

# Terms of Use

These Terms of Use ("Terms") are a legal contract between you ("You") and Shurpa Technologies Inc., a Delaware corporation located at 207 East Ohio St, #115, Chicago, IL 60611 hereinafter "Llama" or "Us" or "Our" or "We") which governs (i) your access to and use of the Llama<sup>SM</sup> Application (the "App"); (ii) the use of all the text, data, information, software, graphics, photographs, sounds, music, videos, interactive features and the like (all of which We refer to as "Materials") that We (and Our affiliates and business partners) may make available to You through the App; (iii) the submission and use of any Content (as defined below) by You through the App; as well as (iv) any services we may provide through the App (all of which are collectively referred to in these Terms as this "Application").

READ THESE TERMS CAREFULLY BEFORE BROWSING THIS APPLICATION. USING THIS APPLICATION INDICATES THAT YOU HAVE BOTH READ AND ACCEPT THESE TERMS. YOU CANNOT USE THIS APPLICATION IF YOU DO NOT ACCEPT THESE TERMS. NOTE: THESE TERMS CONTAIN A DISPUTE RESOLUTION AND ARBITRATION PROVISION, INCLUDING A CLASS ACTION WAIVER THAT AFFECTS YOUR RIGHTS UNDER THESE TERMS AND WITH RESPECT TO DISPUTES YOU MAY HAVE WITH THE COMPANY. YOU MAY OPT OUT OF THE BINDING INDIVIDUAL ARBITRATION AND CLASS ACTION WAIVER AS PROVIDED BELOW.

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## **1. About the Application; General Use and Minors.**

The Application is a platform through which Llama helps travelers discover and create lists of places and activities of interest. When using the features of the Application and/or the services available through it, You may be subject to any additional agreements, policies or guidelines applicable to such features (including without limitation promotions or other referral programs) that may be posted or become available from time to time. All such agreements, policies or guidelines are hereby incorporated by reference into these Terms.

You represent and warrant that you are lawfully able to enter into contracts (or, if you are a minor, you have your parent's permission to use the Application, and your parent has read and agrees to this Agreement on your behalf). If you are entering into this Agreement on behalf of a business entity, you represent and warrant that you have the legal authority and capacity to bind such

business entity. If you are not authorized nor deemed by law to have such authority, you assume sole personal liability for the obligations set out in these Terms.

We invite You to use this Application for individual, consumer purposes only ("Permitted Purposes") – enjoy!

## **2. Privacy Policy**

We respect the information that You provide to Us, and want to be sure You fully understand exactly how We use that information. So, please review Our Privacy Policy ("Privacy Policy") available at <https://llamalists.com/static/docs/privacy.pdf> which explains everything and is hereby incorporated by reference in to these Terms.

## **3. Changes**

We may alter the App, the Materials and/or the services We offer You and/or we may choose to modify, suspend or discontinue the Application (or any feature thereof) at any time and without notifying You.

We may also change, update, add or remove provisions (collectively, "modifications") of these Terms from time to time. We will inform You of any modifications to these Terms by posting them on this Application. We recommend that you review these Terms periodically.

If You object to any such modifications, Your sole recourse shall be to cease using the Application. Continued use of this Application following notice of any such modifications indicates that You acknowledge and agree to be bound by the modifications. Also, please know that these Terms may be superseded by expressly-designated legal notices or terms located on particular features or pages of the Application. These expressly-designated legal notices or terms are incorporated into these Terms and supersede the provision(s) of these Terms that are designated as being superseded.

## **4. Intellectual Property Ownership and Licenses**

(a) Intellectual Property. You acknowledge that the Application, its entire contents, features and functionality (including but not limited to all the text, data, information, software, graphics, photographs, sounds, music, videos, interactive features and the like thereof), Materials, and the trademarks, tradenames, service marks, trade dress or logos contained therein ("Marks"), and any other proprietary rights related thereto or appearing on the Application, are owned by or licensed to Llama, its licensors or other providers of such material, and are protected by copyrights, trademarks, service marks, patent rights, trade secrets and/or other proprietary rights ("Intellectual Property"). As between You and Us, We reserve all right, title, and interest, not expressly granted in and to the Application. You may only use the Application (and the Intellectual Property) as expressly permitted in these Terms and for no other purpose.

