

*Tap Tap Comics Pty Ltd. – MARVEL CREATE YOUR OWN
Terms of Use
9th October, 2018*

A: INTRODUCTORY TERMS

Effective Date: 9th October 2018

These terms and conditions (these “Terms of Use”) constitute a binding agreement between, on the one hand, each individual or entity that accesses, uses, and/or creates a user account with the MARVEL CREATE YOUR OWN interactive software application, the MARVEL CREATE YOUR OWN service, and/or any programs, web sites, applications, software, and/or platforms made available by, on, through, or in connection with the MARVEL CREATE YOUR OWN interactive software application and/or MARVEL CREATE YOUR OWN service (together, the “Service”), and, on the other hand, Tap Tap Comics Pty Ltd. (“Tap Tap”). The Service is owned and controlled by Tap Tap, under license from Marvel Characters, B.V. and its parent companies, subsidiaries, and affiliates (collectively, “Marvel”). (Tap Tap, Marvel, and their respective affiliates are collectively referred to from time to time hereinafter as the “Tap Tap/Marvel Parties”). **These Terms of Use govern your access and use of the Service, affects your legal rights and obligations, and specifically grants the Tap Tap/Marvel Parties extensive rights in content and materials that you create, upload, submit, post, reproduce, publicly display, and/or otherwise use through the Service. By accessing, using, and/or creating a user account with the Service, however accessed, you agree to be bound by these Terms of Use. If you do not agree to be bound by all of these Terms of Use, do not access or use the Service.**

Tap Tap reserves the right to change these Terms of Use (“Updated Terms”) at any time in its sole discretion. You agree that your access and/or use of the Service after the effective date of the Updated Terms, or engaging in such other conduct as we may reasonably specify, shall constitute your acceptance of and agreement to the Updated Terms. The Updated Terms shall be effective as of the time of their public posting, or such later date as may be specified in the Updated Terms, and will apply to your use of the Service from that point forward. These Terms of Use will govern any disputes arising before the effective date of the Updated Terms.

ARBITRATION NOTICE: BY ACCESSING OR USING THE SERVICE, HOWEVER ACCESSED, YOU AGREE THAT DISPUTES BETWEEN YOU AND ANY OF THE TAP TAP/MARVEL PARTIES WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION, AND YOU WAIVE YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR CLASS-WIDE ARBITRATION, AS MORE FULLY SET FORTH BELOW.

B: GENERAL/BASIC TERMS

1. You must be at least 13 years old to use the Service.
2. You must be physically located in the United States of America, Canada, Australia, or Singapore to use the Service.
3. You must not post, display, upload, or otherwise use on or in connection with the Service any inappropriate content, as determined in the sole discretion of Tap Tap, including but not limited to material which is, or promotes activities which are, abusive, harassing, threatening, an invasion of a right of privacy of another person, bigoted, hateful, racially offensive, discriminatory (based on race, sex, religion, national origin, physical disability, sexual orientation or age), violent, vulgar, obscene, pornographic or otherwise sexually explicit, depict drugs, alcohol, or tobacco, harmful or can reasonably be expected to harm any person or entity, profane, offensive, or illegal.
4. You must not engage in conduct via the Service that impersonates another person in a manner that does or is intended to mislead, confuse, or deceive others.
5. You must not post or otherwise make publicly available any private or confidential information via the Service, including, without limitation, your or any other person's or entity's credit card information, social security or alternate national identity numbers, non-public phone numbers, or non-public email addresses.
6. You must not engage in conduct via the Service that violates any legal right of any third party, including, without limitation, copyright, trademark, publicity, privacy, property, and/or confidentiality rights.
7. You must not solicit other users of the Service or otherwise use the Service for unauthorized marketing purposes, including, without limitation, by creating or submitting unwanted email, comments, likes, or other forms or commercial and/or harassing communications (including, without limitation, "spam" communications") to any other users of the Service, or soliciting, collecting, or using account information and/or login credentials of any other users of the Service.
8. You must not use the Service for, or in furtherance of, any illegal, illicit, or unauthorized purpose. By using the Service, you agree to comply with all laws, rules, and regulations (whether federal, state, local, provincial, or otherwise) applicable to your use of the Service, including but not limited to, all applicable copyright and trademark laws, rules, and regulations.
9. You must not change modify, adapt, or alter the Service or change, modify, or alter another program, web site, application, software, and/or platform so as to create or imply a false affiliation, connection, or association with the Service, MARVEL CREATE YOUR OWN, or any of the Tap Tap/Marvel Parties.

10. You must not interfere or disrupt the Service or any servers or networks connected to the Service, including, but not limited to, by transmission of any worms, viruses, spyware, malware, or any other harmful program or code of a destructive or disruptive nature. You must not inject content or code or otherwise alter or interfere with the way any page within the Service is rendered or displayed in a user's browser or device.
11. You must not attempt to restrict another user from using or enjoying the Service, and you must not encourage or facilitate violations of any of these Terms of Use.
12. Violation of any of these Terms of Use may, in Tap Tap's sole discretion, result in termination of your MARVEL CREATE YOUR OWN user account and/or your access to the Service.
13. By accessing and using the Service, however accessed, you understand and agree that you are responsible for all data charges that you incur through your access and/or use of the Service.
14. By accessing and using the Service, however accessed, you understand and agree that Tap Tap may stop providing all or part of the Service to you at any time and for any reason, including, without limitation, in the event Tap Tap determines in its sole discretion that you violated the letter or spirit of these Terms of Use, in the event Tap Tap determines in its sole discretion that your access or use of the Service otherwise creates possible risk or legal exposure for the Tap Tap/Marvel Parties, or for any other reason whatsoever in Tap Tap's sole discretion. By accessing and using the Service, however accessed, you further understand and agree that, in the event Tap Tap chooses in its sole discretion to stop providing all or part of the Service to you, you shall have no recourse whatsoever against the Tap Tap/Marvel Parties.

