

Terms of Service

1) **INTRODUCTION.** These terms of use, as amended from time to time, are a legal agreement between Chalk Esports, Inc., its affiliates and any of their respective successors or assigns (collectively, “Chalk,” “we” or “us”) and you regarding your use of Chalk’s websites or mobile applications created or controlled by Chalk (collectively, the “Services”). The Services are offered to you by Chalk and its development and technology partners, suppliers, service providers, licensors and licensees (collectively, “Third Party Providers”) who may assist in the development, hosting, operation, distribution, marketing, publication or exploitation of the Services. Your access to and the use of the Services is subject to your acceptance of the terms, conditions, policies and notices contained herein (the “Agreement” or “Terms of Service”). Your access to and use of the Services constitutes your acceptance, without modification, of this Agreement and also our “Privacy Policy” [\[https://chalkapp.co/privacy-policy\]](https://chalkapp.co/privacy-policy). In addition, we require your express acceptance to this Agreement and the Privacy Policy, the terms of which are incorporated herein by reference, when you register to access and use the Services. If you do not agree to be bound by this Agreement or the Privacy Policy, then you are not permitted to register for access or use of the Services and are not to use or access the Services.

2) **GRANT OF LIMITED LICENSE TO USE THE SERVICES.**

Subject to the terms and conditions of this Agreement, you are hereby granted a limited non-exclusive, non-transferable, revocable license during the term of this Agreement to access and use the Services. ALL RIGHTS NOT EXPRESSLY GRANTED IN THIS AGREEMENT ARE RESERVED BY Chalk. Chalk reserves the right to interrupt all or any aspect of Services from time to time on a regularly scheduled basis or otherwise with or without prior notice, for any reason (or no reason), including, without limitation, in order to perform maintenance. You understand and agree that delays and disruptions of other network transmissions are completely beyond our control. You acknowledge that the Services may also be interrupted for reasons beyond the control of Chalk and Chalk cannot guarantee that you will be able to access the Services or your User Account (as defined below) whenever you may wish to do so. Chalk has the right at any time for any reason or no reason to change and/or eliminate any aspect of the Services as Chalk shall determine at its sole discretion. Solely for purposes of clarity and without limiting or waiving any term or condition set forth elsewhere in this Agreement, we are entitled, with immediate effect, to block your access to the Services where you use the Services in a manner that violates applicable law or in a manner that Chalk determines is a breach of this Agreement. Your right to access and use the Services is provided at our sole discretion, and your account may be suspended or terminated at any time and for any reason. Only individuals 18 years of age or older may apply for registration, and organizations or companies are not eligible to register for Services without the express written permission of Chalk, which it may withhold in its sole discretion.

3) **ELIGIBILITY AND LOCATION.** You are only eligible to register for certain Services if you meet certain requirements as set forth at the time of registration, including, but not limited to being of the age of majority as well as having a valid credit card or other payment account. If you do not meet such requirements, then you may not register for Services.

You are subject to all laws of the city, state, province and country in which you reside and from which you access the Services. You are solely responsible for complying with those laws. Access to the Services may not be legal for some or all residents in certain jurisdictions. You agree that Chalk cannot be held liable if laws applicable to you restrict or prohibit your use of or participation with the Services. Chalk makes no representations or warranties, express or implied, as to the lawfulness of your accessing the Services or participating in any tournament. No person affiliated, or claiming affiliation, with Chalk has authority to make any such representations or warranties.

Chalk reserves the right (but has no obligation to you) to monitor the location from which you access the Services and to block access from any jurisdiction in which participation or access may be illegal or restricted. Chalk may block access to players using proxy servers or any other method which is intentionally used in order to conceal a player's true location. Chalk may further block players if you are in a jurisdiction where access to the Services are restricted or if Chalk is unable to accurately verify your location. We may require any participant receiving any prize to provide us with proof that you are, or at the time the subject tournament was played, eligible to participate according to these Terms of Service. If we monitor your access or participation with the Services, we shall not be liable for the effectiveness of such monitoring.

The rules governing sweepstakes, contests, and tournaments with entry fees and/or prizes are set up by each individual state, not by the federal government. Based on these 50 sets of laws; **CHALK DOES NOT** offer games requiring a cash entry fee to users accessing the Services from the following states: *Arkansas, Connecticut, Delaware, Louisiana, Maryland, Montana, South Carolina, South Dakota and Tennessee.*

If you open a User Account and/or participate in any tournament offered via the Services while located in a prohibited jurisdiction, you may be in violation of the law of such jurisdiction and will be in violation of these Terms of Service and subject to having your account suspended or terminated. In addition, and without limiting any rights or remedies available to Chalk, in the event of any violation of the Terms of Service, all winnings and/or credits (if any) may be voided, and in the event such winnings have already been withdrawn by you, recouped by Chalk, at our sole and absolute discretion.

