena witnesses and/or documents, take depositions and purchase deposition transcripts, copy documents, etc.).

At the end of any arbitration, the arbitrator may award reasonable fees and costs or any portion thereof to you if you prevail, to the extent authorized by applicable law. Although under some laws SMOOVE may have a right to an award of attorneys' fees and non-filing fee expenses if it prevails in an arbitration, SMOOVE agrees that it will not seek such an award. If the arbitrator issues you an award that is greater than the value of SMOOVE's last written settlement offer made after you participated in good faith in the optional Negotiation process described in subsection (j) below, then SMOOVE will pay you the amount of the award or U.S. \$1,000, whichever is greater.

31. **TERM AND TERMINATION.** This Agreement will take (re-take) effect at the time you click "[I ACCEPT](#)," download the Service or begin using the Service, whichever is earliest. You may uninstall or delete the Service at any time by utilizing the available uninstall or delete functionality offered by the applicable operating software or mobile device. However, by uninstalling or deleting the Service, you will no longer be able to access the Service's functionality or related services and will not be entitled to any refund of any amount paid for a subscription. This Agreement will terminate automatically if (i) you fail to comply with any of its terms and conditions; or (ii) cease all use of the Service. Termination will be effective without notice. In addition, SMOOVE may in its sole discretion terminate this Agreement or suspend service upon notice to you for any or no reason. Upon termination of this Agreement, any and all right(s) to use the Service shall immediately cease and you must promptly delete or destroy all copies of the Service in your possession or control. Sections 3, 4, 6, 7, 10, and 12-27 will survive the termination of this Agreement.
32. **WAIVER & SEVERABILITY.** SMOOVE's failure to insist upon strict performance of any of the terms and conditions of this Agreement by you will not operate as a waiver of any subsequent default or failure of performance. If any part of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable pursuant to applicable law or court order including, but not limited to, the warranty disclaimers and the liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision(s) that most clearly matches the intent of the original provision and the remainder of this Agreement shall continue in effect.
33. **OTHER TERMS AND CONDITIONS.** Additional notices, terms, and conditions may apply to subscription, fee, or related payment terms.
34. **MISCELLANEOUS.** You hereby agree that (a) this Agreement operates in addition to any terms of use

imposed or required by Apple Inc., Google, Inc., Microsoft, Inc. or any other digital download platform from which you download the Service (“App Provider Terms”); and (b) the terms of this Agreement supplement and do not alter or amend any such App Provider Terms. No joint venture, partnership, employment, or agency relationship exists between you and SMOOVE as a result of this Agreement or your utilization of the Service. Headings are for convenience only. This Agreement [and SMOOVE’s Privacy Policy represents the entire agreement between you and SMOOVE with respect to use of the Service, and hereby supersede all prior and/or contemporaneous communications and proposals, whether electronic, oral, or written between you and SMOOVE. You may not assign, delegate, or transfer any rights under this Agreement without the prior express written consent of SMOOVE, which may be withheld in SMOOVE’s sole discretion.