

SPYCE FOOD CO.

TERMS OF USE AGREEMENT

Effective Date: February 19, 2019

PLEASE READ THIS TERMS OF USE AGREEMENT (“**AGREEMENT**”) CAREFULLY. THIS AGREEMENT IS A LEGAL CONTRACT BETWEEN YOU AND SPYCE FOOD CO. (“**SPYCE**,” “**WE**,” OR “**US**”).

SECTION 16 OF THIS AGREEMENT IS AN ARBITRATION CLAUSE THAT REQUIRES MOST DISPUTES BETWEEN US TO BE RESOLVED ON AN INDIVIDUAL, NON-CLASS ACTION BASIS THROUGH BINDING AND FINAL ARBITRATION INSTEAD OF IN COURT. SEE SECTION 16 FOR MORE INFORMATION REGARDING THIS ARBITRATION CLAUSE, AND HOW TO OPT OUT.

By accessing or using any Spyce website (“**Site**”) or downloading, installing or using any Spyce mobile application with an authorized link to this Agreement (“**Application**”), accessing or using any content, information, services, features or resources available or enabled via the Site or Application (collectively with the Site and Application, the “**Services**”), clicking on a button or taking any other action to signify your acceptance of this Agreement, or completing our account registration process, you: (1) agree to be bound by this Agreement and any future amendments and additions to this Agreement as published from time to time through the Site and Application (2) represent that you have the authority to enter into this Agreement personally and, if applicable, on behalf of any company, organization or other legal entity on whose behalf you use the Services and to bind that entity to this Agreement. References to “you,” “User” and “Users” in this Agreement refer to all individuals and other persons who access or use the Services, including, without limitation, any companies, organizations or other legal entities that register accounts or otherwise access or use the Services through their respective employees, agents or representatives. Except as otherwise provided herein, if you do not agree to be bound by this Agreement, you may not access or use the Services.

PLEASE NOTE THAT THE AGREEMENT IS SUBJECT TO CHANGE BY SPYCE IN ITS SOLE DISCRETION AT ANY TIME. When changes are made, Spyce will make a new copy of the Agreement available at the Site or Application. We will also update the “Last Updated” date at the top of the Agreement. If we make material changes to the Agreement, we may (and, where required by law, will) also provide notification of changes in another way that we believe is reasonably likely to reach you, such as via e-mail if you have an Account (as defined in Section 1) or another manner through the Service (which may include posting an announcement on our Site). Spyce may require you to provide consent to the updated Agreement in a specified manner before further use of the Site, Application and/ or the Services is permitted. If you do not agree to any change(s) after receiving a notice of such change(s), you will stop using the Site, Application and/or the Services. Otherwise, your continued use of the Site, Application and/or Services constitutes your acceptance of such change(s). PLEASE REGULARLY CHECK THE SITE AND APP TO VIEW THE THEN-CURRENT Agreement.

1. Registration. When registering an account for the Services (“**Account**”), you agree to provide only true, accurate, current and complete information requested by the registration form (the “**Registration Data**”) and to promptly update the Registration Data thereafter as necessary to keep it current. You represent that you are not barred from using the Services under any applicable law and that you will be responsible for all activities that occur under your Account. You agree to monitor your Account to restrict its use by minors and other unauthorized users and agree not to share your Account or password with anyone. You further agree to notify Spyce immediately of any unauthorized use of your password or any other breach of the security of your Account and to exit from your Account at the end of each session. You agree not to create an Account using a false identity or alias or if you previously have been banned from using any of the Services. You further agree that you will not maintain more than one Account at any given time. Spyce reserves the right to remove or reclaim any usernames at any time and for any reason. You acknowledge and agree that you have no ownership or other property interest in your Account and that all rights in and to your Account are owned by and inure to the benefit of Spyce. YOU WILL BE SOLELY

RESPONSIBLE FOR ALL ACCESS TO AND USE OF THE SERVICES BY ANYONE USING YOUR ACCOUNT WHETHER OR NOT SUCH ACCESS TO AND USE OF YOUR ACCOUNT IS ACTUALLY AUTHORIZED BY YOU, INCLUDING WITHOUT LIMITATION, ALL COMMUNICATIONS AND TRANSMISSIONS AND ALL OBLIGATIONS (INCLUDING, WITHOUT LIMITATION, FINANCIAL OBLIGATIONS) INCURRED THROUGH SUCH ACCESS OR USE.

