

EasySpoon Terms of Use

Last Updated on January 20, 2009

1. Acceptance of Terms

EasySpoon, Inc. ("**EasySpoon**") provides a collection tool for online resources, including classified ads and promotions, on this website located at www.EasySpoon.com (the "**EasySpoon Site**") subject to the following Terms of Use. By accessing, browsing, crawling, scraping or in any way using EasySpoon Site, you agree to these Terms of Use, the privacy policy posted here (the "**Privacy Policy**"), and any other guidelines and additional terms referenced herein (collectively, the "**TOU**"). Please read the TOU carefully. Your use of EasySpoon Site constitutes your acceptance of the TOU. Do not use EasySpoon Site if you are unwilling or unable to be bound by, or disagree to, any term or provision of the TOU.

2. Modifications to TOU

We reserve the right, at our sole discretion, to change, modify or otherwise alter the terms and conditions of TOU at any time. When these changes are made, we will notify you by making a new TOU available on this web-page and will indicate at the top of this web-page the date the TOU were last revised. Such modifications shall become effective immediately upon the posting of new TOU. It is your responsibility to review TOU on a regular basis to keep yourself apprised of any changes. Your continued use of EasySpoon Site after any posted modification to TOU indicates your acceptance of the modification. Unless expressly stated otherwise by EasySpoon, any new Services or Content (as defined below) that is made available on the EasySpoon Site implemented after your initial access to the EasySpoon Site shall be subject to the TOU.

3. Definitions

- (a) "**User**" is anyone who accesses, browses, crawls, scrapes, or in any way uses EasySpoon Site, including but not limited to you and others who may post, read or print promotions of local businesses, or vote or write reviews about them posted on EasySpoon Site.
- (b) "**Services**" means the services and functionality made available to Users on EasySpoon Site.
- (c) "**Content**" means any and all postings, messages, text, files, information, communications, images, photos, video, sounds, or other materials posted on, transmitted through, or linked

from EasySpoon Site or the Services.

- (d) **“Your Content”** means Content that you submit, post, email, transmit or otherwise make available to, via or using, EasySpoon Site or the Services, including but not limited to the promotions, deals, description of the local businesses, ratings, reviews, information that you display as part of your account profile, or other commentary that you may submit, post, email, transmit or otherwise make available to, via or using, EasySpoon Site or the Services. Your Content does not include personally identifiable information that you submit when creating an account on EasySpoon Site (such personal information is subject to the Privacy Policy).
- (e) **“Third Party Content”** means Content that is made available on EasySpoon Site by parties other than EasySpoon or the Users, including but not limited to data licensed from data providers to EasySpoon for use on EasySpoon Site, features and functionalities that may link you or provide you with access to third party which is completely independent of EasySpoon, including web sites, directories, servers, networks, systems, information and databases, applications, software, programs, products or services, and the internet as a whole.

4. User Accounts

To access or use some of the Services, you may be required to register on the EasySpoon Site by creating an account and providing information about yourself to EasySpoon. You are solely responsible for maintaining the confidentiality of any passwords that you create in connection with the EasySpoon Site, and are solely responsible for all activities that occur in connection with your account. You agree to notify EasySpoon immediately of any unauthorized use of your account. EasySpoon reserves the right to close your account at any time for any or no reason.

There are two types of accounts:

- (a) A **“Personal Account”** is an account for your personal, non-commercial use only, and may be used (among other things) to submit, post, and transmit reviews, ratings, commentary, and other types of Content. In creating or updating a Personal Account, we ask that you provide complete and accurate information about yourself in order to bolster your credibility as a contributor to the EasySpoon Site, though you may instead choose not to provide information that makes you personally identifiable. Notwithstanding the foregoing, you may not impersonate someone else (e.g., adopt the identity of a celebrity or your friend), provide an email address that is not your own, or create multiple Personal Accounts.