The App as a whole is copyrighted as a collective work, and Materials and/or Content appearing on or accessible through the App, are owned by or licensed to Llama and are likewise subject to copyright protection domestically and internationally. Materials on the Application are provided to you AS IS for personal use only and may not be used, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed, or otherwise exploited for any other purposes whatsoever without the prior written consent of Llama or the respective owners. You agree to not engage in the use, copying, or distribution of any of the Materials other than expressly permitted herein, including any use, copying, or distribution of Content submitted by third parties obtained through the Application for any commercial purposes. You must abide by all copyright notices, information, or restrictions contained in or attached to any Materials or Content.

You may download or print reasonable number of copies of portions of the Materials within the Application, provided that you only use such copies for your own personal, non-commercial use, not

for further reproduction, publication or distribution and do not modify or alter these copies in any way, or delete or change any copyright, trademark or patent notices therein, or create or attempt to create derivative works from the Materials. You agree not to circumvent, disable or otherwise interfere with security related features of the Application or features that prevent or restrict use or copying of Materials or enforce limitations on use of the Application or the Materials therein. You agree to be liable for any damages resulting from any infringement of copyright, trademark, or other proprietary right, or any other harm resulting from your use of this Application.

All Marks not owned by Llama that appear on the App are the property of their respective owners and are used by permission. Ownership of Marks and the goodwill associated therewith remains with Us or with those other entities.

(b) Licenses. Llama grants You a limited, personal, non-exclusive, non-transferable and terminable license to access, use and display as applicable, the App and the Materials, provided that you comply with all of the terms and conditions of these Terms. Unfortunately, if You breach these Terms all licenses terminate automatically and You must immediately destroy any downloaded or printed Materials (and any copies thereof). Except as provided herein, you obtain no other rights under these Terms from Llama to the App or Materials, including any related intellectual property rights. You may not modify, edit, copy, reproduce, create derivative works of, reverse engineer, alter, enhance or in any way exploit any of this Application in any manner. If You make copies of any of this Application while engaging in Permitted Purposes then We ask that You be sure to keep on the copies all of Our copyright and other proprietary notices as they appear on this Application. Please refer to our [Unauthorized Use section](#) below for more information pertaining to use of the Application.

(c) Content. We may allow You to post certain Content to the Application, as further set forth in [Section 7](#) below. In the event of a termination of this Agreement, Llama shall not return or destroy any Content or data provided by You through the Application.

## 5. Users and Accounts

(a) Visitors: we appreciate You visiting this Application and, as a "Visitor", We allow You to access the public areas of the Application at your leisure, and check out public information without even registering with Us.

(b) Accounts: However, in order to fully access and use the App, Materials, services, or other features offered on the Application or to access certain password-restricted areas of the Application, You must successfully register an account with Us (each, a "User Account"), by either linking your Facebook account or providing us with a valid email address and other additional information. By creating a User Account, you represent and warrant that any information you provide is true, accurate, and complete, and that you will keep such information current. You expressly agree that you will not create an Account on behalf of another individual or anyone other than yourself or your company.

## 6. Submissions, User Content and Licenses

Certain areas of this Application (such as comments sections on our blog, chat rooms, review areas, public profiles) may permit You to submit or transmit feedback, information, data, text, messages, comments, or other materials to the Application (collectively, "Content"). You agree that You are solely responsible for all of Your Content and that any such Content is considered both non-confidential and non-proprietary. Further, We do not guarantee that You will be able to edit or delete any Content You have submitted.

By submitting Content, You grant Llama and all other users of the Application a worldwide, irrevocable, perpetual, transferable, non-exclusive, royalty-free license (with the right to sublicense) to:

- Use, copy, distribute, reproduce, process, modify, adapt, transmit, publish, translate, publicly perform, and publicly display Your Content (or any modification thereto), in whole or in part, in any format or medium now known or later developed;
- Use (and permit others to use) Your Content in any manner and for any purpose (including, without limitation, commercial purposes) that We deem appropriate in Our sole discretion (including, without limitation, to incorporate Your Content or any modification thereto, in whole or in part, into any technology, product, or service);
- Provide, promote, and improve the Application and to make the Content available to other companies, organizations or individuals, such as, for example, Sponsors. You further acknowledge and agree that this license allows Llama, Sponsors, and other third parties with which Llama shares Content (such as Llama's Affiliates) to reproduce, reuse, publish, modify, adapt, and display Content for advertising or promotional purposes.
- Display advertisements in connection with Your Content and to use Your Content for advertising and promotional purposes.

