

# Masava

## Platform Terms and Conditions

Last Modified: February 12, 2019

### 1. Acceptance of the Terms and Conditions

These Terms and Conditions are entered into as an agreement by and between you (either as an individual or on behalf of the legal entity you represent) and Masava, LLC (“Masava”). The Terms and Conditions, together with any documents they expressly incorporate by reference (collectively, the “Terms and Conditions”), govern your access to and use of [www.masava.com](http://www.masava.com), including any content, functionality and services offered on or through [www.masava.com](http://www.masava.com) and any other website operated by Masava, whether as a guest or a registered user, and any Masava mobile or desktop apps (collectively, the “Masava Platform”).

Please read the Terms and Conditions carefully before you start to use the Masava Platform. **By using the Masava Platform, including purchasing or selling any product on the Masava Platform, or by clicking to accept or agree to the Terms and Conditions when this option is made available to you, you accept and agree to be bound and abide by these Terms and Conditions and the Masava Privacy Policy, found at <https://masava.com/privacy/> and incorporated herein by reference.** If you do agree to these Terms and Conditions or the Privacy Policy, you must not access or use the Masava Platform.

This Masava Platform is offered and available to users who are 21 years of age or older and reside in the United States or any of its territories or possessions.

**BY USING THE MASAVA PLATFORM, INCLUDING PLACING AN ORDER OR ENTERING INTO A TRANSACTION FOR PRODUCTS OR SERVICES FROM THE MASAVA PLATFORM, YOU AFFIRM THAT YOU ARE OF LEGAL AGE TO ENTER INTO THIS AGREEMENT, AND YOU ACCEPT AND ARE BOUND BY THESE TERMS AND CONDITIONS. YOU AFFIRM THAT IF YOU USE THE MASAVA PLATFORM OR PLACE AN ORDER ON BEHALF OF AN ORGANIZATION OR COMPANY, YOU HAVE THE LEGAL AUTHORITY TO BIND ANY SUCH ORGANIZATION OR COMPANY TO THIS AGREEMENT.**

### 2. Compliance with Law

**By using the Masava Platform to purchase and/or sell alcoholic beverages, you represent and warrant that you are acting on behalf of an entity or company that has a current valid liquor license and is in compliance and has all other licenses required by applicable law to purchase and/or sell alcoholic beverages on a commercial basis, and any transaction that is entered into is authorized by the entity or company and is in full compliance with all applicable law.**

### 3. Changes to the Terms and Conditions

Masava may revise and update these Terms and Conditions from time to time in its sole discretion. All changes are effective immediately when Masava posts them and apply to all access to and use of the Masava Platform thereafter. However, any changes to the dispute resolution provisions set forth in the Governing Law and Jurisdiction section will not apply to any disputes for which the parties have actual notice on or prior to the date the change is posted on the Masava Platform.

Your continued use of the Masava Platform following the posting of revised Terms and Conditions means that you accept and agree to the changes. You are expected to check this page frequently, so you are aware of any changes, as they are binding on you.

#### **4. Accessing the Masava Platform and Account Security**

Masava reserves the right to withdraw or amend the Masava Platform, and any service or material provided on the Masava Platform, in Masava's sole discretion without notice. Masava will not be liable if for any reason all or any part of the Masava Platform is unavailable at any time or for any period. From time to time, Masava may restrict access to some parts of the Masava Platform, or the entire Masava Platform, to users, including registered users.

You are responsible for:

- Making all arrangements necessary for you to have access to the Masava Platform.
- Ensuring that all persons who access the Masava Platform through your internet connection are aware of these Terms and Conditions and comply with them.

To access the Masava Platform or some of the resources, services or products it offers, you may be asked to provide certain registration details or other information. It is a condition of your use of the Masava Platform that all the information you provide on the Masava Platform is correct, current and complete. You agree that all information you provide to register with this Masava Platform, post on the Masava Platform, or otherwise, including but not limited to through the use of any interactive features on the Masava Platform, is governed by the Masava Privacy Policy, and you consent to all actions Masava takes with respect to your information consistent with the Privacy Policy.

If you choose, or are provided with, a user name, password or any other piece of information as part of Masava security procedures, you must treat such information as confidential, and you must not disclose it to any other person or entity. You also acknowledge that your account is personal to you and agree not to provide any other person with access to this Masava Platform or portions of it using your user name, password or other security information. You will be responsible for all activities that occur under that password. You agree to notify Masava immediately of any unauthorized access to or use of your user name or password or any other breach of security. You also agree to ensure that you exit from your account at the end of each session. You should use particular caution when accessing your account from a public or shared computer so that others are not able to view or record your password or other personal information.

