

Terms of Service

Kikoff Inc.
United States

IMPORTANT NOTICE: Revised November 12, 2024

Kikoff Inc., a Delaware corporation (“Kikoff,” the “Company,” “we,” “our,” or “us”), owns and operates the website at www.Kikoff.com (the “Site”) and a related mobile application (the “App”). By accessing or using the Site or App, you (the “User,” “you,” or “your”) agree that you have read, understand, and agree to be bound by each of the following agreements:

- these terms of service (the “Terms of Service”); and
- Kikoff’s Privacy Policy.

Please review these Terms of Service before using the Site or App. If you do not agree to these terms, you should not access the Site or App.

PLEASE READ THESE TERMS OF SERVICE CAREFULLY, AS THEY CONTAIN AN ARBITRATION AGREEMENT AND OTHER IMPORTANT INFORMATION REGARDING YOUR AND OUR LEGAL RIGHTS, REMEDIES AND OBLIGATIONS IN THE EVENT OF A DISPUTE BETWEEN YOU AND US. THE ARBITRATION AGREEMENT REQUIRES DISPUTES BETWEEN YOU AND US (WITH LIMITED EXCEPTIONS) TO BE RESOLVED BY AN ARBITRATOR THROUGH BINDING AND FINAL ARBITRATION, RATHER THAN BY A JUDGE OR JURY IN COURT. IF A DISPUTE IS ARBITRATED (1) YOU AND WE WILL ONLY BE PERMITTED TO PURSUE CLAIMS AGAINST ONE ANOTHER ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING, AND (2) YOU AND WE WILL ONLY BE PERMITTED TO SEEK RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ON AN INDIVIDUAL BASIS. YOU HAVE THE RIGHT TO REJECT THE ARBITRATION AGREEMENT AS SET FORTH BELOW.

1. Eligibility

The Site and App are intended solely for Users who are citizens or legal residents of the United States of America and are physically present in the United States of America at the time of such use. By using the Site or App, you represent and warrant that you agree to and will abide by all of the terms and conditions of these Terms of Service, and that you are not prohibited by applicable law from using the Site or App. If you violate any of these Terms of Service, the Company may terminate any or all accounts you have with us and/or prohibit you from using or accessing the Site and/or App, at any time in its sole discretion, with or without notice to you.

2. Amendments to these Terms

We may revise these Terms of Service by posting a revised Agreement on our Site at any time, and therefore we suggest that you check these Terms of Service on our Site from time to time. If we do make revisions, we will post the changed Terms of Service on the Site and will indicate at the top of this page under the heading “IMPORTANT NOTICE” the date these Terms of Service were last revised. We may also notify you of any changes at the email address associated with any accounts you have with us, and you agree to accept email communications, links to and/or our posting of any revised Terms of Service on our Site and/or within the logged-in pages of our App. You agree that any of these means of communicating our changes to these Terms of Service constitutes adequate notice to you. Your continued access and use of the Site, the App, or any products or services offered by Kikoff (the “Services”) indicates your agreement to be bound by any such changes or revisions. If you disagree with the changes, do not continue to use the Site, the App, or any of Kikoff’s Services. However, you will continue to be bound by the most recent version of the Terms of Service that you did accept, including the Arbitration Agreement.

3. Consent To Receive and Use Consumer Information

If you complete the account opening process, you authorize us to create and maintain an account in your name using your account registration information and other information that may be collected about you in accordance with our [Privacy Policy](#) as part of providing our Services (collectively, such information is your “Account Profile”). By registering, you also specifically consent to let us request and receive your consumer report data and other data about you from third parties to include in your Account Profile as follows:

I understand that I am providing written instructions in accordance with the Fair Credit Reporting Act and other applicable law for Kikoff and its affiliated companies to request and receive copies of consumer reports, scores, and other information about me from third parties, including, but not limited to, Experian, TransUnion and Equifax. I understand that my instructions permit Kikoff and affiliated companies to obtain such information at any time for as long as I have a registered Kikoff account and to use it as described in the Terms of Service and [Privacy Policy](#).

I authorize Kikoff to access and review my credit information in order to display it to me and to provide me with relevant financial recommendations and marketing offers. I also accept Kikoff's Terms of Service, [E-Sign Consent](#), and [Privacy Policy](#).