- (b) A “**Business Account**” is an account for use on the EasySpoon Site as a representative of a business, the promotion(s) or deal(s) of which is listed on the EasySpoon Site. In creating or updating a Business Account, you must be an authorized representative of the business in question, and you must provide complete and accurate information about yourself and the business you represent. You may not provide an email address that is not your own or create multiple Business Accounts for the same business.

5. Content

- (a) You understand that all Content, including but not limited to postings, messages, text, files, images, photos, video, sounds, or other materials, are the sole responsibility of the person from whom such Content originated. More specifically, you are solely and entirely responsible for Your Content. You assume all risks associated with use of Your Content, including any reliance on its accuracy, completeness or usefulness by others, or any disclosure by you of information in Your Content that makes you personally identifiable. You hereby affirm, represent, and warrant that you own, or have the necessary licenses, rights, consents, and permissions to use, and authorize EasySpoon to use, Your Content. You may not imply that Your Content is in any way sponsored or endorsed by EasySpoon. Because you alone are responsible for Your Content (and not EasySpoon), you may expose yourself to liability if, for example, Your Content violates any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; contains material that is false, intentionally misleading, or defamatory; contains material that is unlawful, including illegal hate speech or pornography; exploits or otherwise harms minors; or violates or advocates the violation of any law or regulation.
- (b) You understand that EasySpoon does not control, and is not responsible for any and all Content made available through the EasySpoon Site or the Service, except for the Content made available by EasySpoon, and that by using the Service, you may be exposed to Content that is offensive, indecent, inaccurate, misleading, or otherwise objectionable.
- (c) You understand that the Content available through the EasySpoon Site may contain links to other websites, which are completely independent of EasySpoon. EasySpoon makes no representation or warranty as to the accuracy, completeness or authenticity of the information contained in any such site. Your linking to any other websites is at your own risk.

- (d) You agree that you must evaluate, and bear all risks associated with, the use of any Content, that you may not rely on said Content, and that under no circumstances will EasySpoon be liable in any way for any Content or for any loss or damage of any kind incurred as a result of the use of any Content posted, emailed or otherwise made available via the EasySpoon Site or the Service. You acknowledge that EasySpoon does not pre-screen or approve the Content, but that EasySpoon shall have the right (but not the obligation) in its sole discretion to refuse, delete or move any Content that is available via the EasySpoon Site or the Service, for violating the letter or spirit of the TOU or for any other reason.

6. Third Party Content

- (a) You understand that EasySpoon does not control, and is not responsible for the Third Party Content, and that your interactions with organizations and/or individuals found on or through the EasySpoon Site or the Service, including but not limited to registration or endorsement for the organizations and/or individuals, payment and delivery of goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such organizations and/or individuals. You should make whatever investigation you feel necessary or appropriate before proceeding with any online or offline interaction or transaction with any of these third parties.
- (b) You agree that EasySpoon shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such interactions and/or dealings with third parties. If there is a dispute between participants on the EasySpoon Site, or between Users and any third party, you understand and agree that EasySpoon is under no obligation to become involved. In the event that you have a dispute with one or more other Users or any third parties, you hereby release EasySpoon, its officers, employees, agents and successors in any and all rights (if any) from claims, demands and damages (actual and consequential) of every kind or nature, known or unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way related to such disputes and/or our Services. If you are a California resident, you waive California Civil Code Section 1542, which says: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which, if known by him must have materially affected his settlement with the debtor."

7. Licenses

- (a) You hereby grant EasySpoon and its affiliates a worldwide, non-exclusive, fully paid-up, royalty-free, perpetual, irrevocable, fully sublicensable, and fully transferable license to use, reproduce, distribute, modify, adapt, prepare derivative works of, incorporate into other works, display, perform, and otherwise exploit Your Content for any purpose, including without limitation promoting and redistributing part or all of the EasySpoon Site (and derivative works thereof) in any media formats and through any media channels now known or later developed (“**Downstream Distributions**”).
- (b) You also hereby grant Users and users of any Downstream Distributions a non-exclusive license to access, use, reproduce, distribute, display, and perform Your Content for their personal, noncommercial use in connection with their use of the EasySpoon Site and any Downstream Distributions, as expressly permitted by the functionality of the EasySpoon Site and any applicable Downstream Distribution, and the TOU and terms of services of any applicable Downstream Distribution. In addition, you grant EasySpoon, its affiliates, and their respective sublicensees the right to associate and display your account name with Your Content.
- (c) You agree to irrevocably waive (and cause to be waived) any claims and assertions of moral rights or attribution with respect to Your Content.