You also represent and warrant that: (i) you will not select or utilize a user name of another person with intent to impersonate that person; (ii) you will not select or utilize a user name in which another person has rights, if you do not have that person's authorization to use such name; and (iii) you will not select or utilize a user name that Masava in its sole discretion deems offensive.

Masava has the right to disable any user name, password or other identifier, whether chosen by you or provided by Masava, at any time in its sole discretion for any or no reason, including if, in Masava's opinion, you have violated any provision of these Terms and Conditions.

#### **5. Masava Not a Party to Any Transaction**

The Masava Platform provides a marketplace and otherwise facilitates payments for transactions between distributors of alcoholic beverages and other products who advertise on the Masava Platform (each, a "Distributor") to sell alcoholic beverages and other products and services to commercial end-users ("Customers") via the Masava Platform. As such, Customers are not buying from Masava, but from one of the Distributors. Masava does not prescreen and does not guarantee or endorse any Distributor or items sold on the Masava Platform or any content posted by Distributors (such as photographs or language used in listings), and is not responsible for examining or evaluating, and does not warrant the offerings of products or services of any of the Distributors.

#### **6. Order Acceptance and Cancellation**

You agree that any order you place via the Masava Platform is just an offer to buy, under these Terms and Conditions and any terms of the applicable Distributor, all products listed in your order. All orders must be accepted by the Distributor and Distributors may reject any order and are otherwise not obligated to sell the products to you. Any acceptance of any order may be subject to variations in availability, pricing or stock. Masava makes no representations or guarantees regarding the pricing, availability, or delivery of product from the Distributors. All disputes between a Distributor and Customer are solely between the Distributor and Customer.

## **7. Prices and Payment Terms**

(a) All prices posted on the Masava Platform are subject to change by the Distributor without notice. Posted prices do not include taxes or charges for shipping and handling. All such taxes and any other charges will be added to the merchandise total and will be itemized in the shopping cart and in the order confirmation e-mail. Masava strives to display accurate price information however, at times, there may be inadvertent typographical errors, inaccuracies or omissions related to pricing and availability. Masava and Distributors reserve the right to correct any errors, inaccuracies, or omissions at any time and to cancel any orders arising from such occurrences.

(b) Terms of payment are within Masava's sole discretion and, unless otherwise agreed by us in writing, payment must be received by Masava before acceptance of an order. Masava accepts [APPROVED CREDIT CARDS AND OTHER PAYMENT METHODS] for all purchases. Customer represents and warrant that (i) the credit card information it supplies is true, correct and complete, (ii) the person using the card authorized to use such credit card for the purchase, (iii) charges incurred by Customer will be honored by the credit card company, and (iv) Customer will pay charges incurred at the posted prices, including shipping and handling charges and all applicable taxes, if any, regardless of the amount quoted on the Masava Platform at the time of the order.

(c) If agreed to between the Customer and the Distributor, Customer may authorize and approve that its credit card will be automatically charged for future ongoing orders and deliveries from a Distributor. By choosing a recurring automatic payment plan, Customer acknowledges that it will be responsible for all recurring or automatic charges prior to cancellation by Customer.

## **8. Returns and Refunds**

Due to the nature of the products sold by Distributors, except as otherwise agreed to in writing, all orders are non-returnable, non-cancellable and non-refundable.

## **9. Intellectual Property Rights**

The Masava Platform and its entire contents, features and functionality (including but not limited to all information, software, text, displays, images, video and audio, and the design, selection and arrangement thereof), are owned by Masava, its licensors or other providers of such material and are protected by United States and international copyright, trademark, patent, trade secret and other intellectual property or proprietary rights laws.

These Terms and Conditions permit you to use the Masava Platform for legitimate business purposes relating to your role on behalf of a potential or actual Distributor or Customer or for your personal non-commercial use. You must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store or transmit any of the material on the Masava Platform, except as follows:

- Your computer may temporarily store copies of such materials in RAM incidental to your accessing and viewing those materials.
- You may store files that are automatically cached by your Web browser for display enhancement purposes.

- You may print or download one copy of a reasonable number of pages of the Masava Platform for your own personal, non-commercial use, or for legitimate business purposes relating to your role as a potential or current Distributor or Customer, and not for further reproduction, publication or distribution.

You must not:

- Modify copies of any materials from the Masava Platform.
- Use any illustrations, photographs, video or audio sequences or any graphics separately from the accompanying text.
- Delete or alter any copyright, trademark or other proprietary rights notices from copies of materials from the Masava Platform.

Except as otherwise agreed to between you and Masava, you must not reproduce, duplicate, copy, sell, trade, resell, exploit, access or use for any commercial purposes any part of the Masava Platform or any services or materials available through the Masava Platform.