By submitting any Content, You warrant, represent and promise to Us that:

- You own all rights in Your Content (including, without limitation, all rights to the reproduction and display of Your Content) or, alternatively, You have acquired all necessary rights in Your Content to enable You to grant to Us the rights in Your Content as described in these Terms;
- You have paid and will pay in full all license fees, clearance fees, and other financial obligations, of any kind, arising from any use or commercial exploitation of Your Content;
- Your Content does not infringe the copyright, trademark, patent, trade secret, or other intellectual property rights, privacy rights, or any other legal or moral rights of any third party;
- You voluntarily agree to waive all "moral rights" that You may have in Your Content;
- Any information contained in Your Content is not known by You to be false, inaccurate, or misleading;
- Your Content does not violate any law, rule, regulation and/or self-regulatory practices, (including, but not limited to, those governing export control, consumer protection, unfair competition, anti-discrimination, or false advertising, including the [Federal Trade Commission](#) guidelines);
- Your Content is not, and may not reasonably be considered to be, defamatory, libelous, hateful, racially, ethnically, religiously, or otherwise biased or offensive, unlawfully threatening, or unlawfully harassing to any individual, partnership, or corporation, abusive, vulgar, pornographic, obscene, or invasive of another's privacy;
- You were not and will not be compensated or granted any consideration by any third party for submitting Your Content;
- Your Content does not incorporate materials from a third-party Application, or addresses, email addresses, contact information, or phone numbers (other than Your own);
- Your Content does not contain any viruses, worms, spyware, adware, or other potentially damaging programs or files;
- Your Content does not contain any information that You consider confidential, proprietary, or personal; and
- Your Content does not contain or constitute any unsolicited, disruptive or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, or any other form of solicitation.

We may, but are not obligated to, pre-screen Content or monitor any area of this Application through which Content may be submitted. We are not required to host, display, or distribute any Content on or through this Application and may remove at any time or refuse any Content for any reason. We are not responsible for any loss, theft, or damage of any kind to any Content. Further, You agree that We may freely disclose Your Content to any third party absent any obligation of confidence on the part of the recipient.

You additionally agree that in the event Llama requests you to remove any Content, you will do so immediately.

## **7. Unauthorized Activities and Limitations on Use.**

To be clear, We authorize Your use of this Application only for Permitted Purposes. Any other use of this Application beyond the Permitted Purposes is prohibited and, therefore, constitutes unauthorized use of this Application. This is because as between You and Us, all rights in this Application remain Our property.

When using the Application, you agree not to engage in any illegal, dangerous, seditious, offensive or otherwise undesirable (as determined by Llama in its sole discretion) activities, including, but not limited to: (a) submitting or sharing content, including information submitted in the creation of a Llama Group (defined below), that is patently offensive to the online community, such as, for example, content that is threatening or promotes racism or hatred; (b) engaging in activity that involves the transmission of unsolicited messages, including Facebook messages, to other Application users or third parties; (c) engaging in activities that solicit personal information, passwords, or financial information from other Application users; (d) using any robot, spider or other automatic device, or a manual process, to monitor or copy user information, content, or any information contained within the Application; (e) using any device, software or routine to interfere or attempt to interfere with the proper working of the Application infrastructure; and (f) decompiling, reverse engineering, disassembling or otherwise attempting to obtain the source code for the Application.

Unauthorized use of this Application may result in violation of various United States of America and international copyright laws. Because We prefer keeping this relationship drama-free, In addition to the restrictions set forth above, we want to give You another examples of things to avoid. So, unless You have written permission from Us stating otherwise, You are not authorized to use this Application in any of the following ways (these are examples only and this is not a complete list of everything that You are not permitted to do):

- For any public or commercial purpose which includes use of this Application on another App or through a networked computer environment;
- In a manner that modifies, publicly displays, publicly performs, reproduces or distributes any of this Application;
- In a manner that violates any local, state, national, foreign, or international statute, regulation, rule, order, treaty, or other law;
- To stalk, harass, or harm another individual;
- To impersonate any person or entity or otherwise misrepresent Your affiliation with a person or entity;
- To interfere with or disrupt this Application or servers or networks connected to this Application;
- Attempt to gain unauthorized access to any portion of this Application or any other accounts, computer systems, or networks connected to this Application, whether through hacking, password mining, or any other means.