Chalk further reserves the right to deny access to anyone, including, but not limited to, those players who use proxy servers and/or IP addresses residing in certain geographical areas

4) USER ACCOUNT. Certain content and Services that Chalk may offer or that you may wish to access may require that you first register with us and create an account ("User Account"), specifically, you will need a User Account to register for tournaments. This Agreement applies equally to your access to and use of the Services without establishing a User Account as well as your access to and/or use of the Services for which a User Account is required.

a) Establishing a User Account. To establish a User Account, you may be required to provide Chalk with certain personal information, including without limitation, your first and last name, date of birth, e-mail address, mailing address and zip code as well as payment processing account information. You agree that you will supply accurate information to Chalk when requested, and that you will update that information promptly if it changes. Chalk reserves all rights to pursue

legal action against all persons who misrepresent personal information or who are otherwise untruthful about their identity, and to suspend or cancel User Accounts registered with inaccurate or incomplete information. Multiple accounts may not be created sharing the same name, email, credit card or payment processing account(s).

By registering for a User Account, you agree that Chalk may display your username and tournament records. By accepting any prize from Chalk, you agree to allow Chalk to print, publish, broadcast and use, worldwide, in any media and at any time, your name, picture, voice, likeness, and/or biographical information for promotional, marketing or related purposes without additional compensation.

b) **Login Information.** During the registration process, you may be required to select a username and a password (collectively, "Login Information"). It is important that you remember your Login Information and that you keep your Login Information in a safe and secure offline location. You may not share or transfer your User Account or the Login Information to anyone other than as expressly set forth in this Agreement. You are responsible for protecting the confidentiality of the Login Information, and you will be responsible for all use of your User Account accessed with your Login Information, whether or not authorized by you. Any unauthorized access, use, distribution or transfer of your User Account or Login Information may result in suspension, termination, or cancellation of your User Account and your access to and use of the Services. You are responsible for any and all purchases made using your User Account.

c) **Security of Your User Account and Login Information.** In the event that you become aware of or suspect unauthorized use of your User Account or Login Information or any other breach of security, you agree to immediately notify Chalk of such use pursuant to the Notice provision below, and ensure that you secure your User Account, Login Information and computer from unauthorized access and use. Once we are notified of any unauthorized use or breach of security, we will attempt to reset your Login Information, which may require you to provide us with a new username or password. In accordance with our Privacy Policy, we have implemented technical, administrative and physical security measures to help safeguard and prevent unauthorized access, use or disclosure of your personal information. Although we use reasonable efforts to safeguard the security of your personal information, transmissions made on or through the Internet and personal information stored on our servers or the servers of Third Party Providers that we may use are vulnerable to attack and cannot be guaranteed to be secure. In addition, submissions made via email are not protected by encryption and are vulnerable to interception during transmission. To the extent allowed by law, Chalk hereby disclaims any liability for security breaches, access to or disclosure of your personal information or the unavailability of the Service or any delay or failure to perform resulting from any causes whatsoever.

d) **No Ownership of Your User Account.** YOU AGREE THAT YOU HAVE NO OWNERSHIP OR OTHER PROPERTY INTEREST IN YOUR USER ACCOUNT, AND THAT ALL RIGHTS IN AND TO THE USER ACCOUNTS ARE AND SHALL FOREVER BE OWNED BY AND INURE TO THE BENEFIT OF CHALK.

e) **Account Withdrawal.** Users may request a withdrawal of funds from their available account balance at any time. Withdrawals will only be processed via the PayPal account you have on file

and that is connected to your User Account. Please ensure that the correct PayPal account is registered under your User Account. Chalk will not be responsible for any payment errors. Processing of requested funds back to a PayPal account may take up to seven (7) business days. Chalk reserves the right to freeze a user's account and/or delay a request for withdrawal of funds pending completion of any investigation of reported or suspected abuse by a user requesting withdrawal of funds. User's failing to comply with an investigation of or Users found to have engaged in abuse, may have their winnings voided. If your User Account is closed for a violation of the Terms of Service, your winnings and credits may be voided and not returned to you. In such an event, we may use voided cash winnings to defray the costs of administration and enforcement of the Terms of Service.

f) **Customer Record Language.** In order to use the payment functionality of our application, you must open a "Dwolla Platform" account provided by Dwolla, Inc. and you must accept the [Dwolla Terms of Service](#) and [Privacy Policy](#). Any funds held in the Dwolla account are held by Dwolla's financial institution partners as set out in the [Dwolla Terms of Service](#). You authorize us to collect and share with Dwolla your personal information including full name, email address and financial information, and you are responsible for the accuracy and completeness of that data. You understand that you will access and manage your Dwolla account through our application, and Dwolla account notifications will be sent by us, not Dwolla. We will provide customer support for your Dwolla account activity, and can be reached at support@chalkapp.co.

g) **Taxes.** It is the policy of Chalk, and in compliance with United States Internal Revenue Service regulations, to send an IRS Form 1099-MISC or other appropriate form to any person who wins in excess of \$600 (USD) via the Service in any given year. Depending on the jurisdiction in which you reside, Chalk may also send you a W-9 and/or additional tax forms. We reserve the right to withhold (from your existing account balance and/or from future net winnings) any amount required to be withheld by law. But, you remain solely responsible for complying with all federal and other tax requirements in completing such forms and for paying all federal and other taxes in accordance with the laws that apply in your local, state, province, and/or country of residence.

h) **Account Cancellation.** You may cancel your User Account following the directions in the application. Your User Account is not considered cancelled until you have received confirmation of such cancellation from Chalk. You may not cancel your User Account to evade an investigation. In some cases, cancellation of your User Account may be retracted by you, however, in other cases, cancellations may be permanent and not subject to retraction