2. Orders.

2.1 Order Fulfillment. When you place an order through our Services, Spyce will send you an order acknowledgement to the email associated with your Account. Prices are subject to change without notice. Although we strive to accept all valid orders, Spyce reserves the right to deny any order for any reason, including if: (i) we discover an error in pricing and/or other information about the food, beverage, or merchandise ordered (collectively “**Product**”) or receive insufficient or erroneous billing, payment, and/or delivery information, (ii) we suspect an order has been placed using stolen payment card information or otherwise appears to be connected to fraud, or (iii) the ordered Product is unavailable due to discontinuance or otherwise. We may also refuse any order that is connected with a previous payment dispute. If any Product is discontinued or otherwise becomes unavailable, Spyce reserves the right to cancel your order and provide you a refund for the amount paid for the Product.

2.2 Abandoned Orders. If you place an order with us and fail to pick it up, we reserve the right to charge you the amount due (including by charging your credit card, if applicable). If you realize you cannot pick up an order, please contact the store that is fulfilling the order as soon as possible to let them know you cannot pick up the order and to see whether a charge may be avoided.

3. Fees and Purchase Terms.

3.1 Payment. You agree to pay for all orders made from your Account in accordance with the prices and billing terms in effect at the time an order is made from your Account, regardless of whether you actually receive the products. You also agree to pay all applicable taxes. To make an order from an Account through the Services, you must provide valid payment information (e.g. credit card, debit card, and/or Spyce gift card) through the Site or App. Payments are processed using the [platform (insert website)] and our payment processor Square, Inc. (“**Square**”). By making an order through the Services, you also agree (i) to be bound by Square’s US Terms of Service available at <https://squareup.com/us/en/legal/general/ua> (ii) the payment method(s) you provide will immediately be charged for all fees and taxes applicable to your order, (iii) payment information and instructions required to complete the payment transactions may be shared between Spyce, and Square, and their third-party payment service providers (e.g., credit card transaction processing, merchant settlement, and related services), and (iv) no additional notice or consent is required for the foregoing authorizations. You agree to immediately update your Account in the event of any change in your payment information. Spyce reserves the right at any time to change its prices and billing methods. For more information on how payments are handled by Square, or to understand the data security and privacy afforded such information, please refer to by Square’s US Terms of Service available at <https://squareup.com/us/en/legal/general/ua> and Privacy Policy available at <https://squareup.com/us/en/legal/general/privacy>.

3.2 Refunds. Except as approved by Spyce in its sole discretion, all fees paid are non-refundable.

3.3 **Discounts and Promotions.**

(a) We may, in our sole discretion, create discounts and promotional codes or other features or benefits, subject to any additional terms that we establish on a per promotional code basis (“**Promo Codes**”). Unless otherwise expressly stated on the applicable Promo Code, Promo Codes may only be used once per person. Only Promo Codes sent to you through official Spyce communications channels are valid. You agree that Promo Codes: (i) must be used for the intended audience and purpose, and in a lawful manner; (ii) may not be duplicated, sold, or transferred in any manner, or made available to

the general public (whether posted to a public forum or otherwise), unless expressly permitted by us; (iii) may be disabled by us at any time for any reason without liability to us; (iv) may only be used pursuant to the specific terms that we establish for such Promo Code; (v) are not redeemable for cash; and (vi) may expire prior to your use. Unless otherwise stated at the time of issuance, all Promo Codes expire 120 days after issuance.

(b) Special terms may apply to some promotions that may be offered on the Services. Such special terms (e.g. official contest rules) may be posted in connection with the applicable promotion. Any such special terms are in addition to the Agreement and, in the event of a conflict, any such terms shall prevail over this Agreement.

4. User Content.

4.1 Responsible Party for Content. You acknowledge that all content is the sole responsibility of the party from whom such content originated. This means that each User is entirely responsible for all content that that User makes available through the Services (“**User Content**”). Spyce has no obligation to pre-screen any content. You use all User Content and interact with other Users at your own risk. Without limiting the foregoing, Spyce reserves the right in its sole discretion to pre-screen, refuse, or remove any content. Spyce shall have the right to remove any content that violates this Agreement or is otherwise objectionable.

4.2 Ownership of Your Content. Spyce does not claim ownership of any User Content you make available on the Services (“**Your Content**”). However, when you as a User post or publish Your Content on or in the Services, you represent that you have all of the necessary rights to grant Spyce the license set forth in Section 5.3. Except with respect to Your Content, you agree that you have no right or title in or to any content that appears on or in the Services.