You agree to hire attorneys to defend Us if You violate these Terms and that violation results in a problem for Us. You also agree to pay any damages that We may end up having to pay as a result of Your violation. You alone are responsible for any violation of these Terms by You. We reserve the right to assume the exclusive defense and control of any matter otherwise subject to indemnification by You and, in such case, You agree to cooperate with Our defense of such claim.

## **8. Facebook and other Third Party Sites.**

(a) Facebook Linking. You may link your Account to a valid Facebook account ("Link" and "Linking"), provided that you agree to the terms and conditions provided by Facebook for Linking by clicking "Allow" when prompted by Facebook. Linking enables you to interact with Facebook through the

Application by posting updates to your Facebook wall, inviting your Facebook friends to your Llama List(s) as a Collaborator, messaging your Llama List Collaborators through Facebook. If you choose to Link your Account to your Facebook account, information you provide to the Application, including your Facebook contact information and Facebook profile photo, will become publicly viewable to other users of the Application, including Sponsors and other members of Llama Lists in which you are a Leader or Collaborator. You agree that Llama is not responsible for Content once it is shared to Facebook or provided within the body of a message to a Facebook user. If you choose to Link, you must respect other users of the Application in your interactions with them on Facebook, and you must comply with Facebook's terms and conditions and all applicable laws and regulations through such interaction. Upon engaging in Promotional Activities for one or more Sponsors, including, but not limited to, providing promotional content to Facebook, you agree that you will include an express statement that such content is a promotional advertisement solicited by the applicable Sponsor(s). You understand and agree that Facebook is a third-party Application and not part of the Application and that it has its own privacy notices pertaining handling of your information.

(b) Third Party Sites. We think links are convenient, and We sometimes provide links on this Application to third-party websites, including linking to your Facebook, Twitter and Instagram accounts. If You use any of these links, You will leave this Application. We are not obligated to review any third-party websites that You link to from this Application, We do not control any of the third-party websites, and We are not responsible for any of the third-party websites (or the products, services, or content available through any of them). Thus, We do not endorse or make any representations about such third-party websites, any information, software, products, services, or materials found there or any results that may be obtained from using them. If You decide to access any of the third-party websites linked to from this Application, You do this entirely at Your own risk and You must follow the privacy policies and terms and conditions for those third-party websites. Certain areas of this Application may allow You to interact and/or conduct transactions with one or more third-party websites, and, if applicable, allow you to configure your privacy settings in that third-party Application account to permit Your activities on this Application to be shared with Your contacts in your third-party App account.

## **9. Intellectual Property Infringement and DMCA.**

We respect the intellectual property rights of others and we expect You to do the same in our Application. Accordingly, We have a policy of removing Content that violates the intellectual property rights of others, suspending access to this Application (or any portion thereof) to any user who uses this Application in violation of someone's intellectual property rights, and/or terminating in appropriate circumstances the account of any user who repeatedly uses the this Application in violation of someone's intellectual property rights.

(a) DMCA Notification:

If you believe your copyright, or other intellectual property rights have been infringed by the Content or Services, we ask that you please provide to Llama Agent the following information required by the Online Copyright Infringement Liability Limitation Act of the Digital Millennium Copyright Act, 17 U.S.C. 512: (1) a physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed; (2) identification of the copyright work claimed to have been infringed, or, if multiple copyrighted works at a single online App are covered by a single notification, a representative list of such works at that App; (3) identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit us to locate the material; (4) information reasonably sufficient to permit us to contact the complaining party; (5) a statement that the complaining party has a good-faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and (6) a statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Send such notice as directed above to: Attn: DMCA Agent, CC: Adrian Craig, Email: [adrian@llamalists.com](mailto:adrian@llamalists.com).