4. Proprietary Rights

The Site and App and all content contained or otherwise accessible through each of them, including designs, text, graphics, pictures, video, information and their selection and arrangement (the “Content”), are the proprietary property of the Company with all rights, title, and interest reserved. Any use of the Content not authorized in these Terms or in any other written agreement with Kikoff or its affiliates is prohibited.

No Content may be modified, copied, distributed, framed, reproduced, republished, downloaded, displayed, posted, transmitted, or sold in any form or by any means, in whole or in part, without the Company’s prior written permission. You will not modify, publish, transmit, reverse engineer,

participate in the transfer or sale, create derivative works, or in any way exploit any of the Company's Services, including any Content. Unless explicitly stated in these Terms of Service, nothing in these Terms of Service will be construed as conferring any license to intellectual property rights, whether by estoppel, implication or otherwise. Company graphics, logos, designs, page headers, button icons, scripts and service names are registered trademarks, trademarks, or trade dress of the Company. The Company's trademarks and trade dress may not be used, including as part of trademarks and/or as part of domain names, in connection with any product or service in any manner that is likely to cause confusion and may not be copied, imitated, or used, in whole or in part, without the prior written permission of the Company.

Provided that you are eligible to use the Site and App, you are granted a limited license to access and use the Site and App and to download or print a copy of any portion of the Content solely for your use of the Site and App, provided that you keep all copyright or other proprietary notices intact.. You are authorized to view and retain a copy of pages of the Site and the App only for your own personal, non-commercial use. You may also view and make copies of relevant documents, pages, images, or other materials on the Site and the App for the purpose of transacting business with us.

5. Prohibited Uses

You may not use the Site or App in any manner that violates applicable law. Without our prior consent, you may not use the Site or App in any manner that violates these Terms of Service, or that could or is intended to damage, disable, overburden, or impair the Site or App or interfere with any other party's use and enjoyment of the Site or App. Such unauthorized use, including but not limited to unauthorized entry into Kikoff systems or misuse of any information posted on the Site or the App, is strictly prohibited. Your use of the Site and the App is limited to the intended function of the Site and the App and you accept sole responsibility for all of your activities using the Site and the App. Specifically, you may not use the Site or the App in a manner that:

- (a) harasses, abuses, stalks, threatens, defames, or otherwise infringes or violates the rights of any party (including but not limited to rights of publicity or other proprietary rights);
- (b) is unlawful, fraudulent, or deceptive;
- (c) interferes with any other person's use of the Site or the App, including, without limitation, by disrupting, spamming or otherwise using abusive tactics to deter others from using the Site or the App or any of their respective features;
- (d) uses technology or other means to access content or systems of Kikoff in a manner that is not authorized by Kikoff;
- (e) uses any robot, spider, site search/retrieval application or other manual or automatic device to retrieve, index, "scrape," "data mine" or in any way reproduce or circumvent the navigational structure or presentation of the Site or the App, without Kikoff's express prior written consent;

- (f) uses or launches any automated system, including, without limitation, “robots,” “spiders,” or “offline readers,” to access content or systems of Kikoff;
- (g) uses tools which hack or alter the App, or that allow you to connect to Kikoff’s private binary interface or utilize any interfaces other than those provided by us to you;
- (h) attempts to introduce viruses or any other computer code, files, or programs that interrupt, destroy, or limit the functionality of any computer software, hardware, or telecommunications equipment;
- (i) attempts to gain unauthorized access to Kikoff’s computer network or user accounts;
- (j) encourages conduct that would constitute a criminal offense or that gives rise to civil liability;
- (k) violates these Agreements or any other policies of Kikoff;
- (l) attempts to damage, disable, overburden, or impair Kikoff’s servers or networks;
- (m) mirrors or frames any part of the Site or the App without Kikoff’s express prior written consent;
- (n) creates multiple accounts for the purpose of sale or transfer to others, transfer your account to others, park your account or those of others, or use another person’s account with Kikoff;
- (o) fails to comply with applicable third-party terms; or
- (p) constitutes any other inappropriate conduct, as determined by us in our sole discretion.

We reserve the right, in our sole discretion, to take any actions we deem necessary and appropriate to preserve the integrity of the Site or the App. We may terminate, disable, or limit your access to, or use of, the Site or App any time without notice for any reason, with or without cause in our sole discretion.

