

## **DEL TACO® TERMS OF USE**

The Effective Date of these amended Terms of Use is August 18, 2021.

**IMPORTANT! PLEASE CAREFULLY READ THESE TERMS OF USE BEFORE USING THIS WEBSITE, AS THEY AFFECT YOUR LEGAL RIGHTS AND OBLIGATIONS. YOU AGREE THAT BY ACCESSING THIS WEBSITE AT WWW.DELTACO.COM OR ANY AFFILIATED WEBSITE (DEFINED BELOW), YOU EXPRESSLY CONSENT AND AGREE TO BE BOUND BY THIS TERMS OF USE AGREEMENT AND THE TERMS AND CONDITIONS CONTAINED HEREIN (“TERMS OF USE” OR “AGREEMENT”) WHETHER YOU ARE A VISITOR (WHICH MEANS THAT YOU SIMPLY BROWSE THIS WEBSITE OR AN AFFILIATED WEBSITE), OR A CUSTOMER (WHICH MEANS THAT YOU HAVE ENROLLED IN OR PURCHASED A PRODUCT, SERVICE OR PROGRAM VIA THIS WEBSITE OR AN AFFILIATED WEBSITE). THE TERM “YOU” OR “USER” REFERS TO A VISITOR OR A CUSTOMER. THE TERM “WE” REFERS TO DEL TACO OR ANY OF ITS AFFILIATES. IF YOU ARE A VISITOR AND DO NOT AGREE TO BE BOUND BY THIS AGREEMENT, YOU SHOULD IMMEDIATELY CEASE ACCESSING AND USING THIS WEBSITE OR AFFILIATED WEBSITE. IF YOU WISH TO ENROLL IN OR PURCHASE A PRODUCT, SERVICE OR PROGRAM AND BECOME A CUSTOMER, YOU MUST CONFIRM THAT YOU HAVE READ THIS AGREEMENT AND INDICATE YOUR ACCEPTANCE DURING THE REGISTRATION OR LOG-IN PROCESS.**

These are Del Taco LLC’s (“Del Taco,” “we,” “our”) and related affiliates Terms of Use. The Terms of Use apply to our websites (including [www.deltaco.com](http://www.deltaco.com), [www.deltacofranchise.com](http://www.deltacofranchise.com), [www.deltacowebstore.com](http://www.deltacowebstore.com), [www.order.deltaco.com](http://www.order.deltaco.com) and [www.deltacogiftcards.com](http://www.deltacogiftcards.com)), interactive features and mobile sites that post a link to it (collectively, “Sites”), the Del Taco Mobile Application or other mobile applications that directly reference or link to this Terms of Use (collectively, the “Del App”), and our services made available through the Sites and/or Del App (collectively, our “Services”) whether accessed via personal computers, mobile devices, tablets or otherwise (collectively, “Device”). You agree to these Terms of Use and the Services’ Privacy Policy, which can be reviewed and accessed [here](#), by accessing or using the Services. FOR THE AVOIDANCE OF DOUBT, IF YOU DO NOT AGREE TO BE BOUND BY ALL OF THESE TERMS OF USE AND THE PRIVACY POLICY, DO NOT USE THE SERVICES.

In some instances, both these Terms of Use and an additional set of terms or guidelines may apply to a service or product offered via the Services (“Additional Terms”). For example, members of Del Taco’s Del Yeah! Rewards Program shall be bound by the Additional Terms defined at Section 7 of these Terms of Use. To the extent there is a conflict between these Terms of Use and any Additional Terms, the Additional Terms will control unless the Additional Terms expressly state otherwise. However, in all events, the Terms of Use “Dispute Resolution Policy” at Section 1 of this Agreement shall apply for any and all disputes between you and Del Taco.

