

# Terms & Conditions

These Terms of Service ("Terms") apply to your access to and use of our mobile application and other online products and services (collectively, the "Bottomless Services" or "Services") provided by Bottomless Technologies LLC. ("Bottomless", "we" or "us").

PLEASE READ THESE TERMS CAREFULLY, INCLUDING THE MANDATORY ARBITRATION PROVISIONS IN SECTIONS 19 AND 20, WHICH REQUIRES THAT DISPUTES BE RESOLVED BY FINAL AND BINDING ARBITRATION ON AN INDIVIDUAL BASIS, NOT A CLASS-WIDE OR CONSOLIDATED BASIS. IF YOU DO NOT WISH TO BE SUBJECT TO ARBITRATION, YOU MAY OPT OUT OF THE ARBITRATION PROVISION BY FOLLOWING THE INSTRUCTIONS PROVIDED IN SECTION 19 OR 20.

YOU ACKNOWLEDGE AND AGREE THAT THERE ARE RISKS ASSOCIATED WITH USING AN INTERNET-BASED MARKETPLACE AND INTERACTING WITH OTHER USERS IN PERSON AS OUTLINED IN SECTION 15.

BY ACCESSING OR USING OUR SERVICES, YOU AGREE TO BE BOUND BY THESE TERMS AND ALL TERMS INCORPORATED BY REFERENCE. IF YOU DO NOT AGREE TO THESE TERMS IN THEIR ENTIRETY, DO NOT USE OUR SERVICES.

We may supply different or additional terms (including, but not limited to, the terms of social media services, third-party payment processors, and third-party fulfillment providers) in relation to some of our Services, and those different or additional terms become part of your agreement with us if you use those Services. If there is a conflict between these Terms and the additional terms, the additional terms will control for that conflict.

We may make changes to these Terms from time to time. If we make changes, we will provide you with notice of such changes, such as by sending an email, providing a notice through our Services or updating the date at the top of these Terms. Unless we say otherwise in our notice, the amended Terms will be effective immediately, and your continued use of our Services after we provide such notice will confirm your acceptance of the changes. If you do not agree to the amended Terms, you must stop using our Services.

From time to time Bottomless introduces new features that may only be available to certain users. Provisions of these Terms of Service relating to new features may not apply to all users.

To contact Bottomless regarding the Services or your account, you can submit general inquiries regarding to [support@itsbottomless.com](mailto:support@itsbottomless.com).

## 1. Privacy

For information about how we collect, use, share and otherwise process information about you, please see our Privacy Policy.

## **2. Eligibility**

You must be at least 18 years of age to use our Services. If you are under 18 years of age (or the age of legal majority where you live), you may use our Services only under the supervision of a parent or legal guardian who agrees to be bound by these Terms. If you are a parent or legal guardian of a user under the age of 18 (or the age of legal majority), you agree to be fully responsible for the acts or omissions of such user in relation to our Services.

If you are registering to use the Bottomless Services on behalf of a legal entity, you represent and warrant that: (a) such legal entity is duly organized and validly existing under the applicable laws of the jurisdiction of its organization, and (b) you are authorized by such legal entity to act on its behalf.

If you use our Services on behalf of another person or entity: (a) all references to "you" throughout these Terms will include that person or entity, (b) you represent that you are authorized to accept these Terms on that person's or entity's behalf, and (c) in the event you or the person or entity violates these Terms, the person or entity agrees to be responsible to us.

Additionally, in order to use the Services, you must not: (a) have previously been suspended or removed from using the Bottomless Service and (b) be violating any other agreement to which you are a party by agreeing to these Terms.

## **3. User Accounts and Account Security**

You may need to register for a Bottomless account with Bottomless or a payment account with Bottomless' Payment Provider (see section 4(C) for more information) to access some or all of our Services. If you register for any account in connection with the Services, you must provide accurate account information and promptly update this information if it changes. You also must maintain the security and confidentiality of your login credentials, and promptly notify us if you discover or suspect that someone has accessed your account without your permission.

Additionally, you may only register for a Bottomless account if you are legally permitted to, and do, live in the United States or one of its territories. We reserve the right to reclaim Bottomless account usernames, including on behalf of businesses or individuals that hold legal claim, including trademark rights, to those usernames.