8. Use of Your Content

- (a) EasySpoon makes no representations that it will publish or otherwise use Your Content in any way. EasySpoon may or may not use Your Content in its sole discretion. You understand that EasySpoon does not guarantee any confidentiality with respect to Your Content. EasySpoon has no obligation to store or provide you with copies of Your Content.
- (b) EasySpoon reserves the right (but has no obligation) to remove or suppress any Content from the EasySpoon Site at its sole discretion for any or no reason and without notice or liability of any kind, including without limitation, the suppression or removal of the Content that EasySpoon deems untrustworthy or in violation of the TOU or guidelines for postings, reviews, or photos.
- (c) EasySpoon and its licensees may display advertisements and other information adjacent to

or included with Your Content on the EasySpoon Site and any Downstream Distributions. You agree that you are not entitled to any compensation for any such advertisements. The manner, mode and extent of such advertising are subject to change without specific notice to you.

9. Restrictions on Use

You agree not to (and will not permit others to) submit, post, email, transmit or otherwise make available Content to, on or via, the EasySpoon Site or the Services:

- (a) that is unlawful, harmful, threatening, stalking, defrauding, inciting, abusive, defamatory, libelous, invasive of another's privacy, harassing or advocative of the harassment of another person, or otherwise interfere with a User's enjoyment of the EasySpoon Site in any way;
- (b) that violate any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right;
- (c) that contains illegal materials, including without limitation, material that is pornographic or obscene;
- (d) that creates the appearance of a conflict of interest, including trading reviews with other business owners and writing or soliciting skill reviews;
- (e) that harasses, degrades, intimidates, discriminates or is hateful toward an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age, or disability;
- (f) that constitutes or contains spam, chain letters, contests, junk email, pyramid schemes, surveys, or other mass messaging, whether commercial in nature or not;
- (g) that violates the TOU or any applicable local, state, national or international law;
- (h) that impersonates any person or entity, including, but not limited to, a EasySpoon employee, or falsely states or otherwise misrepresents your affiliation with a person or entity, without

such person's or entity's explicit consent;

- (i) that includes personal or identifying information about another person without that person's explicit consent;
- (j) that includes links to commercial services or web sites, except as allowed in the Services;
- (k) that advertises any illegal service or the sale of any items the sale of which is prohibited or restricted by any applicable law;
- (l) that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
- (m) that disrupts the normal flow of dialogue with an excessive amount of Content (flooding attack) to the Services, or that otherwise negatively affects other Users' ability to use the EasySpoon Site; or
- (n) that employs misleading email addresses, or forged headers or otherwise manipulated identifiers in order to disguise the origin of the Content posted, transmitted, or otherwise made available, on or through the EasySpoon Site.

Additionally, you agree not to (and will not permit others to):

- (o) contact any Users, or make unsolicited contact with any Users for any commercial purpose, other than expressly allowed in the Services;
- (p) solicit personal information from minors;
- (q) collect or record personal data or information about other Users;
- (r) use any automated device, process or means, including spiders, robots, crawlers, data mining tools, or the like to access, retrieve or index any data or information from the EasySpoon Site - unless expressly permitted by EasySpoon;
- (s) post non-local or otherwise irrelevant Content, repeatedly post the same or similar Content,

or otherwise take any action that imposes, or may impose in our sole discretion, an unreasonable or disproportionately large load on EasySpoon's technology infrastructure;

