

TERMS OF USE

LAST UPDATED: July 3, 2009

PLEASE READ THE FOLLOWING TERMS OF USE CAREFULLY.

1. INTRODUCTION

Ooka Island Inc., its affiliates and their successors and assigns (collectively referred to as “Ooka”) make this website (the “Site”) available to you subject to these Terms of Use.

For the purposes of these Terms of Use, the word “you” means the individual accessing the Site, and, if applicable, includes any other legal entity on behalf of which an individual is accessing the Site. Additionally, you, as an individual, agree not to access the Site on behalf of any other legal entity unless you have the authority to bind that legal entity to these Terms of Use.

2. ACCEPTANCE OF TERMS OF USE

By using the Site you agree, without limitation or qualification, to be bound by and to comply with these Terms of Use. If you do not agree, without limitation or qualification, to be bound by and to comply with these Terms of Use, discontinue using the Site.

You represent and warrant that: (i) you have the capacity to enter into a legal agreement in the province, state, territory or country in which you reside; and (ii) your use of the Site will not violate any applicable law or regulation in the province, state, territory or country in which you reside.

If you do not have the capacity to enter into a legal agreement in the province, state, territory or country in which you reside, do not use the Site unless your parent or guardian agrees to be bound by these Terms of Use in respect of your use of the Site and consents to your use of the Site. If you are a parent or guardian entering into these Terms of Use on behalf of a child or other individual who lacks the capacity to enter into a legal agreement on their own behalf, you will ensure that that child or other individual complies with these Terms of Use.

3. SIGNING UP FOR CERTAIN FEATURES OR ACTIVITIES

Please note, before being allowed to access certain features of the Site or participate in certain activities being run via the Site, you may be required to: (i) register as a “User” of the Site; and (ii) confirm your acceptance of these Terms of Use by placing a checkmark in the “I AGREE” box on the registration page. If you disagree with any term or condition of these Terms of Use, do NOT place a checkmark in the "I AGREE" box and discontinue using the Site.

Please note, certain services and activities available through the Site may require you to agree to further terms and conditions. Any such terms and conditions are in addition to these Terms of Use.

When signing up to access certain features of the Site or participate in certain activities run via the Site, you represent and warrant that any information you provide about yourself is true and that you agree to maintain and promptly update such information to keep it true and current.

4. ACCOUNTS AND PASSWORDS

If you are given a username and/or a password for the purpose of accessing certain features of the Site or participating in certain activities run via the Site, you are responsible for all activities conducted under that username or password, and you will take all necessary steps to ensure that no one other than you uses that username or password and that that password is kept confidential. If you have any reason to believe that any password assigned to you has become known to or been used by any other person, you will inform Ooka immediately.

Ooka may, at any time, change any username or password assigned by Ooka to you, and Ooka will notify you when it does so.

5. USE OF THE SITE

You may use the Site for your own personal, non-commercial use or for purchasing products from Ooka. Please note that the "Terms of Sale" shall govern the purchase of any product.

You will not:

- seek to gain access to any portions of the Site you are not authorized by Ooka to access;
- use the Site to impersonate or falsely state or otherwise misrepresent your affiliation with any person or entity including but not limited to Ooka;
- when posting any materials to the Site, forge headers or otherwise manipulate other identifiers in order to create the impression that another person posted the materials;
- use the Site to either directly or indirectly interfere with, disrupt or damage the Site, the server(s) on which it hosted, the networks connected to them or any other user's access to the Site;
- adapt, translate, modify, decompile, disassemble, or reverse engineer any aspect of: (i) the Site; (ii) any software or technology used in connection with the Site; or (iii) downloaded from the Site;
- is intended to market, advertise or offer for sale any product or services or solicits others for donations or contributions;
- violate any applicable local, provincial, state, national or international law or regulation; or
- collect personally identifying information about other users of the Site for any purposes unrelated to the Site or that are illegal or unlawful.

6. CONTENT

"General Content" means all text, information, data, ideas, links, emails, other messages, chat, postings, code, software, music (including lyrics), sound recordings, videos, other audiovisual works, performances, photographs, pictures, artwork, graphics, video, files, usernames, user profiles, or other materials accessible on or via the Site.