C. USER ACCOUNT ENROLLMENT

1. You must have an active user account in order to use and participate in the Service. You may create a user account with the Service by registering your name, providing certain information about yourself, and creating a password. You agree that you will provide complete, current and accurate information about yourself as requested when creating a user account with the Service. You further agree that you will update your user account information as necessary to maintain its truth and accuracy.
2. You are responsible for keeping your user account's membership credentials (including, without limitation, your password) secret and secure, and for restricting access to your user account. You agree not to disclose your user account's membership credentials (including, without limitation, your password) to any third party.
3. **BY CREATING A USER ACCOUNT WITH THE SERVICE, YOU AGREE THAT YOU ARE AND SHALL BE SOLELY AND FULLY RESPONSIBLE FOR ANY ACTIVITIES OR ACTIONS TAKEN VIA YOUR USER ACCOUNT, WHETHER OR NOT YOU HAVE AUTHORIZED SUCH ACTIVITIES OR ACTIONS.**
4. If you create a user account on behalf of a legal entity, you represent that you are authorized to enter into an agreement on behalf of that legal entity and bind that entity to these Terms of Use.
5. Tap Tap reserves the right to suspend and/or force forfeiture of any user account for any reason at any time, without limitation. If we suspend and/or force forfeiture of your user account, you must stop using all user accounts with the Service and must not create any new user accounts, and all licenses and other rights granted to you pursuant to these Terms of Use will immediately cease and be rendered null and void.
6. You must not use domain names or web URLs in your user account's username without prior written consent from Tap Tap.
7. You must not create user accounts with the Service through unauthorized means, including, but not limited to, by using an automated device, script, bot, spider, crawler, or scraper.
8. By registering a user account with the Service, you acknowledge and agree that paid services, sponsored content, and commercial communications may appear as part of the Service, and may not always be identified as such. By registering a user account with the Service, you further agree and consent to receive emails and other communications from the Tap Tap/Marvel Parties about the Service, special offers, new products, and/or for other marketing and/or promotional purposes

9. The Service will, from time to time, allow you to create, upload, submit, post, reproduce, utilize, publicly display, distribute, and otherwise use certain content and materials, including but not limited to data, text, files, information, usernames, images, graphics, photographs, profiles, audio clips, video clips, sounds, musical works, works of authorship, applications, links, hyperlinks, and any and all other content and materials that the Service permits you to create, upload, submit, post, reproduce, utilize, publicly display, distribute, and/or otherwise use on, through, or via the Service through your user account (collectively, “User-Submitted Content”). You acknowledge and agree that you are solely responsible for any and all User-Submitted Content created, uploaded, submitted, posted, utilized, publicly displayed, distributed, and/or otherwise used on or via the Service through your user account.

10. You agree that you will not sell, transfer, license, or assign your user account, followers, profile, username, User-Submitted Content, or any user account rights to any third party. You may maintain only one user account at any time. You agree that you will not create a user account for anyone other than yourself. You may not permit any third party to use the Service through your user account, and you may not use the user account of any third party. You may not use false identities, impersonate any other person, or use a user account that you are not authorized to use. You agree to immediately notify the Tap Tap/Marvel Parties of any unauthorized use of your user account, username, or password.

11. By registering a user account with the Service, you represent and warrant that:

[i] You are at least 13 years of age;

[ii] With respect to User-Submitted Content that you create, upload, submit, post, reproduce, utilize, publicly display, distribute, and/or otherwise use on or through the Service, you own all content appearing therein and/or otherwise have the right to use the content appearing therein (whether granted under these Terms of Use or otherwise);

[iii] The creation, submission, reproduction, public display, distribution, and/or use of User-Submitted Content that you create, upload, submit, post, reproduce, utilize, publicly display, distribute, and/or otherwise use on or through the Service does not violate, misappropriate, or infringe upon the rights of any third party, including, without limitation, copyright, trademark, publicity, privacy, confidentiality, and/or any other intellectual property and/or legal right;

[iv] You agree to indemnify the Tap Tap/Marvel Parties for all claims resulting from any User-Submitted Content that you post, upload, or otherwise use on or through the Service, and to pay for all royalties, fees, or any other monies owed by reason of User-Submitted Content that you post, upload, or otherwise use on or through the Service; and,

[v] You have the legal right and capacity to enter into these Terms of Use in your jurisdiction.

D. RIGHTS & GRANTS OF THE TAP TAP / MARVEL PARTIES

1. Tap Tap reserves all rights, in its sole discretion, to edit, modify, alter, remove, block, terminate, discontinue, or cease or refuse access to the Service, or any user's access to the Service, or any user account, or any content or material displayed or otherwise made available via the Service (including, without limitation, any User-Submitted Content) or the availability of any products or services offered through the Service, for any reason (including, but not limited to, for any violation of these Terms of Use), at any time, without notice, and without liability to you. By accessing and using the Service, however accessed, you understand and agree that Tap Tap may edit, modify, alter, remove, block, terminate, discontinue, cease or refuse access to, and/or monitor any user account and/or any User-Submitted Content for any reason (including, but not limited to, for any violations of these Terms of Use), at any time, and in its sole discretion, and that you shall have no legal recourse against Tap Tap for any such action, without limitation.

2. The Tap Tap/Marvel Parties are not and cannot be responsible for User-Submitted Content uploaded to the Service by users, and users of the Service may accordingly be exposed to User-Submitted Content deemed inappropriate from time to time. By accessing and using the Service, however accessed, you accept and agree that your use of the Service is at your own risk, and that the Tap Tap/Marvel Parties are not and will not be responsible or liable for the conduct of any user (including, without limitation, for any User-Submitted Content).

3. Though the Tap Tap/Marvel Parties reserves the right to monitor or become involved in disputes between users, it has no obligation to do so. You are solely responsible for your interactions with other users of the Service and third parties found through the Service, whether online or offline. Accordingly, users should exercise common sense and their best judgment when interacting with others through the Service, including, without limitation, when submitting or posting User-Submitted Content or any personal or other information.

