

# Terms of Use

## PLEASE READ THIS UNIVERSAL TERMS OF SERVICE AGREEMENT CAREFULLY, AS IT CONTAINS IMPORTANT INFORMATION REGARDING YOUR LEGAL RIGHTS AND REMEDIES.

The following are terms of a legal Agreement ("Agreement") entered into by and between you, the **end user**, and **Clever Things, LLC**, an **Alabama Limited Liability Company (LLC)**. The terms "we", "us", or "our" shall refer to **Clever Things, LLC**. The terms "you", "your", "user", or "customer" shall refer to any individual or entity who accepts this Agreement, has access to your account, or uses our web site ("Site") or services ("Services").

If you are entering into this Agreement on behalf of a corporate entity, you represent and warrant that you have the legal authority to bind such corporate entity to the terms and conditions contained in this Agreement, in which case the terms "you", "your", "user", or "customer" shall refer to such corporate entity. Nothing in this Agreement shall be deemed to confer any third-party rights or benefits. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns. If, after your acceptance of this Agreement, **Clever Things, LLC** finds that you do not have the legal authority to bind such corporate entity, you will be personally responsible for the obligations contained in this Agreement, including, but not limited to, the payment obligations. **Clever Things, LLC** shall not be liable for any loss or damage resulting from **Clever Things, LLC's** reliance on any instruction, notice, document or communication reasonably believed by **Clever Things, LLC** to be genuine and originating from an authorized representative of your corporate entity. If there is reasonable doubt about the authenticity of any such instruction, notice, document or communication, **Clever Things, LLC** reserves the right (but undertakes no duty) to require additional authentication from you. You agree to provide government-issued photo identification and / or government-issued business identification as required for verification of identity when requested. In addition, we may occasionally notify you of changes or modifications to this Agreement by email. It is therefore very important that you keep your user account ("Account") information current. We assume no liability or responsibility for your failure to receive an email notification if such failure results from an inaccurate email address.

This Agreement sets forth the general terms and conditions of your use of the Site and the products and Services purchased or accessed through this web site individually and collectively, and is in addition to (not in lieu of) any specific terms and conditions that apply to the particular web site or Services. This Agreement is made effective as of the date of your electronic acceptance, or the date of your use of this web site or Services. By accessing our web sites or Services, you acknowledge that you have read, understood, and agree to be bound by these terms of use, and to comply with all applicable laws and regulations. If you do not agree to accept these terms, please immediately discontinue accessing our web sites or using our Services.

This web site, and the Services found at this Site, are available only to users who can form legally binding contracts under applicable law. By using this Site or Services found at this Site, you represent and warrant that you are (1) at least **eighteen (18) years of age**, (2) otherwise recognized as being able to form legally binding contracts under applicable law, and (3) are not a person prohibited from purchasing or receiving the Services found at this web site under the laws of the **United States of America** or other applicable legal jurisdiction.

The content presented on our web sites is protected by law, including, but not limited to, **United States Copyright Law** and international treaties. All of our web sites are maintained and operated from our offices in the **United States of America**. **Clever Things, LLC** makes no representation that content on our web sites is appropriate or available for use in other locations, and access from territories where content is illegal is strictly prohibited. Anyone choosing to access our web sites from other locations, choose to

do so on their own initiative, and are responsible for total compliance with all applicable local laws. All claims relating to use of our web sites are governed by the laws of the **State of Alabama**.

**Clever Things, LLC** under no circumstances, including but not limited to negligence, shall be liable for any direct, indirect, special, incidental, or consequential damages, including but not limited to loss of data or profit, arising out of the use, or inability to use, our Services or the content on our web sites. If your use of content from our web sites results in the need for servicing, repair, or restoration of equipment or data, you assume any costs thereof. Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you.

## Governing Law / Jurisdiction / Venue / Waiver of Trial by Jury

This Agreement shall be governed by and construed in accordance with the federal law of the **United States of America** and the state law of **Alabama**, whichever is applicable, without regard to conflict of laws principles. You agree that any action relating to or arising out of this Agreement shall be brought in the state or federal courts of **Marshall County, Alabama**, and you hereby consent to (and waive all defenses of lack of personal jurisdiction and forum non conveniens with respect to) jurisdiction and venue in the state and federal courts of **Marshall County, Alabama**. You agree to waive the right to trial by jury in any action or proceeding that takes place relating to, or arising out of, this Agreement.

## Compliance with Local Laws

**Clever Things, LLC** makes no representation or warranty that the content available on this Site or the Services found at this Site are appropriate in every country or jurisdiction, and access to this Site, or the Services found at this Site, from countries or jurisdictions where its content is illegal is prohibited. Users who choose to access this Site, or the Services found at this Site, are responsible for compliance with all local laws, rules and regulations.

## United States Export Laws

This Site and the Services found at this Site are subject to the export laws, restrictions, regulations and administrative acts of the United States Department of Commerce, Department of Treasury Office of Foreign Assets Control ("OFAC"), State Department, and other United States authorities (collectively, "U.S. Export Laws"). Users shall not use the Services found at this Site to collect, store or transmit any technical information or data that is controlled under U.S. Export Laws. Users shall not export or re-export, or allow the export or re-export of, the Services found at this Site in violation of any U.S. Export Laws. None of the Services found at this Site may be downloaded or otherwise exported or re-exported (i) into (or to a national or resident of) any country with which the United States has embargoed trade; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Denied Persons List, or any other denied parties lists under U.S. Export Laws. By using this Site and the Services found at this Site, you agree to the foregoing and represent and warrant that you are not a national or resident of, located in, or under the control of, any restricted country; and you are not on any denied parties list; and you agree to comply with all U.S. Export Laws (including "anti-boycott", "deemed export" and "deemed re-export" regulations). If you access this Site or the Services found at this Site from other countries or jurisdictions, you do so on your own initiative and you are responsible for compliance with the local

laws of that jurisdiction, if and to the extent those local laws are applicable and do not conflict with U.S. Export Laws. If such laws conflict with U.S. Export Laws, you shall not access this Site or the Services found at this Site. The obligations under this section shall survive any termination or expiration of this Agreement or your use of this Site or the Services found at this Site.