5) **CODE OF CONDUCT.** Your use of the Services is governed by certain rules (the "Code of Conduct") maintained and enforced by or on behalf of Chalk and to which you (and all users) must adhere. It is your responsibility to know, understand and abide by the Code of Conduct. The following rules are not meant to be exhaustive. In addition to the conduct specified below, Chalk reserves the right, in its sole discretion, to take disciplinary or other measures as it sees fit in response to conduct that it deems unacceptable, including, without limitation, to delete or alter any username or the suspension, termination, or cancellation of your User Account and your access to and use of the Services, or terminate any license granted in this Agreement, for any reason whatsoever. Chalk reserves the right to modify the Code of Conduct at any time.

a) **Unacceptable Online Conduct.** Any attempt by you to disrupt, or encourage or promote the disruption of the Services may be a violation of criminal and civil laws. You agree that you will

not violate any applicable law, rule or regulation in connection with your use of the Services, nor will you interrupt or attempt to interrupt the operation of the Services in any way, including without limitation, the following:

- i) use any unauthorized third-party that intercepts, or otherwise collects, information from or through the Services;
- ii) modify or cause to be modified any files that are a part of the Services in any way;

- iii) facilitate, create or maintain any unauthorized connection to the Services;
- iv) disrupt or assist in the disruption of any computer used to support the Services or another individual's access to or use of the Services;
- v) opening multiple User Accounts;
- vi) collusion with other Users;
- vii) make available through the Services any material or information that infringes any copyright, trademark, patent, trade secret, or other right of any party (including, without limitation, rights of privacy or publicity);
- viii) access the Services to participate in a tournament that violates any law where you reside or that you are subject to;
- ix) create, distribute or use any third party software, including, without limitation, "mods," cheats, addons or hacks, designed to change or manipulate tournaments;
- x) misrepresent yourself in any way;
- xi) make any false, misleading, or inaccurate statements;
- xii) harass other Users;
- xiii) any breach of these Terms of Service;
- xiv) any other act (whether through the use of automated technology or otherwise) that unfairly alters your chance of winning or constitutes the commission of fraud.

b) Username Rules. Chalk may change your username, block your registration, remove your username from all aspects of the Service, and/or suspend or terminate your access to the Service if Chalk determines, at its sole discretion, that your username is contrary to the terms of this Agreement, including, without limitation, the requirements set forth in this Section 5. You may not use any name:

- i) that belongs to another person with the intent to impersonate that person or that may mislead others to believe you to be the other person or an employee of Chalk;
- ii) that uses vulgar or insulting language or which is otherwise offensive, defamatory, obscene, hateful, or racially, ethnically, or religiously charged, or other language Chalk considers objectionable;
- iii) that belongs to a popular culture figure, character, celebrity, media personality or any other name protected by a third-party's trademark(s), service mark, publicity rights or other proprietary rights;

iv) that is, contains, or is substantially similar to, a trademark or service mark, whether registered or not; or

v) that is related to drugs, sex, alcohol, or criminal activity.

c) **Violations.** Engaging in any of the above or any similar behavior, may subject you to immediate consequences (as determined by Chalk in its sole and absolute discretion), including without limitation: (1) immediate termination of your User Account or the blocking of access to the Services; (2) forfeiture of any prizes, winnings, credits and any other item of value (if any) that you may otherwise have been entitled to receive; (3) disgorgement and/or recoupment of any prizes, winnings, credits and other items of value already received by you; and (4) in the case suspected illegal activity, disclosure to the FBI or other relevant agencies in accordance with federal and state laws. In the investigation of an alleged violation, Chalk may request additional information from you. You agree to provide all reasonable and relevant information as requested.

6) TOURNAMENTS and PROMOTIONS.

a) **Joining a Tournament.** Joining a tournament may require you to pay a tournament entry fee (“Entry Fee”). The payment of the Entry Fee will be processed by one of our Third Party Providers. If you desire to cancel your registration for a tournament that requires an Entry Fee, you may cancel your entry up to ten minutes before the scheduled start time of the tournament without us charging you the Entry Fee; otherwise, your cancellation will be subject to our Refund Policy as stated herein. When signing up for a tournament, you agree to pay all fees, payments and applicable taxes incurred for the specific tournament. You acknowledge and agree that all information you provide with regards to a tournament sign up, including, without limitation, credit card or other payment information, is accurate, current and complete. You represent and warrant that you have the legal right to use the payment method you provide to our Third Party Provider, including, without limitation, any credit card you provide when completing a transaction. When you sign up for a tournament through the Services, you (a) agree to pay entry fee and (b) authorize Chalk/its Third Party Providers to charge your credit card or other payment method for the Entry Fee. Unless otherwise noted, all currency references are in U.S. dollars. All fees and charges are payable in accordance with payment terms in effect at the time the fee or the charge becomes payable. You may be able to pay the Entry Fee with credits from your User Account, if and as available.

b) **Refund Policy.** All sales on or through the Services are final. Except as provided herein, there are no refunds or returns for the payment of an Entry Fee.