4.3 License to Your Content. Subject to any applicable Account settings, you grant Spyce a right to copy, use, and display Your Content (in whole or in part) and create derivative works from Your Content for purposes of operating and providing the Services. Note that other Users may search for, see, use, modify and reproduce any of Your Content that you submit to any “public” area of the Services.

4.4 Other Restrictions on User Conduct. You agree not to use the Services for any purpose prohibited by this Agreement or by applicable law. You shall not (and shall not permit any third-party to) (a) take any action or (b) make available any content on or through the Services that: (i) infringes any patent, trademark, trade secret, copyright, right of publicity or other right of any person or entity; (ii) is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another’s privacy, tortious, obscene, offensive, or profane; (iii) constitutes unauthorized or unsolicited advertising, junk or bulk e-mail; (iv) involves commercial activities and/or sales without Spyce’s prior written consent, such as contests, sweepstakes, barter, advertising, or pyramid schemes; or (v) impersonates any person or entity, including any employee or representative of Spyce.

5. Feedback. You agree that your submission of any ideas, suggestions, documents, and/or proposals to Spyce (“**Feedback**”) is at your own risk and that Spyce has no obligations (including without limitation obligations of confidentiality) with respect to such Feedback. You represent and warrant that you have all rights necessary to submit the Feedback. You hereby grant to Spyce a fully paid, royalty-free, perpetual, irrevocable, worldwide, non-exclusive, and fully sublicensable right and license to use, reproduce, perform, display, distribute, adapt, modify, re-format, create derivative works of, and otherwise commercially or non-commercially exploit in any manner, any and all Feedback, and to sublicense the foregoing rights.

6. Communications; Your Consent to Receive Calls and Text Messages.

6.1 Spyce Communications. By entering into this Agreement or using Services, you agree to receive communications from us, including via e-mail, text message, calls, and push notifications. You

agree that texts, calls or prerecorded messages may be generated by automatic telephone dialing systems. Email communications from us and our affiliated companies may include but are not limited to: operational communications concerning your Account or the use of the Services, updates concerning new and existing features on the Services, communications concerning promotions run by us or our third-party partners, and news concerning Spyce and industry developments. Text message communications from us and our affiliated companies may include operational communications concerning your Account or the use of the Services. Standard text messaging charges applied by your cell phone carrier will apply to text messages that we send. IF YOU WISH TO OPT OUT OF PROMOTIONAL EMAILS, YOU CAN UNSUBSCRIBE FROM OUR PROMOTIONAL EMAIL LIST BY FOLLOWING THE UNSUBSCRIBE OPTIONS IN THE PROMOTIONAL EMAIL ITSELF. IF YOU WISH TO OPT OUT OF ALL TEXTS OR CALLS FROM US (INCLUDING OPERATIONAL OR TRANSACTIONAL TEXTS OR CALLS), YOU CAN EMAIL US AT: help@spyce.com. HOWEVER, YOU ACKNOWLEDGE THAT OPTING OUT OF RECEIVING ALL TEXTS MAY IMPACT YOUR USE OF THE SERVICES OR RELATED SERVICES.

7. Ownership of and License to Use Services.

7.1 Use of the Services. Except with respect to User Content, Spyce and its suppliers own all rights, title and interest in the Services. The Services are protected by copyright and other intellectual property laws throughout the world. Subject to this Agreement, Spyce grants you a limited license to use the Services solely for your personal non-commercial purposes. Any future release, update or other addition to the Services shall be subject to this Agreement. Spyce, its suppliers, and its service providers reserve all rights not granted in this Agreement.

7.2 Trademarks. Spyce's stylized name and other related graphics, logos, service marks and trade names used on or in connection with the Services are the trademarks of Spyce and may not be used without permission in connection with any third-party products or services. Other trademarks, service marks and trade names that may appear on or in the Services are the property of their respective owners. You will not remove, alter or obscure any copyright notice, trademark, service mark or other proprietary rights notices incorporated in or accompanying the Services.