General Content is the sole responsibility of the person from whom such General Content originated. Ooka will use reasonable efforts to verify the accuracy of any General Content that Ooka posts to the Site, but Ooka does not guarantee the accuracy, integrity or quality of the General Content that Ooka posts to the Site, and Ooka does not guarantee the accuracy, integrity or quality of any General Content that Ooka did not post to the Site. Before using or relying on any General Content, you should take reasonable steps to verify its accuracy, completeness or usefulness: you are using it at your own risk.

You may make or retain a single printed copy of the individual web pages appearing as part of the Site solely for your personal, non-commercial use or records, provided that any proprietary rights notices, marks, logos or other legends that appear on the screens are not removed from the printed copies of the web pages. You may not make any other copies of the General Content or use the General Content for any other purpose. You may not modify, publish, display, transmit, adapt or in any way exploit any item of General Content that you did not contribute to the Site, without the express prior permission of the contributor of that item. Otherwise, all rights in and to any item of General Content are reserved by the contributor of that item.

Ooka, in its sole discretion, may change the General Content from time to time.

You agree not to use any crawler, spider, bot or other program to extract (in whole or in part) any General Content accessible on or via the Site. You agree not to circumvent any technical measures put in place by Ooka to prevent such activities.

You agree not to frame any page forming part of the Site.

7. SUBMITTING CONTENT

Additionally, you, and not Ooka, are fully responsible for all General Content that you make accessible on or via the Site. You represent, warrant and covenant that you have now and that you will continue to have all necessary rights and authority to grant any licenses in or to such General Content and that such General Content will not infringe any proprietary right of any third party. You also warrant that any “moral rights” in posted materials have been waived and that Ooka may rely on those waivers.

By submitting, posting, uploading, embedding or sending General Content to Ooka or otherwise making General Content available for display on or through the Site, you grant Ooka the royalty-free, unrestricted, world-wide, perpetual, irrevocable, non-exclusive and fully sub-licensable right and license to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, perform and display such General Content (in whole or part) and to incorporate it in other works in each case irrespective of the form, media, or technology used.

You agree that you will not use the Site to upload, post, email, otherwise transmit or post links to any General Content that:

- is illegal, encourages or advocates illegal activity or is unlawful;
- is pornographic or otherwise sexually explicit;
- is harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of privacy or publicity rights, hateful (racially, sexually, ethnically or otherwise) or victimizes, harasses, degrades, or intimidates an

- individual or group of individuals on the basis of race, ethnicity, gender, religion, sexual orientation, age or disability;
- is intended to market, advertise or offer for sale any product or services or solicits others for donations or contributions;
- is disruptive or destructive to the Site or Ooka including but not limited to General Content intended to incite violent, emotional disagreements amongst some or all of the users of the Site and General Content that is openly hostile to some or all of the users of the Site;
- contains software viruses or any other computer code, files or programs designed to or which may interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment or any other similarly destructive activity;
- you are prohibited from disclosing to the public under any law or regulation or under contractual or fiduciary relationships (such as inside information, or proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements); or
- infringes or contributes to the infringement of any intellectual property, industrial or other proprietary rights, protected or protectable, under the laws of Canada, any foreign country, or any political subdivision of any country, including, without limitation, all copyrights, moral rights (including rights of attribution and rights of integrity), trademarks, service marks, trade names, logos, brand names and other identifiers, trade secrets of any party.

You should maintain a back-up copy of any General Content that you make available through the Site. In any event, Ooka will not provide a copy of that General Content to you. Ooka is not responsible for General Content that is lost or destroyed for any reason.

A submission of General Content is “solicited” if Ooka expressly requests or enables you to provide it to Ooka for Ooka’s review and Ooka expressly states that you may receive consideration or compensation for the General Content. Additionally, a submission of General Content is “solicited” if you post it to any public forum on the Site and are not seeking any consideration or compensation for it. All other submission of General Content are “unsolicited”.

You agree not to use the Site to distribute or otherwise make available any unsolicited submissions of General Content, especially any unsolicited submissions that include any concepts, pitches, suggestions, stories, screenplays, treatments, formats or characterizations. You acknowledge that: (i) Ooka will not accept or consider unsolicited submissions of General Content; and (ii) if you make an unsolicited submission of General Content, you have no expectation of review, compensation or consideration of any type.

You agree that no submissions of General Content by you to Ooka are made in confidence or in trust.

