

## TERMS OF SERVICE

Welcome to Zorachka!

These Terms of Service govern your use of Zorachka products and services. When you use any Zorachka products or services, you agree to these terms.

These Terms of Service constitute an agreement between you and Zorachka. Please read this agreement carefully.

Zorachka Inc. and its affiliates (collectively, “Zorachka” or “we”) provide:

- (a) the Zorachka website located at [www.zorachka.com](http://www.zorachka.com) and all associated websites linked to [www.zorachka.com](http://www.zorachka.com) (“Website”);
  - (b) services accessible through the Website (“Web Apps”);
  - (c) software that may be downloaded to your mobile device to access services (“Mobile Apps”);
  - (d) Zorachka hardware products (“Zorachka Products” or “Products”);
  - (e) software embedded in Zorachka Products (“Product Software”), any associated subscriptions, content services, accounts, technical support, and all other services associated with the Zorachka Product (collectively referred to as “Other Services”);
- ((a), (b), (c), (d), and (e) above being collectively referred to herein as “Zorachka Services,” “Services,” “Zorachka Products and Services” or “Products and Services”).

### ARBITRATION NOTICE

ARBITRATION NOTICE: EXCEPT FOR CERTAIN TYPES OF DISPUTES DESCRIBED IN THE ARBITRATION CLAUSE SET FORTH HEREIN, YOU AGREE THAT DISPUTES BETWEEN YOU AND ZORACHKA WILL BE RESOLVED BY MANDATORY ARBITRATION AND YOU WAIVE ANY RIGHT TO PARTICIPATE IN A CLASS-ACTION LAWSUIT AND/OR CLASS-WIDE ARBITRATION. PLEASE FOLLOW THE INSTRUCTIONS IN THE DISPUTE RESOLUTION AND ARBITRATION SECTION BELOW IF YOU WISH TO OPT OUT OF THIS PROVISION.

### 1. ACCEPTANCE OF TERMS

Zorachka Services are offered subject to your acceptance of the terms and conditions contained herein and all other operating rules, policies and procedures that may be published from time to time by Zorachka related to the Services, which shall be incorporated herein by reference. By accessing, registering for and/or using the Services in any manner, you agree to the Terms. If you do not agree to the Terms, do not use the Services.

Your purchase of any Zorachka Product is governed by the limited warranty provided with that Product (“[Limited Warranty](#)”) and may further be governed by the [Sales Terms](#). The Product Software (and any updates thereto) is licensed and governed by the Product Software section of these Terms and by other terms and conditions stipulated in these Terms. Certain features of the Services may be subject to additional guidelines, terms or rules, which will be

posted in the Services in relation to such features. All additional guidelines, terms or rules and the [Privacy Policy](#) are incorporated by reference into these Terms.

## **2. CHANGES**

We may make changes to the Terms and/or our other operating rules, policies and/or procedures from time to time, at our sole and absolute discretion. We will notify you of any changes to the Terms by posting the updated Terms on Zorachka's Website and/or in the Services, and we will revise the "Updated" date below. Any changes to our operating rules, policies and/or procedures shall be incorporated herein. It is your responsibility to review the Terms frequently and to remain informed of any changes to them. We may also provide you with additional forms of notice of modifications and/or updates as appropriate under the circumstances, including but not limited to sending you an email to inform you of the changes and/or by prominently posting a notice of changes on Zorachka's Website and/or in Services. If you do not agree with the changes and/or modifications, do not use Zorachka Services after the effective date of the changes. The latest version of the Terms will supersede all earlier versions. You agree that your continued use of the Services after such changes have been published will constitute your acceptance of such revised Terms and operating rules, policies and/or procedures (as applicable).

## **3. ELIGIBILITY**

By accepting these Terms or by accessing and using the Services, you are accepting and agreeing to these Terms on behalf of yourself or the entity that you represent in relation to access and use of the Product. You represent and warrant that you have the right, authority and capacity to accept and agree to these terms on behalf of yourself or the entity you represent. You represent and warrant that you are, subject to this section, of sufficient legal age in your jurisdiction or residence to use or access Zorachka Services and to enter into this agreement. If you do not agree with any of the provisions of these Terms, you should cease accessing or using the Services.