4. The Service contains and/or utilizes certain content, materials, and technology owned and/or licensed by the Tap Tap/Marvel Parties, including, but not limited to, certain copyright-protected characters, character names, locations, elements, artwork, and other audio-visual elements, certain technology, software, applications, platforms, utilities, source code, specifications, and related technical and creative materials, artworks, logos, slogans, components, and aspects, as well as related trademarks and service marks, all of which are owned or licensed by Tap Tap and/or Marvel, which are made available within the Service (collectively, the "Tap Tap/Marvel IP"). The Tap Tap/Marvel IP is protected by copyright, trademark, patent, trade secret, and other laws, and, as between you and the Tap Tap/Marvel Parties, the Tap Tap/Marvel Parties own and retain all rights in all Tap Tap/Marvel IP. The use of Tap Tap/Marvel IP by you, or anyone else authorized by you, is prohibited unless specifically permitted by these Terms of Use or permitted by specific permission provided elsewhere within the Service.

5. In consideration of the rights granted and obligations entered into by you under these Terms of Use, the Tap Tap/Marvel Parties grant you the limited, non-exclusive, non-transferable, revocable right to make non-commercial use of Tap Tap/Marvel IP within the Service in accordance with these Terms of Use, provided that such license shall be conditioned upon your maintenance of all copyright and trademark notices used in connection with the Tap Tap/Marvel IP within the Service and your full compliance with these Terms of Use (including, but not limited to, with respect to your grants of rights to the Tap Tap/Marvel Parties provided for under these Terms of Use). For purposes of clarity, the foregoing grant permits you to use Tap Tap/Marvel IP made available for use within the Service only; any intellectual property owned by the Tap Tap/Marvel Parties not made available for use within the Service is expressly excluded from the foregoing grant.

6. At all times, as between you and the Tap Tap/Marvel Parties, the Tap Tap/Marvel Parties shall retain all right, title, and interest in the Tap Tap/Marvel IP as well as all proprietary rights therein, without limitation; the license for you to use the Tap Tap/Marvel IP set forth in these Terms of Use is not intended to transfer any ownership rights in the Tap Tap/Marvel IP or any proprietary rights therein, without limitation.

7. You may not use the Tap Tap/Marvel IP, or any portion or aspect thereof, outside of the Service in any manner. You shall not remove, alter, or conceal any copyright, trademark, service mark, or other proprietary rights notices incorporated in or accompanying any Tap Tap/Marvel IP or otherwise used or displayed within the Service. You shall not reproduce, modify, adapt, prepare derivative works based upon, perform, display, publish, share, distribute, transmit, broadcast, sell, license, or otherwise exploit or use the Tap Tap/Marvel IP or any portion thereof not expressly provided for by these Terms of Use, except that [i] your computer may temporarily store copies of such materials in RAM incidental to your accessing and viewing those materials, and [ii] you may store files that are automatically cached by your web browser for display enhancement purposes.

8. Although it is Tap Tap's intention for the Service to be available as much as possible, there may be occasions when the Service may be interrupted, including, without limitation, for scheduled maintenance or upgrades, for emergency repairs, or due to failure of telecommunications links and/or equipment. You acknowledge and agree that Tap Tap will not be liable to you for any modification, suspension, or discontinuance of the Service, or for the loss of any User-Submitted Content. You also acknowledge and agree that the internet may be subject to breaches of security, and that the submission of User-Submitted Content or other content, material or information via the Service therefore may not be secure.

9. Tap Tap may exercise any of the rights you grant to them under these Terms of Use or discharge any of their obligations these Terms of Use through one or more affiliates or independent contractors. Tap Tap may sub-license or transfer any of the rights you grant us under these Terms of Use, including the right to prepare derivative works, to any of its affiliates or to any third party, and may permit any sub-licensee to sub-license the rights they grant to it, without limitation and in its sole discretion.

10. In the event Tap Tap suspends and/or force forfeiture of your user account or otherwise denies you access to the Service in any way, the provisions in these Terms of Use governing any copyright and other intellectual property rights, and the disclaimers, indemnities, and limitations of liability set forth in these Terms of Use, shall survive such denial.

E. USER-SUBMITTED CONTENT

1. During your access and use of the Service, you may, from time to time, create, upload, submit, post, reproduce, publicly display, distribute, and/or otherwise use User-Submitted Content on, through, or via the Service through your user account. By and upon your creation, uploading, submission, posting, distribution, and/or public display of any User-Submitted Content, you grant to the Tap Tap/Marvel Parties and their sub-licensees, subject to the Service's Privacy Policy (available at <https://www.taptapcomics.com/privacy.pdf>), the perpetual, irrevocable, exclusive, royalty-free and fully transferable and sub-licensable right, for the full term of copyright protection available (including renewal terms), to use, reproduce, transmit, communicate to the public, print, publish, publicly display, publicly perform, exhibit, distribute, redistribute, license, sub-license, copy, index, comment upon, modify, adapt, translate, create derivative works based upon, make available, and otherwise exploit, in whole or in part, in all languages, anywhere in the world, by all means, methods, processes, and media formats and channels now known or hereafter devised, in any number of copies and without limit as to time, manner or frequency of use, without further notice to you, with or without attribution, and without the requirement of permission from or payment to you or any other person or entity, such User-Submitted Content (including, without limitation, any and all original elements of such User-Submitted Content and any and all works utilizing such User-Submitted Content and/or such elements thereof) for any purpose that the Tap Tap/Marvel Parties may see fit in their sole discretion, including, without limitation, in conjunction with advertisements, promotions, marketing activities, and/or any other commercial activities, effective as of the earliest date such User-Submitted Content exists within the Service. **DO NOT SUBMIT ANY CONTENT VIA THE SERVICE WITH RESPECT TO WHICH YOU DO NOT DESIRE TO GRANT SUCH RIGHTS TO THE TAP TAP/MARVEL PARTIES.**

2. By your access and use of the Service, however accessed, you acknowledge and agree that your use of the Service in accordance with these Terms of Use (including the rights granted to you by the Tap Tap/Marvel Parties with respect to use of Tap Tap/Marvel IP within the Service) constitutes full and adequate consideration for the rights you grant to the Tap Tap/Marvel Parties under these Terms of Use.