## Availability

Subject to the terms and conditions of this Agreement and our other policies and procedures, we shall use commercially reasonable efforts to attempt to provide this Site and the Services available at this Site on a twenty-four (24) hours a day, seven (7) days a week basis. You acknowledge and agree that from time to time this Site may be inaccessible or inoperable for any reason including, but not limited to, equipment malfunctions; periodic maintenance, repairs or replacements that we undertake from time to time; or causes beyond our reasonable control or that are not reasonably foreseeable including, but not limited to, interruption or failure of telecommunication or digital transmission links, hostile network attacks, network congestion or other failures. You acknowledge and agree that we have no control over the availability of this Site or the Services available at this Site on a continuous or uninterrupted basis, and that we assume no liability to you or any other party with regard thereto.

## Software & Services

**Clever Things, LLC** reserves the right to modify, change, or discontinue any aspect of this Site or the Services found at this Site, including without limitation prices and fees for the same, at any time. Our software is neither sold nor distributed to you, and you may use the software solely as part of our Services, and you may not use the software outside of the Services. You may not remove, modify, or obscure any copyright, trademark, or other proprietary rights notices. You may not reverse engineer, decompile, or disassemble the software, except and only to the extent that such activity is expressly permitted by applicable law.

## User Account / International Access

In order to access some of the features of this Site, or use some of the Services found at this Site, you will have to create a user account. You represent and warrant to **Clever Things, LLC** that all information you submit when you create your user account is accurate, current and complete, and that you will keep your account information accurate, current and complete. If **Clever Things, LLC** has reason to believe that your account information is untrue, inaccurate, out-of-date, or incomplete, **Clever Things, LLC** reserves the right, in its sole and absolute discretion, to suspend or terminate your user account. You are solely responsible for the activity that occurs on your account, whether authorized by you or not, and you must keep your account information secure, including without limitation your customer login and password. For security purposes, **Clever Things, LLC** recommends that you change your password at least once every six (6) months for each account you have with **Clever Things, LLC**. You must notify **Clever Things, LLC** immediately of any breach of security or unauthorized use of your account. **Clever Things, LLC** will not be liable for any loss you incur due to any unauthorized use of your account. You, however, may be liable for any loss **Clever Things, LLC** or others incur caused by your account, whether caused by you, or by an authorized person, or by an unauthorized person. You are aware that **Clever Things, LLC** may from time-to-time call you about your account, and that, for the purposes of any and all such call(s), you do not have any reasonable expectation of privacy during those calls; indeed you hereby consent to allow **Clever Things, LLC**, in its sole discretion, to record the entirety of such calls regardless of whether **Clever Things, LLC** asks you on any particular call for consent to record such call. You further acknowledge and agree that, to the extent permitted by applicable law, any such recording(s) may be submitted in evidence any legal proceeding in which **Clever Things, LLC** is a party.

If you are visiting our Site from a country other than the **United States**, your communications with us may result in the transfer of information (including your account information) across international boundaries. By visiting this Site and communicating electronically with us, you consent to such data transfers.

# User Content

Before publishing content to our web site, be sure that you either own the content or have obtained permission to share the content from the intellectual property owner. You shall be solely responsible for providing, updating, uploading, and maintaining your content, and any and all files, pages, data, works, information and / or materials on, within, displayed, linked or transmitted to, from or through our web site including, but not limited to, trade or service marks, images, photographs, illustrations, graphics, audio clips, video clips, email or other messages, meta tags, domain names, software and text. You acknowledge and agree that in the course of providing you with technical assistance, it may be necessary for our support staff to modify, alter, or remove your content.

You shall be solely responsible for undertaking measures to: (1) prevent any loss or damage to your content; (2) maintain independent archival and backup copies of your content; and (3) ensure the security, confidentiality, and integrity of all your content transmitted through or stored on our servers. **Clever Things, LLC** shall have no liability to you or any other person for loss, damage or destruction of any of your content. You shall not use the Service in any way, in our sole discretion, that shall impair the functioning or operation of our Services or equipment. Specifically by way of example and not as a limitation, you shall not use the Services as: (1) a repository or instrument for placing or storing archived files; and / or (2) placing or storing material that can be downloaded through other web sites. You acknowledge and agree that we have the right to carry out a forensic examination in the event of a suspected compromise of your account.

# User Conduct

You acknowledge and agree that your use of this Site and the Services found at this Site, including any content you submit, will comply with this Agreement and all applicable local, state, national and international laws, rules, and regulations. You will not collect or harvest (or permit anyone else to collect or harvest) any User Content (as defined below) or any non-public or personally identifiable information about another User, or any other person or entity without their express prior written consent.

**Clever Things, LLC** reserves the right to remove any content it deems as inappropriate. You will not use this Site or the Services found at this Site, through content or hyperlinks, in a manner (as determined by **Clever Things, LLC** in its sole and absolute discretion) that:

- Promotes, encourages, or engages in an illegal activity;
- Promotes, encourages, or engages in child pornography or the exploitation of children;
- Posting or transmitting to or from our web sites any unlawful, obscene, libelous, threatening, bullying, harassing, defamatory, pornographic, or any other material that could give rise to any civil or criminal liability under the law;
- Promotes, encourages, or engages in terrorism, violence against people, animals, or property;
- Promotes, encourages, or engages in any spam or other unsolicited bulk email, or computer or network hacking or cracking;
- You will not impersonate any other person or entity, or submit content on behalf of any other person or entity without their express prior written consent;
- You will treat your access to the forums and other users with respect, and not post content that is off-topic to a forum;
- You will not submit content that provides any non-public information about another user, **Clever Things, LLC** or any of **Clever Things, LLC**'s employees or customers (including the names and contact information);