If you wish to make any use of material on the Masava Platform other than that set out in this section, please address your request to: support@masava.com.

If you print, copy, modify, download or otherwise use or provide any other person with access to any part of the Masava Platform in breach of the Terms and Conditions, your right to use the Masava Platform will cease immediately and you must, at Masava's option, return or destroy any copies of the materials you have made. No right, title or interest in or to the Masava Platform or any content on the Masava Platform is transferred to you, and all rights not expressly granted are reserved by Masava. Any use of the Masava Platform not expressly permitted by these Terms and Conditions is a breach of these Terms and Conditions and may violate copyright, trademark and other laws. MASAVA INTENDS TO FULLY PROSECUTE ALL VIOLATIONS OF APPLICABLE LAW AND PURSUE ALL AVAILABLE REMEDIES.

## **10. Trademarks**

The Masava name and logos, and all related names, logos, product and service names, designs and slogans are trademarks of Masava or its affiliates or licensors. You must not use such marks without the prior written permission of Masava. All other names, logos, product and service names, designs and slogans on this Masava Platform are the trademarks of their respective owners.

## **11. Prohibited Uses**

You may use the Masava Platform only for lawful purposes and in accordance with these Terms and Conditions. You agree not to use the Masava Platform:

- In any way that violates any applicable federal, state, local or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries).
- For the purpose of exploiting, harming or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information or otherwise.
- To send, knowingly receive, upload, download, use or re-use any material which does not comply with the Content Standards set out in these Terms and Conditions.
- To transmit, or procure the sending of, any advertising or promotional material, including any "junk mail", "chain letter" or "spam" or any other similar solicitation.

- To impersonate or attempt to impersonate Masava, a Masava employee, another user or any other person or entity (including, without limitation, by using e-mail addresses or screen names associated with any of the foregoing).
- To engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the Masava Platform, or which, as determined by Masava, may harm Masava or users of the Masava Platform or expose them to liability.

Additionally, you agree not to:

- Use the Masava Platform in any manner that could disable, overburden, damage, or impair the site or interfere with any other party's use of the Masava Platform, including their ability to engage in real time activities through the Masava Platform.
- Use any robot, spider or other automatic device, process or means to access the Masava Platform for any purpose, including monitoring or copying any of the material on the Masava Platform.
- Use any manual process to monitor or copy any of the material on the Masava Platform or for any other unauthorized purpose without Masava's prior written consent.
- Use any device, software or routine that interferes with the proper working of the Masava Platform.
- Introduce any viruses, trojan horses, worms, logic bombs or other material which is malicious or technologically harmful.
- Attempt to gain unauthorized access to, interfere with, damage or disrupt any parts of the Masava Platform, the server on which the Masava Platform is stored, or any server, computer or database connected to the Masava Platform.
- Attack the Masava Platform via a denial-of-service attack or a distributed denial-of-service attack.
- Copy, modify or create derivative works of any portion of the Masava Platform, except as expressly permitted by the Terms and Conditions;
- Modify, translate, adapt, or otherwise create updates, upgrades, bug fixes, patches, other error corrections, and/or new features or derivative works, whether or not patentable, of the Masava Platform.
- Reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of the Masava Platform or any part thereof.
- Remove, delete, alter, or obscure any trademarks or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from the Masava Platform, or any copy thereof.
- Rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Masava Platform, or any features or functionality of the Masava Platform, to any third party for any reason, including by making the Masava Platform available on a network where it is capable of being accessed by more than one device at any time.
- Remove, disable, circumvent, or otherwise create or implement any workaround to any copy protection, rights management, or security features in or protecting the Masava Platform.
- Access or use any portion of the Masava Platform for purposes of competitive analysis, the development, provision or use of a competing software, service or product or any other purpose that is to the Masava's detriment or commercial disadvantage.
- Otherwise access or use the Masava Platform beyond the scope of the authorization granted under the Terms and Conditions.
- Otherwise attempt to interfere with the proper working of the Masava Platform.

## **12. User Contributions**

The Masava Platform may contain message boards, chat rooms, personal web pages or profiles, forums, bulletin boards, blogs, community areas and other interactive features (collectively, “Interactive Services”) that allow users to post, submit, publish, display or transmit to other users or other persons (hereinafter, “post”) content or materials (collectively, “User Contributions”) on or through the Masava Platform.

All User Contributions must comply with the Content Standards set out in these Terms and Conditions.