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## **1. DISPUTE RESOLUTION POLICY**

### **BINDING ARBITRATION**

MOST CUSTOMER CONCERNS CAN BE RESOLVED QUICKLY AND TO THE CUSTOMER'S SATISFACTION BY CALLING DEL TACO'S CUSTOMER SERVICE DEPARTMENT AT 800-852-7204. IN THE UNLIKELY EVENT THAT DEL TACO'S CUSTOMER SERVICE DEPARTMENT IS UNABLE TO RESOLVE YOUR CONCERNS, WE EACH AGREE TO RESOLVE THOSE DISPUTES THROUGH BINDING ARBITRATION OR SMALL CLAIMS COURT INSTEAD OF IN COURTS OF GENERAL JURISDICTION TO THE FULLEST EXTENT PERMITTED BY LAW. ARBITRATION IS MORE INFORMAL THAN A LAWSUIT IN COURT. ARBITRATION USES A NEUTRAL ARBITRATOR INSTEAD OF A JUDGE OR JURY, ALLOWS FOR MORE LIMITED DISCOVERY THAN IN COURT, AND IS SUBJECT TO VERY LIMITED REVIEW BY COURTS. ARBITRATORS CAN AWARD THE SAME DAMAGES AND RELIEF THAT A COURT CAN AWARD. ANY ARBITRATION UNDER THIS AGREEMENT WILL TAKE PLACE ON AN INDIVIDUAL BASIS TO THE MAXIMUM EXTENT PERMITTED BY LAW; CLASS ARBITRATIONS, CLASS ACTIONS OR REPRESENTATIVE ARBITRATIONS ARE NOT PERMITTED SUBJECT TO THE TERMS OF THIS AGREEMENT. DEL TACO WILL PAY ALL ADMINISTRATIVE COSTS OF THE ARBITRATOR EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, NO MATTER WHO WINS, SO LONG AS YOUR CLAIM IS NOT FRIVOLOUS OR BROUGHT IN BAD FAITH. HOWEVER, IN ARBITRATION, BOTH YOU AND DEL TACO WILL BE ENTITLED TO RECOVER ATTORNEYS' FEES FROM THE OTHER PARTY TO THE SAME EXTENT AS YOU WOULD BE IN COURT.

### **Arbitration Agreement**

(a) Del Taco and you agree to arbitrate any and all disputes and claims between us arising out of or relating to this Agreement, use of the Services, or products, services, or programs you purchase or enroll in via the Services or through mobile application, except any disputes or claims which under governing law are not subject to arbitration, to the maximum extent permitted by applicable law. This agreement to arbitrate is intended to be broadly interpreted and to make all disputes and claims between us subject to arbitration to the fullest extent permitted by law. However, any dispute you or we may have relating to copyrights, trademarks or other intellectual property shall not be governed by this agreement to arbitrate. For the avoidance of doubt, this means that any claims you or we may have relating to intellectual property rights against the other, including seeking injunctive and other equitable relief, may be brought in a court of competent jurisdiction. The agreement to arbitrate otherwise includes, but is not limited to: claims based in contract, tort, warranty, statute, fraud, misrepresentation or any other legal theory; claims that arose before this or any prior Agreement (including, but not limited to, claims relating to advertising); claims that are currently the subject of purported class action litigation in which you are not a member of a certified class; claims relating to our websites; claims arising out of or relating to the Telephone Consumer Protection Act; claims relating to your data privacy or information security; and claims that may arise after the termination of this Agreement.

For purposes of this arbitration provision, references to “Del Taco,” “you,” and “us” shall include our respective parent entities, subsidiaries, affiliates, agents, employees, predecessors in interest, successors and assigns, websites of the foregoing, as well as all authorized or unauthorized users or beneficiaries of services, products or information provided or made available under this or prior Agreements between us relating to or arising from any aspect of your use or access of the Services. Notwithstanding the foregoing, either party may bring an individual action in small claims court. You agree that, by entering into this Agreement, you and Del Taco are each waiving the right to a trial by jury or to participate in a class or representative action to the maximum extent permitted by law. This Agreement evidences a transaction in interstate commerce, and thus the Federal Arbitration Act governs the interpretation and enforcement of this arbitration provision. This arbitration provision shall survive termination of this Agreement or your relationship with Del Taco for any reason.

(b) A party who intends to seek arbitration must first send to the other, by certified mail, a written Notice of Dispute (“Notice”). The Notice to Del Taco should be addressed to: General Counsel – Arbitration Demand, Del Taco, 25521 Commercentre Drive, Lake Forest, CA 92630 (“Notice Address”) and must be signed by you personally. Notice to you from Del Taco may be to you directly, or if you are represented, to your legal counsel. The Notice must describe the nature and basis of the claim or dispute and set forth the specific relief sought (“Demand”). If Del Taco and you do not reach an agreement to resolve the claim within 30 days after the Notice is received, you or Del Taco may commence an arbitration proceeding pursuant to the terms of this arbitration agreement.