- (t) modify, adapt, appropriate, reproduce, distribute, translate, create derivative works of, publicly display, sell, trade, or in any way exploit the EasySpoon Site, the Services, or any of the Content (other than Your Content), except as expressly authorized by EasySpoon;
- (u) attempt to gain unauthorized access to the EasySpoon Site, User accounts, computer systems or networks connected to the EasySpoon Site through hacking, password mining or any other means, or engage in any activity that disrupts, diminishes the quality of, interferes with the performance of, or impairs the functionality of, the Services or the EasySpoon Site;
- (v) reverse engineer any portion of the EasySpoon Site, or reformat or frame any portion of the EasySpoon Site;
- (w) use any form of automated device or computer program that enables the submission of postings on EasySpoon Site without each posting being manually entered by the author thereof ("**automated posting device**"), including without limitation, the use of any such automated posting device to submit postings in bulk, or for automatic submission of postings at regular intervals;
- (x) use any form of automated device or computer program ("**flagging tool**") that enables the use of flagging system of the EasySpoon Site without each flag being manually entered by the person that initiates the flag, or use the flagging tool to remove posts of competitors, or to remove posts without a good faith belief that the post being flagged violates the TOU;
- (y) remove any copyright, trademark or other proprietary rights notices contained on the EasySpoon Site or in any Content of EasySpoon; or
- (z) use the EasySpoon Site to transmit any viruses, worms, defects, Trojan horses or other items of a destructive nature or to violate the security of any computer network, crack passwords or security encryption codes; disrupt or interfere with the security of, or otherwise cause harm to, the EasySpoon Site or any Services or the Content; remove, circumvent, disable, damage or otherwise interfere with any security-related features of the EasySpoon Site.

10. Notification of Claims of Infringement

EasySpoon has adopted the following policies and procedures toward copyright infringement in accordance with Title 17, United States Code, Section 512(c), under the Digital Millennium Copyright Act (“**DMCA**”). The address of EasySpoon's Designated Agent to Receive Notification of Claimed Infringement (“**Agent**”) is provided below in this section. It is EasySpoon's policy to (i) respond to notices of alleged copyright infringement that comply with the DMCA; and (ii) remove the infringing posting(s) and terminate the accounts of those who EasySpoon determines to be “repeat infringers”, subject to the procedures outlined in DMCA.

(a) Procedure for Reporting Copyright Infringements.

If you are a copyright owner or agent thereof, and believe that your copyright is being infringed in connection with the EasySpoon Site, please send a written notification to the Agent detailing the alleged infringement. Your written notification must include:

- i. Identification of the copyrighted work that you claim has been infringed;
- ii. Identification of the content on the EasySpoon Site that allegedly infringes upon the copyrighted work at issue, and information reasonably sufficient to permit EasySpoon to locate such content on the EasySpoon Site;
- iii. A statement by you that you have a good faith belief that the use of the content identified in your notice in the manner complained of is not authorized by the copyright owner, its agent, or the law;
- iv. A statement by you that you attest, under penalty of perjury, that the information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf; and
- v. Your physical or electronic signature, together with your contact information (address, telephone number and, if available, email address).

Please note that EasySpoon may, at its sole discretion, send a copy of such notices to third parties for publication. For example, your letter (with personal information removed) may be forwarded to Chilling Effects (<http://www.chillingeffects.org>) for publication. Please note that you may be subject to liability under Section 512(f) of the DMCA, if you materially misrepresent that content on the EasySpoon Site infringes your copyright.

(b) Contact for Agent.