Any User Contribution you post to the Masava Platform will be considered non-confidential and non-proprietary. By providing any User Contribution on the Masava Platform, you grant Masava and its affiliates and service providers, and each of their and Masava’s respective licensees, successors and assigns the right to use, reproduce, modify, perform, display, distribute and otherwise disclose to third parties any such material for any purpose.

You represent and warrant that:

- You own or control all rights in and to the User Contributions and have the right to grant the license granted above to Masava and Masava’s affiliates and service providers, and each of their and Masava’s respective licensees, successors and assigns.
- All of your User Contributions are truthful, accurate, appropriate and comply with applicable law.
- All of your User Contributions do and will comply with these Terms and Conditions.

You understand and acknowledge that you are responsible for any User Contributions you submit or contribute, and you, not Masava, has full responsibility for such content, including its legality, reliability, accuracy and appropriateness.

Masava is not responsible, or liable to any third party, for the content or accuracy of any User Contributions posted by you or any other user of the Masava Platform.

### **13. Monitoring and Enforcement; Termination**

Masava has the right to:

- Remove or refuse to post any User Contributions for any or no reason in its sole discretion. Masava may add, change, discontinue, remove, edit or suspend such User Contributions at any time for any reason without notice to you, without your permission, and without liability.
- Take any action with respect to any User Contribution that Masava deems necessary or appropriate in Masava’s sole discretion, including if Masava believes that such User Contribution violates the Terms and Conditions, including the Content Standards, infringes any intellectual property right or other right of any person or entity, threatens the personal safety of users of the Masava Platform or the public or could create liability for Masava.
- Disclose your identity or other information about you to any third party who claims that material posted by you violates their rights, including their intellectual property rights or their right to privacy.
- Take appropriate legal action, including without limitation, referral to law enforcement, for any illegal or unauthorized use of the Masava Platform.
- Terminate or suspend your access to all or part of the Masava Platform for any or no reason, including without limitation, any violation of these Terms and Conditions.

Without limiting the foregoing, Masava has the right to fully cooperate with any law enforcement authorities or court order requesting or directing Masava to disclose the identity or other information of anyone posting any materials on or through the Masava Platform. YOU WAIVE AND HOLD HARMLESS MASAVA AND ITS AFFILIATES, LICENSEES AND SERVICE PROVIDERS FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY ANY OF THE FOREGOING PARTIES DURING OR AS A RESULT OF ITS INVESTIGATIONS AND FROM ANY ACTIONS TAKEN AS A CONSEQUENCE OF INVESTIGATIONS BY EITHER SUCH PARTIES OR LAW ENFORCEMENT AUTHORITIES.

However, Masava cannot and does not undertake to review all material before it is posted on the Masava Platform and cannot ensure prompt removal of objectionable material after it has been posted. Accordingly, Masava assumes no liability for any action or inaction regarding transmissions, communications or content provided by any user or third party. Masava has no liability or responsibility to anyone for performance or nonperformance of the activities described in this section.

#### **14. Content Standards**

These content standards (the “Content Standards”) apply to any and all User Contributions and use of Interactive Services. User Contributions must in their entirety comply with all applicable federal, state, local and international laws and regulations. Without limiting the foregoing, User Contributions must not:

- Contain any material which is defamatory, obscene, indecent, abusive, offensive, harassing, violent, hateful, inflammatory or otherwise objectionable.
- Promote sexually explicit or pornographic material, violence, or discrimination based on race, sex, religion, nationality, disability, sexual orientation or age.
- Infringe any patent, trademark, trade secret, copyright or other intellectual property or other rights of any other person.
- Violate the legal rights (including the rights of publicity and privacy) of others or contain any material that could give rise to any civil or criminal liability under applicable laws or regulations or that otherwise may be in conflict with these Terms and Conditions and Masava’s Privacy Policy.
- Be likely to deceive any person.
- Promote any illegal activity, or advocate, promote or assist any unlawful act.
- Cause annoyance, inconvenience or needless anxiety or be likely to upset, embarrass, alarm or annoy any other person.
- Impersonate any person or misrepresent your identity or affiliation with any person or organization.
- Involve commercial activities or sales, such as contests, sweepstakes and other sales promotions, barter or advertising.
- Give the impression that they emanate from or are endorsed by Masava or any other person or entity, if this is not the case.

#### **15. Copyright Infringement**

If you believe that any User Contributions violate your copyright, please see Masava's Copyright Policy set forth below for instructions on sending Masava a notice of copyright infringement. It is the policy of Masava to terminate the user accounts of repeat infringers.

#### **16. Reliance on Information Posted**

The information presented on or through the Masava Platform is made available solely for general information purposes. Masava does not warrant the accuracy, completeness or usefulness of this information. Any reliance you place on such information is strictly at your own risk. Masava disclaims all liability and responsibility arising from any reliance placed on such materials by you or any other visitor to the Masava Platform, or by anyone who may be informed of any of its contents.