8. Restrictions on Use of the Services. The rights granted to you in this Agreement are subject to the following restrictions: (a) you shall not license, sell, rent, lease, transfer, assign, reproduce, distribute, host or otherwise commercially exploit Services or any portion of Services; (b) you shall not frame or utilize framing techniques to enclose any trademark, logo, or other Services (including images, text, page layout or form); (c) you shall not use any metatags or other "hidden text" using Spyce's name or trademarks; (d) you shall not modify, translate, adapt, merge, make derivative works of, disassemble, decompile, reverse compile or reverse engineer any part of Services except to the extent the foregoing restrictions are expressly prohibited by applicable law; (e) you shall not use any manual or automated software, devices or other processes (including but not limited to spiders, robots, scrapers, crawlers, avatars, data mining tools or the like) to "scrape" or download data from the Services; (f) you shall not access Services in order to build similar or competitive products or services; (g) except as expressly stated herein, no part of Services may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means; (h) you shall not remove or destroy any copyright notices or other proprietary markings contained on or in Services; (i) you shall not circumvent, remove, alter, deactivate, degrade, or thwart any of the protections of the Services; (j) you will not take any action that imposes or may impose (in our sole determination) an unreasonable or disproportionately large load on our technical infrastructure; and (k) you will not interfere with or attempt to interrupt the proper operation of the Services through any virus, device, information collection or transmission mechanisms, software or routine, or access or attempt to gain access to any data, files, or passwords related to the Services through hacking, password or data mining, or any other means. Any future release, update or other addition to Services shall be subject to this Agreement. Spyce reserves all rights not granted in this Agreement. Any unauthorized use of Services terminates the licenses granted by Spyce pursuant to this Agreement. The foregoing sentence is not exclusive of any other rights or remedies that may be available to Spyce under law, equity, statute, or otherwise.

9. Third-Party Services.

9.1 Third-Party Websites, Applications & Ads. The Services may contain links to third-party services such as third party websites, applications, or ads (“**Third-Party Links**”). When you click on such a link, we will not warn you that you have left the Services. Spyce does not control and is not responsible for Third-Party Links. Spyce provides these Third-Party Links only as a convenience and does not review, approve, monitor, endorse, warrant, or make any representations with respect to them, or any content, products or services accessible through such links. Your use of all Third-Party Links is at your own risk.

9.2 App Stores. You acknowledge and agree that the availability of the Application is dependent on the third party from whom you received the Application license, e.g., the Apple App Store or Google Play Store (“**App Store**”). You acknowledge that this Agreement is between you and Spyce and not with the App Store. Spyce, not the App Store, is solely responsible for Services, including the Application, the content thereof, maintenance, support services, and warranty therefor, and addressing any claims relating thereto (e.g., product liability, legal compliance or intellectual property infringement). In order to use the Application, you must have access to a wireless network, and you agree to pay all fees associated with such access. You also agree to pay all fees (if any) charged by the App Store in connection with Services, including the Application. You agree to comply with, and your license to use the Application is conditioned upon your compliance with, all applicable third-party terms of agreement (e.g., the App Store’s terms and policies) when using Services, including the Application. You acknowledge that the App Store (and its subsidiaries) are third-party beneficiaries of this Agreement and will have the right to enforce them.

9.3 Additional Terms for Apple Apps. With respect to any Application accessed through or downloaded from the Apple App Store (an “**App Store Sourced Application**”), you will only use the App Store Sourced Application (i) on an Apple-branded product that runs the iOS (Apple’s proprietary operating system) and (ii) as permitted by the “Usage Rules” set forth in the Apple App Store Terms of Service. In addition, the following terms apply to any App Store Sourced Application:

(a) You acknowledge and agree that (i) this Agreement is concluded between you and Spyce only, and not Apple, and (ii) Spyce, not Apple, is solely responsible for the App Store Sourced Application and content thereof. Your use of the App Store Sourced Application must comply with the App Store Terms of Service.

(b) You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the App Store Sourced Application.

(c) In the event of any failure of the App Store Sourced Application to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the App Store Sourced Application to you and to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App Store Sourced Application. As between Spyce and Apple, any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be the sole responsibility of Spyce.

(d) You and Spyce acknowledge that, as between Spyce and Apple, Apple is not responsible for addressing any claims you have or any claims of any third party relating to the App Store Sourced Application or your possession and use of the App Store Sourced Application, including, but not limited to: (i) product liability claims; (ii) any claim that the App Store Sourced Application fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection, privacy, or similar legislation.

(e) You and Spyce acknowledge that, in the event of any third-party claim that the App Store Sourced Application or your possession and use of that App Store Sourced Application infringes that third party’s intellectual property rights, as between Spyce and Apple, Spyce, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by this Agreement.