3. The rights and licenses granted by you to the Tap Tap/Marvel Parties under these Terms of Use are exclusive, meaning that you may not, and may not authorize any other party to, develop, license, reproduce, print, publish, share, distribute, translate, display, publicly perform, prepare derivative works of, or transmit any User-Submitted Content (or any original elements thereof) without the prior consent of the Tap Tap/Marvel Parties, other than as expressly provided for under these Terms of Use.

4. By your access and use of the Service, however accessed, you irrevocably waive any legal claim that you may have under any theory of law in any territory that your rights were infringed due to any use of any User-Submitted Content (and/or any original elements thereof) in accordance with these Terms of Use by the Tap Tap/Marvel Parties and/or any of their affiliates, licensees, sub-licensees, distributors, producers, and assignees of any rights hereunder, including, without limitation, copyright infringement or breach of implied-in-fact contract (i.e., idea submission). You also irrevocably waive any moral rights in or to any User-Submitted Content (and any original elements thereof), and agree not to assert any moral rights in any such work (and/or element thereof) against the Tap Tap/Marvel Parties or any of their affiliates, licensees, sub-licensees, distributors, producers, and assignees of any rights hereunder. If, under any applicable law, this waiver of moral rights is not effective, you acknowledge and agree that all User-Submitted Content (and any original elements thereof) are subject to the exclusive licenses you grant under these Terms of Use without any credit obligation, that you intend for such User-Submitted Content (and all original elements thereof) to be used by the Tap Tap/Marvel Parties in accordance with these Terms of Use, and that such use by the Tap Tap/Marvel Parties will not be contrary to your moral rights. Except where applicable local law provides otherwise, you expressly acknowledge that the Tap Tap/Marvel Parties do not owe you a duty of confidence, fiduciary duty, or any other comparable legal duty, with respect to User-Submitted Content (or any original elements thereof).

5. Excluding the Tap Tap/Marvel IP licensed to you under these Terms of Use, you represent and warrant to the Tap Tap/Marvel Parties and their affiliates, licensees, sub-licensees, distributors, producers, and assignees of any rights hereunder, that:

(a) You are the sole owner of all right, title, and interest in any and all User-Submitted Content (and all original elements thereof) that you create, upload, submit, post, distribute, and/or publicly display via the Service, and that all such User-Submitted Content (and elements thereof) are original to you;

(b) You will comply with these Terms of Use; and,

(c) No material in any User-Submitted Content [i] is libelous, slanderous, defamatory, or portrays any person in a false light, [ii] violates any right of publicity or privacy, moral rights, authors' rights or other rights of any third party, including contractual rights, copyrights, trademarks, common law rights, moral rights, or rights of publicity or privacy, [iii] violates any law or regulation, or [iv] with respect to statements in such work presented as factual, is inaccurate.

6. You agree to sign and deliver any further documents that the Tap Tap/Marvel Parties may reasonably request to confirm your grant of rights to the Tap Tap/Marvel Parties under these Terms of Use, and to follow all instructions given by the Tap Tap/Marvel Parties with respect to the signature and return of such further documents. If you fail to complete and return any such further documents within thirty (30) days after requested, you agree that one or more of the Tap Tap/Marvel Parties may sign such further documents on your behalf and, to make your agreement legally enforceable, you hereby irrevocably appoint one or more of the Tap Tap/Marvel Parties as your attorney-in-fact with full power to execute, acknowledge, and deliver such further documents as required to confirm their rights.

7. All rights granted by you to the Tap Tap/Marvel Parties under these Terms of Use are irrevocably vested. No breach of these Terms of Use by any of the Tap Tap/Marvel Parties will entitle you to equitable relief, whether injunctive or otherwise, against or with respect to any User-Submitted Content (and/or any elements thereof), any other works created pursuant to the rights granted by you under these Terms of Use, or any exploitation thereof.

8. Subject to and conditioned upon your full compliance with these Terms of Use, the Tap Tap/Marvel Parties grant you a limited, non-exclusive, non-transferable, and revocable license, without right of sub-license, to non-commercial display and use of User-Submitted Content exclusively within the Service. Any and all Tap Tap/Marvel IP appearing on or within such User-Submitted Content may not be modified, altered, or removed. Such User-Submitted Content may not be used or displayed for any commercial purpose whatsoever, without limitation. Such User-Submitted Content may not be used or displayed outside of the Service in any manner whatsoever, including, but not limited to, any reproduction, modification, public performance, public display, publication or distribution via any mechanism or platform, or use on or in connection with any derivative works outside of the Service (including, without limitation, any merchandise or other physically-produced goods or materials, and any digitally-published goods or materials outside of the Service). **FOR PURPOSES OF CLARITY, YOU ACKNOWLEDGE AND AGREE THAT THIS GRANT DOES NOT AUTHORIZE THE USE OR DISPLAY OF ANY USER-SUBMITTED CONTENT OR ANY DERIVATIVE WORKS BASED UPON USER-SUBMITTED CONTENT OUTSIDE OF THE SERVICE IN ANY MANNER WHATSOEVER OR FOR ANY COMMERCIAL PURPOSE WHATSOEVER.** You acknowledge and agree that any unauthorized use of such works as described herein shall constitute infringement of valuable intellectual property rights owned by the Tap Tap/Marvel Parties, and may result in liability including, but not limited to, monetary damages.

9. The Service permits the use of Tap Tap/Marvel IP within User-Submitted Content in accordance with these Terms of Use. Any Tap Tap/Marvel IP made available for use within the Service shall remain the sole and exclusive property of the Tap Tap/Marvel Parties, and use thereof shall be subject to, and conditioned upon your compliance with, these Terms of Use. You may make use of Tap Tap/Marvel IP only in accordance with these Terms of Use, and only within the Service. Any use of Tap Tap/Marvel IP outside the scope of these Terms of Use (including, without limitation, any use of Terms of Use outside of the Service) is expressly prohibited, shall constitute unauthorized and/or infringing use thereof, and may subject you to legal liability and/or monetary damages.

10. Tap Tap reserves the right to remove, delete, cease publication of, suspend access to, modify, alter, or change any and all User-Submitted Content at any time, without prior notice, and for any reason within its sole discretion.