(c) After Del Taco receives notice at the Notice Address that you have commenced arbitration, it will promptly reimburse you for your payment of the filing fee. The filing fee currently is \$200, but is subject to change by the arbitration provider. The arbitration will be governed by the Consumer Arbitration Rules (the “AAA Rules”) of the American Arbitration Association (“AAA”), as modified by this Agreement, and will be administered by the AAA. The AAA Rules are available online at [www.adr.org](http://www.adr.org), by calling the AAA at 1-800-778-7879, or by writing to the Notice Address. The AAA Rules may change from time to time, and you should review them periodically.

All issues are for the arbitrator to decide, including the scope and enforceability of this arbitration provision as well as the Agreement’s other terms and conditions, and the arbitrator shall have exclusive

authority to resolve any such dispute relating to the scope and enforceability of this arbitration provision or any other term of this Agreement including, but not limited to any claim that all or any part of this arbitration provision or Agreement is void or voidable. However if putative class or representative claims are initially brought by either party in a court of law, and a motion to compel arbitration is brought by any party, then the court shall decide whether this Agreement permits class or representative proceedings. For the avoidance of doubt, the court and arbitrator shall be bound by the terms of this Agreement, including with regard to the class and representative waiver provision. In any arbitration, the arbitrator shall follow the applicable law. The arbitrator shall not have the power to commit manifest errors of law or legal reasoning, and any award rendered by the arbitrator that employs a manifest error of law or legal reasoning may be vacated or corrected by a court of competent jurisdiction for any such error.

Unless Del Taco and you agree otherwise, any arbitration will be governed by the substantive laws of your state, and hearings will take place in the county (or parish) of your billing or registered address subject to certain exceptions herein. Case management and other hearings shall be heard via telephone unless otherwise agreed to. Except as otherwise provided for herein, Del Taco will pay all AAA filing, administration and arbitrator fees for any arbitration initiated in accordance with the notice requirements above. If, however, the arbitrator finds that either the substance of your claim or the relief sought in the Demand is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all such fees will be governed by the AAA Rules. In such case, you agree to reimburse Del Taco for all monies previously disbursed by it that are otherwise your obligation to pay under the AAA Rules.

During the arbitration, the amount of any settlement offer made by Del Taco or you shall not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which you or Del Taco are entitled. In arbitration, and to the extent otherwise permitted by law, the parties may exchange "offers of compromise" or stipulate to judgments or awards in the same way the parties could in court, including for example, under California Code of Civil Procedure Section 998 for arbitrations taking place in California. Such offers of compromise shall have the same force and effect as they would in a court proceeding. The arbitration proceedings shall otherwise remain confidential, except for purposes of seeking court intervention (if necessary).

(d) Discovery and/or the exchange of non-privileged information relevant to the dispute will be governed by the AAA Rules.

(e) YOU AND DEL TACO AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING TO THE MAXIMUM EXTENT PERMITTED BY LAW. Further, unless both you and Del Taco agree otherwise, the arbitrator or arbitration administrator may not consolidate or aggregate more than one person's claims (except as set forth in subsection (f) below), and may not otherwise preside over any form of a representative or class proceeding. The arbitrator may award injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. If this specific subparagraph (e) is found to be unenforceable in its entirety, then the entirety of this arbitration provision shall be null and void. However, if only a portion of this subparagraph (e) is found to be unenforceable, then the unenforceable portion of the provision shall be stricken, and the remainder of subparagraph (e) enforced. Any claims or causes of action seeking relief not subject to individual arbitration under applicable law shall be stayed in a court of competent

jurisdiction pending completion of individual arbitration to the maximum extent permitted by law. Nothing in subsection (e) or (f) below shall prevent your or Del Taco from participating in a classwide settlement of claims.

(f) YOU AND DEL TACO AGREE THAT ADMINISTRATION OF ANY MASS, COLLECTIVE OR BATCH ARBITRATION SHALL BE GOVERNED BY THE TERMS SET FORTH IN THIS SUBSECTION (F). You and Del Taco agree that a “mass, collective, and/or batch arbitration” includes, but is not limited to, instances in which you and others are represented by a law firm or collection of law firms or legal counsel that has filed more than 150 arbitration demands of a substantially similar nature against Del Taco, alleging similar or identical claims or causes of action, within 180 days of the arbitration demand filed on your or others behalf, and the law firm or collective of legal counsel/law firms seeks to simultaneously or collectively administer and/or arbitrate all the arbitration demands together. If more than 150 arbitration demands of a substantially similar nature, alleging the similar or identical claims or causes of action, are filed against Del Taco by the same law firm or collection of legal counsel/law firms within 180 days of one another, each arbitration demand must be filed, administered, arbitrated, and resolved pursuant to this subsection (f).

