

## YOURPARTYONLINE.COM CUSTOMER SERVICE AGREEMENT

Thank you for your interest in YOURPARTYONLINE.COM (“YPOL”) and our web site at yourpartyonline.com (the “Site”), as well as all related web sites, networks, and other services provided by us (collectively our “Service”). This agreement (the “Agreement”), any other applicable policies and guidelines, as may be updated from time to time, govern your use of the Service. This Agreement constitutes a legal agreement between you and YPOL. In order to use the Service, you must agree to the terms contained herein.

### I. **Account Access**

- a. You must be at least eighteen (18) years old to use the Service. By agreeing to these Terms, you represent and warrant to us:
  - i. That you are at least eighteen (18) years old;
  - ii. That you have not previously been suspended or removed from the Service; and
  - iii. That your registration and your use of the Service is in compliance with any and all applicable laws and regulations.
- b. If you are using the Service on behalf of an entity, organization, or company, you represent and warrant that you have the authority to bind that organization to these Terms and you agree to be bound by these Terms on behalf of that organization.

### II. **Account and Registration**

To access some features of the Service, you must register for an account. When you register for an account, you may be required to provide us with some information about yourself (such as your name, credit card information, e-mail address, phone number or other contact information). You agree that the information you provide to us is accurate and that you will keep it up-to-date at all times. When you register, you will be asked to provide a password. You are solely responsible for maintaining the confidentiality of your account and password. You accept responsibility for all activities that occur under your account. If you have reason to believe that your account is no longer secure, you must immediately notify us.

### III. **Payment Terms**

- a. You understand that the prices for menu items displayed through the Service may differ from the prices offered or published by Merchants for the same menu items and/or from prices available at other third-party websites and that such prices may not be the lowest prices at which the menu items are sold.
- b. YPOL will charge the payment method you specify at the time of purchase or as otherwise specified by you in your account information.
- c. Charges paid by you are final and non-refundable, YPOL has no obligation to provide refunds or credits, but may grant them, in each case in YPOL sole discretion and regardless of your decision to terminate your usage, our decision to terminate your usage, and/or any disruption caused to our Service for any reason whatsoever.

- d. YPOL, in its sole discretion, may make promotional offers with different features and different rates to any of our customers. These promotional offers, unless made to you, shall have no bearing whatsoever on your use of the Service or fees charged to you. YPOL reserves its right to expire or modify any promotion at any time.

IV. **Payment Authorization**

- a. You authorize YPOL to charge all sums for orders that you make and services you select to the payment method designated in your account.
- b. YPOL may place an initial temporary pre-authorization hold when you make an order on your account or on each new payment method you add to your account.
- c. YPOL reserves the right to request additional information from you if we have reason to believe, in our sole discretion, that a payment method may be fraudulent.

V. **Delinquent Accounts**

If payment for purchases on your account is delinquent, your account information may be sent to a collection agency / debt collector and you may be subject to a collection action, and payment of collection related fees and costs. If you have questions regarding an outstanding balance on your account, please contact us.

VI. **Customer Not Available**

YPOL reserves the right to charge a customer the full order amount if that customer is not at the designated delivery location when the Merchant arrives to complete the delivery.

VII. **Cancelled Order**

If you cancel your YPOL order you may be charged depending on what stage the order was in when you cancelled. If you cancel an order after it has been accepted but is not yet being prepared by the Merchant, you will not be charged a cancellation fee. If you cancel an order after a Merchant has started preparing your order, you will be charged the price of the items, including applicable taxes, plus a cancellation fee. If you cancel an order after it is out for delivery, you will be charged the full price of the order.

VIII. **Returned Items**

If an item has to be returned for any reason, you may be subject to a non-refundable \$15 return/restocking fee. For alcohol items, the courier reserves the right to refuse delivery and return the item(s) if the name on your ID does not match the name on your order, if you are not at least twenty-one (21) years old ("Legal Age"), if you cannot provide valid government-issued photo ID that you are Legal Age, or if you are visibly intoxicated.

IX. **Merchant Interactions**

- a. During use of the Service, you may purchase goods and services from third-party merchants ("Merchants") through the Service. Any such activity, and any disputes, terms, conditions, warranties or representations associated with that activity, is solely between you and the applicable Merchant. YPOL shall have no liability, obligation or responsibility for any purchase

or transaction between you and any Merchant. In no event shall YPOL be responsible for any content, products, services or other materials on or available from Merchants or Merchants' websites. Certain Merchants may require your agreement to additional or different terms and conditions prior to your use of or access to their respective goods or services, and YPOL disclaims any and all responsibility or liability arising from such agreements between you and a Merchant.

- b. The Service may contain third-party advertising and marketing. By agreeing to these terms you agree to receive such advertising and marketing.
- c. The Service may contain links to third-party websites. Linked websites are not under our control, and we are not responsible for their content.