The Masava Platform includes content provided by third parties, including materials provided by Distributors, other users, bloggers and third-party licensors, syndicators, aggregators and/or reporting services. All statements and/or opinions expressed in these materials, and all articles and responses to questions and other content, other than the content provided by Masava, are solely the opinions and the responsibility of the person or entity providing those materials. These materials do not necessarily reflect the opinion of Masava. Masava is not responsible, or liable to you or any third party, for the content or accuracy of any materials provided by any third parties.

#### **17. Changes to the Masava Platform**

Masava may update the content on the Masava Platform from time to time, but its content is not necessarily complete or up-to-date. Any of the material on the Masava Platform may be out of date at any given time, and Masava is under no obligation to update such material.

#### **18. Information About You and Your Visits to the Masava Platform**

All information Masava collects on this Masava Platform is subject to Masava's Privacy Policy. By using the Masava Platform, you consent to all actions taken by Masava with respect to your information in compliance with the Privacy Policy.

#### **19. Linking to the Masava Platform and Social Media Features**

You may link to the Masava Platform homepage, provided you do so in a way that is fair and legal and does not damage Masava's reputation or take advantage of it, but you must not establish a link in such a way as to suggest any form of association, approval or endorsement on Masava's part without Masava's express written consent.

The Masava Platform may provide certain social media features that enable you to:

- Link from your own or certain third-party Masava Platforms to certain content on the Masava Platform.
- Send e-mails or other communications with certain content, or links to certain content, on the Masava Platform.
- Cause limited portions of content on the Masava Platform to be displayed or appear to be displayed on your own or certain third-party Masava Platforms.

You may use these features solely as they are provided by Masava, and solely with respect to the content they are displayed with and otherwise in accordance with any additional terms and conditions Masava provides with respect to such features. Subject to the foregoing, you must not:

- Establish a link from any Masava Platform that is not owned by you.
- Cause the Masava Platform or portions of it to be displayed, or appear to be displayed by, for example, framing, deep linking or in-line linking, on any other site.
- Link to any part of the Masava Platform other than the homepage.



- Otherwise take any action with respect to the materials on the Masava Platform that is inconsistent with any other provision of these Terms and Conditions.

The Masava Platform from which you are linking, or on which you make certain content accessible, must comply in all respects with the Content Standards set out in these Terms and Conditions.

You agree to cooperate with Masava in causing any unauthorized framing or linking immediately to cease. Masava reserves the right to withdraw linking permission without notice.

Masava may disable all or any social media features and any links at any time without notice in Masava's discretion.

## **20. Links from the Masava Platform**

If the Masava Platform contains links to other sites and resources provided by third parties, these links are provided for your convenience only. This includes links contained in advertisements, including banner advertisements and sponsored links. Masava has no control over the contents of those sites or resources and accepts no responsibility for them or for any loss or damage that may arise from your use of them. If you decide to access any of the third-party Masava Platforms linked to this Masava Platform, you do so entirely at your own risk and subject to the terms and conditions of use for such Masava Platforms.

## **21. Geographic Restrictions**

The owner of the Masava Platform, Masava, LLC, is based in the United States. Masava provides this Masava Platform for use only by persons located in the United States. Masava makes no claims that the Masava Platform or any of its content is accessible or appropriate outside of the United States. Access to the Masava Platform may not be legal by certain persons or in certain countries. If you are visiting the Masava Platform or using the services from a country other than the country in which our servers are located, your communications with us may result in the transfer of information (including your registration or personal information) across international boundaries. By visiting this Masava Platform, using the services, and/or communicating electronically with us, you consent to such transfers. If you access the Masava Platform from outside the United States, you do so on your own initiative and are responsible for compliance with local laws.

## **22. Disclaimer of Warranties and Other Disclaimers**

(a) Masava does not manufacture or control any of the products or services offered on the Masava Platform. The availability of products or services through the Masava Platform does not indicate an affiliation with or endorsement of any product, service, Distributor or manufacturer. Accordingly, Masava does not provide any warranties with respect to the products or services offered on the Masava Platform. All claims and issues relating to any products or services provided by Distributors shall solely be between the Customer and the Distributor. YOU AFFIRM THAT MASAVA SHALL NOT BE LIABLE IN ANY WAY RELATED TO ANY TRANSACTION BETWEEN A DISTRIBUTOR AND A CUSTOMER.