Please contact EasySpoon's designated Agent at the following email address:

Email to: info@EasySpoon.com

11. Privacy and Information Disclosure

EasySpoon has adopted the Privacy Policy to explain to Users how their information is collected and used, which is located at the following web address:

http://www.EasySpoon.com/privacy_policy.pdf

Your use of the EasySpoon Site or the Services signifies acknowledgement of and agreement to our Privacy Policy. You further acknowledge and agree that, except to the extent prohibited by applicable law, EasySpoon may, in its sole discretion, preserve or disclose Your Content, as well as your information, such as email addresses, IP addresses, timestamps, and other User information, if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: comply with legal process; enforce the TOU; respond to claims that any Content violates the rights of third-parties; respond to claims that contact information (e.g. phone number, street address) of a third-party has been posted or transmitted without their consent or as a form of harassment; protect the rights, property, or personal safety of EasySpoon Site, its Users or the general public.

12. Availability and Limitations of Service

- (a) You understand and agree that EasySpoon reserves the right (but is under no obligation) to modify, update, or discontinue the EasySpoon Site or any of the Services at its sole discretion, at any time, for any or no reason, and without notice or liability.
- (b) You further acknowledge and agree that EasySpoon may establish limits concerning use of the EasySpoon Site or any of the Services, including the maximum number of days that Content will be retained on the EasySpoon Site, the maximum number and size of postings, email messages, or other Content that may be transmitted through or stored by the EasySpoon Site, and the frequency with which you may access the EasySpoon Site, etc. You agree that EasySpoon has no responsibility or liability for the deletion or failure to store any Content maintained by or transmitted through the EasySpoon Site.

13. Unauthorized Access to the Site

EasySpoon reserves the right to exercise whatever lawful means it deems necessary to prevent unauthorized access to or use of the EasySpoon Site, including, but not limited to, technological barriers, IP mapping, and contacting your Internet Service Provider (ISP) regarding such unauthorized use.

14. Monitoring and Investigations

EasySpoon, in its sole discretion, may (but has no obligation to) monitor or review the Services and Content at any time. If EasySpoon becomes aware of any possible violations by you of the TOU or any law or third-party right, EasySpoon reserves the right to investigate such violations. If, as a result of such investigation, EasySpoon believes that criminal activity has occurred, EasySpoon reserves the right to refer the matter to, and to cooperate with, any and all applicable law enforcement authorities.

15. Termination of Service

- (a) You understand and agree that EasySpoon reserves the right (but is under no obligation) to terminate or suspend your account or your ability to use the EasySpoon Site, in whole or in part, at EasySpoon's sole discretion, for any or no reason, and without notice or liability of any kind. Termination of your account may include: (i) removal of access to all offerings within the Services; (ii) deletion of your password and all related information, files and materials associated with or inside your account (or any part thereof), including Your Content; and (iii) barring of further use of the Services. You agree that EasySpoon shall not be liable to you or any third party for any termination of your account, or access to the EasySpoon Site, Services and materials, including Your Content.

- (b) Sections 7, 8, 10, 11, 14, 15, 16, 17, 18, 19, 20 and 21 shall survive any termination of the TOU.

16. Proprietary Rights

EasySpoon owns any and all Content provided or made available by the EasySpoon (the “**EasySpoon Content**”), including but not limited to visual interfaces, interactive features, graphics, design, compilation, computer code, products, software, aggregate user review ratings, and all other elements and components of the EasySpoon Site excluding Content provided by

Users and Third Party Content. EasySpoon also owns the copyrights, trademarks, service marks, trade names, and other intellectual and proprietary rights (the “**IP Rights**”) associated with the EasySpoon logo, EasySpoon Content and the EasySpoon Site, which are protected by copyright, trade dress, patent, trademark laws and all other applicable intellectual and proprietary rights and laws. As such, you may not modify, reproduce, distribute, create derivative works of, publicly display or in any way exploit, any of the EasySpoon Content in whole or in part except as expressly authorized by EasySpoon. Except as expressly and unambiguously provided herein, EasySpoon does not grant you any express or implied rights, and all rights in and to the EasySpoon Site and the EasySpoon Content are retained by EasySpoon.