X. **Your Use of the Service**

In order to use the Service, you agree to the following:

- a. The Service, including any content that forms part of the Service, contains proprietary content, information and material that is protected by applicable intellectual property and other laws, including copyright;
- b. You will not violate, or encourage others to violate, any right of a Merchant, including by infringing or misappropriating any third-party intellectual property right, or otherwise engage in the unauthorized use of any proprietary content, information or materials;
- c. Unless expressly permitted, you may not alter, modify, create derivative works of, sell, license or in any way exploit any part of the Service, and you agree not to copy, reproduce, distribute, publish, display, perform, transmit, stream or broadcast any part of the Service without prior written authorization;
- d. You agree not to perform any fraudulent activity, including impersonating any person or entity, or accessing any other Service account without permission;
- e. You agree not to decipher, reverse engineer, decompile or disassemble the Service, or the software used to provide the Service, in whole or in part, or authorize, direct, or cause a third party to do so;
- f. You agree not to use any robot, spambot, spider, crawler, scraper or other automated means or interface not provided by us to access the Service or to extract data;
- g. You agree not to use the Service in any manner to harass, abuse, stalk, threaten, defame or otherwise infringe or violate the rights of any other party, and that YPOL is not in any way responsible for any such use by you, nor for any harassing, threatening, defamatory, offensive or illegal messages or transmissions that you may receive as a result of using the Service;
- h. You agree not to introduce viruses, time-bombs, worms, cancelbots, trojan horses and/or other harmful code into the Service;
- i. Alcoholic beverages, including but not limited to beer, wine, cider, and spirits, as applicable; all referred to as ("Alcoholic Beverages"), may only be purchased by individuals, including without limitation customers, who are Legal Age. If you are a Customer, you expressly represent and

warrant that: (i) you are of Legal Age; and (ii) you will provide bona fide government-issued photo identification to your courier upon delivery to you. Valid forms of identification include but are not limited to: (i) a valid motor vehicle operator's license, (ii) a passport issued by the U.S. or by a foreign government, or (iii) a valid identification card issued to a member of the Armed Forces that includes a date of birth and a picture, showing your Legal Age. Deliveries of Alcoholic Beverages may not be made to anyone who is intoxicated, regardless of his or her age. You further understand and acknowledge that neither YPOL nor the courier can accept your order of Alcoholic Beverages, and the order will only be delivered if the Merchant accepts your order; and

- j. You agree not to do any of the acts described in this Section, or to assist or permit any person in engaging in any of the acts described in this Section.

XI. **Intellectual Property Ownership**

- a. The Service, and the media and materials contained in the Service, including all intellectual property rights in the Service, are the sole and exclusive property of YPOL. Except for the limited license expressly granted by and to you under this Agreement, no other rights, licenses, or immunities are granted or shall be deemed to be granted under these Terms, either expressly, or by implication, estoppel or otherwise. All rights not expressly granted by YPOL in this Agreement are expressly reserved.

XII. **Indemnity**

- a. You are responsible for your use of the Service, and you agree to defend (at YPOL's option) and indemnify YPOL and its officers, directors, employees, contractors, consultants, affiliates, investors, service providers, business partners, subsidiaries and agents from and against every claim, liability, damage, loss, and expense, including reasonable attorneys' fees and costs, arising out of or in any way connected with:
  - i. Your violation of any of this Agreement, any representation, warranty, or agreement referenced in this Agreement, or any applicable law or regulation;
  - ii. Your violation of any Merchant right, including any intellectual property right or publicity, confidentiality, other property, or privacy right; or
  - iii. Any dispute or issue between you and any Merchant, including any courier, restaurant or other third-party.
- b. YPOL reserves the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you (without limiting your indemnification obligations) and you agree to cooperate with our defense of that claim. If the defense or settlement is assumed by you, YPOL may at any time thereafter elect to take over control of the defense and settlement of the claim. You must not settle any claim without YPOL's prior written consent.

XIII. **Disclaimer of Warranties**

YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK. THE SERVICE IS PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED. ALL REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED,

STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, ARE HEREBY DISCLAIMED BY YPOL TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. YPOL MAKES NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICE. YPOL DOES NOT REPRESENT OR WARRANT THAT THE USE OF THE SERVICE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR WILL OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA; THAT THE SERVICE OR ANY PRODUCTS OR MATERIALS OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS; OR THAT THE SERVICE OR THE SERVER(S) THAT MAKE THE SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

YPOL'S SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. YPOL IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

YPOL RELIES UPON RESTAURANTS AND OTHER THIRD-PARTY FOOD AND BEVERAGE PROVIDERS AND RETAILERS TO PROVIDE ACCURATE ALLERGEN AND DIETARY INFORMATION AND GENERAL PRODUCT SAFETY. YPOL DOES NOT REPRESENT OR WARRANT THAT THE INFORMATION ACCESSIBLE THROUGH THE SERVICE IS ACCURATE, COMPLETE, RELIABLE, CURRENT OR ERROR-FREE, INCLUDING WITHOUT LIMITATION MENUS, NUTRITIONAL AND ALLERGEN INFORMATION, PHOTOS, FOOD QUALITY OR DESCRIPTIONS, PRICING, HOURS OF OPERATION, OR REVIEWS. ALL CONTENT IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE RELIANCE ON ANY INFORMATION PROVIDED THROUGH THE SERVICE IS SOLELY AT YOUR OWN RISK, INCLUDING WITHOUT LIMITATION NUTRITIONAL AND ALLERGEN INFORMATION.