## **4. The Bottomless Services**

### **A. Posting Items**

The Bottomless Services allow you to post items for sale by uploading pictures and providing item descriptions. You can post most items through the Services without charge. Bottomless may charge a fee to post some items or if you exceed your available free posts for certain types of items. If there is a fee to post your item, Bottomless will notify you through the Services before you post your item. You may also promote your items for a fee. If you pay to promote your item, Bottomless will post your item more prominently and frequently within the Around Me home feed. Promoted items are also identified within the feed. Bottomless may offer various pricing packages, including subscriptions, to post and promote items. Pricing details are provided through the Bottomless Services.

### **B. Buying and Selling**

When a buyer and seller agree on a price for an item posted for sale on the Services there are several options for completing the transaction.

If a buyer and seller agree, items may be paid for outside of the Bottomless Services, such as by cash, check or other agreed upon payment methods. Such payments are made directly between the buyer and the seller when they complete their transaction, pursuant to terms they determine. Bottomless is not a party to such transactions, does not facilitate such transactions, and cannot assist with refunds or returns related to such transactions in any manner.

Alternatively, the Bottomless Services may allow you to pay for a purchase with a credit card or other electronic payment method through the Services ("Bottomless Payment Solution"). Some transactions, such as purchases from Business Sellers, may only be made using the Bottomless Payment Solution. All purchases made using the Bottomless Payment Solution are made directly between you and the other party according to these Terms and any other terms the parties mutually determine. Bottomless is not a party to such transactions and disclaims any and all responsibility to facilitate such transactions or provide refunds or returns, other than as expressly provided in the Purchase Protection Policies.

### **C. Payment Accounts**

If you choose to make or accept payment for items using the Bottomless Payment Solution, you agree to pay the relevant service fees. Bottomless reserves the right to change the service fees from time to time.

Making or accepting payment using the Bottomless Payment Solution requires you maintain an account with Bottomless' then-current payment processor for the Bottomless Payment Solution ("Payment Provider").

## 5. User Consent

Our Services allow you and other users to create, post, store and share content, including but not limited to messages, text, photos, graphics, company logo or marks, and other materials (collectively, "User Content"). Except for the license you grant below, you retain all rights in and to your User Content, as between you and Bottomless.

You grant Bottomless a perpetual, irrevocable, nonexclusive, royalty-free, worldwide, fully paid, and sublicensable license to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, publicly perform and display your User Content and any name, username or likeness provided in connection with your User Content in all media formats and channels now known or later developed without compensation to you. The use of your or any other user's name, likeness, or identity in connection with the Bottomless Services does not imply any endorsement thereof unless explicitly stated otherwise. When you post or otherwise share User Content on or through our Services, you understand that your User Content and any associated information (such as your username or profile photo) may be visible to others. Bottomless uses third parties to provide services such as user verification. When You provide User Content in connection with these third party tools, You may be sharing User Content with these third parties.

You may not create, post, store or share any User Content that violates these Terms or for which you do not have all the rights necessary to grant us the license described above. You represent and warrant that your User Content, and our use of such content as permitted by these Terms, will not violate any rights of or cause injury to any person or entity. You will not (and will not allow or authorize any third-party to) post, upload to, transmit, distribute, store, create, solicit, disclose, or otherwise publish through the Bottomless Services any User Content that:

1. Is unlawful, libelous, defamatory, obscene, pornographic, indecent, lewd, suggestive, harassing, threatening, invasive of privacy or publicity rights, abusive, or inflammatory;
2. Is fraudulent, misleading or false, may encourage deceptive activity, or would otherwise constitute as duplicitous behavior;
3. Is, in Bottomless' judgment, disrespectful, inappropriate, or may expose Bottomless, our users or others to harm or liability;
4. May infringe the patent, trademark, trade secret, copyright, intellectual, privacy or proprietary right of any party;
5. Would constitute, encourage or provide instructions for a criminal offense, violate the rights of any party or otherwise create liability or violate any local, state, national or international law;

6. Includes any statements or claims that do not reflect your honest views and experiences;
7. Contains any unsolicited marketing promotions, political campaigning, advertising, or solicitations;
8. Contains any private information of any third parties, including addresses, phone numbers and payment card information; or
9. Contain viruses, corrupted data or other harmful, disruptive, or destructive files.

Bottomless assumes no responsibility to actively monitor User Content and does not endorse any User Content. Although Bottomless has no obligation to screen, edit or monitor User Content, we may delete or remove User Content at any time and for any reason with or without notice.