You may use the Services only if you have the legal capacity to form a binding contract with Zorachka (except subject to the provisions of this clause below) and only if you are in compliance with these Terms and all applicable local, state/provincial, national and international laws, rules and regulations. Only individuals aged 18 and older are permitted to act as owners of Zorachka Accounts (as described below). If you are an Authorized User (as described below), you represent and warrant that you are over the age of 18 (or equivalent minimum age in the jurisdiction where you reside), and in the event that you are between the age of 18 (or equivalent minimum age in the jurisdiction where you reside) and the age of majority in the jurisdiction where you reside, that you will only use the Products and Services under the supervision of a parent or legal guardian who agrees to be bound by these Terms on your behalf. Any use of or access to the Products and Services by individuals under the age of 18 (or the equivalent minimum age in the jurisdiction where you reside) and without the supervision of a parent or legal guardian bound by these Terms on their behalf is strictly prohibited and is a violation of these Terms. The Products and Services are not available to any users previously prohibited from using the Services and Products by Zorachka.

#### **4. CUSTOMER SERVICE**

If you have any questions or concerns regarding the Products and Services or these Terms, please contact Zorachka at [support@zorachka.com](mailto:support@zorachka.com). You understand and agree that customer service and any customer care and support offered and provided by Zorachka is not a 911 service or dispatch center, an emergency service provider or dispatch service, or a lifesaving solution for people at risk in their home or otherwise. Please do not contact customer service or any customer care and support offered by Zorachka with any life/safety emergency, medical emergency, or any other emergency. If you have any such emergency, you should immediately contact police, fire or emergency medical services, or other appropriate emergency response service.

#### **5. ACCOUNTS**

In some cases, in order to use the Products and Services, you need to register for a user account (“Account”) and provide certain information about yourself, as prompted by the applicable registration form. You represent and warrant that: (a) all required registration information that you submit is truthful and accurate; (b) you will maintain the accuracy of such information; and (c) your use of the Services and Products will not violate any US or other applicable law or regulation (e.g. you are not located in an embargoed country or are not listed as a prohibited or restricted party under applicable export control laws and regulations). You are entirely responsible for maintaining the confidentiality of your Account login information and for all activities that occur under your Account. You agree to use “strong” passwords with your Account and to maintain your password securely to prevent others from gaining access. You agree to immediately notify Zorachka of any unauthorized use or suspected unauthorized use of your Account, or any other breach of security. Zorachka is not liable for any loss or damage arising from your failure to comply with the above requirements.

An individual who creates an Account is the “Owner” of that Account and is the Owner of the Products and Services associated with that Account. Individuals who are authorized to access an Owner’s Products and Services are “Authorized Users.” Authorized Users may use Services and monitor and control Products (for example, an Authorized User can turn your camera on or off). Authorized Users may also view information (including personal information) and Content across all of the Owner’s Products and Services with Zorachka connections. Authorized Users are responsible for their own actions in connection with the Products and Services, but the Owner also hereby agrees to be fully responsible for all actions taken by Authorized Users relating to the Owner’s Products, Services and Account. If you are an Owner who invites or enables an Authorized User, you acknowledge and agree that said Authorized User may subsequently invite or enable other Authorized Users with the same access and ability to use your Products and Services as set out above. As a result, if you are an Owner, you should only authorize those individuals whom you trust to access your Account, Products and Services.

## 6. LICENSE TO USE OUR SERVICES AND ACCESS TO SERVICES

By using the Services and subject to your compliance with the Terms: (i) Zorachka and our licensors grant to you a limited, personal, non-exclusive, non-transferable, revocable right to use and/or access the Services; and (ii) you agree not to reproduce, distribute, create derivative works from, publicly display, publicly perform, license, sell and/or resell any content, software, products and/or services obtained from and/or through the Services without the express prior written permission of Zorachka. Neither the Terms nor your access to and/or use of the Services transfers to you and/or any third party any rights, title and/or interest in any intellectual property rights related to the Services.