Specifically, in order to increase the efficiency of resolution for any mass, collective, and/or batch arbitration, in the event 150 or more similar arbitration demands against Del Taco are filed within a 180 day period pursuant to the above, the arbitration provider shall (i) group the arbitration demands into batches of no more than 150 demands per group; and (ii) provide for resolution of each group or batch as a single arbitration with one set of filing and administrative fees and a single arbitrator assigned per group or batch. You and Del Taco agree to cooperate in good faith with the arbitration provider to implement the aforementioned protocol for mass, collective, and/or batch arbitrations with regard to resolution, fees and administration. If subsections (f)(i) or (f)(ii) are not enforced, or the arbitration provider refuses to follow these specific mass, collective, and/or batch arbitration protocols, then each arbitration demand must be filed, administered, arbitrated, and resolved individually, or the parties agree to seek out a different, mutually agreeable and widely-recognized arbitration organization agreeable to follow subsections (f)(i) or (f)(ii). If any other portion of this subparagraph (f) is found to be unenforceable, then the unenforceable portion of the provision shall be stricken, and the remainder of subparagraph (f) and this agreement shall be enforced to the maximum extent permitted by law. Mass, collective, and/or batch arbitrations shall otherwise be subject to all other substantive and procedural terms contained within this agreement.

(g) Notwithstanding any provision in this Agreement to the contrary, we agree that if Del Taco makes any change to this arbitration provision (other than a change to the Notice Address) after your enrollment in a service or program or your use of the Services, you may reject any such change and require Del Taco to adhere to the language in this arbitration provision as written at the time of your enrollment or purchase if a dispute between us arises, by providing Notice to Del Taco at the Notice Address in subsection (b) above within 30 days of such change.

## **2. OWNERSHIP OF MATERIALS**

Unless otherwise explicitly specified, all materials that are in or are otherwise a part of the Services, including, without limitation: graphics; layout; text; images; audio videos; designs; advertising copy; trademarks; service marks; logos; domain names; trade names; and trade identities; any and all copyrightable material (including source and object code); the “look and feel” of the Services; the compilation, assembly and arrangement of the materials of the Services; and all other materials related to the Services (collectively, the “Materials”) are owned, controlled or licensed by Del Taco. The Materials may not be copied, reproduced, downloaded or distributed in any way, in whole or in part,

except as is expressly provided in these Terms of Use. Any unauthorized use of the Materials is prohibited and all goodwill associated with the use of any Materials remains with us.

### **3. YOUR LICENSE TO USE MATERIALS ON OUR SERVICES**

Subject to your strict compliance with these Terms of Use, Del Taco grants you a limited, non-exclusive, revocable, non-assignable and non-transferable license to download, view and/or play one copy of the Materials on your Device for your personal, non-commercial use only, provided that: (a) you keep intact all copyright and other proprietary notices contained in the Materials; (b) you do not use the Materials in a manner that suggests an association with any of our products; and (c) you make no modifications to the Materials. All other rights in and to the Materials are hereby expressly reserved to Del Taco or its licensors.

### **4. REGISTRATION**

Certain areas of the Services may require registration or otherwise ask you to provide information to participate in certain features such as rewards programs, make purchases or access certain Materials or User Content. The decision to provide this information is purely optional; however, if you elect not to provide such information, you may not be able to access certain Del Taco features or services. Your use of the Services, registration and any interaction with Del Taco arising out of use or registration, including online or via mobile application, shall be governed by the Terms of Use.

If you register with us, you agree to accept responsibility for all activities that occur under your account or password and are responsible for maintaining the confidentiality of your password. Del Taco reserves the right to terminate your account or otherwise deny you access in its sole discretion without notice, for any reason, and without liability.