c) **Tournament Rules.** In addition to the terms of these Terms of Service, every tournament made available through the Services may be governed by specific rules that are separate from these Terms of Service. Each tournament is different because it is subject to the parameters, including, without limitation, interactions and rankings among event attendees, communications and the awarding of prizes. Such tournament rules will generally be displayed on each tournament sign up page and you may be required to separately accept such tournament rules, together with these Terms of Service, prior to entering into a tournament. By entering into such tournament and paying the Entry Fee, you will become subject to those rules, which may vary from the terms and

conditions set forth herein. To the extent such rules conflict with these Terms of Service, these terms of Service shall control with respect to the particular tournament.

d) **Tournament Odds.** The results of all tournaments offered depend on the number and skill levels of players participating. Precise odds of winning are therefore unavailable.

e) **Tournament Winners.** A preliminary list of winners will be posted in the application immediately following each tournament. In the case of tournaments with substantial prizes, as determined by Chalk, posting of legally required winners lists may be delayed for up to five (5) business days while verification of the results takes place. Final winners will be posted following verification of winners. The results and winners of each tournament will be determined by Chalk, and such determinations are final. By registering and/or participating in any tournament, you agree to be bound by these determinations.

f) **Tournament Payouts.** If you win any tournament and/or place in any tournament and are eligible for any payout in accordance with the tournament's rules, payment will be made by our Third Party Partners to the account you have identified.

g) **Non-Cash Prizes.** Certain tournaments will payout in merchandise or other non-cash prizes. User may request from Chalk an offer of cash payment in lieu of any prize won, although Chalk is under no obligation to grant such request. If Chalk elects, in its sole discretion, to offer a cash payment in lieu of any prize won, Chalk reserves the right to determine the exact amount of the cash offer, even if such cash offer may be less than the value of the prize. The User may then elect to accept Chalk's cash offer, accept the original prize, or decline both and take nothing. Chalk also reserves the right to credit the account of a merchandise prize winner with cash (the amount of which is in Chalk's sole discretion) in the event the prize remains unclaimed for a certain period of time which shall in no event be less than thirty (30) days. If a prize has become suddenly unavailable, if the player is outside the continental U.S. or if there are other difficulties in shipping, Chalk has the right, in its sole discretion, to substitute the cash equivalent (determined by Chalk's estimated cost to obtain the merchandise prize, and not the manufacturer's suggested retail price or any other price) for any merchandise prize. Users are responsible for applicable income taxes for merchandise prizes. Either the MSRP, or Chalk's acquisition price, at Chalk's discretion, will be used as the cash value of the merchandise prize. The value of the prize will be posted to your account as winnings and will be deducted from your account as a withdrawal (corresponding to timing of the shipping of the merchandise). Thus, there will be no change in the dollar value of your account, but your year-to-date winnings will increase. All goods are shipped F.O.B. Origin, and Chalk takes no responsibility for any damage incurred during shipping. Costs of shipping are borne by the User and will be deducted directly from the User's Account. In certain specifically disclosed merchandise tournaments, Chalk may choose to bear the cost of shipping within the continental U.S., although Chalk is under no obligation to do so. In the case of merchandise covered by a manufacturer's warranty, the manufacturer and not Chalk is responsible for initial defects, subsequent use or misuse or covered repairs. In the case of merchandise not covered by a manufacturer's warranty, the merchandise is offered "**AS IS**", and Chalk is not responsible for any

defects, use or misuse or repairs. Chalk makes no representations or warranties with respect to the authenticity or genuineness of any merchandise prizes.

h) **Promotions.** In addition to the terms of these Terms of Service, any sweepstakes or similar promotions (collectively, “Promotions”) made available through the Services may be governed by specific rules that are separate from these Terms of Service. For the avoidance of doubt, Promotions are not tournaments. By participating in any such Promotion, you will become subject to those rules, which may vary from the terms and conditions set forth herein. We urge you to review any specific rules applicable to a particular Promotion, which will be linked from such Promotion, and to review our Privacy Policy which, in addition to these Terms of Use, governs any information you submit in connection with such activities. To the extent such rules conflict with these Terms of Service, such rules shall control with respect to the particular Promotion

7) **OWNERSHIP.** Nothing contained in this Agreement shall be construed as conferring any license or right, by implication, estoppel or otherwise without the express written permission of Chalk. You acknowledge that all rights, ownership, intellectual property and title in and to the Services, including without limitation any User Accounts, Login Information, titles, trademarks, trade names, service marks, moral rights, computer code, themes, objects, catch phrases, locations, concepts, artwork, animations, sounds, music, video, photographs, opinions, images, text, audio-visual effects, or methods of operation and any documentation related to any of the aforementioned items (collectively, “Materials”) are owned and controlled by Chalk or its Third Party Providers. You may not use, copy, reproduce, create derivative works from, perform, publicly display, adapt, upload, modify, edit, publish, post, transmit, participate in the transfer or sale, license, distribute or exploit, in any way whatsoever, the Materials contained in the Services without the express written permission of Chalk or its Third Party Providers. Any modification of the Materials or any portion thereof, or unauthorized use of the Materials for any other purpose, constitutes an infringement of Chalk’s, or its Third Party Providers’, copyrights and other proprietary rights and, for clarity, nevertheless are created for Chalk or its Third Party Providers’ sole and exclusive benefit, and are owned and controlled by Chalk or its Third Party Providers.