Our Services and those of our licensors are protected by applicable intellectual property laws, including the United States copyright law and international treaties. Subject to the limited rights expressly granted hereunder, Zorachka and/or its third-party providers, licensors, and suppliers reserve all right, title and interest in and to the Services, including without limitation all related worldwide intellectual property rights. No rights are granted to you hereunder other than as expressly set forth herein.

Zorachka may, from time to time, develop patches, bug fixes, updates, upgrades and other modifications to improve the performance of the Services and/or the Product Software (“Updates”). These may be automatically installed without us providing any additional notice or receiving any additional consent. You consent to such automatic Updates. If you do not want such Updates, terminate your Account and stop using the Services. If you do not terminate a previously created Account, you will receive Updates automatically. You acknowledge that you may be required to install Updates to use the Services and you agree to promptly install any Updates that Zorachka provides. Your continued use of the Services is your agreement to these Terms with respect to the Services and any change or updates that Zorachka may make to these Terms over time.

Zorachka reserves the right, at any time, to modify, suspend or discontinue the Services or any part thereof with or without notice. You agree that Zorachka will not be liable to you or to any third party for any modification, suspension or discontinuance of the Services or any part thereof.

## 7. PRODUCT SOFTWARE

(a) **License.** In addition to these Terms, Zorachka grants you a limited and nonexclusive license (without the right to sublicense) to execute one (1) copy of the Product Software, in executable object code form only, solely on the Product that you own or control and solely for use in conjunction with the Product for your personal, non-commercial purposes.

(b) **Restrictions.** You agree not to, and you will not permit others to, (a) license, sell, rent, lease, assign, distribute, transmit, host, outsource, disclose or otherwise commercially exploit the Product Software or make the Product Software available to any third party; (b) copy or use the Product Software for any purpose other than as permitted in subsection (a) of this

Product Software section; (c) use any portion of the Product Software on any device or computer other than the Product that you own or control; (d) remove or alter any trademark, logo, copyright or other proprietary notices, legends, symbols or labels in the Product Software; or (e) modify, make derivative works of, disassemble, reverse compile or reverse engineer any part of the Product Software (except to the extent applicable laws specifically prohibit such restriction for interoperability purposes, in which case you agree to first contact Zorachka and give Zorachka an opportunity to create such changes as are needed for interoperability purposes). You may not release the results of any performance or functional evaluation of any of the Product Software to any third party without prior written approval of Zorachka for each such release.

(c) **Automatic Software Updates.** Zorachka may from time to time develop Updates to the Product Software and related services. These may be automatically installed without providing any additional notice or requesting any additional consent. You consent to these automatic Updates. If you do not want such Updates, stop using the Product. If you do not cease using the Product, you will receive Updates automatically. You acknowledge that you may be required to install Updates to use the Product and the Product Software and you agree to promptly install any Updates Zorachka provides. Your continued use of the Product is your agreement to these Terms.

(d) **Ownership.** The Product Software is the exclusive property of Zorachka and its licensors. Zorachka and its licensors reserve all rights in and to the Product Software not expressly granted to you in these Terms. The Product Software (and all copies thereof) is licensed to you, not sold, under these Terms. There are no implied licenses in these Terms. All suggestions or feedback provided by you to Zorachka with respect to the Product Software shall be Zorachka's property. Zorachka may use, copy, modify, publish, or redistribute the submission and its contents for any purpose and in any way without any compensation to you. You also agree that Zorachka does not waive any rights to use similar or related ideas previously known to Zorachka, developed by its employees, or obtained from other sources.

(e) **Warranty Disclaimer.** NOTWITHSTANDING ANYTHING TO THE CONTRARY AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ZORACHKA PROVIDES THE PRODUCT SOFTWARE "AS IS" AND DISCLAIMS ALL WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, ACCURACY, AND NON-INFRINGEMENT OF THIRD-PARTY RIGHTS. ZORACHKA DOES NOT GUARANTEE ANY SPECIFIC RESULTS FROM THE USE OF THE PRODUCT SOFTWARE. ZORACHKA MAKES NO WARRANTY THAT THE PRODUCT SOFTWARE WILL BE UNINTERRUPTED, FREE OF VIRUSES OR OTHER HARMFUL CODE, TIMELY, SECURE, OR ERROR-FREE.