You may not republish the Content or incorporate the Content in any other compilation. You may not tokenize copies of the pages of the Site or the App or any other content on the Site or the App. You agree that you will not duplicate, publish, modify, create derivative works from, participate in the transfer of, or in any way distribute or exploit the Site or the App, or any portion of either the Site or the App, for any public or commercial use, without our prior express written consent.

Additionally, you agree that you: (a) will not remove or alter any author, trademark, other proprietary notice, or legend displayed on in the Site or the App (or printed pages produced from the Site or the App), and (b) will not make any other modifications to any documents obtained from the Site, the App or from Kikoff other than in connection with completing information required to transact business with Kikoff.

You may not use any automated means to access the Site or App or collect any information from the Site or App; frame the Site, utilize framing techniques to enclose any Content or other proprietary information, place pop-up windows over the Content, or otherwise affect the display of the Content; or engage in the practices of “screen scraping,” “database scraping,” or any other activity with the purpose of obtaining content or other information from the Site or App.

If you are blocked by us from accessing the Site or App (including by blocking your IP address), you agree not to implement any measures to circumvent such blocking (e.g., by masking your IP address or using a proxy IP address).

6. Representations

You represent, warrant and agree that no materials of any kind submitted through the Site or App will violate or infringe upon the rights of any third party, or contain otherwise unlawful material. You further represent and agree that you will not use the Site or App in any unlawful manner or in any other manner that could damage, disable, overburden or impair the Site or App.

We cannot and do not promise that the Site or the App will be uninterrupted, secure, or error-free. We reserve the right to interrupt/suspend the Site or the App, or any part thereof, with or without prior notice for any reason.

7. Third-Party Requirements

You agree to use the App in accordance with these Terms of Service and any applicable usage rules of any third-party mobile telephone, tablet or other device (each a “Mobile Device”) or service provider or the third party from whom you are downloading the App (each an “App Store”). Supported App Stores include Apple App Store and Google Play; other App Stores are not supported. It is your responsibility to review the terms and conditions of any App Store and to determine what usage rules of such App Store apply to you depending on (1) your mobile device, (2) the method by which you downloaded the App, and (3) the App Store from which you downloaded the App (collectively, the “Usage Rules”).

You acknowledge and understand that certain products and services available to you through the App, including your ability to conduct financial transactions, schedule payments or view your account balances, require data access or wireless internet capability. You agree that you are responsible for any such data access or wireless internet charges of your Mobile Device service provider. The App is designed to be accessible on multiple types of Mobile Devices and operating systems. We do not, however, make any representation or warranty that the App will be compatible with your Mobile Device or any specific operating system version of your Mobile Device or any other hardware, software, equipment or device installed on or used in connection with your Mobile Device. You agree that your functional use of the App may be affected by or dependent on your wireless connection and speed or your wireless service provider. The functionality of the App could become disabled during times of poor connections or speeds from your wireless or internet service provider. You agree that it is your responsibility to verify the status of any attempted transaction by reviewing your account.

Except as limited by applicable law, you acknowledge and agree that the Company, and its affiliates, agents and licensors, will have no liability to you for any losses, financial or otherwise,

suffered by you arising out of or resulting from compatibility or inoperability problems or the failure of or your failure to confirm any attempted transaction. If you are accessing any agreements, disclosures, or other legally-required information we provide electronically on a mobile device, you must make sure that you have software on your mobile device that allows you to view, print and save the content presented to you. If you do not have these capabilities on your mobile device, please access our App and Site through a device that provides these capabilities.

You acknowledge, understand, and agree that your use of the App and your access to your account through the App is also governed by any other agreement to which you have previously agreed to with the Company and each and every current and future affiliate of the Company in addition to these Terms of Service.

8. Communications with You

By accepting these Terms of Service, you expressly consent to be contacted by us or our affiliates at any telephone number, e-mail address, mailing address, account with the Company, or physical or electronic address you provide or at which you may be reached.

You agree we, our affiliates, agents, or service providers may contact you in any way, including by e-mail, SMS messages (including text messages) calls using prerecorded messages or artificial voice, and calls and messages delivered using automatic telephone dialing systems (auto-dialer) or an automatic texting system at any phone number you have provided to us, including any mobile phone number, as well as any address in our records or in public or nonpublic databases. You understand that you are not required to provide consent to marketing SMS messages as a condition to accessing the Company's services or products. You may withdraw your consent to SMS communications by replying STOP to the SMS message, or by contacting us at support@[Kikoff.com](mailto:support@Kikoff.com).