8. SCREENING AND MONITORING CONTENT

Ooka may but is not obliged to review General Content. Even if Ooka does so, the review may not be to your satisfaction. You acknowledge this and the consequence that follows from it:

content accessible on or via the Site may include materials that are offensive or otherwise objectionable to you.

Ooka is not obliged but reserves the right to monitor some, all, or no areas of the Site from time to time: (i) to verify adherence to these Terms of Use or any other rules, codes of conduct or guidelines posted by Ooka in relation to the Site; or (ii) as required or permitted by law.

Ooka reserves the right, in its sole discretion, to reject, refuse to post, remove or block access to any General Content that is available via or on the Site at any time, without notice and without liability.

9. LINKS TO THIRD PARTY WEB SITES

Ooka may provide via the Site, or third parties may provide via the Site, links to resources not forming part of the Site. Ooka has no control over such resources. You acknowledge and agree that Ooka is not responsible for the availability of such external resources, and does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from such resources. You further acknowledge and agree that Ooka will not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such resource.

Your correspondence or business dealings with, or participation in promotions of, advertisers or other third parties accessible on or via the Site, including payment and delivery of related goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such third parties. You agree that Ooka will not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or as the result of the presence of such advertisers on the Site.

10. PRIVACY

Please note that although Ooka controls the Site from within Canada and the Site is hosted in Canada, Ooka uses PayPal, Inc. to process financial transactions. Please note that some aspects of PayPal, Inc.'s operations occur in the United States.

You have read the Privacy Policy and consent to the use of your personal information as described therein.

Subject to the Privacy Policy, Ooka reserves the right to access, use, disclose and destroy all registration data or other data relating to how users and registered users use the Site and General Content.

Ooka reserves the right to communicate with you regarding your use of the Site or any products purchased through the Site. By providing your contact information to Ooka, you consent to Ooka's use of that information to do so. The content included in any such communication is deemed to be General Content made available on the Site by Ooka.

11. SECURITY

Although Ooka has enacted certain safeguards to protect personal information being transmitted to or from the Site in connection with any purchase, Ooka does not guarantee the security of any such information transmitted to or from the Site. Before using or relying on any means of transmitting your personal information to Ooka, you should take reasonable steps to verify that the manner of transmission provides an adequate degree of protection: you are using it at your own risk.

12. DISCLAIMERS

THE SITE AND GENERAL CONTENT ARE PROVIDED “AS IS” AND “AS AVAILABLE,” WITHOUT WARRANTY OR CONDITIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED. WITHOUT LIMITING THE PRECEDING SENTENCE, OOKA SPECIFICALLY DISCLAIMS ALL REPRESENTATIONS, WARRANTIES, COVENANTS AND CONDITIONS WITH RESPECT TO THE SITE OR OTHERWISE ARISING FROM THESE TERMS OF USE, INCLUDING, BUT NOT LIMITED TO: (i) ANY WARRANTY CONCERNING THE AVAILABILITY, ACCURACY, APPROPRIATENESS, RELIABILITY, TIMELINESS, USEFULNESS, OR OTHERWISE OF THE GENERAL CONTENT; AND (ii) ANY WARRANTY OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Without limiting the terms and conditions set out in the preceding paragraph, Ooka does not warrant that the Site or any General Content:

- will be available at all times;
- will operate without errors;
- will be accessible regardless of the hardware or software that you wish to employ to access it;
- is secure, notwithstanding Ooka’s use of commercially reasonable efforts to secure it; or
- is free from viruses or other harmful codes, notwithstanding Ooka’s use of commercially reasonable efforts to identify and eliminate any such codes.

All exclusions of responsibility or liability set out in these Terms of Use are made to the fullest extent permitted by law. Some jurisdictions do not allow the exclusion of certain implied warranties or limitations on how long an implied warranty may last. If any jurisdiction having applicability to these Terms of Use does not permit any such exclusion or limitation, Ooka’s total liability to you in connection with any breach of such a warranty will be subject to the following section entitled “LIMITATION OF LIABILITY”.

13. LIMITATION OF LIABILITY

IN NO EVENT WILL OOKA, ITS DIRECTORS, EMPLOYEES, AGENTS OR SUPPLIERS, BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES OR PROPERTY DAMAGE ARISING FROM OR RELATING TO THE SITE, ANY GENERAL CONTENT OR THESE TERMS OF USE, INCLUDING WITHOUT LIMITATION, LOSS OF REVENUES, LOSS OF PROFITS,

BUSINESS INTERRUPTION OR LOSS OF DATA, EVEN IF OOKA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES BY YOU OR ANY OTHER PERSON.