8) DIGITAL MILLENNIUM COPYRIGHT ACT.

a) We respect the intellectual property rights of others and request that users of the Services respect the intellectual property rights of others as well. Pursuant to 17 U.S.C. 512(i) of the United States Copyright Act, we will remove any content that allegedly infringes another party’s copyright and reserve the right to suspend, terminate, or cancel a User Account or a user’s access to and use of the Services if a user is found to be a repeat infringer. If you believe your work has been copied and is accessible through the Services in a way that constitutes copyright infringement, you may notify our designated copyright agent (specified below) in writing with the following and in the form required by 17 U.S.C. 512 of the United States Copyright Act:

- i) provide your physical or electronic signature;
- ii) identify the copyrighted work that you believe is being infringed;

iii) identify the item in the Services that you think is infringing your work and include sufficient information about where the material is located on the website;

iv) provide us a way to contact you, such as your address, phone number or email address;

v) provide a statement that you believe in good faith that the item you have identified as infringing is not authorized by the copyright owner, or its agent, or the law; and

vi) provide a statement by you, made under penalty of perjury, that the information you provide in your notice is accurate, and that you are authorized to act on behalf of the copyright owner whose work is being infringed.

b) Interim Designation of Agent to Receive Notifications of Claimed Infringement, pursuant to 17 U.S.C. 512(c) of the United States Copyright Act:

**Chalk Esports, Inc.,
Attn: DMCA Agent
4321 Balboa Ave, Unit 170 San Diego, CA 92117**

legal@chalkapp.co

9) **THIRD PARTY WEBSITES.** When accessing and using the Services, you may be directed to third party or external websites that are not affiliated with Chalk (“Third Party Websites”). Chalk and its Third Party Providers are not responsible for the availability of Third Party Websites, and do not endorse, and are not responsible or liable for any content, advertising, products, or other materials contained on Third Party Websites. Chalk has no control over Third Party Websites and therefore your access to any Third Party Websites is at your own risk. Chalk and its Third Party Providers shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with the use of, inability to use, or reliance on any content, advertising, products, or other materials contained on Third Party Websites. We recommend that you carefully review any terms and conditions, privacy policies and any other legal documents that may be contained on any Third Party Websites.

10) **SUBMISSIONS.** If you send us creative suggestions, ideas, notes, drawings, concepts, or other information (collectively the “Submissions”) such Submissions shall be deemed and shall remain the property of Chalk in perpetuity. By making any Submission, the sender automatically grants, or warrants that the owner of such material expressly grants, Chalk the royalty-free, perpetual, irrevocable, non-exclusive right and license to use, reproduce, modify, adapt, publish, translate, and distribute such material (in whole or in part) throughout the universe and/or to incorporate it in other works in any form, media or technology now known or hereafter developed for any purpose that Chalk chooses, whether internal, public, commercial, or otherwise, without any compensation, credit or notice to the sender whatsoever. The sender waives all so-called “moral rights” in all Submissions. The sender further waives the right to make any claims against Chalk relating to unsolicited Submissions, including, but not limited to, unfair competition, breach of implied contract and/or breach of confidentiality.

11) **CHANGES TO THE AGREEMENT.** Chalk reserves the right, at its sole discretion, to change, modify, add to, supplement or delete any of the terms and conditions of this Agreement at any time, for any reason, including but not limited to, the availability of any feature of the Services, hours of availability, content, data, software or equipment needed to access the Services. Chalk will post a notice of such changes on its website pursuant to the Notice provision below. If any changes to this Agreement are unacceptable to you or cause you to no longer be in compliance with this Agreement, you must immediately stop accessing or using the Services. Your continued use of the Services following any notice of revisions to this Agreement constitutes your complete and irrevocable acceptance of any and all such changes.

12) **NOTICE.** In accordance with provisions in this Agreement requiring Chalk to give notice to you, Chalk will do so by means of a general notice on its website, electronic mail to your email address on record in your User Account (if you have created a User Account), or by written communication sent by first class mail, postage prepaid, or overnight courier to your address on record (if you have created a User Account), the choice of which being at Chalk's discretion. Any provisions in this Agreement requiring you to give notice to Chalk can be done so by means of email to: support@chalkapp.co or by first class mail, postage prepaid, or overnight courier to:

Chalk Esports Inc

Attn: Customer Notice Processing

4231 Balboa Ave

STE 170

San Diego, CA 92117

13) **TERMINATION.** Either Chalk or you may terminate this Agreement and your User Account at any time. You may terminate this Agreement and your User Account by contacting Chalk and deleting your User Account as set forth in the Privacy Policy and then subsequently no longer accessing or using the Services. Chalk may terminate this Agreement by asking you to stop using the Services, and, if necessary by preventing your access to the Services and your User Account. Chalk shall have the right to suspend, terminate, cancel, modify, or delete this Agreement at any time for any reason or for no reason, with or without notice to you. IF YOU VIOLATE ANY OF THE TERMS OR CONDITIONS OF THIS AGREEMENT, CHALK RESERVES THE RIGHT TO IMMEDIATELY SUSPEND, TERMINATE, OR CANCEL, IN ITS DISCRETION AND WITHOUT NOTICE TO YOU, YOUR USER ACCOUNT OR ACCESS TO THE SERVICES. UPON TERMINATION OF THIS AGREEMENT OR YOUR USER ACCOUNT, YOU WILL HAVE NO FURTHER RIGHTS TO ACCESS OR USE THE SERVICES.