In addition, we may contact other people who may provide employment, location, or other contact information for you. Automated messages may be played when the telephone is answered, whether by you or someone else. In the event that an agent or representative calls, such representative may also leave messages on your answering machine, voice mail, or send messages via text. You can revoke your consent at any time by contacting us at support@[Kikoff.com](mailto:support@Kikoff.com). You certify, warrant and represent that the telephone numbers that you have provided to us are your contact numbers. You represent that you are permitted to receive calls at each of the telephone numbers you have provided to us. You agree to promptly alert us whenever you stop using a particular telephone number. You are responsible for any and all charges, including fees associated with text messaging, imposed by your communications service provider. You agree that we and our agents, representatives, affiliates or anyone calling on our behalf may contact you on a recorded or monitored line and that any incoming calls may also be recorded and monitored.

You also agree to receive alerts about your account activity, balances, payments, suspicious activities, and other matters involving your use of the Site or App or the Company's services through push notifications to your smartphone or other device. Receipt of push notifications may be delayed or prevented by factors beyond our control, including those affecting your internet/phone provider. The Company is not liable for losses or damages arising from non-delivery, delayed delivery, or the erroneous delivery of any push notification; inaccurate push notification content; or your use or reliance on the content of any push notification for any purposes. Each push notification may not be encrypted, and may include your name and

information pertaining to your account or use of the Site or App. The Company may terminate your use of push notifications at any time without notice. You may choose to discontinue receiving push notifications by updating your preferences on your smartphone or device.

9. Consent to AI Chatbot

From time to time, the Company may communicate with you via an artificial intelligence instrument, commonly referred to as a chatbot, bot, virtual assistant, virtual concierge, AI agent, and other terms to denote a non-human (“AI Chatbot”). The AI Chatbot is intended to answer questions and provide information and assistance related to the Company’s products and services. We will disclose the use of the AI Chatbot to the extent required by applicable law. When engaging with us through use of the AI Chatbot, be advised that chats will be monitored and retained.

The Company strives to provide accurate information through the AI Chatbot, but it does not guarantee the accuracy and/or the completeness of the information provided. From time to time, the AI Chatbot may provide information that is inaccurate. Therefore, we encourage you to verify any information provided by the AI Chatbot before taking any action or making any decisions based on the information received from communications with the AI Chatbot. The Company assumes no responsibility or guarantee for the accuracy or completeness of the information provided by the AI Chatbot. Further, the Company expressly reserves the right to modify, add, or delete individual or all AI Chatbot functionalities without notice to you, or to discontinue the AI Chatbot temporarily or permanently. The Company, its directors, employees, affiliated companies and representatives do not accept any liability regarding the information provided and cannot be held liable for any actions, losses, or damages resulting from the use of the AI Chatbot.

You agree that you will not use or interact with the AI Chatbot in a manner that: (a) infringes or violates the Company’s intellectual property rights or any other rights of anyone else; (b) violates any law or regulation; (c) is abusive, dishonest, harmful, fraudulent, deceptive, threatening, harassing, defamatory, obscene or otherwise objectionable; (d) violates the security of any computer or network, or cracks any passwords or security encryption codes; (e) crawls, scrapes, or spiders any page, data or portion relating to the content of the AI Chatbot; or (f) copies or stores any significant portion of the content and/or share, post or distribute any significant portion elsewhere.

You acknowledge that AI Chatbot conversations may be reviewed by the Company and its agents to improve results. You agree not to share in your conversation through the AI Chatbot any information that is not useful and/or requested for handling your assistance request.

By using the AI Chatbot, you acknowledge and agree to the terms hereof. If you do not agree with these terms, you should not use the AI Chatbot. For further assistance or inquiries with the AI Chatbot, please contact support@kikoff.com.

10. Consent to Collection of Information from Wireless Operators

You authorize your wireless operator to disclose your mobile number, name, address, email, network status, customer type, customer role, billing type, mobile device identifiers (IMSI and IMEI) and other subscriber and device details, if available, to Kikoff and service providers for the duration of the business relationship, solely for identity verification and fraud avoidance.