### **5. SWEEPSTAKES, CONTESTS, PROMOTIONS & DEL YEAH! REWARDS**

Any sweepstakes, contests or other promotions (each, a “Promotion”) offered via the Services may be governed by a separate set of rules that may have eligibility requirements, such as certain age or geographic area restrictions, and terms and conditions governing the Promotion. By participating in a Promotion, you will be subject to those official rules, and you agree to comply with and abide by such rules and the decisions of the identified sponsor(s). However, in all other respects not specifically mentioned in the separate official rules pertaining to specific Promotions, these Terms of Use shall govern your participation in the Promotion, and any and all disputes you may have arising out of a Promotion shall be governed by the Dispute Resolution Policy herein.

Del Taco’s Rewards Program, Del Yeah! Rewards, is offered to eligible members to receive promotional awards and benefits that include menu update news, special Sneak Peak invitations, Reward Member Tastings, contests and sweepstakes (among other rewards). If you are a member of the Del Yeah! Rewards Program, additional terms found at this [link](#) will apply to your use of the Services and membership in Del Yeah! Rewards (“Additional Terms”). If you do not agree to the Additional Terms, you cannot participate in the Del Yeah! Rewards Program. To the extent there is any conflict between these Terms of Use and the Additional Terms found at the link above for Del Yeah! Rewards, the Additional Terms for Del Yeah! Rewards will control unless the Additional Terms for Del Yeah! Rewards expressly state otherwise. However, in all events, the Terms of Use “**Dispute Resolution Policy**” at Section 1 of this Agreement shall apply for any and all disputes between you

and Del Taco. Any other provisions of these Terms of Use not addressed in the Additional Terms shall otherwise govern your membership in the Del Yeah! Rewards Program.

## **6. COPYRIGHTS AND OTHER INTELLECTUAL PROPERTY**

Del Taco has a designated agent for receiving notices of copyright infringement. If you believe that your work has been copied in a way that constitutes copyright infringement, please provide the Del Taco copyright agent the following information (as required by Section 512(c)(3) of the Digital Millennium Copyright Act): (a) a physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed; (b) identification of the copyright work claimed to have been infringed; (c) identification of the material that is claimed to be infringing or to be the subject of infringing activity and information reasonably sufficient to permit us to locate the material; (d) information reasonably sufficient to permit us to contact the complaining party; (e) a statement that the complaining party has a good-faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and (f) a statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Del Taco copyright agent for notice of claims of copyright infringement can be reached as follows:

Name: Jack Tang

Mailing address: 25521 Commercentre Drive, Suite 200  
Lake Forest, CA 92630

Phone number: (949) 462-9300

Fax: (949) 616-5002

E-mail address: JTang@DelTaco.com

NOTE: This contact information is for inquiries regarding potential copyright infringement only.

Please note that Section 512(f) of the Digital Millennium Copyright Act may impose liability for damages on any person who knowingly sends meritless notices of infringement. Please do not make false claims.

Any information or correspondence that you provide to us may be shared with third parties, including the person who provided us with the allegedly infringing material.

## **7. MERCHANDISE AND GIFT CARDS**

The Services may offer you the ability to purchase merchandise ("Merchandise") and gift cards in denominations from \$5-\$100 ("Gift Cards"). The Gift Cards are redeemable at participating U.S. Del Taco stores only. Gift Cards may not be used to purchase Merchandise on the Services. In addition to being governed by these Terms of Use, your purchases via the Services are subject to the following terms:

- No refunds will be provided for the purchase of Gift Cards.
- Merchandise will be replaced with the identical item free of charge under the following conditions only:
  1. Merchandise was received by you defective or damaged in shipping.
  2. Identical replacement item is available.
  3. You notify us and request a replacement within three (3) days of receiving the item.