YPOL DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A RESTAURANT OR OTHER THIRD PARTY THROUGH THE SERVICE OR ANY HYPERLINKED WEBSITE OR THIRD-PARTY SERVICE, AND YPOL WILL NOT BE A PARTY TO OR IN ANY WAY MONITOR ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES.

XIV. **Limitation of Liability**

IN NO EVENT SHALL YPOL AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING PERSONAL INJURY, LOSS OF DATA, REVENUE, PROFITS, REPUTATION, USE OR OTHER ECONOMIC ADVANTAGE) EVEN IF YPOL HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

THE SERVICE CONNECTS YOU TO MERCHANTS FOR THE PURPOSES OF FACILITATING CERTAIN SERVICES. YPOL WILL NOT ASSESS THE QUALITY, SAFETY, OR LEGALITY OF THE ITEMS PROVIDED BY MERCHANTS OR RETAILERS ON THE PLATFORM, AND YOU EXPRESSLY WAIVE AND RELEASE YPOL FROM ANY AND ALL LIABILITY,

CLAIMS OR DAMAGES ARISING FROM OR IN ANY WAY RELATED TO MERCHANTS, RETAILERS, AND THE ITEMS THEY PROVIDE. YPOL WILL NOT BE A PARTY TO DISPUTES OR NEGOTIATIONS OF DISPUTES, BETWEEN YOU AND ANY MERCHANTS, OR RETAILERS. RESPONSIBILITY FOR THE DECISIONS YOU MAKE REGARDING SERVICES OFFERED VIA THE SERVICE (WITH ALL THEIR IMPLICATIONS) RESTS SOLELY WITH YOU. IN ADDITION, WE WILL NOT ASSESS THE SUITABILITY, LEGALITY OR ABILITY OF ANY THIRD PARTIES AND YOU EXPRESSLY WAIVE AND RELEASE YPOL FROM ANY AND ALL LIABILITY, CLAIMS, CAUSES OF ACTION, OR DAMAGES ARISING FROM YOUR USE OF THE SERVICE, OR IN ANY WAY RELATED TO THE THIRD PARTIES INTRODUCED TO YOU BY THE SERVICE.

XV. **Dispute Resolution**

- a. In the interest of resolving disputes between you and YPOL in the most expedient and cost-effective manner, you and YPOL agree that every dispute arising in connection with these Terms will be resolved by binding arbitration. Arbitration is more informal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, may allow for more limited discovery than in court, and can be subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. Our agreement to arbitrate disputes includes all claims arising out of or relating to any aspect of these Terms, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory, and regardless of whether a claim arises during or after the termination of these Terms. YOU UNDERSTAND AND AGREE THAT, BY ENTERING INTO THESE TERMS, YOU AND YPOL ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.
- b. Exceptions: Despite the provisions of the paragraph directly above, we both agree that nothing in these Terms will be deemed to waive, preclude, or otherwise limit the right of either of us to:
  - i. Bring an individual action in small claims court;
  - ii. Pursue an enforcement action through the applicable federal, state, or local agency if that action is available;
  - iii. Seek injunctive relief in a court of law; or
  - iv. To file suit in a court of law to address an intellectual property infringement claim.
- c. Any arbitration between you and YPOL will be governed by the Commercial Dispute Resolution Procedures and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by these Terms, and will be administered by the AAA.

XVI. **Modification of Agreement**

We reserve the right to update or modify the Terms at any time without prior notice, and such changes will be effective immediately upon being posted through the Service, except as set forth below. These Terms identify the date of last update. Your use of the Service following any such change constitutes your agreement to be bound by the modified Terms of Service. In the case of

material changes to these Terms, we will make reasonable efforts to notify you of the change, such as through sending an email to any address you may have used to register for an account, through a pop-up window on the Service, or other similar mechanism.

XVII. **General**

- a. This Agreement and the performance under this Agreement, and all suits and special proceedings under this Agreement, shall be construed in accordance with and governed, to the exclusion of the law of any other forum, by the laws of the State of North Carolina.
- b. If any provision of the Agreement is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced to the fullest extent under law. The failure of YPOL to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by YPOL in writing.
- c. This Agreement comprises the entire agreement between you and YPOL and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained in this Agreement.