14) **WARRANTY DISCLAIMER.** THE SERVICES ARE PROVIDED "AS IS". NEITHER CHALK, ITS THIRD PARTY PROVIDERS, NOR ANY PERSON OR ENTITY INVOLVED IN CREATING, PRODUCING OR DISTRIBUTING ANY MATERIALS IN THE SERVICES, NOR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, SHAREHOLDERS, INVESTORS, PROFESSIONAL REPRESENTATIVES, LICENSORS, LICENSEES OR AGENTS, MAKE ANY WARRANTY WHATSOEVER, INCLUDING WITHOUT LIMITATION, THAT THE SERVICES OR THEIR COMMUNICATION FEATURES WILL BE UNINTERRUPTED, SECURE OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE SERVICES ARE FREE OF VIRUSES OR OTHER

HARMFUL COMPONENTS. CHALK EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE, AND NON-INFRINGEMENT. CHALK DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE, VALIDITY, ACCURACY, SECURITY OR RELIABILITY OF, OR THE RESULTS OF THE USE OF, OR OTHERWISE RESPECTING, THE MATERIALS IN THE SERVICES OR ANY CONTENT, MATERIALS OR SERVICES ON ANY THIRD PARTY WEBSITES. THIS SECTION 13 SHALL SURVIVE ANY EXPIRATION, TERMINATION OR CANCELLATION OF THE SERVICES AND/OR THIS AGREEMENT OR ANY DETERMINATION THAT THIS AGREEMENT OR ANY PORTION OF THIS AGREEMENT IS VOID OR VOIDABLE.

15) LIMITATION OF LIABILITY. NEITHER CHALK, ITS THIRD PARTY PROVIDERS, NOR ANY PERSON OR ENTITY INVOLVED IN CREATING, PRODUCING OR DISTRIBUTING THE MATERIALS OR THE SERVICES, NOR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, SHAREHOLDERS, INVESTORS, PROFESSIONAL REPRESENTATIVES, LICENSORS, LICENSEES OR AGENTS, SHALL BE LIABLE IN ANY WAY FOR DAMAGE OR LOSS OF ANY KIND, WHETHER FOR BREACH OF CONTRACT, TORTIOUS BEHAVIOR, NEGLIGENCE OR ANY OTHER CAUSE OF ACTION (EVEN IF CHALK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE) RESULTING FROM (A) THE USE OF OR INABILITY TO USE THE SERVICES; (B) THE BREACH OF ANY REPRESENTATION OR WARRANTY; (C) THE DOWNLOADING OF ANY SOFTWARE OWNED OR OPERATED BY CHALK OR ANY THIRD PARTY PROVIDER; (D) PERSONAL INJURY OR PROPERTY DAMAGE OF ANY NATURE WHATSOEVER RESULTING FROM YOUR ACCESS TO AND USE OF THE SERVICES OR ANY CHALK APPLICATION; OR (E) INTERRUPTIONS OF SERVICE INCLUDING WITHOUT LIMITATION INTERNET SERVICE DISRUPTIONS, SOFTWARE OR HARDWARE FAILURES OR ANY OTHER EVENT WHICH MAY RESULT IN A LOSS OF DATA OR DISRUPTION OF SERVICE.

IN NO EVENT SHALL CHALK, ITS THIRD PARTY PROVIDERS, OR ANY PERSON OR ENTITY INVOLVED IN CREATING, PRODUCING OR DISTRIBUTING THE MATERIALS, THE SERVICES, OR ANY CHALK APPLICATIONS, OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, SHAREHOLDERS, INVESTORS, PROFESSIONAL REPRESENTATIVES, LICENSORS, LICENSEES OR AGENTS, BE LIABLE TO YOU OR ANYONE ELSE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR ANY OTHER DAMAGES RESULTING FROM THE USE OF OR INABILITY TO USE THE SERVICES. CHALK DOES NOT WARRANT THAT YOU WILL BE FREE FROM THE BEHAVIOR OF OTHERS YOU MAY DEEM INSULTING, DEMEANING, OFFENSIVE, THREATENING, OBSCENE, LIBELOUS, DEROGATORY OR HARASSING WHILE ACCESSING OR USING THE SERVICES. IN THE EVENT CHALK CHOOSES NOT TO TAKE ANY ACTION, TAKES AN ACTION WITH WHICH YOU DO NOT AGREE OR IS UNABLE TO TAKE ANY ACTION FOR ANY REASON WHATSOEVER, IN NO EVENT SHALL CHALK ITS THIRD PARTY PROVIDERS, OR ANY PERSON OR ENTITY INVOLVED IN CREATING, PRODUCING OR DISTRIBUTING ANY MATERIALS IN THE SERVICES, OR ANY OF THEIR RESPECTIVE DIRECTORS,

OFFICERS, EMPLOYEES, SHAREHOLDERS, INVESTORS, PROFESSIONAL REPRESENTATIVES, LICENSORS, LICENSEES OR AGENTS, BE LIABLE TO YOU OR TO ANY THIRD PARTY FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR EMOTIONAL DISTRESS, OR OTHER DAMAGES, ARISING OUT OF OR IN CONNECTION WITH YOUR USER ACCOUNT OR YOUR ACCESS TO AND USE OF THE SERVICES.