YOU USE ALL PRODUCT INFORMATION, THE PRODUCT SOFTWARE AND THE PRODUCT AT YOUR OWN DISCRETION AND RISK. YOU WILL BE SOLELY RESPONSIBLE FOR (AND ZORACHKA DISCLAIMS) ANY AND ALL LOSS, LIABILITY, OR DAMAGES, INCLUDING TO YOUR HVAC SYSTEM, PLUMBING, HOME, PRODUCT, OTHER PERIPHERALS CONNECTED TO THE PRODUCT, COMPUTER, MOBILE DEVICE, AND ALL OTHER ITEMS AND PETS IN YOUR

HOME, RESULTING FROM YOUR USE OF THE PRODUCT INFORMATION, PRODUCT SOFTWARE, OR PRODUCT.

**(f) Limitation of Liability.** Nothing in these Terms and in particular within this Limitation of Liability subsection shall attempt to exclude liability that cannot be excluded under applicable law.

To the maximum extent permitted by applicable law, in addition to the above warranty disclaimers, in no event will (a) Zorachka be liable for any consequential, exemplary, special, or incidental damages, including any damages for lost data or lost profits, arising from or relating to the Product or Product Software, even if Zorachka knew or should have known of the possibility of such damages; and (b) Zorachka's total cumulative liability arising from or related to the Product and Product Software, whether in contract or tort or otherwise, exceed the fees actually paid by you to Zorachka or Zorachka's authorized reseller for the Product at issue in the prior 12 months (if any). This limitation is cumulative and will not be increased by the existence of more than one incident or claim. Zorachka disclaims all liability of any kind of Zorachka's licensors and suppliers.

**(g) For U.S. Government End Users.** The Product Software and related documentation are "Commercial Items", as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein.

**(h) Export Compliance.** The Product Software and related technology are subject to U.S. export control laws and may be subject to export or import regulations in other countries. You agree to strictly comply with all such laws and regulations and acknowledge that you have the responsibility to obtain authorization to export, re-export, or import the Product Software and related technology, as may be required. You will indemnify and hold Zorachka harmless from any and all claims, losses, liabilities, damages, fines, penalties, costs and expenses (including attorney fees) arising from or relating to any breach by you of your obligations under this section.

## 8. CONTENT

Certain materials may be displayed or performed in Services (including, but not limited to, text, graphics, articles, photographs, video, images and illustrations ("Content")). The Content also includes information that you and other users provide us within the course of using the Services (collectively, "User Submissions"), which we may use to provide, maintain and improve the Services. You are solely responsible for all Content that you upload, post, email, transmit or otherwise disseminate using, or in connection with, the Services, or that you contribute in any manner to the Services; you represent and warrant that you have all rights necessary to do so, in the manner in which you contribute it; and you license to Zorachka all patent, trademark, trade secret, copyright or other proprietary rights in and to such Content for publication on the Service pursuant to these Terms. You shall abide

by all copyright notices, trademark rules, information and restrictions contained in any Content accessed through the Services, and shall not use, copy, reproduce, modify, translate, publish, broadcast, transmit, distribute, perform, upload, display, license, sell or otherwise exploit for any purpose whatsoever any Content or third-party submissions or other proprietary rights not owned by you: (i) without the express prior written consent of the respective owners, and (ii) in any way that violates any third-party rights. Zorachka reserves the right to remove any Content from Services at any time, for any reason (including, but not limited to, upon receipt of claims or allegations from third parties or authorities relating to such Content or if we are concerned that you may have breached the abovementioned terms and conditions), or for no reason at all.

All information publicly posted or privately transmitted through the Services is the sole responsibility of the person from whom (or from whose Account) such Content originated and Zorachka will not be liable for any errors or omissions in any Content. Zorachka cannot guarantee the identity of any other users with whom you may interact in the course of using the Services. In addition, we cannot guarantee the authenticity of any data that users or merchants may provide about themselves. You acknowledge that all Content accessed by you using the Services is at your own risk and you will be solely responsible for any damage or loss to any party resulting therefrom. We cannot control and have no duty to take any action regarding how you may interpret and use the Content or what actions you may take as a result of having been exposed to the Content, and you hereby release us from all liability for you having acquired or not acquired Content through the Services.