- You will not submit content that contains third party advertising, spam, chain letters or any other solicitation, including solicitation of lawsuits (links that connect to commercial web sites will not be considered unauthorized solicitations unless the link or web site content appears to be intended as a means of solicitation or part of an “affiliate” program, as determined by us in our sole and absolute discretion).
- Violates the *Ryan Haight Online Pharmacy Consumer Protection Act of 2008* or similar legislation, or promotes, encourages or engages in the sale or distribution of prescription medication without a valid prescription;
- Infringes on the intellectual property rights of another User or any other person or entity;
- Violates the privacy or publicity rights of another User or any other person or entity, or breaches any duty of confidentiality that you owe to another User or any other person or entity;
- Interferes with the operation of this Site or the Services found at this Site;
- Contains or installs any viruses, worms, bugs, Trojan horses or other code, files or programs designed to, or capable of, disrupting, damaging or limiting the functionality of any software or hardware;
- Contains false or deceptive language, or unsubstantiated or comparative claims, regarding **Clever Things, LLC** or **Clever Things, LLC's** Services;
- You will not copy or distribute in any medium any part of this Site or the Services found at this Site, except where expressly authorized by **Clever Things, LLC**;
- You will not modify or alter any part of this Site or the Services found at this Site or any of its related technologies;
- You will not access **Clever Things, LLC** Content or User Content through any technology or means other than through this Site itself, or as **Clever Things, LLC** may designate;
- You agree to back-up all of your User Content so that you can access and use it when needed. **Clever Things, LLC** does not warrant that it backs-up any Account or User Content, and you agree to accept as a risk the loss of any and all of your User Content;
- You will not re-sell or provide the Services for a commercial purpose, including any of **Clever Things, LLC's** related technologies, without **Clever Things, LLC's** express prior written consent;

In addition to the general rules above, the provisions in this section apply specifically to your use of **Clever Things, LLC** Content and User Content posted to **Clever Things, LLC's** corporate web sites (i.e., those sites which **Clever Things, LLC** directly controls or maintains). The applicable provisions are not intended to, and do not have the effect of, transferring any ownership or licensed rights (including intellectual property rights) you may have in content posted to our web sites.

Except for User Content, the content on this Site, and the Services found at this Site, including without limitation the text, software, scripts, source code, API, graphics, photos, sounds, music, videos and interactive features and the trademarks, service marks and logos contained therein (“**Clever Things, LLC** Content”), are owned by or licensed to **Clever Things, LLC** in perpetuity, and are subject to copyright, trademark, and / or patent protection in the United States and foreign countries, and other intellectual property rights under United States and foreign laws. **Clever Things, LLC** Content is provided to you “as is”, “as available” and “with all faults” for your information and personal, non-commercial use only and may not be downloaded, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed, or otherwise exploited for any purposes whatsoever without the express prior written consent of **Clever Things, LLC**. No right or license under any copyright, trademark, patent, or other proprietary right or license is granted by this Agreement. **Clever Things, LLC** reserves all rights not expressly granted in and to the **Clever Things, LLC** Content, this Site and the Services found at this Site, and this Agreement do not transfer ownership of any of these rights.

Some of the features of this Site or the Services found at this Site may allow Users to view, post, publish, share, store, or manage (a) ideas, opinions, recommendations, or advice (“User Submissions”), or (b) literary, artistic, musical, or other content, including but not limited to photos and videos (together with User Submissions, “User Content”). By posting or publishing User Content to this Site or to the Services found at this Site, you represent and warrant to **Clever Things, LLC** that (i) you have all necessary rights to distribute User Content via this Site or via the Services found at this Site, either because you are the author of the User Content and have the right to distribute the same, or because you have the appropriate distribution rights, licenses, consents, and / or permissions to use, in writing, from the copyright or other owner of the User Content, and (ii) you do not violate the rights of any third party.

You agree not to circumvent, disable or otherwise interfere with the security-related features of this Site or the Services found at this Site (including without limitation those features that prevent or restrict use or copying of any **Clever Things, LLC** Content or User Content) or enforce limitations on the use of this Site or the Services found at this Site, the **Clever Things, LLC** Content or the User Content therein.

# Use of User Content

The provisions in this section apply specifically to **Clever Things, LLC's** use of User Content posted to **Clever Things, LLC's** corporate web sites (i.e., those Sites which **Clever Things, LLC** directly controls or maintains). The applicable provisions are not intended to and do not have the effect of transferring any ownership or licensed rights (including intellectual property rights) you may have in content posted to your hosted web sites.

Generally, You shall be solely responsible for any and all of your User Content or User Content that is submitted through your Account, and the consequences of, and requirements for, distributing it.

With Respect to User Submissions. You acknowledge and agree that:

- Your User Submissions are entirely voluntary.
- Your User Submissions do not establish a confidential relationship or obligate **Clever Things, LLC** to treat your User Submissions as confidential or secret.
- Clever Things, LLC** has no obligation, either express or implied, to develop or use your User Submissions, and no compensation is due to you or to anyone else for any intentional or unintentional use of your User Submissions.
- Clever Things, LLC** may be working on the same or similar content, it may already know of such content from other sources, it may simply wish to develop this (or similar) content on its own, or it may have taken / will take some other action.

**Clever Things, LLC** shall own exclusive rights (including all intellectual property and other proprietary rights) to any User Submissions posted to this Site, and shall be entitled to the unrestricted use and dissemination of any User Submissions posted to this Site for any purpose, commercial or otherwise, without acknowledgment or compensation to you or to anyone else.

With respect to User Content (other than User Submissions): If you have content hosted by **Clever Things, LLC** or another service provider, you shall retain all of your ownership or licensed rights in User Content posted to your web site. However, if you post or publish your User Content to this Site, you authorize **Clever Things, LLC** to use the intellectual property and other proprietary rights in and to your User Content to enable inclusion and use of the User Content in the manner contemplated by this Site and this Agreement. Accordingly, you hereby grant **Clever Things, LLC** a worldwide, non-exclusive, royalty-free, sublicensable (through multiple tiers), and transferable license to use, reproduce, distribute, prepare derivative works of, combine with other works, display, and perform your User Content in connection with this Site and **Clever Things, LLC's** (and **Clever Things, LLC's** affiliates') business(es), including without limitation for promoting and redistributing all or part of this Site in any media formats and through any media channels without restrictions of any kind and without payment or other consideration of any kind, or permission or notification, to you or any third party. You also hereby grant each User of this Site a non-exclusive license to access your User Content (with the exception of User Content that you designate "private" or "password protected") through this Site, and to use, reproduce, distribute, prepare derivative works of, combine with other works, display, and perform your User Content as permitted through the functionality of this Site and under this Agreement. The above licenses granted by you in your User Content terminate within a commercially reasonable time after you remove or delete your User Content from this Site. You understand and agree, however, that **Clever Things, LLC** may retain (but not distribute, display, or perform) server copies of your User Content that have been removed or deleted. The above licenses granted by you in your User Content are perpetual and irrevocable. Notwithstanding anything to the contrary contained herein, **Clever Things, LLC** shall not use any User Content that has been designated "private" or "password protected" by you for the purpose of promoting this Site or **Clever Things, LLC's** (or **Clever Things, LLC's** affiliates') business(es).