11. Additional Disclaimers

None of Company, its parent, any of its affiliates, subsidiaries, providers or their respective officers, directors, employees, agents, representatives, independent contractors or licensors guarantees the accuracy, adequacy, timeliness, reliability, completeness, suitability, availability or usefulness of any of the Site, App and Content, for any purpose, and each of these persons disclaim liability for errors or omissions in the Site, App, and Content.

Nothing on the Site or the App constitutes an offer to sell or a solicitation of an offer to buy or sell any security or to participate in any trading strategy. The Content is not intended to be relied upon as the basis for any investment decision. The Content is not to be construed as legal, business, or tax advice, and you should consult your own attorney, business advisor, and/or tax advisor in order to make an independent determination of the suitability and legal, business, and tax consequences of any action.

Your use of the Site or App is at your sole risk. To the maximum extent permitted by applicable law, the Site or App and all of the Content is provided “as is” and “as available,” without any warranty of any kind, either express or implied, including the implied warranties of merchantability, fitness for a particular purpose, non-infringement or title. Additionally, there are no warranties as to the results of your use of the Site, App or Content. The Company does not warrant that the Site or App is free of viruses or other harmful components. This does not affect those warranties which are incapable of exclusion, restriction or modification under applicable law.

The Site or App may be temporarily unavailable from time to time for maintenance or other reasons. The Company assumes no responsibility for any error, omission, interruption, deletion, defect, delay in operation or transmission, communications line failure, theft or destruction or unauthorized access to, or alteration of, User communications. The Company is not responsible for any problems or technical malfunction of any telephone network or lines, computer online systems, servers or providers, computer equipment, software or services on account of technical problems or traffic congestion on the Internet, Site or App. The Company further makes no warranty, express or implied, regarding the security of the Site or App, including with respect to the ability of unauthorized persons to intercept or access information transmitted by you through the Site or App.

The Company reserves the right to change or discontinue any and all Content at any time without notice.

Calculators and tools that may be made available to you on the Site or App provide you with estimates of loan terms that are generally available. The availability of these terms may change at any time at our sole discretion and are subject to our underwriting criteria. The loan terms you receive may be different.

The Site or App may contain links to websites or applications maintained by non-affiliated third parties. Such websites or applications may have terms of use, privacy policies, or security practices that are different from those of the Company. We are not responsible for the contents of any such website or application. You agree that you must evaluate, and bear all risks associated with, the use of any content, including any reliance on the accuracy, completeness, or usefulness of such content.

The failure of the Company to exercise or enforce any right or provision of these Terms of Service will not constitute a waiver of such right or provision in that or any other instance. Except as set forth in the section titled “Dispute Resolution by Binding Arbitration; Jury Trial and Class Action Waiver,” if any provision of these Terms of Service is held invalid, the remainder of these Terms of Service will continue in full force and effect. If any provision of these Terms of Service will be deemed unlawful, void or for any reason unenforceable, then that provision will be deemed severable from these Terms of Service and will not affect the validity and enforceability of any remaining provisions.

12. Limitation on Liability

IN NO EVENT WILL THE COMPANY OR ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, OR REPRESENTATIVES BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY DAMAGES (INCLUDING DIRECT, INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES), INCLUDING FOR ANY LOST PROFITS OR LOST DATA, OR IN CONNECTION WITH ANY OTHER REMEDY RELATING TO OR ARISING FROM YOUR USE OF, OR A DELAY OR INABILITY TO USE, THE SITE, OR APP, OR ANY OF THE CONTENT, SERVICES OR MATERIALS ON OR ACCESSED THROUGH THE SITE OR APP, EVEN IF THE COMPANY IS AWARE OR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR OTHER REMEDY.

IF YOU ARE DISSATISFIED WITH ANY PORTION OF THE SITE, APP, OR CONTENT, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SITE OR APP.

CERTAIN FEDERAL AND STATE LAWS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES OR LIMITATIONS ON IMPLIED WARRANTIES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MAY HAVE ADDITIONAL RIGHTS.

13. Governing Law; Venue and Jurisdiction

Except as set forth in the section titled “Dispute Resolution by Binding Arbitration; Jury Trial and Class Action Waiver,” by visiting or using the Site or App, you agree that the laws of the State of California, without regard to any principles of conflict of laws that would require or permit the application of the laws of any other jurisdiction, will govern these Terms of Service.