17. Disclaimer of Warranties

- (a) YOU AGREE THAT USE OF THE EASYSPOON SITE AND THE SERVICES IS ENTIRELY AT YOUR OWN RISK. THE EASYSPOON SITE AND ALL SITE CONTENT IS MADE AVAILABLE TO YOU ON AN “AS IS” OR “AS AVAILABLE” BASIS. EASYSPOON MAKES NO WARRANTIES, REPRESENTATIONS, OR CONDITIONS OF ANY KIND, EXPRESS, STATUTORY OR IMPLIED AS TO (1) THE OPERATION AND FUNCTIONALITY OF THE EASYSPOON SITE, (2) THE ACCURACY, INTEGRITY, COMPLETENESS, QUALITY, LEGALITY, USEFULNESS, SAFETY, AND IP RIGHTS OF ANY OF THE CONTENT, INCLUDING BUT NOT LIMITED TO THE ACCURACY OF BUSINESS OR PROMOTION REVIEWS AND BUSINESS INFORMATION LISTED ON THE EASYSPOON SITE, AND (3) THE PRODUCTS AND SERVICES ASSOCIATED WITH THE EASYSPOON SITE OR CONTENT, INCLUDING BUT NOT LIMITED TO THE PRODUCTS AND SERVICES SOLD BY BUSINESSES LISTED ON THE EASYSPOON SITE. EASYSPOON FURTHER DISCLAIMS ALL WARRANTIES, EXPRESS, STATUTORY, OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, MERCHANTABILITY, DURABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, THAT YOU OBTAIN FROM EASYSPOON OR THE EASYSPOON SITE SHALL CREATE ANY WARRANTY, REPRESENTATION, OR CONDITION NOT EXPRESSLY STATED HEREIN.
- (b) EASYSPOON DISCLAIMS ALL LIABILITY RELATING TO YOUR USE OF THE EASYSPOON SITE, SERVICES, AND ANY CONTENT. ACCESS TO, AND USE OF, THE EASYSPOON SITE, SERVICES, AND ANY CONTENT ARE AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR

COMPUTER SYSTEM OR LOSS OF DATA RESULTING THEREFROM. EASYSPOON ASSUMES NO LIABILITY FOR ANY COMPUTER VIRUS OR SIMILAR CODE THAT IS DOWNLOADED TO YOUR COMPUTER FROM THE EASYSPOON SITE OR IN CONNECTION WITH THE SERVICES.

- (c) YOUR COMMUNICATIONS OR DEALINGS WITH ANY OF THE BUSINESSES, ADVERTISERS, OR USERS ON THE EASYSPOON SITE, ARE SOLELY BETWEEN YOU AND SUCH BUSINESSES, ADVERTISERS, AND USERS. EASYSPOON IS NOT RESPONSIBLE, AND DISCLAIMS ALL LIABILITY, FOR ANY LOSS OR DAMAGE ARISING OUT OF ANY SUCH COMMUNICATIONS OR DEALINGS. EASYSPOON RESERVES THE RIGHT (BUT HAS NO OBLIGATION) TO MONITOR DISPUTES BETWEEN YOU AND SUCH BUSINESSES, ADVERTISERS, AND USERS.

- (d) Some jurisdictions do not allow the disclaimer of implied warranties or have limitations on how long an implied warranty may last. In such jurisdictions, the above limitations shall be applied to the fullest extent permitted under applicable law.