- Refunds for Merchandise will be provided under the following conditions only:
  1. Merchandise is returned to us in unused, unopened, and salable condition.
  2. You ship the Merchandise back to us at your expense.
  3. Shipping fees will not be refunded.
- Payment is by credit card only. Currently, we accept Visa, MasterCard, and Discover for Merchandise and Gift Card purchases. We may also, at our discretion, accept payment via mobile application. Cash, personal checks and cashiers/certified checks, money orders, or any other form of payment will not be accepted.
- By purchasing Merchandise or Gift Cards and providing payment information, you represent that you are authorized to utilize the payment method presented and agree to pay the required fee, including via mobile application. To complete your payment for Merchandise and/or a Gift Card, you may be required to use a third-party website to finish your transaction. Furthermore, you agree and authorize Del Taco or a third-party payment processor to: (i) submit a transaction using the card information provided, (ii) in the case of a recurring or serial transaction, utilize the payment information previously submitted to us, (iii) if necessary, obtain updates from card issuers for cards provided to us, (iv) if necessary (and applicable) bill your mobile carrier via a mobile application if you authorize us to do so; (v) and retain any credit card or payment information or other information obtained in connection with your account. If Del Taco or its authorized payment processor does retain any such information (including as permitted by applicable law), you acknowledge it is not obligated to retain that information for any specified period of time.
- It is your responsibility to verify the items, quantities, costs, shipping fees, tax, payment method, and shipping address of your order prior to submitting your order for credit card authorization.
- The cost of each Gift Card varies based on the denomination.
- From time to time free bonus gifts may be offered with Merchandise and/or Gift Card purchases. All free bonus gifts are available for a limited time, unless otherwise noted, and are limited to supply on hand. Free food offers will be provided in the form of coupons, or other items valid at participating Del Taco locations, and may have an expiration date. Expiration dates, if applicable, will be disclosed before purchase, and will be clearly printed on the coupons, or items in question.
- From time to time discount codes may be published for use on the Services. If you wish to redeem a published discount code, you must enter it prior to submitting your order. Adjustments will not be made after your order has been submitted for credit card approval.
- No backorders will be taken. If an item you ordered is not in stock, the out of stock item will be removed from your order. The in stock items in your order will be filled and shipped, and your credit card will be charged the adjusted order amount. Your order may, or may not contain a packing slip explaining this adjustment has taken place.
- Submission of your order constitutes an offer by you to purchase, and Del Taco reserves the right to accept or reject your offer. After submitting your order, you may be shown a “thank you” screen. This is the only confirmation you will receive that your order was submitted. You should print this screen and keep it for your records. Your order shall otherwise be governed by these Terms of Use, including the Dispute Resolution Policy herein.



- Product prices do not include any sales, use, privilege, excise, or any other tax or assessment that may arise, and payment of any such costs are your responsibility.
- Merchandise and Gift Cards will be shipped via the shipping method selected from the options provided on the Services at the rate calculated during checkout. All shipping times represented on the Services are for approximation only, and do not constitute, or imply a delivery date guarantee. We reserve the right to change shipping carriers, and rates without notice. Unless otherwise stated, free Gift Card shipping will be provided by the United States Postal Service, First-Class mail, and is not guaranteed to arrive in any number of days.
- No express shippers deliver to PO boxes, so a physical shipping address must be provided when selecting any paid shipping method, other than USPS.
- We can only accept orders with a billing and shipping address within the 50 United States.
- Should you have questions regarding your order or charges to your credit card, call Del Taco Customer Service at 800-852-7204, Monday through Friday, from 8am to 5pm, Pacific Standard Time.

## **8. THIRD-PARTY LINKS AND CONTENT**

There may be links from the Services, or communications you receive from the Services, to third-party sites. We do not control those third-party sites or any of the content contained therein and you expressly acknowledge and agree that we are in no way responsible or liable for any of those third-party sites.

## **9. LINKING POLICY**

Del Taco grants you the limited and revocable permission to link to the Services; provided, however, that your website: (a) does not frame or create a browser or border environment around the Services or otherwise mirror any part of the Services; (b) does not imply that Del Taco or the Services is endorsing or sponsoring it or its products; (c) does not present false information about, or disparage, tarnish, or otherwise, in Del Taco's sole opinion, harm Del Taco or its products or services; (d) does not use any Del Taco trademarks; (e) does not contain content that could be construed as distasteful, offensive or controversial or otherwise objectionable (in Del Taco's sole opinion); and (f) must be owned and controlled by you or the person or entity placing the link. By linking to the Services, you agree that you do and will continue to comply with the above linking requirements, and further agree to be bound by the Terms of Use.

Notwithstanding anything to the contrary contained in these Terms of Use, Del Taco reserves the right to prohibit linking to the Services for any reason in our sole and absolute discretion even if the linking complies with the requirements described above.