You agree that you will not use the Site, App, or the Company’s Services in any unlawful manner or for any unlawful purpose. You may not use or otherwise export or re- export the Site, App, or Content except as authorized by U.S. law. You represent and warrant that you are not located in any country that is subject to U.S. country-wide sanctions, or that has been designated by the U.S. as a “terrorist supporting” country and are not a party listed on any U.S. list of sanctioned, prohibited, or restricted parties.

14. Indemnity

You agree to indemnify and hold the Company, its subsidiaries and affiliates, and each of their directors, officers, representatives, agents, contractors, partners, and employees harmless from and against any losses, liabilities, claims, demands, damages, judgments, settlements, penalties,

fines, costs, fees and expenses, including reasonable attorneys' fees, arising out of or in connection with your use of the Site, App, or our services, your conduct in connection with the Site or App or with other Users of the Site or App, or any violation of these Terms of Service, of any applicable law, or the rights of any third party.

15. DISPUTE RESOLUTION BY BINDING ARBITRATION; JURY TRIAL & CLASS ACTION WAIVER

PLEASE READ THIS SECTION CAREFULLY AS IT AFFECTS YOUR RIGHTS.

This Dispute Resolution by Binding Arbitration section is referred to in these Terms of Service as the "Arbitration Agreement." Company is always interested in resolving disputes amicably and efficiently, and most customer concerns can be resolved quickly and to the customer's satisfaction by emailing customer support at support@Kikoff.com. If such efforts prove unsuccessful, a party who intends to seek arbitration must first send to the other, by certified mail, a written Notice of Dispute ("Notice"). The Notice to Company should be sent to Kikoff Inc., PO Box 40070, Reno NV 89504 ("Notice Address"). The Notice must (i) describe the nature and basis of the claim or dispute and (ii) set forth the specific relief sought. The amount of any settlement offer made by Company or you shall remain strictly confidential. If Company and you do not resolve the dispute within sixty (60) calendar days after the Notice is received, you or Company may commence an arbitration proceeding.

Solely for purposes of this Arbitration Agreement, the terms "Company," "we," "us" and "our" mean (1) Kikoff, each of its subsidiaries, affiliates, successors and assigns, and any of their employees, officers, directors, agents and representatives; and (2) any third party that you name along with us as defendants in a single proceeding. The Federal Arbitration Act, 9 U.S.C. §§ 1-16 (the "FAA"), governs the interpretation and enforcement of this Arbitration Agreement.

You and we agree that any and all past, present or future disputes, claims or controversies that have arisen or may arise between you and Company, whether arising out of or relating to these Terms of Service (including any alleged breach thereof), the Services, the App, your Account, any advertising or any other aspect of the relationship or transactions between you and us (collectively, "Claims"), shall be resolved by an arbitrator through final and binding arbitration, rather than by a judge or jury in court, in accordance with the terms of this Arbitration Agreement. The term "Claim" has the broadest reasonable meaning and includes, without limitation: (1) initial claims, counterclaims, crossclaims and third-party claims; (2) disputes based upon contract, negligence, fraud and other intentional torts, constitution, statute, regulation, ordinance, common law and equity; (3) data breach or privacy claims; and (4) claims arising out of or relating to our written or oral communications with or about you. Claims are subject to arbitration even if they arise out of or relate to actions, omissions, transactions, facts, or conduct that occurred before this Arbitration Agreement took effect. However, this Arbitration Agreement will not apply to any Claim that was already pending in court before this Arbitration Agreement took effect (although it will apply to new parties or new Claims that are added subsequently in the court action).

Notwithstanding the foregoing, the following disputes are not required to be arbitrated:

- (a) disputes that are within the jurisdiction of a small claims court (or an equivalent court). You or we may bring an action in small claims court or, if an arbitration demand has been

made, instruct the arbitration administrator to close the case because the dispute should be decided by a small claims court. However, if the dispute is transferred, removed, or appealed from small claims court to a different court, it will be subject to arbitration. Moreover, if you or we bring a counterclaim or cross-claim that is for more than the small claims court's jurisdiction, the entire dispute must, if you or we choose, be resolved by arbitration;

(b) disputes about the validity, enforceability, coverage or scope of this Arbitration Agreement or any part thereof (including, without limitation, the Class Action Waiver), which are for a court and not an arbitrator to decide. However, any dispute or argument that concerns the validity or enforceability of these Terms of Service as a whole is for the arbitrator, not a court, to decide;

(c) this Arbitration Agreement does not preclude you from bringing issues to the attention of federal, state, or local agencies, and such agencies can, if the law allows, seek relief against us on your behalf; and

(d) if any Service or product you obtain from us contains its own arbitration agreement, that agreement (and not this one) will govern claims or disputes arising out of or relating to said Service or product.