# Monitoring of Content / Account Termination Policy

**Clever Things, LLC** generally does not pre-screen User Content. However, **Clever Things, LLC** reserves the right (but undertakes no duty) to do so and decide whether any item of User Content is appropriate and / or complies with this Agreement. **Clever Things, LLC** may remove any item of User Content (whether posted to a web site hosted by **Clever Things, LLC** or posted to this Site) and / or terminate a User's access to this Site or the Services found at this Site for posting or publishing any material in violation of this Agreement, or for otherwise violating this Agreement (as determined by **Clever Things, LLC** in its sole and absolute discretion), at any time and without prior notice. **Clever Things, LLC** may also terminate a User's access to this Site or the Services found at this Site if **Clever Things, LLC** has reason to believe the User is a repeat offender. If **Clever Things, LLC** terminates your access to this Site or the Services found at this Site, **Clever Things, LLC** may, in its sole and absolute discretion, remove and destroy any data and files stored by you on its servers.

## Additional Reservation of Rights

**Clever Things, LLC** expressly reserves the right to deny, cancel, terminate, suspend, lock, or modify access to (or control of) any Account or Services (including the right to cancel or transfer any domain name registration) for any reason (as determined by **Clever Things, LLC** in its sole and absolute discretion), including but not limited to the following: (i) to correct mistakes made by **Clever Things, LLC** in offering or delivering any product or Services, (ii) to assist with our fraud and abuse detection and prevention efforts, (iii) to comply with court orders against you and / or your content and applicable local, state, national and international laws, rules and regulations, (iv) to comply with requests of law enforcement, including subpoena requests, (v) to comply with any dispute resolution process, (vi) to defend any legal action or threatened legal action without consideration for whether such legal action or threatened legal action is eventually determined to be with or without merit, or (vii) to avoid any civil or criminal liability on the part of **Clever Things, LLC**, its officers, directors, employees and agents, as well as **Clever Things, LLC's** affiliates, including, but not limited to, instances where you have sued or threatened to sue **Clever Things, LLC**.

**Clever Things, LLC** expressly reserves the right to review every Account for excessive space and bandwidth utilization, and to terminate or apply additional fees to those Accounts that exceed allowed levels.

**Clever Things, LLC** expressly reserves the right to terminate, without notice to you, any and all Services where, in **Clever Things, LLC's** sole discretion, you are harassing or threatening **Clever Things, LLC** and / or any of **Clever Things, LLC's** employees.

## No Spam Policy

We encourage all customers and recipients of email generated from our products and Services to report suspected spam. We define spam as the sending of Unsolicited Commercial Email (UCE), Unsolicited Bulk Email (UBE) or Unsolicited Facsimiles (Fax), which is email or facsimile sent to recipients as an advertisement or otherwise, without first obtaining prior confirmed consent to receive these communications from the sender.

We do not tolerate the transmission of spam, and we monitor all traffic to and from our servers for indications of spamming, and maintain a database to register and track all allegations of spam abuse. Customers suspected to be using our products and Services for the purpose of sending spam are fully investigated. If we determine there is a problem with spam, we will take the appropriate

action to resolve the situation. Our customer service representatives handle spam / abuse complaints, and all spam can be reported by email to [support@CleverThings.com](mailto:support@CleverThings.com)

Spam can include, but is not limited to, the following:

- Email Messages
- Newsgroup postings
- Windows system messages
- Pop-up messages, adware, or spyware messages
- Instant messages
- Online chat room advertisements
- Web Site Forum postings
- Facsimile Solicitation
- Text / SMS Messages

We will not allow our servers and Services to be used for the purposes described above. In order to use our products and Services, you must not only abide by all applicable laws and regulations, which include the *Can-Spam Act of 2003* and the *Telephone Consumer Protection Act*, but you must also abide by this no spam policy. Commercial advertising and / or bulk emails or faxes may only be sent to recipients who have "opted-in" to receive messages from the sender specifically. They must include a legitimate return address and reply-to address, the sender's physical address, and an opt-out method in the footer of the email or fax. Upon request by us, conclusive proof of opt-in may be required for an email address or fax number.

If we determine the Services in question are being used in association with spam, we will re-direct, suspend, or cancel any user account for a period of no less than seven (7) days. The user account owner will be required to respond by email to us stating that they will cease to send spam and / or have spam sent on their behalf. We will require a non-refundable reactivation fee of \$25.00 USD to be paid before the content and / or Services are reactivated. In the event we determine the abuse has not stopped after Services have been restored the first time, we may terminate the user account in question.

## Liquidated Damages

You agree that we may immediately terminate any Account which we believe, in our sole and absolute discretion, is transmitting or is otherwise connected with any spam or other unsolicited bulk email. In addition, if actual damages cannot be reasonably calculated, then you agree to pay us liquidated damages in the amount of \$1.00 USD for each piece of spam or unsolicited bulk email transmitted from or otherwise connected with your Account.

## Links to Third-Party Web Sites

This Site and the Services found at this Site contain links to third-party web sites that are not owned or controlled by Us. **Clever Things, LLC** assumes no responsibility for the content, terms and conditions, privacy policies, or practices of any third-party web sites. In addition, **Clever Things, LLC** does not censor or edit the content of any third-party web sites. By using this Site or the Services found at this Site, you expressly release **Clever Things, LLC** from any and all liability arising from your use of any third-party web site. Accordingly, **Clever Things, LLC** encourages you to be aware when you leave this Site or the Services found at this Site, and to review the terms and conditions, privacy policies, and other governing documents of each other web site that you may visit.