(b) Counter Notification:

If you posted the material at the above-listed location and you have a good-faith belief that such material was removed or blocked as a result of a mistake or misidentification, you may send us a written Counter Notification at the address noted below. In order for us to act upon your Counter Notification, the Counter Notification must be in writing and contain the following information:

1. identification of the accused material and the location where the accused material was posted prior to being removed or blocked;
2. a statement, made under penalty of perjury, that you have a good faith belief that the accused material was removed or disabled as a result of a mistake or misidentification of the material;
3. your name, address, and telephone number;
4. a statement that you (i) consent to the jurisdiction of the Federal District Court of the judicial district in which your address is located (or, if your address is outside the United States, that you consent to the jurisdiction of Federal District Court for the Northern District of Illinois and (ii) will accept service of process from the person who originally sent the Notice of Claimed Infringement; and
5. your physical or electronic signature.

Please send your Counter Notification to: Attn: DMCA Agent, CC: Adrian Craig, Email: [adrian@llamalists.com](mailto:adrian@llamalists.com).

Please be advised that Llama will forward a copy of any Counter Notification to the individual who originally sent the Notice of Claimed Infringement. Unless such individual notifies Llama that an action has been filed seeking a court order to enjoin you from posting the allegedly infringing material, Llama will replace the removed material or reinstate access to the blocked material (as applicable) in 10-14 business days after receiving your Counter Notification.

#### **10. Disclaimer; Indemnity; Limitation of Liability**

(a) **DISCLAIMER.** LLAMA PROVIDES THE APPLICATION "AS IS." LLAMA HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES THAT ARISE FROM COURSE OF DEALING OR USAGE OF TRADE OR BUSINESS AND THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. YOU ASSUME ALL RISK TO THE SUITABILITY, QUALITY, AND PERFORMANCE OF THE APPLICATION. LLAMA MAKES NO WARRANTY THAT THE APPLICATION IS ERROR FREE, WILL OPERATE WITHOUT INTERRUPTION OR WITHOUT DEFECT, OR THAT DATA STORED WITHIN THE APPLICATION AND/OR BY LLAMA PURSUANT TO THESE TERMS WILL NOT BE LOST. LLAMA DISCLAIMS ANY WARRANTY, COVENANT OR REPRESENTATION UNDER THESE TERMS TO ANY PERSON OTHER THAN YOU.

(b) **Indemnification.** You shall indemnify, defend and hold harmless Llama, its affiliates, parent corporation, officers, directors, employees, consultants, and agents, from and against any claims, obligations, losses, costs, liabilities, expenses or debt (including without limitation reasonable attorneys' fees both for defending such claim and enforcing the terms of this Section, defense expenses, and court costs) or damages asserted against or suffered by Llama as a result of or related to: (i) a breach of these Terms by You; (ii) your negligence or willful misconduct; (iii) your failure to comply with any applicable law, regulation, statute, or rule; (iv) your use and access to the

Application and/or services provided by Us in violation of these Terms; (v) your violation of any third party right, including without limitation any trademark, copyright, property, or proprietary, privacy right, or other right or your infringement or infringement by any other user of your account, of any intellectual property or other right of any person or entity in violation of these Terms; (vi) any of your Content, including without limitation, any Content posted or otherwise provided by You that infringes any copyright, trademark, intellectual property right of any person or defames any person or violates any person's rights of publicity or privacy, or otherwise violates these Terms; and (vii) breach of any of your warranties, representations and/or obligations set out above. These Terms to indemnify, hold harmless and defend apply even if the act or omission complained of was allegedly caused in whole or in part by the strict liability or negligence (in any form) of Llama. The Terms will inure to the benefit of successors, assignees, and licensees. This defense and indemnification obligation will survive these Terms and your use of the Application.