(b) YOUR USE OF THE MASAVA PLATFORM, ITS CONTENT AND ANY PRODUCTS, SERVICES OR OTHER ITEMS OBTAINED THROUGH THE MASAVA PLATFORM, IS AT YOUR OWN RISK. THE MASAVA PLATFORM, ITS CONTENT AND ANY PRODUCTS, SERVICES OR OTHER ITEMS OBTAINED THROUGH THE MASAVA PLATFORM, ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER MASAVA NOR ANY PERSON ASSOCIATED WITH MASAVA MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY OR AVAILABILITY OF THE MASAVA PLATFORM. WITHOUT LIMITING THE FOREGOING, NEITHER MASAVA NOR ANYONE ASSOCIATED WITH MASAVA REPRESENTS OR WARRANTS THAT THE MASAVA PLATFORM, ITS CONTENT OR ANY PRODUCTS, SERVICES, OR OTHER ITEMS OBTAINED

THROUGH THE MASAVA WILL BE ACCURATE, RELIABLE, ERROR-FREE OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT THE MASAVA PLATFORM OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR THAT THE MASAVA PLATFORM OR ANY SERVICES, PRODUCTS OR OTHER ITEMS OBTAINED THROUGH THE MASAVA PLATFORM OR FROM MASAVA WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.

(c) MASAVA HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR PARTICULAR PURPOSE RELATING TO THE MASAVA PLATFORM, ITS CONTENT AND ANY PRODUCTS, SERVICES OR OTHER ITEMS OBTAINED THROUGH THE MASAVA PLATFORM.

(d) YOU UNDERSTAND THAT MASAVA CANNOT AND DOES NOT GUARANTEE OR WARRANT THAT FILES AVAILABLE FOR DOWNLOADING FROM THE INTERNET OR THE MASAVA PLATFORM WILL BE FREE OF VIRUSES OR OTHER DESTRUCTIVE CODE. YOU ARE RESPONSIBLE FOR IMPLEMENTING SUFFICIENT PROCEDURES AND CHECKPOINTS TO SATISFY YOUR PARTICULAR REQUIREMENTS FOR ANTI-VIRUS PROTECTION AND ACCURACY OF DATA INPUT AND OUTPUT, AND FOR MAINTAINING A MEANS EXTERNAL TO THE MASAVA PLATFORM FOR ANY RECONSTRUCTION OF ANY LOST DATA.

(e) MASAVA WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF THE MASAVA PLATFORM OR ANY PRODUCTS, SERVICES OR OTHER ITEMS OBTAINED THROUGH THE MASAVA PLATFORM OR FROM MASAVA, OR TO YOUR DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY WEBSITE LINKED TO IT.

(f) YOU ACKNOWLEDGE AND AGREE THAT ANY TRANSMISSION TO AND FROM THE MASAVA PLATFORM IS NOT CONFIDENTIAL AND YOUR COMMUNICATIONS OR USER CONTENT MAY BE READ OR INTERCEPTED BY OTHERS. YOU FURTHER ACKNOWLEDGE AND AGREE THAT BY SUBMITTING COMMUNICATIONS OR USER CONTENT TO MASAVA AND BY POSTING INFORMATION ON THE MASAVA PLATFORM, NO CONFIDENTIAL, FIDUCIARY, CONTRACTUALLY IMPLIED OR OTHER RELATIONSHIP IS CREATED BETWEEN YOU AND MASAVA OTHER THAN PURSUANT TO THESE TERMS AND CONDITIONS.

(g) MASAVA HAS NO CONTROL OVER AND DOES NOT GUARANTEE ANY TRANSACTION, OR THE TRUTH OR ACCURACY AND QUALITY OF ANY CONTENT. PRODUCTS OR SERVICES PROVIDED ON OR THROUGH THE MASAVA PLATFORM. YOU SHOULD TAKE REASONABLE PRECAUTIONS WHEN ENTERING INTO ANY TRANSACTION.

(h) THE FOREGOING DOES NOT AFFECT ANY WARRANTIES WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

### **23. Limitation on Liability**

IN NO EVENT WILL MASAVA BE LIABLE FOR, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, THE MASAVA PLATFORM, ANY CONTENT ON THE MASAVA PLATFORM, OR ANY PRODUCTS, SERVICES OR OTHER ITEMS OBTAINED THROUGH THE MASAVA PLATFORM, OR BREACH OF ANY TERMS OF THESE TERMS AND CONDITIONS, ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF

GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT OR OTHERWISE, EVEN IF FORESEEABLE.