## **6. Prohibited Conduct**

You will not violate any applicable law, contract, intellectual property right or other third-party right or commit a tort while using our Services, and you are solely responsible for your conduct while using our Services. Without limiting the forgoing, you will not:

Use our Services other than for their intended purpose and in any manner that could interfere with, disrupt, negatively affect or inhibit other users from fully enjoying our Services or that could damage, disable, overburden or impair the functioning of our Services or any networks connected to our Services in any manner;

1. Engage in any harassing, threatening, intimidating, predatory or stalking conduct;
2. Attempt to induce any user into buy-sell correspondence outside of the Bottomless Platform;
3. Sell, resell or commercially use the Bottomless Services except as expressly permitted by us;
4. Sell or offer for anything that violates our Prohibited Items Guidelines;
5. Sell, offer, or post items or content that is fraudulent, misleading, or deceptive;
6. Send, distribute or post spam, unsolicited or bulk commercial electronic communications, chain letters, or pyramid schemes;
7. Provide false, inaccurate or misleading information to Bottomless or our service providers, including when registering for an Bottomless account.
8. Impersonate or post on behalf of any person or entity or otherwise misrepresenting your affiliation with a person or entity;
9. Use, or attempt to use, any form of gift certificate or cryptocurrency as payment for any item posted or offered on the Bottomless Platform;
10. Copy, reproduce, distribute, publicly perform or publicly display all or portions of our Services, including our underlying content and source code, except as expressly permitted by us or our licensors;

11. Modify our Services, remove any proprietary rights notices or markings, obscure or disable any advertisements that appear on or through the Services, or otherwise make any derivative works based upon our Services;
12. Reverse engineer any aspect of our Services or do anything that might discover source code or bypass or circumvent measures employed to prevent or limit access to any part of our Services;
13. Develop or use any third-party applications that interact with the Bottomless Services without Bottomless' prior written consent;
14. Use any type of automated means to utilize the Bottomless Services or to collect or extract data from Bottomless, such as a harvesting bot, robot, spider, script, crawler, or scraper, not provided by Bottomless; or
15. Use the Bottomless Services to infringe or violate the intellectual property rights or any other rights of anyone else (including Bottomless).

You will establish and use your Bottomless account only in accordance with any guidelines issued by Bottomless. Without limiting the forgoing, you will not:

1. Create more than one account;
2. Transfer your account to another user;
3. Attempt to obtain the password, account information, or other security information of another user; or
4. Attempt to use another user's account without authorization from that user and Bottomless.

If you engage in any of the conduct described above or similar conduct, Bottomless may suspend or terminate your right to access the Services. Enforcement of this Section 6 is solely at Bottomless' discretion, and failure to enforce this section in some instances does not constitute a waiver of our right to enforce it in other instances. In addition, this Section 6 does not create any private right of action on the part of any third party or any reasonable expectation that the Services will not contain any content that is prohibited by such rules.

## **7. Ownership; Limited License**

The Services, including the text, graphics, images, photographs, videos, illustrations and other content contained therein, are owned by Bottomless or our licensors and are protected under both United States and foreign laws. Except as explicitly stated in these Terms, all rights in and to the Services are reserved by us or our licensors. Subject to your compliance with these Terms, you are hereby granted a limited, nonexclusive, nontransferable, non-sublicensable, revocable license ("License") to access and use our Services.

## **8. Suspension; Termination**

Bottomless may revoke or terminate your License to access or use the Bottomless Services for any reason without notice at Bottomless' sole discretion. Without limiting the generality of the foregoing, we may revoke or terminate the License if you: (i) breach any obligation in these Terms or in any other agreement between you and us, (ii) violate any policy or guideline applicable to the Bottomless Services, or any other Bottomless product or service, or (iii) use the Bottomless Services other than as specifically authorized in these Terms, without our prior written permission. You will stop accessing or using the Bottomless Services immediately if Bottomless suspends or terminates your License to access or use the Bottomless Services. Bottomless reserves the right, but does not undertake any duty, to take appropriate legal action including the pursuit of civil, criminal, or injunctive redress against you for continuing to use the Bottomless Services during suspension or after termination. Bottomless may recover its reasonable attorneys' fees and court costs from you for such action. These Terms will remain enforceable against you while your License to access or use the Bottomless Services is suspended and after it is terminated.