IN NO EVENT WILL OOKA BE LIABLE TO YOU OR ANY PERSON WITH RESPECT TO DAMAGES INCURRED BY REASON OF ANY SERVICES OR GOODS RECEIVED THROUGH OR ADVERTISED ON THE SITE OR RECEIVED THROUGH ANY LINKS PROVIDED ON THE SITE.

WITHOUT LIMITING THE TERMS AND CONDITIONS SET OUT IN THE PRECEDING TWO PARAGRAPHS, THE MAXIMUM AMOUNT OF THE CUMULATIVE LIABILITY OF OOKA (INCLUDING ITS DIRECTORS, EMPLOYEES, AGENTS AND SUPPLIERS) TO YOU OR ANY PERSON, FOR ALL CLAIMS (INCLUDING CLAIMS FOR DIRECT DAMAGES) ARISING FROM OR RELATING TO THE SITE, ANY GENERAL CONTENT AND/OR THESE TERMS OF USE SHALL NOT EXCEED \$100.00 CDN.

The limitations set out in the preceding three paragraphs shall apply regardless of the cause or circumstance giving rise to the claim, even if such a claim is based in equity, on breach of contract, including fundamental breach or failure of essential purpose, or on tort, including negligence.

The limitations, exclusions and disclaimers in this section and elsewhere in these Terms of Use apply to the maximum extent permitted by applicable law.

You acknowledge and agree that, regardless of any statute or law to the contrary, any claim or cause of action you may have arising from or relating to the Site, any General Content or these Terms of Use must be filed within two years after such claim or cause of action arises or be permanently barred.

14. INDEMNITY

You agree to indemnify Ooka, its directors, employees, agents and suppliers and hold them harmless from any and all liability, claims, costs and expenses, including legal fees on a substantial indemnity basis, arising from or relating to your use or misuse of the Site or any General Content, or from any person's use of any account or password you maintain in relation to the Site, regardless of whether such use is authorized by you, or results from any breach by you of any of these Terms of Use, or any General Content that you post to the Site.

15. INTELLECTUAL PROPERTY INFRINGEMENT

It is the policy of Ooka to investigate and respond to claims of intellectual property infringement.

With respect to any jurisdiction that has a notice and take-down scheme similar to the one set out in the United States' Digital Millennium Copyright Act, upon receipt of any notice from such jurisdiction that alleges copyright infringement and complies with such scheme, Ooka will act expeditiously to remove or disable access to any material claimed to be infringing or claimed to be the subject of infringing activity and will act expeditiously to remove or disable access to any reference or link to material or activity that is claimed to be infringing. Ooka may attempt to contact the person who has posted such material in order to give that person an opportunity to respond to the notification, although Ooka makes no promise to do so. Any and all counter

notifications submitted by that person will be furnished to the complaining party. In all circumstances, Ooka will give the complaining party an opportunity to seek judicial relief in accordance with any applicable law before Ooka replaces or restores access to any material as a result of any counter notification.

Notice of a claim of infringement should be directed to:

Ooka Island Inc.
Box Office 25013
Charlottetown, PE C1A 9N4
Attention: Customer Service

Telephone: 877-307-3616
Fax: 877-567-3115
Email: customerservice@ookaisland.com

Please indicate "Notice of Infringement" in the subject line of any such notification and include in such notice:

- a reasonably detailed description of the material alleged to be infringing and the proprietary rights alleged to be infringed;
- your contact information, including address, telephone number, fax number and email address; and
- an express statement that you, as the complainant, have a good faith belief that the use of the material alleged to be infringing in the manner complained of is not authorized by the person who owns the copyright in such material.

“Ooka” is a trademark of Ooka Island Inc. All other marks that appear throughout the Site belong to Ooka or the respective owners of such marks, and are protected by law. Any use of any such mark without the express written consent of the owner of the mark is strictly prohibited.

16. TERM AND TERMINATION

This Terms of Use, as amended from time to time, shall continue in effect for as long as you use the Site, unless specifically terminated earlier by Ooka.