# Google Terms of Use and Privacy Policy

As of January 19th, 2017, all of our websites, applications, and services are being hosted in the Google Cloud. Users of our sites, services, and products are also bound by the [Google Terms of Use](#) and [Google Privacy Policy](#).

## Disclaimer of Representations and Warranties

YOU SPECIFICALLY ACKNOWLEDGE AND AGREE THAT YOUR USE OF THIS SITE AND THE SERVICES FOUND AT THIS SITE SHALL BE AT YOUR OWN RISK AND THAT THIS SITE AND THE SERVICES FOUND AT THIS SITE ARE PROVIDED "AS IS", "AS AVAILABLE" AND "WITH ALL FAULTS". **CLEVER THINGS, LLC**, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS DISCLAIM ALL WARRANTIES, STATUTORY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. **CLEVER THINGS, LLC**, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS MAKE NO REPRESENTATIONS OR WARRANTIES ABOUT (I) THE ACCURACY, COMPLETENESS, OR CONTENT OF THIS SITE, (II) THE ACCURACY, COMPLETENESS, OR CONTENT OF ANY SITES LINKED (THROUGH HYPERLINKS, BANNER ADVERTISING OR OTHERWISE) TO THIS SITE, AND / OR (III) THE SERVICES FOUND AT THIS SITE OR ANY SITES LINKED (THROUGH HYPERLINKS, BANNER ADVERTISING OR OTHERWISE) TO THIS SITE, AND **CLEVER THINGS, LLC** ASSUMES NO LIABILITY OR RESPONSIBILITY FOR THE SAME.

IN ADDITION, YOU SPECIFICALLY ACKNOWLEDGE AND AGREE THAT NO ORAL OR WRITTEN INFORMATION OR ADVICE PROVIDED BY **CLEVER THINGS, LLC**, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS (INCLUDING WITHOUT LIMITATION ITS CALL CENTER OR CUSTOMER SERVICE REPRESENTATIVES) WILL (I) CONSTITUTE LEGAL OR FINANCIAL ADVICE OR (II) CREATE A WARRANTY OF ANY KIND WITH RESPECT TO THIS SITE OR THE SERVICES FOUND AT THIS SITE, AND USERS SHOULD NOT RELY ON ANY SUCH INFORMATION OR ADVICE.

THE FOREGOING DISCLAIMER OF REPRESENTATIONS AND WARRANTIES SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW, AND SHALL SURVIVE ANY TERMINATION OR EXPIRATION OF THIS AGREEMENT OR YOUR USE OF THIS SITE, OR THE SERVICES FOUND AT THIS SITE.

## Limitation of Liability

IN NO EVENT SHALL **CLEVER THINGS, LLC**, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO YOU OR ANY OTHER PERSON OR ENTITY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING ANY THAT MAY RESULT FROM (I) THE ACCURACY, COMPLETENESS, OR CONTENT OF THIS SITE, (II) THE ACCURACY, COMPLETENESS, OR CONTENT OF ANY SITES LINKED (THROUGH HYPERLINKS, BANNER ADVERTISING OR OTHERWISE) TO THIS SITE, (III) THE SERVICES FOUND AT THIS SITE OR ANY SITES LINKED (THROUGH HYPERLINKS, BANNER ADVERTISING OR OTHERWISE) TO THIS SITE, (IV) PERSONAL INJURY OR PROPERTY DAMAGE OF ANY NATURE WHATSOEVER, (V) THIRD-PARTY CONDUCT OF ANY NATURE WHATSOEVER, (VI) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SERVERS AND / OR ANY AND ALL CONTENT, PERSONAL INFORMATION, FINANCIAL INFORMATION OR OTHER INFORMATION AND DATA STORED THEREIN, (VII) ANY INTERRUPTION OR CESSATION OF SERVICES TO OR FROM THIS SITE OR ANY SITES LINKED (THROUGH HYPERLINKS, BANNER

ADVERTISING OR OTHERWISE) TO THIS SITE, (VIII) ANY VIRUSES, WORMS, BUGS, TROJAN HORSES, OR THE LIKE, WHICH MAY BE TRANSMITTED TO OR FROM THIS SITE OR ANY SITES LINKED (THROUGH HYPERLINKS, BANNER ADVERTISING OR OTHERWISE) TO THIS SITE, (IX) ANY USER CONTENT OR CONTENT THAT IS DEFAMATORY, HARASSING, ABUSIVE, HARMFUL TO MINORS OR ANY PROTECTED CLASS, PORNOGRAPHIC, "X-RATED", OBSCENE OR OTHERWISE OBJECTIONABLE, AND / OR (X) ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF YOUR USE OF THIS SITE OR THE SERVICES FOUND AT THIS SITE, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL OR EQUITABLE THEORY, AND WHETHER OR NOT **CLEVER THINGS, LLC** IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IN ADDITION, YOU SPECIFICALLY ACKNOWLEDGE AND AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THIS SITE OR THE SERVICES FOUND AT THIS SITE MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE SUCH CAUSE OF ACTION SHALL BE PERMANENTLY BARRED.

IN ADDITION, YOU SPECIFICALLY ACKNOWLEDGE AND AGREE THAT IN NO EVENT SHALL **CLEVER THINGS, LLC'S** TOTAL AGGREGATE LIABILITY EXCEED THE TOTAL AMOUNT PAID BY YOU FOR THE PARTICULAR SERVICES THAT ARE THE SUBJECT OF THE CAUSE OF ACTION.

THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW, AND SHALL SURVIVE ANY TERMINATION OR EXPIRATION OF THIS AGREEMENT OR YOUR USE OF THIS SITE OR THE SERVICE OR THE SERVICES FOUND AT THIS SITE.