(c) LIMITATION OF LIABILITY. USE OF THIS APPLICATION (AND MATERIALS) IS AT YOUR OWN RISK. REGARDLESS OF THE THEORY OF LAW, IN NO EVENT SHALL LLAMA, ITS EMPLOYEES, AGENTS, OR AFFILIATES BE LIABLE TO YOU OR YOUR COMPANY FOR ANY DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES (INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, DATA, OR USE), EVEN IF LLAMA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, LLAMA, ITS EMPLOYEES, AGENTS, OR AFFILIATES WILL NOT BE RESPONSIBLE FOR ANY COMPENSATION, REIMBURSEMENT, OR DAMAGES ARISING IN CONNECTION WITH: (I) THE INABILITY TO USE THE APPLICATION; (II) THE COST OF PROCUREMENT OF SUBSTITUTE SERVICES; (III) ANY INVESTMENTS, EXPENDITURES, OR COMMITMENTS BY EITHER PARTY IN CONNECTION WITH THESE TERMS OR YOUR USE OF OR ACCESS TO THE APPLICATION; OR (IV) ANY UNAUTHORIZED ACCESS TO, ALTERATION OF, OR THE DELETION, DESTRUCTION, DAMAGE, LOSS OR FAILURE TO STORE ANY OF YOUR CONTENT OR OTHER DATA. IN THE EVENT THAT THE FOREGOING DISCLAIMER OF DAMAGES IS STRICKEN BY A COURT OF LAW, LLAMA'S AGGREGATE LIABILITY UNDER THESE TERMS WILL BE LIMITED TO THE LESSER OF (A) THE AMOUNT PAID BY YOU TO LLAMA, OR (B) ONE THOUSAND DOLLARS (\$1,000.00). WE SHALL NOT BE LIABLE TO YOU FOR ANY DAMAGES RESULTING FROM YOUR DISPLAYING, COPYING, OR DOWNLOADING ANY MATERIALS OR CONTENT TO OR FROM THIS APPLICATION. IN NO EVENT SHALL WE BE LIABLE TO YOU FOR ANY INDIRECT, EXTRAORDINARY, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) HOWEVER ARISING, EVEN IF WE KNOW THERE IS A POSSIBILITY OF SUCH DAMAGE.

## **11. Term and Termination**

These Terms are effective upon your usage of the Application and will remain in effect until terminated by you or Llama. You may delete your Account at any time within the system or by following the instructions to delete an account or by contacting Llama at the contact information below, which deletion shall terminate these Terms at the time your Account is deleted by Llama. Llama reserves the right to terminate these Terms or suspend your Account at any time in case of unauthorized, or suspected unauthorized use of the Application whether in contravention of these Terms or otherwise. Llama may, at its option, cease offering the Application, which event shall terminate these Terms.

## **12. Dispute Resolution and Arbitration; Class action waiver.**

PLEASE READ THIS PROVISION CAREFULLY. IT AFFECTS YOUR LEGAL RIGHTS.

This Provision facilitates the prompt and efficient resolution of any dispute (e.g., claim or controversy, whether based in contract, statute, regulation, ordinance, tort – including, but not limited to, fraud, misrepresentation, fraudulent inducement, or negligence – or any other legal or equitable



theory, and includes the validity, enforceability or scope of this Provision (with the exception of the enforceability of the Class Action Waiver clause below) that may arise between You and Us. Effectively, then, "dispute" is given the broadest meaning enforceable by law and includes any claims against other parties relating to services or products provided or billed to You (such as Our licensors, suppliers, dealers or third-party vendors) whenever You also assert claims against Us in the same proceeding.

This Provision provides that all disputes between You and Us shall be resolved by binding arbitration because acceptance of These Terms constitutes a waiver of Your right to litigation claims and all opportunity to be heard by a judge or jury. We prefer this because We believe arbitration is less drama-filled than litigation. To be clear, there is no judge or jury in arbitration, and court review of an arbitration award is limited. The arbitrator must follow this agreement and can award the same damages and relief as a court (including attorney's fees). You may, however, opt-out of this Provision which means You would have a right or opportunity to bring claims in a court, before a judge or jury, and/or to participate in or be represented in a case filed in court by others (including, but not limited to, class actions). EVERYONE AGREES THAT, EXCEPT AS PROVIDED BELOW, ANY AND ALL DISPUTES, AS DEFINED ABOVE, WHETHER PRESENTLY IN EXISTENCE OR BASED ON ACTS OR OMISSIONS IN THE PAST OR IN THE FUTURE, WILL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION RATHER THAN IN COURT IN ACCORDANCE WITH THIS PROVISION. (a) Pre-Arbitration Claim Resolution

For all Disputes, whether pursued in court or arbitration, You must first give Us an opportunity to resolve the Dispute which is first done by emailing Us at [adrian@llamalists.com](mailto:adrian@llamalists.com) the following information: (1) Your name, (2) Your address, (3) A written description of Your Claim, and (4) A description of the specific relief You seek. If We do not resolve the Dispute within 45 days after receiving Your notification, then You may pursue Your Dispute in arbitration. You may pursue Your dispute in a court only under the circumstances described below.