18. Limitations on Liability

UNDER NO CIRCUMSTANCES SHALL EASYSPOON BE LIABLE FOR DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO LOSS OF PROFITS, BUSINESS INTERRUPTION, AND/OR LOSS OF INFORMATION OR DATA (EVEN IF EASYSPOON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM ANY ASPECT OF YOUR USE OF THE EASYSPOON SITE OR THE SERVICES, WHETHER THE DAMAGES ARISE FROM USE OR MISUSE OF THE EASYSPOON SITE OR THE SERVICES, FROM INABILITY TO USE THE EASYSPOON SITE OR THE SERVICES, OR THE INTERRUPTION, SUSPENSION, MODIFICATION, ALTERATION, OR TERMINATION OF THE EASYSPOON SITE OR THE SERVICES. SUCH LIMITATION SHALL ALSO APPLY WITH RESPECT TO DAMAGES INCURRED BY REASON OF OTHER SERVICES OR PRODUCTS RECEIVED THROUGH OR ADVERTISED IN CONNECTION WITH THE EASYSPOON SITE OR THE SERVICES OR ANY LINKS ON THE EASYSPOON SITE, AS WELL AS BY REASON OF ANY INFORMATION OR ADVICE RECEIVED THROUGH OR ADVERTISED IN CONNECTION WITH THE EASYSPOON SITE OR THE SERVICES OR ANY LINKS ON THE EASYSPOON SITE. THESE LIMITATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW.

19. Indemnity

You agree to indemnify and hold EasySpoon, its affiliates, any related companies, suppliers, licensors and partners, and the officers, directors, employees, agents and representatives of each of them harmless, including costs and attorneys' fees, from any claim or demand made by any third party due to or arising out of (i) your access to or use of the EasySpoon Site or Services, (ii) your violation of the TOU, or (iii) the infringement by you, or any third party using your account, of any intellectual property or other right of any person or entity. EasySpoon reserves the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us and you agree to cooperate with our defense of these claims. You agree not to settle any matter without the prior written consent of EasySpoon.

20. Governing Rules and Dispute Resolution

- (a) The TOU constitute the entire agreement between you and EasySpoon and govern your use of the EasySpoon Site and Services, superceding any prior agreements between you and EasySpoon. If there is any dispute about or involving the EasySpoon Site or EasySpoon, you agree that any such dispute will be governed by the laws of the State of California without regard to its conflict of law provisions. You agree to personal jurisdiction by and venue in the state and federal courts in San Francisco County, California. Some jurisdictions prohibit the use of a choice of law clause that would prevent a consumer from having recourse to courts in the consumer's local jurisdiction, so this governing law clause may not apply to you.
- (b) If any provision of the TOU is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the TOU remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Services or the TOU must be filed within one (1) year after such claim or cause of action arose or be forever barred.

21. General Provisions

- (a) You must be at least 18 years old. In addition, you may not use the Services if (i) you are not of legal age to form a binding contract, or (ii) you are prohibited by law from receiving or using the Services. By accessing or using the EasySpoon Site, you represent and warrant

that you have the right, authority, and capacity to enter into the TOU and to abide by all of the terms and conditions set forth herein. If you access or use the EasySpoon Site on behalf of a company, entity, or organization, you represent and warrant that you are an authorized representative of such company, entity, or organization with the authority to bind it to the TOU.

- (b) No agency, partnership, joint venture, or employment is created as a result of the TOU, and you do not have any authority of any kind to bind EasySpoon in any respect whatsoever.
- (c) EasySpoon may (but has no obligation to) provide you with notices, including those regarding changes to the TOU by email, regular mail or postings on the EasySpoon Site.
- (d) The failure of EasySpoon to exercise or enforce any right or provision of the TOU shall not constitute a waiver of such right or provision. In addition, the failure of EasySpoon to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder.
- (e) If any provision of the TOU is found to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that the TOU shall otherwise remain in full force and effect and enforceable.
- (f) The TOU are not assignable, transferable or sublicensable by you except with EasySpoon's prior written consent, but may be assigned or transferred by EasySpoon without restriction. Any assignment attempted to be made in violation of the TOU shall be void.
- (g) The section titles in the TOU are for convenience only and have no legal or contractual effect.
- (h) The EasySpoon Site's mapping feature is powered by Google Inc. Your use of the mapping feature is governed by Google Inc.'s terms of use located at http://maps.google.com/help/terms_maps.html (or such other URL as may be updated by Google Inc.).

22. Feedback and Violation Reports

Please contact us with any questions or comments through the "Contact Us" page located at

<http://www.easyspoon.com/contact>. Please report any violations of the TOU to our legal department through the above contacts page.