Ooka reserves the right, in its sole and absolute discretion, to restrict, suspend or terminate your access to all or any part of the Site and terminate any licenses granted to you pursuant to these Terms of Use without notice and without liability.

Upon the termination or expiration of these Terms of Use, you shall: (i) immediately cease using the Site and any General Content in your possession for any purpose; and (ii) destroy any General Content in your possession.

Notwithstanding the expiration or termination of the term of these Terms of Use for any reason whatsoever, the provisions of sections 6, 7, 9, 10, 12, 13, 14, 15, 16, 17 and any other provisions of these Terms of Use necessary to give efficacy thereto shall continue in full force and effect and survive such expiration or termination. Any expiration or termination of these Terms of Use

shall be without prejudice to rights accruing at or before or in conjunction with or after such termination, or to any remedies or proceedings with respect to such rights.

17. GENERAL TERMS AND CONDITIONS

These Terms of Use constitute the entire agreement between you and Ooka with respect to its subject matter, and supersedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings and agreements, written and oral, regarding its subject matter. There are no representations, warranties, conditions, other agreements, or acknowledgements, whether direct or collateral, express or implied, that form part of or affect these Terms of Use.

No waiver or consent by Ooka of or to any breach in the performance or observance by you of any term, condition, covenant, agreement, representation or warranty contained in these Terms of Use shall be effective unless in a writing signed by Ooka. Any such waiver or consent shall not constitute a consent to or waiver of any other or subsequent breach of such term, condition, covenant, agreement, representation or warranty unless expressly stated in such waiver or consent. No term of these Terms of Use will be deemed to be waived by reason of any previous failure to enforce it.

Should any provision of these Terms of Use be held to be invalid by a court of competent jurisdiction, then that provision will be enforced to the extent permissible, and all other provisions shall remain in full force and effect.

These Terms of Use shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, without reference to conflict of laws provisions.

Ooka shall not be liable for any failure or delay in its performance under these Terms of Use due to any cause beyond its reasonable control.

Any notice or other communication given pursuant to these Terms of Use shall be in writing and sent by email or courier. Notices sent to you shall be sent to any email address or address that you provided to Ooka. Notices sent to Ooka shall be sent to Ooka at the address then listed on the Contact Us page of the Site. Notices sent by email shall be deemed received one business day following transmission. Notices sent by courier shall be deemed received on the date delivered.

The headings used in these Terms of Use are for convenience of reference only. No provision of these Terms of Use will be interpreted against any party merely because that party or its legal representative drafted the provision. All remedies are cumulative. Throughout these Terms of Use, the term “including” or the phrases “e.g.,” or “for example” have been used to mean “including, without limitation”.

18. VIOLATIONS OF THE TERMS OF USE

Should you violate any provision of these Terms of Use or any other right of Ooka, Ooka reserves the right to pursue any and all legal and equitable remedies against you.

19. CHANGES TO THE TERMS OF USE

Ooka reserves the right to change these Terms of Use from time to time and at any time. When Ooka changes these Terms of Use, Ooka will:

- post the updated version of the Terms of Use on the Site together with the date on which it was revised; and
- on the home page for the Site, for at least four weeks following any change to the Terms of Use, post a notice that the Terms of Use has been updated.

Further, Ooka may, but is not obliged to, ask you to actively confirm your consent to the revised Terms of Use. If Ooka does not do so, but you continue to use the Site after the changes come into effect, you will be deemed to have agreed to abide by the revised Terms of Use. If you do not agree with the revised Terms of Use without qualification, discontinue using the Site and instruct Ooka to disable any password for the Site assigned to you.

Ooka reserves the right, in its sole and absolute discretion, to change or modify the Site from time to time including but not limited adding or removing functionality or features or changing its name.

BY PLACING A CHECKMARK IN THE "I AGREE" BOX, YOU ARE AFFIRMATIVELY STATING THAT YOU HAVE READ AND UNDERSTAND THESE TERMS OF USE AND THAT YOU AGREE TO BE BOUND BY THEM WITHOUT QUALIFICATION. IF YOU DISAGREE WITH ANY TERM OR CONDITION OF THESE TERMS OF USE, DO NOT PLACE A CHECKMARK IN THE "I ACCEPT" BOX, DISCONTINUE USING THE SITE AND INSTRUCT OOKA TO DISABLE ANY USERNAME OR PASSWORD THAT OOKA HAS ASSIGNED TO YOU.