#### (b) Exclusions from Arbitration/Right to Opt Out

Notwithstanding the above, Your or We may choose to pursue a Dispute in court and not by arbitration if: (a) The dispute qualifies for initiation in small claims court; or (b) YOU OPT-OUT OF THESE ARBITRATION PROCEDURES WITHIN 30 DAYS FROM THE DATE THAT YOU FIRST CONSENT TO THIS AGREEMENT (the "Opt-Out Deadline"). You may opt-out of this Provision by emailing Us at [adrian@llamalists.com](mailto:adrian@llamalists.com) the following information: (1) Your name; (2) Your address; (3) A clear statement that You do not wish to resolve disputes with Us through arbitration. Either way, We will not take any decision You make personally. In fact, We promise that Your decision to opt-out of this Arbitration Provision will have no adverse effect on Your relationship with Us. But, We do have to enforce the Opt-Out Deadline so keep in mind that any opt-out request received after the Opt-Out Deadline will not be valid and You must pursue Your dispute in arbitration or small claims court.

#### (c) Arbitration Procedures

If this Provision applies and the dispute is not resolved as provided above (Pre-Arbitration Claim Resolution) either You or We may initiate arbitration proceedings. The American Arbitration Association ("AAA"), [www.adr.org](http://www.adr.org), or JAMS, [www.jamsadr.com](http://www.jamsadr.com), will arbitrate all disputes, and the arbitration will be conducted before a single arbitrator. The arbitration shall be commenced as an individual arbitration, and shall in no event be commenced as a class arbitration. All issues shall be for the arbitrator to decide, including the scope of this Provision. For arbitration before AAA, for Disputes of less than \$75,000, the AAA's Supplementary Procedures for Consumer-Related Disputes will apply; for Disputes involving \$75,000 or more, the AAA's Commercial Arbitration Rules will apply. In either instance, the AAA's Optional Rules For Emergency Measures Of Protection shall apply. The AAA rules are available at [www.adr.org](http://www.adr.org) or by calling 1-800-778-7879. For arbitration before JAMS, the JAMS Comprehensive Arbitration Rules & Procedures and the JAMS

Recommended Arbitration Discovery Protocols For Domestic, Commercial Cases will apply. The JAMS rules are available at [www.jamsadr.com](http://www.jamsadr.com) or by calling 1-800-352-5267. This Provision governs in the event it conflicts with the applicable arbitration rules. Under no circumstances will class action procedures or rules apply to the arbitration. Because this Application and these Terms concern interstate commerce, the Federal Arbitration Act ("FAA") governs the arbitrability of all disputes. However, the arbitrator will apply applicable substantive law consistent with the FAA and the applicable statute of limitations or condition precedent to suit.

**Arbitration Award** – The arbitrator may award on an individual basis any relief that would be available pursuant to applicable law, and will not have the power to award relief to, against or for the benefit of any person who is not a party to the proceeding. The arbitrator will make any award in writing but need not provide a statement of reasons unless requested by a party. Such award will be final and binding on the parties, except for any right of appeal provided by the FAA, and may be entered in any court having jurisdiction over the parties for purposes of enforcement.

**Location of Arbitration** – You or We may initiate arbitration in either Illinois or the federal judicial district that includes Your billing address. In the event that You select the latter, We may transfer the arbitration to Illinois so long as We agree to pay any additional fees or costs which the arbitrator determines You incur as a result of the transfer.

**Payment of Arbitration Fees and Costs** – So long as You place a request in writing prior to commencement of the arbitration, We will pay all arbitration fees and associated costs and expenses. But, You will still be responsible for all additional fees and costs that You incur in the arbitration which include but are not limited to attorneys' fees or expert witnesses. In addition to any fees and costs recoverable under applicable law, if You provide notice and negotiate in good faith with Us as provided in the section above titled "Pre-Arbitration Claim Resolution" and the arbitrator concludes that You are the prevailing party in the arbitration, You will be entitled to recover reasonable attorney's fees and costs as determined by the arbitrator.