IF YOU ARE DISSATISFIED WITH THE MASAVA PLATFORM, YOU DO NOT AGREE WITH ANY PART OF THE TERMS AND CONDITIONS, OR HAVE ANY OTHER DISPUTE OR CLAIM WITH OR AGAINST MASAVA, ANY DISTRIBUTOR, CUSTOMER, OR THIRD PARTY PROVIDER OR ANY USER OF THE MASAVA PLATFORM, WITH RESPECT TO THESE TERMS AND CONDITIONS, OR THE MASAVA PLATFORM, THEN YOUR SOLE AND EXCLUSIVE REMEDY AGAINST MASAVA IS TO DISCONTINUE USING THE MASAVA PLATFORM. IN ALL EVENTS, MASAVA'S TOTAL LIABILITY TO YOU OR ANY THIRD PARTY IN ANY CIRCUMSTANCE ARISING OUT OF OR IN CONNECTION WITH THE MASAVA PLATFORM IS LIMITED TO THE AMOUNT OF FEES YOU PAY TO MASAVA IN THE TWELVE MONTHS PRIOR TO THE ACTION GIVING RISE TO LIABILITY. NOTWITHSTANDING THE ABOVE, MASAVA SHALL NO HAVE LIABILITY AT ALL, UNDER ANY LEGAL THEORY, RELATING TO ANY TRANSACTION THAT TAKES PLACE BETWEEN A DISTRIBUTOR AND CUSTOMER.

THE FOREGOING DOES NOT AFFECT ANY LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

**24. Indemnification**

You agree to defend, indemnify and hold harmless Masava, its affiliates, licensors and service providers, and its and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors and assigns from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses or fees (including reasonable attorneys' fees) arising out of or relating to violation of these Terms and Conditions or the use of the Masava Platform, including, but not limited to, User Contributions, any use of the Masava Platform's content, services and products other than as expressly authorized in these Terms and Conditions or your use of any information obtained from the Masava Platform.

**25. General Release**

BECAUSE MASAVA IS NOT INVOLVED IN TRANSACTIONS BETWEEN DISTRIBUTORS AND CUSTOMERS OR OTHER USER DEALINGS, IF A DISPUTE ARISES BETWEEN ANY USERS, EACH PARTY RELEASES MASAVA (AND ITS RESPECTIVE AGENTS, EMPLOYEES AND AFFILIATES) FROM CLAIMS, DEMANDS, AND DAMAGES (ACTUAL AND CONSEQUENTIAL) OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, SUSPECTED AND UNSUSPECTED, DISCLOSED AND UNDISCLOSED, ARISING OUT OF OR IN ANY WAY CONNECTED WITH SUCH DISPUTES. EACH USER FURTHER RELEASES MASAVA FOR AND FROM ANY AND ALL CLAIMS, DEMANDS, AND DAMAGES OF EVERY KIND AND NATURE, KNOWN OR UNKNOWN, ARISING FROM, RELATED TO, OR IN CONNECTION WITH, (A) USE OF THE MASAVA PLATFORM, (B) ACTIONS, INACTIONS, AND/OR OMISSIONS OF OTHER USERS, (D) THE PROMOTION, ADVERTISING, SALE AND PURCHASE OF PRODUCTS OR SERVICES ON THE MASAVA PLATFORM, AND (E) THE USE OF THE MASAVA PLATFORM TO OFFER FOR SALE OR TO FACILITATE THE PURCHASE AND SALE OF PRODUCTS OR SERVICES.

**26. Governing Law and Jurisdiction**

All matters relating to the Masava Platform and these Terms and Conditions and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the State of Colorado without giving

effect to any choice or conflict of law provision or rule (whether of the State of Colorado or any other jurisdiction).

Any legal suit, action or proceeding arising out of, or related to, these Terms and Conditions or the Masava Platform shall be instituted exclusively in the federal courts of the United States or the courts of the State of Colorado in each case located in the City and County of Denver, although Masava retains the right to bring any suit, action or proceeding against you for breach of these Terms and Conditions in your state or country of residence or any other relevant country. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

## **27. Arbitration**

(a) **Scope, Governing Rules.** Any controversy or claim arising out of or relating to the Terms and Conditions, or the breach thereof, shall be determined by final and binding arbitration administered by the American Arbitration Association (“AAA”) under its Commercial Arbitration Rules and Mediation Procedures (“Commercial Rules”).

(b) **Authority of Tribunal, Judicial Review.** The award rendered by the arbitrator shall be final and non-appealable and binding on the parties and may be entered and enforced in any court having jurisdiction.

(c) **Selection of Tribunal.** There shall be one arbitrator agreed to by the parties within twenty (20) days of receipt by respondent of the request for arbitration or in default thereof appointed by the AAA in accordance with its Commercial Rules.

(d) **Seat of Arbitration.** The seat or place of arbitration shall be Denver, Colorado.