## **9. Feedback**

You may voluntarily post, submit or otherwise communicate to us any questions, comments, suggestions, ideas, original or creative materials or other information about Bottomless or our Services (collectively, "Feedback"). You understand that we may use such Feedback for any purpose, commercial or otherwise, without acknowledgment or compensation to you, including, without limitation, to develop, copy, publish, or improve the Bottomless Services by using the Feedback in Bottomless' sole discretion. You understand that Bottomless may treat Feedback as nonconfidential.

## **10. Copyright & Intellectual Property Complaints**

You may report alleged intellectual property rights violations or counterfeit items to Bottomless through [support@itsbottomless.com](mailto:support@itsbottomless.com).

## **11. Third Party Content**

We may provide information about third-party products, services, activities or events, or we may allow third parties to make their content and information available on or through the Services (collectively, "Third-Party Content"). We provide Third-Party Content as a service to those interested in such content. Your dealings or correspondence with third parties and your use of or

interaction with any Third-Party Content are solely between you and the third party. Bottomless does not control or endorse, and makes no representations or warranties regarding, any Third-Party Content, and your access to and use of such Third-Party Content is at your own risk.

## **12. Indemnification**

To the fullest extent permitted by applicable law, you will indemnify, defend and hold harmless Bottomless and affiliates and our officers, directors, agents, partners and employees (individually and collectively, the "Bottomless Parties") from and against any losses, liabilities, claims, demands, damages, expenses or costs ("Claims") arising out of or related to (a) your access to or use of the Services; (b) your User Content or Feedback; (c) your violation of these Terms; (d) your violation, misappropriation or infringement of any rights of another (including intellectual property rights or privacy rights); or (e) your conduct in connection with the Services. You agree to promptly notify the Bottomless Parties of any third-party Claims, cooperate with the Bottomless Parties in defending such Claims and pay all fees, costs and expenses associated with defending such Claims (including, but not limited to, attorneys' fees). You also agree that the Bottomless Parties will have control of the defense or settlement, at Bottomless' sole option, of any third-party Claims. This indemnity is in addition to, and not in lieu of, any other indemnities set forth in a written agreement between you and Bottomless or the other Bottomless Parties.

## **13. Disclaimers**

Your use of our Services is at your sole risk. Except as otherwise provided in a writing by us, our Services and any content therein are provided "as is" and "as available" without warranties of any kind, either express or implied, including, but not limited to, implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement. In addition, Bottomless does not represent or warrant that our Services are accurate, complete, reliable, current or error-free or that our Services are free of viruses or other harmful components. You assume the entire risk as to the quality and performance of the Services.

## **14. Limitation of Liability**

To the fullest extent permitted by applicable law, Bottomless and the other Bottomless Parties will not be liable to you under any theory of liability—whether based in contract, tort, negligence, warranty, or otherwise—for any indirect, consequential, incidental, or special damages or lost profits, even if Bottomless or the other Bottomless Parties have been advised of the possibility of such damages.



The total liability of Bottomless and the other Bottomless Parties for any claim arising out of or relating to these Terms or our Services, regardless of the form of the action, is limited to the greater of \$100 or the amount paid by you to Bottomless in the 12 months preceding the event that gave rise to the claim.

The limitations set forth in this Section 14 will not limit or exclude liability for the gross negligence, fraud or intentional misconduct of Bottomless or the other Bottomless Parties or for any other matters in which liability cannot be excluded or limited under applicable law. Additionally, some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitations or exclusions may not apply to you.

## **15. Assumption of Risk**

A. YOU ACKNOWLEDGE AND AGREE THAT THERE ARE RISKS ASSOCIATED WITH UTILIZING AN INTERNET-BASED MARKETPLACE AND INTERACTING WITH OTHER USERS IN PERSON. WE DO NOT INVESTIGATE OR VERIFY ANY USER'S REPUTATION, CONDUCT, MORALITY, CRIMINAL BACKGROUND, OR ANY INFORMATION USERS MAY SUBMIT TO THE SERVICES. YOU ARE SOLELY RESPONSIBLE FOR TAKING ALL NECESSARY PRECAUTIONS WHEN INTERACTING WITH OTHER USERS, PARTICULARLY WHEN MEETING A STRANGER IN PERSON FOR THE FIRST TIME. IT IS POSSIBLE THAT OTHER USERS MAY ATTEMPT TO PHYSICALLY HARM OR DEFRAUD YOU OR OBTAIN INFORMATION FROM YOU FOR FRAUDULENT PURPOSES. YOU ARE SOLELY RESPONSIBLE FOR, AND ASSUME ALL RISKS RELATED TO, SELLING AND BUYING THROUGH OFFERUP'S SERVICES (INCLUDING ALL ONLINE AND OFFLINE INTERACTIONS WITH OTHER USERS).