CLASS ACTION WAIVER: YOU AND WE AGREE THAT EACH OF US MAY BRING CLAIMS AGAINST THE OTHER ONLY ON AN INDIVIDUAL BASIS AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS, COLLECTIVE, PRIVATE ATTORNEY GENERAL OR REPRESENTATIVE ACTION OR PROCEEDING. THE ARBITRATOR MAY NOT CONSOLIDATE OR JOIN ONE PERSON'S OR PARTY'S CLAIMS WITH CLAIMS OF ANY OTHER PERSON OR ENTITY UNLESS ALL PARTIES OTHERWISE AGREE IN WRITING. ALSO, THE ARBITRATOR MAY AWARD RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF NECESSITATED BY THAT PARTY'S INDIVIDUAL CLAIM(S). THE VALIDITY AND EFFECT OF THIS CLASS ACTION WAIVER SHALL BE DETERMINED EXCLUSIVELY BY A COURT, AND NOT BY THE ADMINISTRATOR OR ANY ARBITRATOR.

JURY TRIAL WAIVER: IF YOU OR WE ARBITRATE A CLAIM, YOU AND WE WILL NOT HAVE THE RIGHT TO PURSUE THAT CLAIM IN COURT OR HAVE A JURY DECIDE THE CLAIM.

Arbitration will be conducted by a single neutral arbitrator in accordance with the American Arbitration Association's ("AAA") rules and procedures, including the AAA's Consumer Arbitration Rules and Supplementary Rules for Multiple Case Filings (collectively, the "AAA Rules"), as modified by this Arbitration Agreement. For information on the AAA, please visit its website, <http://www.adr.org> or call 800-778- 7879. Information about the AAA Rules and fees for consumer disputes can be found at the AAA's consumer arbitration page, https://adr.org/sites/default/files/Consumer_Rules_Web_2.pdf. If AAA cannot or will not serve, and the parties are unable to select an arbitrator by mutual consent, a court with jurisdiction will select the administrator or arbitrator, who must agree to abide by all of the terms of this

Arbitration Agreement (including, without limitation, the Class Action Waiver). Any arbitrator must be a practicing attorney with ten or more years of experience practicing law or a retired judge. If a party files a lawsuit in court asserting Claim(s) that are subject to arbitration and the other party files a motion to compel arbitration with the court which is granted, it will be the responsibility of the party prosecuting the Claim(s) to commence the arbitration proceeding in accordance with the administrator's rules and procedures. If there is any inconsistency between this Arbitration Agreement, on the one hand, and the AAA Rules or other provisions of this Agreement, on the other hand, this Arbitration Agreement will control.

The arbitrator must follow the provisions of this Agreement as a court would. The arbitrator must apply applicable substantive law consistent with the FAA and applicable statutes of limitations and claims of privilege recognized at law. The arbitrator is authorized to award all remedies permitted by the substantive law that would apply in an individual court action, including, without limitation, punitive damages (which shall be governed by the Constitutional standards employed by the courts) and injunctive, equitable and declaratory relief (but only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual Claim). Any finding, award or judgment from an arbitration of any Claim shall apply only to that arbitration. No finding, award or judgment from any other arbitration shall impact the arbitration of any Claim. If the amount in controversy is more than \$100,000, any party may appeal the award to a three-arbitrator panel appointed by the administrator, which will reconsider de novo any aspect of the appealed award. Unless applicable law provides otherwise, the appealing party will pay the appeal's cost, regardless of its outcome. However, we will consider any reasonable written request by you for us to bear the cost. The arbitrator's award (or the award of the panel if there is an appeal) will be final and binding, except for any appeal right under the FAA, and may be entered as a judgment by any court having jurisdiction.

Unless we and you agree otherwise, any arbitration hearings will take place in a reasonably convenient location for both parties with due consideration of their ability to travel and other pertinent circumstances. If the parties are unable to agree on a location, the determination shall be made by AAA. If your claim is for \$10,000 or less, we agree that you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing as established by the AAA Rules. If your claim exceeds \$10,000, the right to a hearing will be determined by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based.