SOME JURISDICTIONS MAY NOT ALLOW THE LIMITATION OR EXCLUSION OF CERTAIN WARRANTIES OR DISCLAIMERS IN WHICH CASE SOME OF THE WARRANTIES OR DISCLAIMERS PROVIDED IN THIS AGREEMENT MAY NOT BE APPLICABLE. TO THE EXTENT THAT THE LIMITATION OF LIABILITY SET FORTH IN THIS SECTION IS PROHIBITED OR FAILS OF ITS ESSENTIAL PURPOSE, CHALK'S TOTAL LIABILITY ARISING FROM THIS AGREEMENT AND SOLE OBLIGATION WITH RESPECT TO DAMAGES SHALL NOT EXCEED ONE HUNDRED UNITED STATES DOLLARS (US\$100.00). THIS SECTION 15 SHALL SURVIVE ANY EXPIRATION, TERMINATION OR CANCELLATION OF THE SERVICES AND/OR THIS AGREEMENT OR ANY DETERMINATION THAT THIS AGREEMENT OR ANY PORTION OF THIS AGREEMENT IS VOID OR VOIDABLE.

16) **FORCE MAJEURE.** Chalk shall not be liable for any delay or failure to perform resulting from causes outside the reasonable control of Chalk, including without limitation, any failure to perform hereunder due to unforeseen circumstances, such as acts of God, war, terrorism, riots, embargoes, acts of civil or military authorities, fire, floods, earthquakes, tornados, hurricanes, pandemics, accidents, strikes, internet interruption, denial of service attack, hacking or shortages of transportation facilities, fuel, energy, labor or materials.

17) **CONSENT TO MONITOR.** In accordance with the terms and conditions of this Agreement and our Privacy Policy, and for purposes of monitoring and improving our quality of service, identifying Unauthorized Third Party Programs (as defined herein) and enforcing the terms and conditions of this Agreement, you hereby acknowledge and agree that:

a) When you access and use the Services, we may obtain certain information about your computer and its operating system, including but not limited to your IP address(es), browser and browser version, screen resolution, and operating system(s), for purposes of improving the Services, and to enforce the provisions of this Agreement.

b) We may, with or without notice to you, disclose your Internet Protocol (IP) address, personal information, and other information about you and your activities (i) in response to a request by law enforcement, a court order or other legal process or (ii) if we believe that doing so may protect your safety or the safety of others.

c) Our websites use Google Analytics, a web analytics service provided by Google, Inc. ("Google"). Google Analytics uses "cookies", which are text files placed on your computer, to help us analyze how visitors use the Services. The information generated by the cookie about your use of our Services will be transmitted to and stored on Google servers and may be accessed by us. Google uses this information to help us evaluate how our websites are used. Google may also transfer this information to third parties where required to do so by law, or where such third parties

process the information on Google's behalf. By using this website, you consent to the processing of data about you by Google in the manner and for the purposes set out above. Third party sites and services you access through our Services may also employ cookies.

18) NON-U.S. RESIDENTS. The Services are controlled and operated by Chalk from its offices within Los Angeles, California USA. Chalk makes no representation that the Materials or Services are appropriate or available for use in other locations. Those who choose to access the Services from other locations do so at their own initiative and are responsible for compliance with local laws, if and to the extent local laws are applicable, and payment of any applicable internet fees or fees charged by an internet service provider. Software from the Services is further subject to United States export controls. No software from the Services may be downloaded or otherwise exported or re-exported (i) into (or to a national or resident of) Cuba, North Korea, Iran, Syria, Sudan, or any other country to which the U.S. has embargoed goods or that has been designated by the U.S. Government as a "terrorist supporting" country; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders. By using the Services, you represent and warrant that you are not located in, under the control of, or a national or resident of any such country or on any such list.

19) INDEMNITY. You agree to indemnify, defend and hold Chalk, its Third Party Providers, or any person or entity involved in creating, producing, or distributing any Materials or the Services, or any of their respective directors, officers, employees or agents, harmless from and against any and all damages, costs, losses and expenses, including reasonable attorney fees and court costs relating to or arising directly or indirectly from any suit, claim, demand or settlement based upon your failure to comply with this Agreement or your violation of any third party right or your violation of any law, rule or regulation of the United States or any other country.

20) INJUNCTIVE RELIEF. You agree that a breach of this Agreement will cause irreparable injury to Chalk and/or its Third Party Providers for which monetary damages would not be an adequate remedy. Accordingly, Chalk shall be entitled to seek and obtain equitable relief, including, without limitation, injunctive relief, in addition to any other remedy to which it may be entitled under this Agreement or applicable law, without the need to post bond or other form of security, or provide proof of damages.