11. **DISCLAIMER:** You acknowledge and agree that the Tap Tap/Marvel Parties are not responsible for, and do not endorse, any User-Submitted Content made available within the Service. All User-Submitted Content represents solely the views and opinions of the user who submits such content, and do not reflect the views or opinions of any of the Tap Tap/Marvel Parties in any manner. The Service acts as a passive conduit for the creation, uploading, submission, posting, reproduction, public display, distribution, and use of User-Submitted Content. Tap Tap may in its sole discretion, but has no obligation to, prescreen, monitor, edit, or remove any User-Submitted Content, and expressly disclaims any and all liability with respect to screening, monitoring, or reviewing User-Submitted Content. If User-Submitted Content submitted via your user account violates these Terms of Use or are otherwise in violation of any law or regulation, you may bear legal responsibility for that User-Submitted Content.

12. Except as otherwise described in the Service’s Privacy Policy (available at <https://www.taptapcomics.com/privacy.pdf>), as between you and Tap Tap, any User-Submitted Content will be non-confidential and non-proprietary, and Tap Tap will not be liable for any use or disclosure of any User-Submitted Content. You acknowledge and agree that your relationship with Tap Tap is not a confidential, fiduciary, or any other special relationship, and that your decision to submit any content or information via the Service does not place Tap Tap in a position that is any different from the position held by members of the general public, including with regard to the content or information that you submit or use via the Service. No User-Submitted Content will be subject to any obligation of confidence on the part of Tap Tap, and Tap Tap will not be liable for any use or disclosure of any User-Submitted Content.

F. MAKING PURCHASES

1. Certain content, materials, enhancements, upgrades, products and/or services may be made available by Tap Tap for purchase by users of the Service (“Virtual Products”). Virtual Products are available for purchase to adults only who can purchase products with a credit card or other permitted payment method. **IF YOU ARE UNDER 18 YEARS OLD, YOU MAY NOT MAKE A PURCHASE ORDER THROUGH THE SERVICE WITHOUT THE INVOLVEMENT OF A PARENT OR GUARDIAN. BY SUBMITTING A PURCHASE ORDER THROUGH THE SERVICE, YOU CONFIRM THAT YOU ARE AT LEAST 18 YEARS OLD.** If Tap Tap discovers or is of the opinion (as to which Tap Tap shall have sole discretion) that you are not legally entitled to make certain purchases through the Service, Tap Tap shall be entitled to cancel your order immediately, without notice.

2. You may only purchase Virtual Products through the Service for your personal, non-commercial use.

3. If you wish to purchase any Virtual Products offered for sale through the Service, we will ask you to supply certain information applicable to your purchase, including, without limitation, payment and other information. Any such information will be treated as described in our Privacy Policy. All information that you provide to us or our third party payment processor must be accurate, current, and complete. **YOU REPRESENT AND WARRANT THAT YOU HAVE THE LEGAL RIGHT TO USE ANY CREDIT CARD(S) OR OTHER PAYMENT MEANS USED TO INITIATE ANY TRANSACTION.** You agree to pay all charges incurred by you or any user of you account and credit card (or other applicable payment mechanism) at the prices in effect when such charges are incurred. You will also be responsible for paying any applicable shipping costs and/or taxes relating to your purchases.

4. All purchase orders through the Service are subject to credit approval. Verification of information applicable to a purchase may be required prior to our acceptance of any order. Tap Tap reserves the right any time after receipt of your order to accept or decline the order, even after your receipt of an order confirmation. Tap Tap reserves the right, with or without prior notice, to limit the available quantity of or discontinue any Virtual Products; to bar any user from making any or all purchase(s); and/or to refuse to provide any user with any Virtual Products. Tap Tap shall not be liable to anyone for withdrawing any Virtual Products from the Service or for refusing to accept any order.

5. Tap Tap reserves the right to discontinue or change descriptions, images, references, features, content, specifications, prices, and availability of Virtual Products at any time without prior notice, in its sole discretion. Descriptions, references, specifications, and images of Virtual Products in the Service do not constitute a warranty by Tap Tap and are for illustration purposes only. We make reasonable efforts to accurately display the attributes of Virtual Products, including the applicable colors; however, the actual color you see will depend on your computer system, and we cannot guarantee that your screen will accurately display such colors. The inclusion of any Virtual Products on the Service at a particular time does not imply or warrant that these Virtual Products will be available at any other time.

6. Tap Tap cannot honor incorrect prices, misprints, or typographical errors. Errors in advertised prices are not binding on Tap Tap, and may be adjusted by Tap Tap at any time. Tap Tap shall have the right to refuse or cancel orders placed for a product listed at the incorrect price, regardless of whether the order has been confirmed and your credit card charged.

7. It is your responsibility to ascertain and obey all applicable local, state, federal and international laws (including minimum age requirements) in regard to the possession, use and sale of Virtual Products. By placing an order, you represent that the Virtual Products ordered will be used only in a lawful manner and in compliance with these Terms of Use.

9. You may not return, cancel, or exchange any Virtual Products purchased through the Service. Certain jurisdictions may provide additional statutory rights; nothing herein is meant to limit your return or cancellation rights under local law.

G. DIGITAL MILLENNIUM COPYRIGHT ACT

1. Tap Tap respects the intellectual property rights of others, and expects users of the Service to do the same. Tap Tap will respond to notices of alleged copyright infringement that comply with applicable law and are properly delivered to us. If you believe that your work has been copied in a way that constitute copyright infringement, please provide us with the following information:

[i] The copyright owner's name (or company name), your full legal name, title, job position, and relationship to the copyright owner, and your full mailing address, telephone number, and email address.

[ii] A description of the copyrighted work that you claim has been infringed.

[iii] A description of the material on the Service that you claim is infringing (including a description of where such material is located [e.g., URL]).

[iv] A statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, any agent thereof, or the law.

[v] A statement by you, made under penalty of perjury, that the above information in your notice is accurate, and that you are the copyright owner or a person authorized to act on the copyright owner's behalf.

[vi] An electronic or physical signature of the person authorized to act on the copyright owner's behalf.