## Indemnity

You agree to protect, defend, indemnify and hold harmless **Clever Things, LLC** and its officers, directors, employees, and agents, from and against any and all claims, demands, costs, expenses, losses, liabilities and damages of every kind and nature (including, without limitation, reasonable attorneys' fees) imposed upon or incurred by **Clever Things, LLC** directly or indirectly arising from (i) your use of and access to this Site or the Services found at this Site; (ii) your violation of any provision of this Agreement or the policies or agreements which are incorporated herein; and / or (iii) your violation of any third-party right, including without limitation any intellectual property or other proprietary right. The indemnification obligations under this section shall survive any termination or expiration of this Agreement, or your use of this Site or the Services found at this Site.

## General Terms, Including Automatic Renewal Terms

You agree to pay any and all prices and fees due for Services purchased or obtained at this Site at the time you order the Services. All prices and fees are non-refundable unless otherwise expressly noted, even if your Services are suspended, terminated, or transferred prior to the end of the Services term. **Clever Things, LLC** expressly reserves the right to change or modify its prices and fees at any time, and such changes or modifications shall be posted online at this Site and effective immediately without need for further notice to you. If you have purchased or obtained Services for a period of months or years, changes or modifications in prices and fees shall be effective when the Services in question come up for renewal as further described below.

Except as prohibited in any product-specific agreement, you may pay for Services by utilizing any of the following "Payment Methods": (i) by providing a valid credit card, (ii) via an electronic check from your personal or business checking account, as appropriate (and as defined below); (iii) by using PayPal (as defined below), (iv) by using an International Payment Option (as defined below) or (v) via in-

store credit balances, if applicable (and as defined below), each a "Payment Method". For Services that offer "Express Checkout", clicking the Express Checkout button will automatically place an order for that Service and charge the primary Payment Method on file for your Account. Confirmation of that order will be sent to the email address on file for your Account. Your Payment Method on file must be kept valid if you have any active Services in your Account.

You acknowledge and agree that where refunds are issued to your Payment Method, **Clever Things, LLC's** issuance of a refund receipt is only confirmation that **Clever Things, LLC** has submitted your refund to the Payment Method charged at the time of the original sale, and that **Clever Things, LLC** has absolutely no control over when the refund will be applied towards your Payment Method's available balance. You further acknowledge and agree that the payment provider and / or individual issuing bank associated with your Payment Method establish and regulate the time frames for posting your refund, and that such refund posting time frames may range from five (5) business days to a full billing cycle, or longer.

In the event a refund is issued to your Payment Method and the payment provider, payment processor or individual issuing bank associated with your Payment Method imposes any limitations on refunds, including but not limited to, limitations as to the timing of the refund or the number of refunds allowed, then **Clever Things, LLC**, in its sole and absolute discretion, reserves the right to issue the refund either (i) in the form of an in-store credit; or (ii) via issuance of a **Clever Things, LLC** check, which will be sent to the mailing address on file for your Account. **Clever Things, LLC** also has the right, but not the obligation, to offer an in-store credit for customers seeking refunds, even if there are no limitations on refunds imposed by the Payment Method. For the avoidance of doubt, any and all refunds processed via the issuance of either in-store credits or a **Clever Things, LLC** check are solely within **Clever Things, LLC's** discretion and are not available at customer request.

If you are being billed on a monthly basis, your monthly billing date will be on the 1st day of each month. If you are being billed on an annual basis, your billing fee will be on the 1st day of the month in which you purchased the Services.

In order to ensure that you do not experience an interruption or loss of Services, some Services offer an automatic renewal option. The automatic renewal option automatically renews the applicable Service for a renewal period equal in time to the original service period. For example, if your original service period is for one year, your renewal period will be for one year. While the details of the automatic renewal option vary from Service to Service, if you enable the automatic renewal option, **Clever Things, LLC** will automatically renew the applicable Service when it comes up for renewal and will take payment from the Payment Method you have on file at the then current rates, which you acknowledge and agree may be higher or lower than the rates for the original service period. You may enable or disable the automatic renewal option at any time. However, should you elect to disable the automatic renewal option and fail to manually renew your Services before they expire, you may experience an interruption or loss of Services, and **Clever Things, LLC** shall not be liable to you or any third party regarding the same.

In addition, **Clever Things, LLC** may participate in "recurring billing programs" or "account updater services" supported by your credit card provider (and ultimately dependent on your bank's participation). If you are enrolled in an automatic renewal option and we are unable to successfully charge your existing Payment Method, your credit card provider (or your bank) may notify us of updates to your credit card number and / or expiration date, or they may automatically charge your new credit card on our behalf without notification to us. In accordance with recurring billing program requirements, in the event that we are notified of an update to your credit card number and / or expiration date, **Clever Things, LLC** will automatically update your payment profile on your behalf. **Clever Things, LLC** makes no guarantees that we will request or receive updated credit card information. You acknowledge and agree that it is your sole responsibility to modify and maintain your Account settings, including but not limited to (i) setting your renewal options and (ii) ensuring your associated Payment Method(s) are current and valid. Further, you acknowledge and agree that your failure to do so, may result in the interruption or loss of Services, and **Clever Things, LLC** shall not be liable to you or any third party regarding the same.

If for any reason **Clever Things, LLC** is unable to charge your Payment Method for the full amount owed for the Services provided, or if **Clever Things, LLC** receives notification of a chargeback, reversal, payment dispute, or is charged a penalty for any fee it previously charged to your Payment Method, you agree that **Clever Things, LLC** may pursue all available lawful remedies in order to

obtain payment, including but not limited to, immediate cancellation, without notice to you, of any Services renewed on your behalf. **Clever Things, LLC** also reserves the right to charge you reasonable "administrative fees" or "processing fees" for (i) tasks **Clever Things, LLC** may perform outside the normal scope of its Services, (ii) additional time and / or costs **Clever Things, LLC** may incur in providing its Services, and / or (iii) your noncompliance with this Agreement (as determined by **Clever Things, LLC** in its sole and absolute discretion). Typical administrative or processing fee scenarios include, but are not limited to (i) customer service issues that require additional personal time or attention; (ii) disputes that require accounting or legal services, whether performed by **Clever Things, LLC** staff or by outside firms retained by **Clever Things, LLC**; (iii) recouping any and all costs and fees, including the cost of Services, incurred by **Clever Things, LLC** as the results of chargebacks or other payment disputes brought by you, your bank, or Payment Method processor. These administrative fees or processing fees will be billed to the Payment Method you have on file with **Clever Things, LLC**.