## **10. MOBILE ACCESS AND APPLICATIONS**

The Services may offer features and services that are available to you via your mobile Device or via mobile application. These features and services may include, without limitation, the ability to upload content to the Services, receive messages from the Services, download applications to your mobile Device, access Services' features or purchase products or services via mobile application (collectively, the "Mobile Features"). If you elect to participate in Mobile Features, standard messaging, data and other fees may be charged by your carrier. Fees and charges for access, messaging and transmission will appear on your mobile bill or be deducted from your pre-paid balance. For purchases made via

mobile application, the fees or charges for products and services may be billed to your mobile carrier or may be charged to an authorized credit card. Your carrier may prohibit or restrict certain Mobile Features and certain Mobile Features may be incompatible with your carrier or mobile device. Contact your carrier with questions regarding these issues. Carriers are not liable for delayed or undelivered messages. Mobile originator and opt-in data will not be sold to or shared with any third parties.

As applicable, instructions regarding how to opt out of Mobile Features will be disclosed in connection with Mobile Features. The instructions will typically require you to text a keyword (e.g., "STOP," "CANCEL," "END," "UNSUBSCRIBE," "QUIT," etc.) to "82267" or a different shortcode, as applicable.

As an online or mobile application user or customer, you are agreeing to receive all notifications via email at the email address or mobile number via which you have registered. You are obligated to update the email address or mobile number on file when your email address or mobile number changes. In the event that Del Taco is unable to deliver email or text messages to you, you agree to accept notifications in an alternative method, such as direct mail or SMS messages. We strongly encourage you to select SMS messaging as an alternative method of receiving notifications and alerts. By using the Mobile Features, you agree to be bound by the terms of this Agreement and further agree that we may bill your carrier (if applicable) for purchases you authorize.

You also agree that by submitting your telephone number to us and expressly agreeing to these Terms of Use, you are providing Del Taco express written consent to be contacted via the phone number you provided (whether wireless or land line) by Del Taco, entities with whom Del Taco may share your information pursuant to our Privacy Policy, or by the aforementioned entities' agents or representatives on their behalf. You agree that such contact may include marketing and encompass calls from a live agent, artificial or prerecorded voice messages, SMS texts, or use of an automated dialing system. The foregoing consent is not required as a condition to purchase products, property, goods or services. You can opt out at any time by following the instructions in our Privacy Policy.

If you have registered for Mobile Features, you agree to notify Del Taco of any changes to your mobile number and update your account on the Services to reflect this change.

## **11. YOUR WARRANTIES**

You represent and warrant that: (i) you are at least the age of majority in your jurisdiction of residence (which is eighteen (18) in most states, but nineteen (19) in Alabama and Nebraska and twenty-one (21) in Mississippi) and you have the legal right and capacity to enter into these Terms of Use in your jurisdiction and to comply with these Terms of Use; (ii) all information you provide to Del Taco is accurate and complete; (iii) you hold and will continue to hold all rights necessary to enter into and perform your obligations under these Terms of Use.

## **12. OUR DISCLAIMER OF WARRANTIES**

THE SERVICES, INCLUDING, WITHOUT LIMITATION, THE MATERIALS, ARE PROVIDED ON AN "AS IS," "AS AVAILABLE" AND "WITH ALL FAULTS" BASIS. TO THE FULLEST EXTENT PERMISSIBLE BY LAW, DEL TACO AND ITS EMPLOYEES, MANAGERS, DIRECTORS, OFFICERS, SHAREHOLDERS, MEMBERS AGENTS, VENDORS, AND CONTRACTORS (COLLECTIVELY, THE "DEL TACO PARTIES") MAKE NO REPRESENTATIONS OR WARRANTIES OR ENDORSEMENTS OF ANY KIND

WHATSOEVER, EXPRESS OR IMPLIED, AS TO: (A) THE SERVICES; (B) THE MATERIALS; (C) USER CONTENT OR USER FORUMS; (D) ANY PRODUCTS OR SERVICES OFFERED OR REFERENCED AT THE SERVICES; OR (E) SECURITY ASSOCIATED WITH THE TRANSMISSION OF INFORMATION TO DEL TACO OR VIA THE SERVICES. IN ADDITION, THE DEL TACO PARTIES HEREBY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, CUSTOM, TRADE, QUIET ENJOYMENT, SYSTEM INTEGRATION AND FREEDOM FROM VIRUS.