Tap Tap's Agent for notices of claims of copyright infringement occurring on the Service can be reached at support@taptapcomics.com

2. The Tap Tap/Marvel Parties reserve the right to remove content on the Service alleged to be infringing without prior notice and in their sole discretion. In appropriate circumstances, the Tap Tap/Marvel Parties will also terminate the account of a user determined to be a repeat infringer.

H. LINKS FROM THE SERVICE

1. If the Service contains links to other sites and resources provided by third parties, these links are provided for your convenience only. Such links may include links contained in advertisements, including banner advertisements and sponsored links. The Tap Tap/Marvel Parties have no control over the contents of those sites or resources, and accept no responsibility for them or for any loss or damages that may arise from your use or access thereof. If you choose to access any third party program, web site, application, software, and/or platform linked to this Service, you do so entirely at your own risk, and subject to the terms and conditions of use for such program, web site, application, software, and/or platform.

I. DISCLAIMER OF WARRANTIES

1. THE SERVICE IS PROVIDED ON AN “AS IS”, “AS AVAILABLE” AND “WITH ALL FAULTS” BASIS. TO THE FULLEST EXTENT PERMISSIBLE BY LAW, NEITHER ANY OF THE TAP TAP/MARVEL PARTIES, NOR ANY OF THEIR RESPECTIVE EMPLOYEES, MANAGERS, OFFICERS OR AGENTS (COLLECTIVELY, THE “TAP TAP DISCLAIMING PARTIES”) MAKE ANY REPRESENTATIONS OR WARRANTIES OR ENDORSEMENTS OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, AS TO: (a) THE SERVICE; (b) THE TAP TAP/MARVEL IP; (c) USER-SUBMITTED CONTENT; (d) VIRTUAL PRODUCTS SOLD OR OFFERED THROUGH THE SERVICE; OR (e) SECURITY ASSOCIATED WITH THE TRANSMISSION OF INFORMATION TO THE TAP TAP DISCLAIMING PARTIES AND/OR VIA THE SERVICE. IN ADDITION, THE TAP TAP DISCLAIMING PARTIES HEREBY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ACCURACY, TITLE, CUSTOM, TRADE, QUIET ENJOYMENT, SYSTEM INTEGRATION AND FREEDOM FROM COMPUTER VIRUS, AND ANY WARRANTIES THAT MAY ARISE FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. (NOTE: APPLICABLE LAW MAY NOT PERMIT THE EXCLUSION OF CERTAIN IMPLIED WARRANTIES, SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.)

2. THE TAP TAP DISCLAIMING PARTIES DO NOT REPRESENT OR WARRANT THAT THE SERVICE, OR VIRTUAL PRODUCTS OFFERED THEREIN, WILL BE ERROR-FREE OR UNINTERRUPTED; THAT DEFECTS WILL BE CORRECTED; OR THAT THE SERVICE OR THE SERVER THAT MAKES THE SERVICE AVAILABLE IS FREE FROM ANY HARMFUL COMPONENTS, INCLUDING, WITHOUT LIMITATION, VIRUSES. THE TAP TAP DISCLAIMING PARTIES DO NOT MAKE ANY REPRESENTATIONS OR WARRANTIES THAT THE INFORMATION (INCLUDING ANY INSTRUCTIONS) ON THE SERVICE IS ACCURATE, COMPLETE, OR USEFUL. YOU ACKNOWLEDGE THAT YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK. YOU ASSUME RESPONSIBILITY FOR SELECTING THE ASPECTS OF THE SERVICE AND/R VIRTUAL PRODUCTS TO ACHIEVE YOUR INTENDED RESULTS, AND FOR THE USE OF AND RESULTS OBTAINED THEREFROM.

3. THE TAP TAP DISCLAIMING PARTIES DO NOT WARRANT THAT YOUR USE OF THE SERVICE IS LAWFUL IN ANY PARTICULAR JURISDICTION, AND THE TAP TAP DISCLAIMING PARTIES SPECIFICALLY DISCLAIM ANY SUCH WARRANTY. (SOME JURISDICTIONS LIMIT OR DO NOT ALLOW THE DISCLAIMER OF IMPLIED OR OTHER WARRANTIES SO THE ABOVE DISCLAIMER MAY NOT APPLY TO YOU TO THE EXTENT SUCH JURISDICTION'S LAW IS APPLICABLE TO YOU AND THESE TERMS OF USE.) BY ACCESSING OR USING THE SERVICE, HOWEVER ACCESSED, YOU REPRESENT AND WARRANT THAT YOUR ACTIVITIES ARE LAWFUL IN EVERY JURISDICTION WHERE YOU ACCESS OR USE THE SERVICE.

4. THE TAP TAP DISCLAIMING PARTIES DO NOT ENDORSE ANY CONTENT OR MATERIAL MADE AVAILABLE ON OR THROUGH THE SERVICE (INCLUDING, BUT NOT LIMITED TO, ANY USER-SUBMITTED CONTENT), AND SPECIFICALLY DISCLAIM ANY RESPONSIBILITY OR LIABILITY TO ANY PERSON OR ENTITY FOR ANY LOSS, DAMAGE (WHETHER ACTUAL, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURY, CLAIM, LIABILITY OR OTHER CAUSE OF ANY KIND OR CHARACTER BASED UPON OR RESULTING FROM ANY SUCH CONTENT.

5. NO STATEMENT OF THE TAP TAP DISCLAIMING PARTIES OR ANY OF THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, DISTRIBUTORS OR OTHER THIRD PARTIES, SHALL CREATE ANY WARRANTY OTHER THAN THOSE EXPRESSLY CONTAINED IN THESE TERMS.