## Pay By Check / Electronic Check

By using Our pay by check option ("Pay By Check"), you can purchase **Clever Things, LLC** Services using an electronic check (from your personal or business checking account, as appropriate). You agree to allow **Clever Things, LLC** to debit the full amount of your purchase from your checking account ("Checking Account"), which is non-refundable. We will create an electronic funds transfer ("EFT") or bank draft, which will be presented to your bank or financial institution for payment from your Checking Account. The Checking Account must be at a financial institution in the United States, and the check must be payable in U.S. dollars.

It is your responsibility to keep your Checking Account current and funded. You acknowledge and agree that (i) **Clever Things, LLC** reserves the right to decline a transaction for any reason (including, but not limited to, payments that fail to go through as a result of your Checking Account no longer existing or not holding available / sufficient funds) and (ii) in such event, **Clever Things, LLC** shall not be liable to you or any third party regarding the same. If for any reason we are unable to withdraw the full amount owed for the Services provided, you agree that **Clever Things, LLC** may pursue all available lawful remedies in order to obtain payment (plus applicable fees). You agree that if the EFT or bank draft is returned unpaid, you will pay a service charge in accordance with the fees provided below, or as otherwise permitted by law. These fees may be debited from your Checking Account using an EFT or bank draft. All fees are in U.S. Dollars.

By clicking the box labeled "I agree" to the terms of the Pay By Check payment option, you authorize the information provided to be used for the creation of an EFT or bank draft and you authorize a debit of the full amount of your purchase from your Checking Account.

## Payment Through PayPal

By using **Clever Things, LLC**'s pay through PayPal payment option ("PayPal"), you can purchase Services using PayPal. In connection therewith, you agree to allow PayPal to debit the full amount of your purchase from your PayPal account ("PayPal Account") or from credit card(s), bank account(s), or other allowed payment method(s) linked to your PayPal Account ("PayPal Funding Source").

It is your responsibility to keep your PayPal Account and PayPal Funding Source current and funded, and your PayPal Account backed by a valid credit card. You acknowledge and agree that (i) PayPal reserves the right to decline a transaction for any reason (including, but not limited to, payments that fail to go through as a result of your PayPal Account or PayPal Funding Source no longer existing or not holding available / sufficient funds) and (ii) in such event, neither PayPal nor **Clever Things, LLC** shall be liable to you or any third party regarding the same. If for any reason PayPal is unable to withdraw the full amount owed for your purchase, you

agree that PayPal and **Clever Things, LLC** may pursue all available lawful remedies in order to obtain payment. You agree that if the transaction is returned unpaid, you will pay a service charge of \$25.00 or the maximum amount allowed by law, which may be debited from your PayPal Account or PayPal Funding Source.

By clicking the box labeled "I agree" to the terms of the PayPal payment option, you authorize a debit of the full amount of your purchase from your PayPal Account or PayPal Funding Source.

## International Payment Options

**Clever Things, LLC** offers a variety of alternative international payment options through a variety of International Payment Providers ("IPP"). In the event you select an IPP, you represent that you have already agreed to any and all of the IPP's applicable customer service agreements in advance of completing your transaction at **Clever Things, LLC**. You also agree to allow the IPP to debit the full amount of your purchase from the selected bank account, e-wallet account (including credit card(s), bank account(s), or other allowed payment method(s) linked to your e-wallet account) or any other type of account associated with the selected IPP (including but not limited to, prepaid cards and mobile payments), collectively "Funding Sources". In addition, you agree to allow the selected IPP to debit, if applicable, an "Exchange Rate Conversion Fee", as well as any other fees or charges applicable to your Agreement with the IPP (collectively, the "IPP Fees"), from your Funding Sources. You understand and agree that IPP Fees are subject to change at any time by the IPP without notice to you by **Clever Things, LLC**.

It is your responsibility to keep your Funding Sources current and funded. You acknowledge and agree that (i) the IPP reserves the right to decline a transaction for any reason (including, but not limited to, payments that fail to go through as a result of your Funding Sources no longer existing or not holding available / sufficient funds) and (ii) in such event, neither the IPP nor **Clever Things, LLC** shall be liable to you or any third party regarding the same. You acknowledge that **Clever Things, LLC** will not attempt to fulfill the Services purchased by you until **Clever Things, LLC** receives confirmation of payment from the IPP through its associated payment processor. You acknowledge there may be a gap of several hours or days between the time you place an order and the time the IPP confirms payment through its associated payment processor. If **Clever Things, LLC** does not receive confirmation of payment from the IPP through its associated payment processor within thirty (30) days from when the order is placed, your order may be cancelled, at which time you will need to commence the purchase process again. In the event that you would like to cancel payment for a pending transaction, you may cancel the order through your **Clever Things, LLC** account. Payments received on previously cancelled orders will be automatically refunded to the original Payment Method when possible.

If, at the time **Clever Things, LLC** receives confirmation of payment from the IPP (through its associated payment processor), either (i) the Services are no longer available for purchase; or (ii) a pending order has been cancelled in our systems; or (iii) the confirmation of payment does not match the dollar amount of the pending order, and as a result your purchase is either over-funded or under-funded, **Clever Things, LLC** may automatically issue a partial refund (in the case of over-funding) or a full refund (in the case of under-funding) to your Funding Source. If the IPP (or its associated payment processor) imposes refund limitations of any kind, **Clever Things, LLC** reserves the right to issue refunds to an in-store credit balance. If you receive a full refund, you will need to begin the purchase process again. You acknowledge and agree that the IPP reserves the right not to refund IPP Fees associated with a refunded transaction. Accordingly, any refunds issued by **Clever Things, LLC** will be net of the IPP Fees unless otherwise specified.