## **28. Limitation on Time to File Claims**

ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS AND CONDITIONS, THE PRIVACY POLICY, OR RELATED IN ANY WAY TO THE MASAVA PLATFORM MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

## **29. Waiver and Severability**

No waiver by Masava of any term or condition set forth in the Terms and Conditions shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of Masava to assert a right or provision under the Terms and Conditions shall not constitute a waiver of such right or provision.

If any provision of the Terms and Conditions is held by a court or other tribunal of competent jurisdiction to be invalid, illegal or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of the Terms and Conditions will continue in full force and effect.

## **30. Distributor Services**

All use by Distributors of the Masava Platform for the listing and sale of alcoholic beverages and other products and services, and all transactions for the sale of products or services formed through the Masava Platform, are governed by Masava’s Distributor Listing Terms of Service, located at [URL] which are hereby incorporated into these Terms and Conditions or the separately executed Distributor License Agreement.

## **31. Entire Agreement**

The Terms and Conditions, Privacy Policy, and any other documents referenced in the Terms and Conditions, and any services agreement or license terms between the parties, including any Distributor

Terms of Service, constitute the sole and entire agreement between you and Masava with respect to the Masava Platform and supersede all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to the Masava Platform.

**32. Your Comments and Concerns**

This Masava Platform is operated by Masava, LLC.

All notices of copyright infringement claims should be sent to the copyright agent designated in Masava's Copyright Policy as set forth below in the manner and by the means set forth therein.

All other feedback, comments, requests for technical support and other communications relating to the Masava Platform should be directed to: [support@masava.com](mailto:support@masava.com).

## Copyright Policy

### REPORTING CLAIMS OF COPYRIGHT INFRINGEMENT

Masava takes claims of copyright infringement seriously. Masava will respond to notices of alleged copyright infringement that comply with applicable law. If you believe any materials accessible on or from this site (the “Masava Platform”) infringe your copyright, you may request removal of those materials (or access to them) from the Masava Platform by submitting written notification to Masava’s copyright agent designated below. In accordance with the Online Copyright Infringement Liability Limitation Act of the Digital Millennium Copyright Act (17 U.S.C. § 512) (“DMCA”), the written notice (the “DMCA Notice”) must include substantially the following:

- Your physical or electronic signature.
- Identification of the copyrighted work you believe to have been infringed or, if the claim involves multiple works on the Masava Platform, a representative list of such works.
- Identification of the material you believe to be infringing in a sufficiently precise manner to allow Masava to locate that material.
- Adequate information by which Masava can contact you (including your name, postal address, telephone number, and, if available, email address).
- A statement that you have a good faith belief that use of the copyrighted material is not authorized by the copyright owner, its agent, or the law.
- A statement that the information in the written notice is accurate.
- A statement, under penalty of perjury, that you are authorized to act on behalf of the copyright owner.

Masava’s designated copyright agent to receive DMCA Notices is:

NAME: DMCA Agent  
ADDRESS:   
EMAIL: support@masava.com  
PHONE:

If you fail to comply with all of the requirements of Section 512(c)(3) of the DMCA, your DMCA Notice may not be effective.

Please be aware that if you knowingly materially misrepresent that material or activity on the Masava Platform is infringing your copyright, you may be held liable for damages (including costs and attorneys’ fees) under Section 512(f) of the DMCA.

### COUNTER-NOTIFICATION PROCEDURES

If you believe that material you posted on the Masava Platform was removed or access to it was disabled by mistake or misidentification, you may file a counter-notification with Masava (a “Counter-Notice”) by submitting written notification to Masava’s copyright agent designated above. Pursuant to the DMCA, the Counter-Notice must include substantially the following:

- Your physical or electronic signature.
- An identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access disabled.
- Adequate information by which Masava can contact you (including your name, postal address, telephone number, and, if available, email address).

- A statement under penalty of perjury by you that you have a good faith belief that the material identified above was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled.
- A statement that you will consent to the jurisdiction of the Federal District Court for the judicial district in which your address is located (or if you reside outside the United States for any judicial district in which the Masava Platform may be found) and that you will accept service from the person (or an agent of that person) who provided the Masava Platform with the complaint at issue.

The DMCA allows Masava to restore the removed content if the party filing the original DMCA Notice does not file a court action against you within ten business days of receiving the copy of your Counter-Notice.

Please be aware that if you knowingly materially misrepresent that material or activity on the Masava Platform was removed or disabled by mistake or misidentification, you may be held liable for damages (including costs and attorneys' fees) under Section 512(f) of the DMCA.

### **REPEAT INFRINGERS**

It is Masava's policy in appropriate circumstances to disable and/or terminate the accounts of users who are repeat infringers.