B. COMMUNITY MEETUP SPOTS. COMMUNITY MEETUP SPOTS ARE LOCATIONS IN WHICH A THIRD PARTY (SUCH AS A POLICE DEPARTMENT OR LOCAL STORE) HAS AGREED TO POST A COMMUNITY MEETUP SPOT SIGN. WE ENCOURAGE THIRD PARTIES TO PLACE COMMUNITY MEETUP SPOTS IN WELL-LIT LOCATIONS, WITH SURVEILLANCE AND IN GENERALLY WELL-TRAFFICKED AREAS; HOWEVER, BOTTOMLESS DOES NOT INDEPENDENTLY VERIFY THE CONDITIONS AT ANY COMMUNITY MEETUP SPOT, DOES NOT MONITOR COMMUNITY MEETUP SPOTS AND DOES NOT WARRANT THEIR SAFETY OR CONDITION. YOUR USAGE OF COMMUNITY MEETUP SPOTS, AND ANY DISPUTE ARISING OUT OF THAT USAGE, INCLUDING AGAINST ANY THIRD PARTY POSTING A COMMUNITY MEETUP SPOT SIGN, REMAINS SUBJECT TO THE EXPRESS PROVISIONS IN SECTIONS 15-18 OF THESE TERMS.

## **16. Release**

To the fullest extent permitted by applicable law, you release Bottomless and the other Bottomless Parties from responsibility, liability, claims, demands and/or damages (actual and consequential) of every kind and nature, known and unknown (including, but not limited to, claims of negligence), arising out of or related to disputes between users and the acts or omissions of third parties. If you are a consumer who resides in California, you hereby waive your rights under California Civil Code § 1542, which provides: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

## **17. Transfer and Processing Data**

In order for us to provide our Services, you agree that we may process, transfer and store information about you in the United States and other countries, where you may not have the same rights and protections as you do under local law.

## **18. Guidelines for Law Enforcement Agency**

If you are a law enforcement agency, we may work with you to assist in on-going matters related to alleged violations of the law, please contact [support@itsbottomless.com](mailto:support@itsbottomless.com) for more information.

## **19. Dispute Resolution; Binding Arbitration**

Please read the following section carefully because it requires you to arbitrate certain disputes and claims with Bottomless and limits the manner in which you can seek relief from us, unless you opt out of arbitration by following the instructions set forth below. No class or representative actions or arbitrations are allowed under this arbitration agreement. In addition, arbitration precludes you from suing in court or having a jury trial.

**No Representative Actions.** You and Bottomless agree that any dispute arising out of or related to these Terms or our Services is personal to you and Bottomless, and that any dispute will be resolved solely through individual action, and will not be brought as a class arbitration, class action or any other type of representative proceeding. The limitations imposed by this section apply to, but are in no way limited to, class action refund claims brought by a class of taxpayers against Bottomless related to taxes collected and remitted in good faith efforts at compliance with state and local marketplace facilitator or marketplace provider laws. Nothing in this section will be construed to prohibit a buyer from filing a refund claim with the seller or applicable state and local tax authority as permitted by law.

Arbitration of Disputes. Except for small claims disputes in which you or Bottomless seeks to bring an individual action in small claims court located in the county of your billing address or disputes in which you or Bottomless seeks injunctive or other equitable relief for the alleged unlawful use of intellectual property, you and Bottomless waive your rights to a jury trial and to have any dispute arising out of or related to these Terms or our Services resolved in court. Instead, for any dispute or claim that you have against Bottomless or relating in any way to the Services, you agree to first contact Bottomless and attempt to resolve the claim informally by sending a written notice of your claim ("Notice") to Bottomless by email at [support@itsbottomless.com](mailto:support@itsbottomless.com).

The Notice must (a) include your name, your residence address, your email address, your telephone number, and, if you have registered for an Bottomless account, the email address your account is registered under if it is different from your current email address; (b) describe the nature and basis of the claim; and (c) set forth the specific relief sought. Our notice to you will be similar in form to that described above.