Payment of all filing, administration, and arbitrator fees (collectively, the "Arbitration Fees") will be governed by the AAA Rules. However, if you tell us in writing that you cannot afford to pay the Arbitration Fees charged by the AAA or other arbitration administrator and that you were unable to obtain a waiver of fees from the administrator, and if your request is reasonable and in good faith, we will pay or reimburse you for all or part of the fees charged to you by the arbitration administrator and/or arbitrator. The parties shall also bear the fees and expenses of their own attorneys, experts and witnesses unless otherwise required by applicable law, this Agreement or the administrator's rules. If the arbitrator determines that any party's claim or defense is frivolous or wrongfully intended to oppress or harass the other party, the arbitrator may award sanctions in the form of fees and expenses reasonably incurred by the other party if such sanctions could be imposed under Rule 11 of the Federal Rules of Civil Procedure. All aspects of the arbitration proceeding, and any ruling, decision, or award by the arbitrator, will be strictly confidential for the benefit of all parties.

This Arbitration Agreement is binding upon and benefits you, your respective heirs, successors and assigns, and us and our respective successors and assigns. This Arbitration Agreement shall survive (1) any termination, cancellation or closure of your Account; (2) any cessation of your relationship with us; (3) any breach, default, or repayment in full; (4) any termination of credit privileges; and (5) any bankruptcy to the extent permitted by applicable bankruptcy law.

If any portion of this Arbitration Agreement is held to be invalid or unenforceable, the remaining portions shall nevertheless remain in force, subject to two exceptions: (1) if a determination is made that the Class Action Waiver is unenforceable, and that determination is not reversed on appeal, then the Arbitration Agreement (except for this sentence) shall be void in its entirety; and (2) if a court determines that a public injunctive relief Claim may proceed notwithstanding the Class Action Waiver, and that determination is not reversed on appeal, then the public injunctive relief Claim will be decided by a court, any individual Claims will be arbitrated, and the parties will ask the court to stay the public injunctive relief Claim until the other Claims have been finally concluded.

RIGHT TO REJECT: You may reject this Arbitration Agreement if you do not want it to apply. Rejection of this Arbitration Agreement will not affect the remaining parts of this Agreement. To reject this Arbitration Agreement, you must send written notice of your rejection within 30 days after the date that we approve your application for an Account. You must include your name, address, and Account number. The notice of rejection must be mailed to the Notice Address provided above. This is the only way that you can reject this Arbitration Agreement. If an Account is jointly owned, one owner's rejection of this Arbitration Agreement will be deemed to be a rejection by all joint owners. In all other circumstances, your rejection of this Arbitration Agreement will not be deemed to be a rejection of this Arbitration Agreement by any person or entity other than you.

We offer a number of different products and services to our customers. If you reject the Arbitration Agreement in this Agreement, that will not affect any arbitration agreement that may exist between you and us, now or in the future, in connection with other products or services you obtain from us. Any such arbitration agreement will remain in force unless you separately reject it in accordance with its terms.

Notwithstanding any provision in this Agreement to the contrary, we agree that if we make any future change to this Arbitration Agreement (other than ministerial changes or a change to the Notice Address) while you have an active Account, you may reject any such change by sending us a written notice within thirty (30) calendar days of the change to the Notice Address provided above. If you reject any future change, you will still be obligated to arbitrate any dispute between us in accordance with the terms of the arbitration agreement that existed immediately prior to the changed agreement that you rejected.

YOU AGREE THAT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT MUST BE FILED WITHIN 1 YEAR AFTER SUCH CLAIM OR CAUSE OF ACTION AROSE OR IT WILL BE FOREVER BARRED.

Jury Trial Waiver: If for any reason a Claim is not arbitrated, you and we expressly and knowingly WAIVE THE RIGHT TO TRIAL BY JURY to the fullest extent permitted by law.

This means that a judge, rather than a jury, will decide disputes between you and us.

16. California Residents

Pursuant to California Civil Code Section 1789.3, any questions about pricing, complaints, or inquiries about must be sent to Kikoff Inc., Attn: Complaints, PO Box 40070, Reno, NV 89504.

You may also contact the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 1625 North Market Blvd., Sacramento, CA 95834, or by telephone at (916) 445-1254 or (800) 952-5210.