J. LIMITATION OF LIABILITY

1. UNDER NO CIRCUMSTANCES WILL THE TAP TAP DISCLAIMING PARTIES BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOSS OR DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, FOR ANY DIRECT, INDIRECT, ECONOMIC, EXEMPLARY, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY ARISING OUT OF OR RELATING IN ANY WAY TO: (a) THE SERVICE; (b) THE TAP TAP/MARVEL IP; (c) USER-SUBMITTED CONTENT; (d) VIRTUAL PRODUCTS SOLD OR OFFERED THROUGH THE SERVICE; (e) YOUR USE OF, INABILITY TO USE, OR THE PERFORMANCE OF THE SERVICE OR ANY VIRTUAL PRODUCTS OFFERED THEREIN; (f) ANY ACTION TAKEN IN CONNECTION WITH AN INVESTIGATION BY THE TAP TAP DISCLAIMING PARTIES OR LAW ENFORCEMENT AUTHORITIES REGARDING YOUR OR ANY OTHER PARTY'S USE OF THE SERVICE; (g) ANY ACTION TAKEN IN CONNECTION WITH COPYRIGHT OR OTHER INTELLECTUAL PROPERTY OWNERS; (h) ANY ERRORS OR OMISSIONS IN THE SERVICE'S OPERATION; OR (i) ANY DAMAGE TO ANY USER'S COMPUTER, MOBILE DEVICE, OR OTHER EQUIPMENT OR TECHNOLOGY INCLUDING, WITHOUT LIMITATION, DAMAGE FROM ANY SECURITY BREACH OR FROM ANY VIRUS, BUGS, TAMPERING, FRAUD, ERROR, OMISSION, INTERRUPTION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER LINE OR NETWORK FAILURE OR ANY OTHER TECHNICAL OR OTHER MALFUNCTION, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOSS OF GOODWILL, LOSS OF DATA, WORK STOPPAGE, ACCURACY OF RESULTS, OR COMPUTER FAILURE OR MALFUNCTION, EVEN IF FORESEEABLE OR EVEN IF THE TAP TAP DISCLAIMING PARTIES HAVE BEEN ADVISED OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE, STRICT LIABILITY OR TORT (INCLUDING, WITHOUT LIMITATION, WHETHER CAUSED IN WHOLE OR IN PART BY NEGLIGENCE, ACTS OF GOD, TELECOMMUNICATIONS FAILURE, OR THEFT OR DESTRUCTION OF THE SERVICE). IN NO EVENT WILL THE TAP TAP DISCLAIMING PARTIES BE LIABLE TO YOU OR ANYONE ELSE FOR LOSS, DAMAGE OR INJURY, INCLUDING, WITHOUT LIMITATION, DEATH OR PERSONAL INJURY. (SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.) IN NO EVENT WILL THE TAP TAP DISCLAIMING PARTIES' TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES OR CAUSES OF ACTION EXCEED ONE HUNDRED UNITED STATES DOLLARS (\$100.00).

2. YOU AGREE THAT IN THE EVENT YOU INCUR ANY DAMAGES, LOSSES OR INJURIES THAT ARISE OUT OF ACTS OR OMISSIONS OF ANY OF THE TAP TAP DISCLAIMING PARTIES, THE DAMAGES, IF ANY, CAUSED TO YOU ARE NOT IRREPARABLE OR SUFFICIENT TO ENTITLE YOU TO AN INJUNCTION PREVENTING ANY EXPLOITATION OF ANY PROGRAM, WEB SITE, APPLICATION, SOFTWARE, PLATFORM, SERVICE, PROPERTY, PRODUCT OR OTHER CONTENT OWNED OR CONTROLLED BY ANY OF THE TAP TAP DISCLAIMING PARTIES (INCLUDING, WITHOUT LIMITATION, THE SERVICE), AND YOU WILL HAVE NO RIGHTS TO ENJOIN OR RESTRAIN THE DEVELOPMENT, PRODUCTION, DISTRIBUTION, ADVERTISING, EXHIBITION OR EXPLOITATION OF ANY PROGRAM, WEB SITE, APPLICATION, SOFTWARE, PLATFORM, SERVICE, PROPERTY, PRODUCT OR OTHER CONTENT OWNED OR CONTROLLED BY ANY OF THE TAP TAP DISCLAIMING PARTIES (INCLUDING, WITHOUT LIMITATION, THE SERVICE).

3. IN NO EVENT SHALL THE TAP TAP DISCLAIMING PARTIES' LIABILITY TO YOU BE GREATER THAN THE PRICE YOU PAID FOR THE PRODUCT OR SERVICE THAT IS THE BASIS FOR THE CLAIM. (NOTE: SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.)

4. THE TAP TAP DISCLAIMING PARTIES ARE NOT RESPONSIBLE FOR THE ACTIONS, CONTENT, INFORMATION, OR DATA OF THIRD PARTIES, AND YOU RELEASE THE TAP TAP DISCLAIMING PARTIES, AS WELL AS THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS, FROM ANY CLAIMS AND DAMAGES, KNOWN AND UNKNOWN, ARISING OUT OF OR IN ANY WAY CONNECTED WITH ANY CLAIM YOU HAVE AGAINST ANY SUCH THIRD PARTIES.

K. INDEMNIFICATION

1. You (and also any third party for whom you operate an account or conduct any activity on the Service) agree to defend (at Tap Tap's request), indemnify, and hold the Tap Tap Disclaiming Parties harmless from and against any claims, liabilities, damages, losses, and expenses, including without limitation, reasonable attorney's fees and costs, arising out of or in any way connected with any of the following (including as a result of your direct activities on the Service or those conducted on your behalf): (a) your access or use of the Service, including, but not limited to, use and/or submission of User-Submitted Content; (b) your breach or alleged breach of these Terms of Use (including, without limitation, breach or alleged breach of any representation, warranty, or obligation set forth herein); (c) your violation of any third-party right, including without limitation, any intellectual property right, publicity, confidentiality, property or privacy right; (d) your violation of any laws, rules, regulations, codes, statutes, ordinances or orders of any governmental and quasi-governmental authorities, including, without limitation, all regulatory, administrative and legislative authorities; or (e) any misrepresentation made by you. You will cooperate as fully required by Tap Tap in the defense of any such claim. Tap Tap reserves the right to assume the exclusive defense and control of any matter subject to indemnification by you, and you will not in any event settle any claim without the prior written consent of Tap Tap.

L. ARBITRATION

1. For any dispute you have related to the Service, you agree to first contact Tap Tap at support@taptapcomics.com and attempt to resolve the dispute informally.