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### **13. LIMITATION OF LIABILITY; WAIVER**

UNDER NO CIRCUMSTANCES WILL THE DEL TACO PARTIES BE LIABLE TO YOU FOR ANY LOSS OR DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, FOR ANY DIRECT, INDIRECT, ECONOMIC, EXEMPLARY, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES THAT ARE DIRECTLY OR INDIRECTLY RELATED TO: (A) THE SERVICES; (B) THE MATERIALS; (C) USER CONTENT; (D) YOUR USE OF, INABILITY TO USE, OR THE PERFORMANCE OF THE SERVICES; (E) ANY ACTION TAKEN IN CONNECTION WITH AN INVESTIGATION BY THE DEL TACO PARTIES OR LAW ENFORCEMENT AUTHORITIES REGARDING YOUR USE OF THE SERVICES; (F) ANY ACTION TAKEN IN CONNECTION WITH COPYRIGHT OR OTHER RIGHTS OWNERS; (G) ANY ERRORS OR OMISSIONS IN THE SERVICES' TECHNICAL OPERATION; OR (H) ANY DAMAGE TO ANY USER'S DEVICE, SOFTWARE, OR OTHER EQUIPMENT OR TECHNOLOGY INCLUDING, WITHOUT LIMITATION, DAMAGE FROM ANY SECURITY BREACH OR FROM ANY VIRUS, BUGS, TAMPERING, FRAUD, ERROR, OMISSION,

INTERRUPTION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER LINE OR NETWORK FAILURE OR ANY OTHER TECHNICAL OR OTHER MALFUNCTION, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOSS OF GOODWILL, LOSS OF DATA, WORK STOPPAGE, ACCURACY OF RESULTS, OR COMPUTER FAILURE OR MALFUNCTION, EVEN IF FORESEEABLE OR EVEN IF THE DEL TACO PARTIES HAVE BEEN ADVISED OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE, STRICT LIABILITY OR TORT (INCLUDING, WITHOUT LIMITATION, WHETHER CAUSED IN WHOLE OR IN PART BY NEGLIGENCE, ACTS OF GOD, TELECOMMUNICATIONS FAILURE, OR THEFT OR DESTRUCTION OF THE SERVICES). IN NO EVENT WILL THE DEL TACO PARTIES BE LIABLE TO YOU OR ANYONE ELSE FOR LOSS, DAMAGE OR INJURY, INCLUDING, WITHOUT LIMITATION, DEATH OR PERSONAL INJURY. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. IN NO EVENT WILL THE DEL TACO PARTIES TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES OR CAUSES OF ACTION EXCEED THE AMOUNT PAID BY YOU TO DEL TACO, IF ANY).

BY ACCESSING THE SERVICES, YOU UNDERSTAND THAT YOU MAY BE WAIVING RIGHTS WITH RESPECT TO CLAIMS THAT ARE AT THIS TIME UNKNOWN OR UNSUSPECTED, AND IN ACCORDANCE WITH SUCH WAIVER, YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND, AND HEREBY EXPRESSLY WAIVE, THE BENEFITS OF SECTION 1542 OF THE CIVIL CODE OF CALIFORNIA, AND ANY SIMILAR LAW OF ANY STATE OR PROVINCE/TERRITORY, WHICH PROVIDES AS FOLLOWS: "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."

#### **14. INDEMNIFICATION**

You agree to indemnify and hold harmless the Del Taco Parties from and against any and all claims and expenses, including attorneys' fees, whether made by you, or on your behalf, or by any third party arising out of your use of or access to the Services, their content or User Content, including but not limited to claims arising out of (i) your violation of these Terms of Use; (ii) your violation of any third-party right including any copyright, trademark, trade secret, or privacy right; (iii) your User Content, including any submissions to a Contest; (iv) any misrepresentation made by you; and (v) Del Taco's use of your information. You agree to promptly notify Del Taco and cooperate fully with Del Taco in the defense of any claim. Del Taco reserves the right to assume the exclusive defense and control of any claim indemnified under this section by you.

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- a. Integration; Severability; Assignment. These Terms of Use, together with any other legal notice published by us on the Services and our Privacy Policy, constitute the entire agreement between us concerning your use of these Services. These Terms of Use and any access to or use of the Services will be governed by the laws of the State of California notwithstanding its conflict of law provisions. If any part of these Terms of Use is held invalid or unenforceable, the remaining portions will remain in full force and effect. A waiver by either party of any term or condition

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## **16. CONTACT US**

If you have any questions or concerns with these Terms of Use or the Services you may contact us by making an inquiry at [deltaco.com/contactus](https://deltaco.com/contactus).