(f) You and Spyce acknowledge and agree that Apple, and Apple’s subsidiaries, are third-party beneficiaries of this Agreement as related to your license of the App Store Sourced Application,

and that, upon your acceptance of the terms and conditions of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement as related to your license of the App Store Sourced Application against you as a third-party beneficiary thereof.

(g) Without limiting any other terms of this Agreement, you must comply with all applicable third-party terms of agreement when using the App Store Sourced Application.

10. Indemnification. You agree to indemnify and hold Spyce, its parents, subsidiaries, affiliates, officers, employees, contractors, agents, business partners, and licensors (collectively, the “**Spyce Parties**”) harmless from any losses, costs, liabilities and expenses (including reasonable attorneys’ fees) relating to or arising out of: (a) Your Content; (b) your misuse of the Services; (c) your violation of this Agreement; (d) your violation of any rights of another party, including any Users; or (e) your violation of any applicable laws, rules or regulations. Spyce reserves the right, at its own cost, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will fully cooperate with Spyce in asserting any available defenses. You agree that the provisions in this Section will survive any termination of this Agreement or your access to Services.

11. Disclaimer of Warranties and Conditions.

11.1 YOU EXPRESSLY UNDERSTAND AND AGREE THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOUR USE OF SERVICES IS AT YOUR SOLE RISK, AND SERVICES ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS, WITH ALL FAULTS. THE SPYCE PARTIES EXPRESSLY DISCLAIM ALL WARRANTIES, REPRESENTATIONS, AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. SPYCE PARTIES MAKE NO WARRANTY, REPRESENTATION OR CONDITION THAT: (1) THE SERVICES WILL MEET YOUR REQUIREMENTS; (2) THE INFORMATION, CONTENT, AND DATA ON THE SERVICES ARE ACCURATE; (3) YOUR USE OF THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; OR (4) ANY ERRORS IN THE SERVICES WILL BE CORRECTED.

11.2 CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE FOREGOING DISCLAIMERS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

12. Limitation of Liability.

12.1 Disclaimer of Certain Damages. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE SPYCE PARTIES SHALL NOT BE LIABLE FOR ANY LOSS OF PROFITS OR REVENUE OR FOR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, OR DAMAGES OR COSTS DUE TO LOSS OF DATA, PRODUCTION, OR USE, BUSINESS INTERRUPTION OR PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, WHETHER OR NOT SPYCE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12.2 Cap on Liability. UNDER NO CIRCUMSTANCES WILL THE TOTAL AGGREGATE AMOUNT THAT THE SPYCE PARTIES ARE LIABLE TO YOU EXCEED THE TOTAL AMOUNT ACTUALLY PAID TO SPYCE BY YOU DURING THE TWELVE-MONTH PERIOD PRIOR TO THE ACT, OMISSION OR OCCURRENCE GIVING RISE TO SUCH LIABILITY. THE LAWS OF SOME OTHER STATES DO NOT ALLOW FOR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE LIMITATIONS SET FORTH IN THIS SUBSECTION MAY NOT APPLY TO YOU AND YOU MIGHT HAVE OTHER RIGHTS.

12.3 User Content and Settings. The Spyce Parties assume no responsibility for the timeliness, deletion, mis-delivery, or failure to store any content, User communications, or personalization settings.

12.4 Basis of the Bargain. The limitations of damages set forth above are fundamental elements of the basis of the bargain between Spyce and you.

13. Termination. At its sole discretion, Spyce may modify or discontinue the Services, or may modify, suspend or terminate your access to the Services, for any reason, with or without notice to you and without liability to you or any third party. In addition to suspending or terminating your access to the Services, Spyce reserves the right to take appropriate legal action, including without limitation pursuing civil, criminal or injunctive redress. Even after your right to use the Services is terminated, this Agreement will remain enforceable against you and unpaid amounts you owe to Spyce for any purchases will remain due.

14. International Users. Services can be accessed from countries around the world and may contain references to services and content that are not available in your country. These references do not imply that Spyce intends to announce or promote the availability of such services or content in your country. Services are controlled and offered by Spyce from its facilities in the United States of America. Spyce makes no representations that Services are appropriate or available for use in other locations. Those who access or use Services from other countries do so at their own volition and are responsible for compliance with local law.