21) DISPUTE RESOLUTION AND GOVERNING LAW

a) **Informal Resolution.** To expedite resolution and control the cost of any dispute, controversy or claim related to this Agreement or the "Privacy Policy" [\[https://chalkapp.co/privacy-policy\]](https://chalkapp.co/privacy-policy) ("Dispute"), you and Chalk agree to first attempt to negotiate any Dispute (except those Disputes expressly provided below) informally for at least thirty (30) days prior to initiating any arbitration or court proceeding. Such informal negotiations commence upon written notice from one person or entity to the other in accordance with the Notice section above.

b) **Binding Arbitration.** Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in [Los Angeles, California USA], before one arbitrator. The arbitration shall be

administered by JAMS pursuant to JAMS' Streamlined Arbitration Rules and Procedures. Judgment may be entered in any court having jurisdiction. Notwithstanding the foregoing, Chalk may seek (and obtain) injunctive or other equitable relief in any court of competent jurisdiction. Without limiting or waiving any right or remedy to which Chalk or its assigns may be entitled under this Agreement or applicable law, in the event of any actual or threatened breach of this Agreement by you or on your behalf, Chalk would be irreparably damaged if this Agreement were not specially enforced and, as such, you agree that Chalk shall be entitled, without the need to post bond or other security or provide proof of damages, to obtain injunctive relief or other equitable relief in any court of competent jurisdiction. You may not, in any circumstance, seek to enjoin or limit the availability of any of Chalk's products or services. To the full extent permitted by law: (a) no arbitration shall be joined with any other; (b) there is no right or authority for any claim related to this Agreement or any of Chalk's products or services to be arbitrated on a class action basis or to utilize class action procedures; and (c) there is no right or authority for any claim to be brought in a purported representative capacity on behalf of the general public or any other persons. **YOU AND CHALK AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.** Further, unless both you and Chalk agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding.

THE PARTIES HEREBY WAIVE THEIR RIGHT TO JURY TRIAL WITH RESPECT TO ALL CLAIMS AND ISSUES ARISING UNDER, IN CONNECTION WITH, TOUCHING UPON OR RELATING TO THIS AGREEMENT, THE BREACH THEREOF AND/OR THE SCOPE OF THE PROVISIONS OF THIS SECTION, WHETHER SOUNDING IN CONTRACT OR TORT, AND INCLUDING ANY CLAIM FOR FRAUDULENT INDUCEMENT THEREOF. YOU UNDERSTAND THAT, ABSENT THIS PROVISION, YOU WOULD HAVE THE RIGHT TO SUE IN COURT AND HAVE A JURY TRIAL.

c) **Restrictions.** You and Chalk agree that any arbitration shall be limited to the Dispute between Chalk and you individually. To the full extent permitted by law, (i) no arbitration shall be joined with any other; (ii) there is no right or authority for any Dispute to be arbitrated on a class-action basis or to utilize class action procedures; and (iii) there is no right or authority for any Dispute to be brought in a purported representative capacity on behalf of the general public or any other persons.

d) **Exceptions to Informal Resolution and Binding Arbitration.** You agree that Chalk may chose, at its option and sole discretion, to exclude the following Disputes from (and, as such, the following Disputes will not be subject to) the above provisions concerning informal resolutions and binding arbitration: (i) any Dispute related to or arising from allegations of theft, piracy, invasion of privacy or the unauthorized use of Chalk's or its Third Party Providers' intellectual property and/or intellectual property rights; and/or (ii) any claim by Chalk for injunctive or other equitable relief.

e) **Location and Jurisdiction.** Any arbitration will be initiated in and take place in the [Los Angeles, California USA]. Any Dispute not subject to arbitration (other than claims proceeding in any small claims court), or where no election to arbitrate has been made, including without limitation the Disputes contained in Section 21(d), shall be decided by a court of competent jurisdiction wherever located, including, without limitation, in the [Los Angeles, California US], and you and Chalk agree to submit to the personal jurisdiction of such courts.

f) **Governing Law.** Except as expressly provided otherwise, this Agreement shall be governed by, and will be construed and enforced under, the laws, rules and regulations of the United States of America and the laws, rules and regulations of the State of California, excluding conflict of law rules and principles.

g) **Severability.** You and Chalk agree that if any portion of this Section 21 (Dispute Resolution and Governing Law) is found illegal or unenforceable (with the exception of 20(d)), that portion shall be severed and the remainder of this section shall be given full force and effect. If Section 21(d) is found to be illegal or unenforceable then neither you nor Chalk will elect to arbitrate any Dispute falling within that portion of Section 21(d) found to be illegal or unenforceable and such Dispute shall be decided by a court of competent jurisdiction within [Los Angeles, California USA], and you and Chalk agree to submit to the personal jurisdiction of that court.

22) **MISCELLANEOUS.** Notwithstanding Section 21(g), if any other provision of this Agreement shall be held invalid or unenforceable, in whole or in part, such provision shall be deemed severable from this Agreement, and the validity and enforceability of all other provisions of this Agreement shall not be affected thereby. This Agreement constitutes the entire agreement between the parties hereto relating to the subject matter hereof and supersedes all prior oral and written and all contemporaneous oral negotiations, commitments and understandings of the parties. Sections 6, 7, 9, 11, 12, 13, 14, 17, 18, 19, 20 and 21 shall survive the expiration, termination or cancellation of the Services and/or this Agreement or any determination that this Agreement or any portion of this Agreement is void or voidable. You may not assign or transfer this Agreement or your rights hereunder, and any attempt to the contrary is void. This Agreement may only be modified as set forth herein. The section headings used herein are for reference only and shall not be read to have any legal effect.

Last Updated: [02/18/2021](#)