You and Bottomless agree that these Terms affect interstate commerce and that the enforceability of this Section 19 will be substantively and procedurally governed by the Federal Arbitration Act, 9 U.S.C. § 1, et seq. (the "FAA"), to the maximum extent permitted by applicable law. As limited by the FAA, and these Terms, the arbitrator will have exclusive authority to make all procedural and substantive decisions regarding any dispute and to grant any remedy that would otherwise be available in court, including the power to determine whether a dispute may be arbitrated. The arbitrator may conduct only an individual arbitration and may not consolidate more than one individual's claims, preside over any type of class or representative proceeding or preside over any proceeding involving more than one individual.

The arbitration will allow for the discovery or exchange of non-privileged information relevant to the dispute. The arbitrator, Bottomless, and you will maintain the confidentiality of any arbitration proceedings, judgments and awards, including, but not limited to, all information gathered, prepared and presented for purposes of the arbitration or related to the dispute(s) therein. The arbitrator will have the authority to make appropriate rulings to safeguard confidentiality, unless the law provides to the contrary. The duty of confidentiality does not apply to the extent that disclosure is necessary to prepare for or conduct the arbitration hearing on the merits, in connection with a court application for a preliminary remedy or in connection with a judicial challenge to an arbitration award or its enforcement, or to the extent that disclosure is otherwise required by law or judicial decision.

You and Bottomless agree that for any arbitration you initiate, you will pay the filing fee and any remaining arbitration fees and costs. For any arbitration initiated by Bottomless, Bottomless will pay all arbitration fees and costs. You and Bottomless agree that the state or federal courts of the State of California and the United States sitting in San Diego, California have exclusive jurisdiction over any appeals and the enforcement of an arbitration award.

Any claim arising out of or related to these Terms or our Services must be filed within one year after such claim arose; otherwise, the claim is permanently barred, which means that you and Bottomless will not have the right to assert the claim.

You have the right to opt out of binding arbitration within 30 days of the date you first accepted the terms of this Section 19 by emailing Bottomless at [support@itsbottomless.com](mailto:support@itsbottomless.com).

In order to be effective, the opt-out notice must include your full name and address and clearly indicate your intent to opt out of binding arbitration. By opting out of binding arbitration, you are agreeing to resolve disputes in accordance with Section 20.

If any portion of this Section 19 is found to be unenforceable or unlawful for any reason, (a) the unenforceable or unlawful provision shall be severed from these Terms; (b) severance of the unenforceable or unlawful provision shall have no impact whatsoever on the remainder of this Section 19 or the parties' ability to compel arbitration of any remaining claims on an individual basis pursuant to this Section 19; and (c) to the extent that any claims must therefore proceed on a class, collective, consolidated, or representative basis, such claims must be litigated in a civil court of competent jurisdiction and not in arbitration, and the parties agree that litigation of those claims shall be stayed pending the outcome of any individual claims in arbitration. Further, if any part of this Section 19 is found to prohibit an individual claim seeking public injunctive relief, that provision will have no effect to the extent such relief is allowed to be sought out of arbitration, and the remainder of this Section 19 will be enforceable.

## **20. Governing Law and Venue**

Any dispute arising from these Terms and your use of the Services will be governed by and construed and enforced in accordance with the laws of California, except to the extent preempted by U.S. federal law, without regard to conflict of law rules or principles (whether of California or any other jurisdiction) that would cause the application of the laws of any other jurisdiction. Any dispute between the parties that is not subject to arbitration or cannot be heard in small claims court will be resolved in the state or federal courts of California and the United States, respectively, sitting in San Diego County, California.

## **21. Modifying and Terminating our Services**

We reserve the right to modify our Services or to suspend or stop providing all or portions of our Services at any time. You also have the right to stop using our Services at any time. We are not responsible for any loss or harm related to your inability to access or use our Services.

## **22. Miscellaneous**

If any provision or part of a provision of these Terms is unlawful, void or unenforceable, that provision or part of the provision is deemed severable from these Terms and does not affect the validity and enforceability of any remaining provisions.

The failure of Bottomless to exercise or enforce any right or provision of these Terms will not operate as a waiver of such right or provision. The section titles in these Terms are for convenience only and have no legal or contractual effect. Except as otherwise provided herein, these Terms are intended solely for the benefit of the parties and are not intended to confer third-party beneficiary rights upon any other person or entity. You agree that communications and transactions between us may be conducted electronically. Bottomless is an independent contractor for all purposes and is not your agent or trustee. You are not an agent of Bottomless.