15. Dispute Resolution. *Please read the following arbitration agreement in this Section (“Arbitration Agreement”) carefully. It requires you to arbitrate most disputes with Spyce and limits the manner in which you can seek relief from us.*

15.1 Applicability of Arbitration Agreement. You agree that any dispute between you and us (or other Spyce Parties) relating in any way to the Services or this Agreement, or arising under the Telephone Consumer Protection Act of 1991, 47 U.S.C. section 227, or other state or federal law or regulation governing calls or text messages, will be resolved by binding arbitration, rather than in court, except that (1) you and the Spyce Parties may assert claims in small claims court if the claims qualify; and (2) you or the Spyce Parties may seek equitable relief in court for infringement or other misuse of intellectual property rights (such as trademarks, trade dress, domain names, trade secrets, copyrights, and patents). **This Arbitration Agreement shall apply, without limitation, to all claims that arose or were asserted before the Effective Date of this Agreement or any prior version of this Agreement.**

15.2 Arbitration Rules and Forum. The Federal Arbitration Act governs the interpretation and enforcement of this Arbitration Agreement. To begin an arbitration proceeding, you must send a letter requesting arbitration and describing your claim to Spyce Food Co, 28 Dane St. Somerville, MA 02143, Attn: Legal. The arbitration will be conducted by JAMS, an established alternative dispute resolution provider. Disputes involving claims and counterclaims with an amount in controversy under \$250,000, not inclusive of attorneys’ fees and interest, shall be subject to JAMS’ most current version of the Streamlined Arbitration Rules and procedures available at <http://www.jamsadr.com/rules-streamlined-arbitration/>; all other claims shall be subject to JAMS’s most current version of the Comprehensive Arbitration Rules and Procedures, available at <http://www.jamsadr.com/rules-comprehensive-arbitration/>. JAMS’s rules are also available at www.jamsadr.com or by calling JAMS at 800-352-5267. If JAMS is not available to arbitrate, the parties will select an alternative arbitral forum. If the arbitrator finds that you cannot afford to pay JAMS’s filing, administrative, hearing and/or other fees and you cannot obtain a waiver from JAMS, Spyce will pay them for you.

You may choose to have the arbitration conducted by telephone, based on written submissions, or in person in the U.S. county where you live or at another mutually agreed location. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

15.3 Authority of Arbitrator. Without limiting the scope of Section 16.1, the arbitrator shall have exclusive authority to resolve any dispute related to the interpretation, applicability, enforceability or formation of this Arbitration Agreement including, but not limited to any claim that all or any part of this Arbitration Agreement is void or voidable. The arbitrator will decide the rights and liabilities, if any, of you and the Spyce Parties. The arbitration proceeding will not be consolidated with any other matters or joined with any other proceedings or parties. The arbitrator shall have the authority to grant motions dispositive of

all or part of any claim or dispute. The arbitrator shall have the authority to award monetary damages and to grant any non-monetary remedy or relief available to an individual party under applicable law, the arbitral forum's rules, and this Agreement (including the Arbitration Agreement). The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which any award (or decision not to render an award) is based, including the calculation of any damages awarded. The arbitrator shall follow the applicable law. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon you and us.

15.4 Waiver of Jury Trial. YOU AND THE SPYCE PARTIES HEREBY WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO SUE IN COURT (OTHER THAN SMALL CLAIMS COURT AS PERMITTED HEREIN) AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY. You and the Spyce Parties are instead electing that all covered claims and disputes shall be resolved by arbitration under this Arbitration Agreement, except as specified in Section 16.1 above. An arbitrator can award on an individual basis the same damages and relief as a court and must follow this Agreement as a court would. However, there is no judge or jury in arbitration, and court review of an arbitration award is subject to very limited review.

15.5 Waiver of Class or Other Non-Individualized Relief. ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS OR COLLECTIVE BASIS, ONLY INDIVIDUAL RELIEF IS AVAILABLE FOR CLAIMS COVERED BY THIS ARBITRATION AGREEMENT, AND CLAIMS BY OR AGAINST ONE USER CANNOT BE ARBITRATED OR CONSOLIDATED WITH THOSE OF OR AGAINST ANY OTHER USER OR PERSON. If a decision is issued stating that applicable law precludes enforcement of any of this Section 16.5's limitations as to a given claim for relief, then the applicable claim, and only that applicable claim, must be severed from the arbitration and brought into the state or federal courts located in California in accordance with Section 17.4. All other claims shall be arbitrated.