## In-Store Credit Balances

In the event that your Account contains an in-store credit balance, you may apply any available credit balance to any future purchase in your Account. In the event that your Account contains an in-store credit balance, you hereby authorize **Clever Things, LLC** to apply

any available credit balance to any outstanding administrative fees, chargebacks or other fees related to your Account. In the event that your default Payment Method fails for an automated billing in connection with the processing of any Service renewals, **Clever Things, LLC** may utilize any available in-store credit balance if there are enough funds to cover the entire transaction. Regardless of the amount of in-store credit available in your account, **Clever Things, LLC** is not responsible for the loss of products resulting from an inability to collect funds from your default Payment Methods or the in-store credit. In-store credits will be applied based on the currency selected in the shopping cart at the time of purchase (or renewal). If you have more than one in-store credit, then the credits will be processed according to the age of the credit, with the oldest in-store credit being applied first. If additional funds are required to complete the purchase or renewal, credits held in a non-selected currency will be converted using **Clever Things, LLC's** daily exchange rate based on the age of the credit (oldest to newest) until (i) enough funds are allocated to complete the transaction, or (ii) there is no available balance left in your account. You understand and agree that at the time of conversion, **Clever Things, LLC** may also impose an additional administrative fee to compensate for the risks and costs associated with providing currency conversion services.

You acknowledge that in-store credit balances are non-transferable, may only be used in the Account in which they were acquired and may expire. Complimentary in-store credits will expire two years after issuance. In the event that **Clever Things, LLC** terminates your Account, you acknowledge and agree that any remaining available in-store credit balance will be forfeited. In-store credit balances may be redeemed to your Payment Method, only if: (i) requested by you and (ii) if the available in-store credit was from a product or Service purchase charged to your Payment Method. If your Payment Method imposes limitations on refunds, you may be issued a check, in USD for refundable in-store credits. All refunds of in-store credits must be requested within two years of issuance. In no event will in-store credit refunds exceed the amount refunded to in-store credit for any associated Payment Method.

You also acknowledge that funds available in your in-store credit balance will be held by **Clever Things, LLC** and will not accrue or pay interest for your behalf. To the extent any interest may accrue, you understand and agree that **Clever Things, LLC** shall be entitled to receive and keep any such amounts to cover costs associated with supporting the in-store credit balance functionality.

## Gift Cards / Gift Certificates

This section sets forth the terms and conditions of Your use of **Clever Things, LLC's** Gift Card service and its related services (collectively, the "Card"). **Clever Things, LLC** grants You a non-exclusive license to use the Card, provided, however, that You abide by the terms and conditions set forth herein and in each of **Clever Things, LLC's** policies and procedures.

The Services generally allow You to redeem the Card for goods and Services from **Clever Things, LLC** except to purchase another gift card, or any offer that excludes purchase by gift card.

The Card is a non-reloadable, non-refundable, non-personalized prepaid gift card, and may not be re-sold, transferred, redeemed for cash or applied to any account, except to the extent required by law. The Card is not an account, does not earn interest, and is not FDIC insured. The Card is not a credit card. You authorize us to pay all transactions made using the Card with the funds credited to the Card. You agree to use the Card only as provided in this Agreement and in accordance with applicable law. You agree the amount of funds shown on our records regarding the Card will determine the balance on the Card. Once the Card balance reaches zero dollars (\$0), all transactions will be declined. In any case where the recipient of the Card is given value through the use of the Card greater than the remaining balance, You will pay us on demand the amount by which the transactions exceeded the balance.

You may give the Card to any recipient, however in order for the recipient to redeem the value credited to the Card, they will have to create an account with **Clever Things, LLC** and agree to any policies and agreements related to the product or Service purchased.

The Card is like cash in that it may be used immediately without identification. You agree to use Your best efforts to protect the Card against loss, theft, or unauthorized use. You may call customer service to report a lost or stolen Card. At our discretion, a replacement Card may be issued, less any applicable fees.

**Clever Things, LLC** reserves the right, in its sole discretion, to deem any value on a Card not redeemed within five (5) years from purchase date to be expired.

## Unclaimed Property / Dormancy Charges

Please be advised that if a customer has an outstanding account balance (a credit positive balance) for three (3) years or more for any reason, and (i) **Clever Things, LLC** is unable to issue payment to such customer or (ii) **Clever Things, LLC** issued payment to such customer in the form of a paper check, but the check was never cashed, then **Clever Things, LLC** shall turn over such account balance to the **State of Alabama** in accordance with state law. You acknowledge and agree that in either case (i) or (ii) above, **Clever Things, LLC** may withhold a dormancy charge in an amount equal to the lesser of \$15.00 or the total outstanding account balance associated with such customer.

## Reporting Abuse

You can report any content on our web site that is in violation of our policies, or that you believe is inappropriate, by clicking on the `Report This` link at the bottom of the page. On each user profile page there is a `Report User` button which allows you to report a user who is violating our terms of use Agreement. Violators may be permanently banned from using our Sites by our system administrator. To limit the access of a specific user to your content and profile, use the `Remove Friend` or the `Block User` links. Abuse complaints can also be reported by email to [support@CleverThings.com](mailto:support@CleverThings.com)

## Third-Party Software & Services

You acknowledge and agree that any third-party providers (and their affiliates and suppliers) make no representations or warranties about any software offered in connection with our Services, and expressly disclaim any liability or damages (whether direct, indirect, or consequential) arising from the use of the software. You acknowledge and agree that any third-party software will be supported by **Clever Things, LLC**, and not by the third-party providers (or their affiliates or suppliers).

## Titles & Headings / Independent Covenants / Severability

The titles and headings within this Agreement are for convenience and ease of reference only, and shall not be utilized in any way to construe or interpret the Agreement of the parties as otherwise set forth herein. Each covenant and terms of this Agreement shall be construed for all purposes to be a separate and independent covenant or Agreement. If a court of competent jurisdiction holds any provision (or portion of a provision) of this Agreement to be illegal, invalid, or otherwise unenforceable, the remaining provisions (or

portions of provisions) of this Agreement shall not be affected thereby and shall be found to be valid and enforceable to the fullest extent permitted by law.

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This universal **Terms of Service** Agreement also includes the following company policies:

[Privacy Policy](#)

[Security Policy](#)

[Return Policy](#)

[Civil Subpoenas Policy](#)

[Criminal Subpoenas Policy](#)

[Intellectual Property Infringement Policy](#)

[Brand Usage Policy](#)

[Advertising Policy](#)

This policy was last revised on Thursday, February 16th, 2017.