2. For any dispute that cannot be resolved informally, you agree that any dispute that you have with the Tap Tap/Marvel Parties (whether or not such dispute involves a third party), including, without limitation, disputes related to these Terms of Use, your use of the Service, and/or copyright, trademark, publicity and/or privacy rights, will be resolved by binding, individual arbitration under the American Arbitration Association's rules for arbitration of consumer-related disputes, and you hereby expressly waive trial by jury. As an alternative, you may bring your claim in your local "small claims" court, if permitted by that small claims court's rules. You may bring claims only on your own behalf. Neither you nor any of the Tap Tap/Marvel Parties will participate in class action or class-wide arbitration for any claims covered by these Terms of Use. You also agree not to participate in claims brought in a private attorney general or representative capacity, or consolidated claims involving another person's account, if any of the Tap Tap/Marvel Parties is a party to the proceeding. This dispute resolution provision will be governed by the Federal Arbitration Act. In the event the American Arbitration Association is unwilling or unable to set a hearing date within one hundred and sixty (160) days of filing the case, then either Tap Tap or you can elect to have the arbitration administered instead by the Judicial Arbitration and Mediation Services. Judgment on the award rendered by the arbitrator may be entered in any court having competent jurisdiction. Any provision of applicable law notwithstanding, the arbitrator will not have authority to award damages, remedies or awards that conflict with these Terms of

Use.

3. If the prohibition against class actions and other claims brought on behalf of third parties set forth hereinabove is found to be unenforceable, then all of the preceding language in this Arbitration section will be null and void. This Arbitration agreement will survive the termination of your relationship with Tap Tap.

4. Tap Tap reserves the right to change this dispute resolution provision, but any such changes will not apply to disputes arising before the effective date of the amendment. This dispute resolution provision will survive the termination of any or all of your transactions with Tap Tap.

M. TIME LIMITATION ON CLAIMS

1. You agree that any claim you may have arising out of or related to the Service and/or your relationship with Tap Tap must be filed within one year after such claim arose; otherwise, your claim is permanently barred.

N. ADDITIONAL PROVISIONS

1. These Terms of Use are governed by and construed in accordance with the Federal Arbitration Act, applicable United States federal law, and the laws of the State of New York, without giving effect to any principles of conflicts of law AND WILL SPECIFICALLY NOT BE GOVERNED BY THE UNITED NATIONS CONVENTIONS ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS, IF OTHERWISE APPLICABLE.

2. For any action at law or in equity relating to the arbitration provision of these Terms of Use, you agree to resolve any dispute you have with any of the Tap Tap/Marvel Parties exclusively in a United States state or federal court located in the State of New York, and to submit to the personal jurisdiction of the courts located in the State of New York for the purpose of litigating all such disputes.

3. If any provision of these Terms of Use is held to be unlawful, void, or for any reason unenforceable during arbitration or by a court of competent jurisdiction, then that provision will be deemed severable from these Terms of Use and will not affect the validity and enforceability of any remaining provisions. Tap Tap's failure to insist upon or enforce strict performance of any provision of these Terms of Use will not be construed as a waiver of any other provision or right set forth in these Terms of Use. No waiver of any of these Terms of Use will be deemed a further or continuing waiver of such term or condition or any other term or condition set forth in these Terms of Use.

4. The parties to these Terms of Use are independent contractors with respect to each other. These Terms of Use do not constitute and shall not be construed as constituting the parties as principal and agent, employer and employee, partners, joint

venturers, or any similar relationship. Each party will bear its own costs and expenses in performing these Terms of Use.

5. You acknowledge and agree that Marvel is an intended third-party beneficiary of these Terms of Use and have the right to enforce these Terms of Use against you.

6. Any affiliate of Tap Tap may join as a party to these Terms of Use, and will be entitled to exercise the rights you grant under these Terms of Use. Each of Tap Tap's affiliates who are parties to these Terms of Use shall be severally liable for its own obligations under these Terms of Use, but shall not be jointly liable for the obligations of Tap Tap or any other party to these Terms of Use.

7. You may not assign any of your rights or obligations under these Terms of Use, whether by operation of law or otherwise, without the prior written consent of Tap Tap. Subject to the foregoing, these Terms of Use will be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

8. The information provided within the Service is not intended for distribution to or use by any person or entity in any jurisdiction or country where such distribution or use would be contrary to law or regulation or which would subject Tap Tap to any registration requirement within such jurisdiction or country. Tap Tap reserves the right to limit the availability of the Service or any portion of the Service, to any person, geographic area, or jurisdiction, at any time and in their sole discretion, and to limit the quantities of any content, program, product, service or other feature provided within the Service.

9. Tap Tap does not represent or warrant that the Service or any part thereof or any products offered through the Service is appropriate or available for use in any particular jurisdiction. Those who choose to access the Service do so on their own initiative and at their own risk, and are responsible for complying with all local laws, rules and regulations.

10. Software related to or made available by the Service may be subject to United States export controls. Thus, no software from the Service may be downloaded, exported or re-exported: (a) into (or to a national or resident of) any country to which the United States has embargoed goods; or (b) 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 downloading any software related to the Service, 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.

11. These Terms of Use constitute the entire agreement between you and Tap Tap regarding the Service and governs your use of the Service, superseding any prior agreements between you and Tap Tap regarding the Service. You will not assign the Terms of Use or assign any rights or delegate any obligations hereunder, in whole or in part, whether voluntarily or by operation of law, without the prior written consent of Tap Tap. Any purported assignment or delegation by you without the appropriate prior written consent of Tap Tap will be null and void. Tap Tap may assign these Terms of Use or any rights hereunder without your consent. If any provision of these Terms of Use is found by a court of competent jurisdiction to be invalid or otherwise unenforceable, the parties nevertheless agree that such portion will be deemed severable from these Terms of Use and will not affect the validity and enforceability of the remaining provisions, and the remaining provisions of the Terms of Use remain in full force and effect. Neither the course of conduct between the parties nor trade practice will act to modify the Terms of Use. These Terms of Use do not confer any third-party beneficiary rights other than as expressly provided for herein.