15.6 30-Day Right to Opt Out. You have the right to opt out of the provisions of this Arbitration Agreement by sending a timely written notice of your decision to opt out to the following address: Spyce Food Co., 28 Dane St. Somerville, MA 02143, Attn: Legal or email to help@spyce.com, within 30 days after first becoming subject to this Arbitration Agreement. Your notice must include your name and address and a clear statement that you want to opt out of this Arbitration Agreement. If you opt out of this Arbitration Agreement, all other parts of this Agreement will continue to apply to you. Opting out of this Arbitration Agreement has no effect on any other arbitration agreements that you may currently have with us, or may enter into in the future with us or other Spyce Parties.

15.7 Severability. Except as provided in Section 16.5, if any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Arbitration Agreement shall continue in full force and effect.

15.8 Survival of Agreement. This Arbitration Agreement will survive the termination or expiration of the Agreement or your relationship with Spyce.

15.9 Modification. Notwithstanding any provision in this Agreement to the contrary, we agree that if Spyce makes any future material change to this Arbitration Agreement, you may reject that change within thirty (30) days of such change becoming effective by writing Spyce at the following address: Spyce Food Co., 28 Dane St. Somerville, MA 02143, Attn: Legal.

16. General Provisions.

16.1 Electronic Communications. The communications between you and Spyce use electronic means, whether you visit Services or send Spyce e-mails, or whether Spyce posts notices on Services or communicates with you via e-mail. For contractual purposes, you (1) consent to receive communications from Spyce in an electronic form; and (2) agree that all terms and conditions, agreements, notices, disclosures, and other communications related to these Agreement that Spyce provides to you

electronically satisfy any legal requirement that such communications would satisfy if they were made in writing in a physical document. The foregoing does not affect your statutory rights.

16.2 Assignment. This Agreement, and your rights and obligations hereunder, may not be assigned, subcontracted, delegated or otherwise transferred by you without Spyce's prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void.

16.3 Force Majeure. Spyce shall not be liable for any delay or failure to perform resulting from causes outside its reasonable control, including, but not limited to, acts of God, war, terrorism, riots, embargos, acts of civil or military authorities, fire, floods, accidents, strikes or shortages of transportation facilities, fuel, energy, labor or materials.

16.4 Exclusive Venue. To the extent the parties are permitted under this Agreement to initiate litigation in a court, both you and Spyce agree that all claims and disputes arising out of or relating to this Agreement or the Services will be litigated exclusively in the state courts located in Boston, Massachusetts.

16.5 Governing Law. This Agreement and any action related thereto will be governed and interpreted by and under the laws of the Commonwealth of Massachusetts, consistent with the Federal Arbitration Act, without giving effect to any principles that provide for the application of the law of another jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

16.6 Notice. Where Spyce requires that you provide an e-mail address, you are responsible for providing Spyce with your most current e-mail address. In the event that the last e-mail address you provided to Spyce is not valid, or for any reason is not capable of delivering to you any notices required/ permitted by this Agreement, Spyce's dispatch of the e-mail containing such notice will nonetheless constitute effective notice. You may give notice to Spyce at the following address: Spyce Food Co., 28 Dane St. Somerville, MA 02143, Attn: Legal. Such notice shall be deemed given when received by Spyce by letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail at the above address.

16.7 Questions, Complaints, Claims. If you have any questions, complaints or claims with respect to the Services, please contact us at: Spyce Food Co., 28 Dane St. Somerville, MA 02143, Attn: Legal or help@spyce.com. We will do our best to address your concerns. If you feel that your concerns have been addressed incompletely, we invite you to let us know for further investigation.

16.8 Waiver. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

16.9 Severability. Subject to Section 16.7, if any portion of these Agreement is held invalid or unenforceable, that portion shall be construed in a manner to reflect, as nearly as possible, the original intention of the parties, and the remaining portions shall remain in full force and effect.

16.10 Export Control. You may not use, export, import, or transfer Services except as authorized by U.S. law, the laws of the jurisdiction in which you obtained Services, and any other applicable laws. In particular, but without limitation, Services may not be exported or re-exported (a) into any United States embargoed countries, or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Denied Person's List or Entity List. By using Services, you represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.

16.11 Consumer Complaints. In accordance with California Civil Code §1789.3, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California

Department of Consumer Affairs by contacting them in writing at 400 R Street, Sacramento, CA 95814, or by telephone at (800) 952-5210.

16.12 Entire Agreement. This Agreement are the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior discussions between the parties with respect to such subject matter.