#### (d) Class Action Waiver

Except as otherwise provided in this Provision, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a class or representative proceeding or claims (such as a class action, consolidated action or private attorney general action) unless both You and We specifically agree to do so following initiation of the arbitration. If You choose to pursue Your Dispute in court by opting out of the Arbitration Provision, as specified above, this Class Action Waiver will not apply to You. Neither You, nor any other user of this Application can be a class representative, class member, or otherwise participate in a class, consolidated, or representative proceeding without having complied with the opt-out requirements above.

#### (e) Jury Waiver

You understand and agree that by accepting this Provision in these Terms, You and We are each waiving the right to a jury trial or a trial before a judge in a public court. In the absence of this Provision, You and We might otherwise have had a right or opportunity to bring disputes in a court, before a judge or jury, and/or to participate or be represented in a case filed in court by others (including class actions). Except as otherwise provided below, those rights are waived. Other rights that You would have if You went to court (e.g., the rights to both appeal and certain types of discovery) may be more limited or may also be waived.

#### (f) Severability

If any clause within this Provision (other than the Class Action Waiver clause above) is found to be illegal or unenforceable, that clause will be severed from this Provision whose remainder will be given full force and effect. If the Class Action Waiver clause is found to be illegal or unenforceable, this entire Provision will be unenforceable and the dispute will be decided by a court.

(g) Continuation

This Provision shall survive the termination of Your account with Us or Our affiliates and Your discontinued use of this Application. Notwithstanding any provision in this Agreement to the contrary, We agree that if We make any change to this Provision (other than a change to the Notice Address), You may reject any such change and require Us to adhere to the language in this Provision if a dispute between Us arises.

### **13. General**

We think direct communication resolves most issues – if We feel that You are not complying with these Terms, We will tell You. We will even provide You with recommended necessary corrective action(s) because We value this relationship.

However, certain violations of these Terms, as determined by Us, may require immediate termination of Your access to this Application without prior notice to You. The Federal Arbitration Act, Illinois state law and applicable U.S. federal law, without regard to the choice or conflicts of law provisions, will govern these Terms. Foreign laws do not apply. Except for disputes subject to arbitration as described above, any disputes relating to these Terms or this Application will be heard in the courts located in Cook County, Illinois. If any of these Terms are deemed inconsistent with applicable law, then such term(s) shall be interpreted to reflect the intentions of the parties, and no other terms will be modified. By choosing not to enforce any of these Terms, We are not waiving Our rights. These Terms are the entire agreement between You and Us and, therefore, supersede all prior or contemporaneous negotiations, discussions or agreements between You and Us about this Application. The proprietary rights, disclaimer of warranties, any representations made by You, indemnities, limitations of liability and general provisions shall survive any termination of these Terms. These Terms is binding on the parties, their successors and assigns. You shall not assign these Terms or any license hereunder without the express written consent of Llama, which shall not be unreasonably withheld. Any other attempt to sublicense, assign or transfer these Terms or the licenses granted hereunder shall be null and void. There are no representations, promises, warranties or understandings relied upon by you which are not contained herein. If any provision of these Terms is found unenforceable, the remaining provisions shall continue in full force and effect.

### **14. California Consumer Notice.**

Under California Civil Code Section 1789.3, California users are entitled to the following consumer rights notice: This Application is provided by

Shurpa Technologies inc. d/b/a Llama, located at 207 East Ohio St Num 115, Chicago, IL 60611. If You have a question or complaint regarding the Application, please contact Customer Service at [support@llamalists.com](mailto:support@llamalists.com). You may also contact Us by writing to our address above. California residents may reach the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by post at 1625 North Market Blvd., Sacramento, CA 95834 or by telephone at (916) 445-1254 or (800) 952-5210 or Hearing Impaired at TDD (800) 326-2297 or TDD (916) 322-1700.

### **15. Contact Us.**

If You have any questions about these Terms or otherwise need to contact Us for any reason, You can reach Us at [support@llamalists.com](mailto:support@llamalists.com)