You agree that you will not under any circumstances transmit any Content (including software, text, images, or other information) that:

- (i) is unlawful and/or promotes unlawful activities;
- (ii) defames, harasses, abuses, threatens, or incites violence towards any individual or group;
- (iii) is pornographic, discriminatory and/or otherwise victimizes and/or intimidates an individual and/or group on the basis of religion, gender, sexual orientation, race, ethnicity, age and/or disability;
- (iv) is spam, is randomly or machine-generated, constitutes unauthorized or unsolicited advertising, chain letters, any other form of unauthorized solicitation and/or any form of lottery and/or gambling;
- (v) contains and/or installs any viruses, worms, malware, Trojan horses and/or other content that is designed or intended to disrupt, damage and/or limit the functioning of any software, hardware, and/or telecommunications equipment and/or to damage and/or obtain unauthorized access to any data and/or other information of any third party;
- (vi) infringes on any proprietary right of any party, including patent, trademark, trade secret, copyright, right of publicity and/or other rights;
- (vii) impersonates any person or entity, including any of our employees or representatives;

(viii) violates the privacy of any third party.

## **9. CERTAIN RESTRICTIONS**

The rights granted to you in these Terms are subject to the following restrictions: (i) you agree not to license, sell, rent, lease, transfer, assign, distribute, host or otherwise commercially exploit the Products and Services; (ii) you agree not to modify, make derivative works of, disassemble, reverse-compile or reverse-engineer any part of the Services or Products; (iii) you agree not to access the Products and Services in order to build a similar or competitive service or product; (iv) except as expressly stated herein, no part of the Products and Services may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means; (v) you agree not to upload, transmit or distribute any computer viruses, worms or any software intended to damage or alter a computer or communications network, handheld mobile device, data, the Services, the Products, the Product Software or any other system, device or property; (vi) you agree not to interfere with, disrupt or attempt to gain unauthorized access to the servers or networks connected to the Services or violate the regulations, policies or procedures of such networks; (vii) you agree not to access (or attempt to access) any of the Services by means other than through the interface that is provided by Zorachka; and (viii) you agree not to remove, obscure or alter any proprietary rights notices (including copyrights and trademark notices) that may be contained in, or displayed in connection with, the Products and Services. Any future release, update or other addition to functionality of the Services shall be subject to these Terms.

Certain items of independent, third-party code may be included in the Web Apps and/or Mobile Apps that are subject to the GNU General Public License (“GPL”) or other open-source licences (“Open-Source Software”). The Open-Source Software is licensed under the terms of the license that accompanies such Open-Source Software. Nothing in these Terms limits your rights under, or grants you rights that supersede, the terms and conditions of any applicable end-user licence for such Open-Source Software. In particular, nothing in these Terms restricts your right to copy, modify and distribute such Open-Source Software that is subject to the terms of the GPL.

## **10. ACCESS OUTSIDE CERTAIN COUNTRIES**

Although the Website is accessible worldwide, the Products and Services provided or accessed through or on the Website are not available to all persons or in all countries. If you choose to access the Website from outside a country in which Zorachka supports the Product and Services listed here (“Target Country”), you do so on your own initiative and you are solely responsible for complying with applicable local laws in your country. You understand and accept that the Website is not designed for use in a non-Target Country and that some, or all, of the features of the Website may not work or be appropriate for use in such a country. To the extent permissible by law, Zorachka accepts no responsibility or liability for any damage or loss caused by your access or use of the Website or Zorachka Products in a non-Target Country. You will be bound by these Terms wherever you access or use the Website or Other Services.



Specifically, you agree to comply with all applicable laws regarding the transmission of technical data exported from the United States or from the country in which you reside.

ZORACHKA SERVICES CANNOT BE USED IN COUNTRIES SUBJECT TO A U.S. GOVERNMENT EMBARGO, OR THAT HAS BEEN DESIGNATED BY THE U.S. GOVERNMENT AS A “TERRORIST SUPPORTING” COUNTRY, AND YOU MUST NOT BE LISTED ON ANY U.S. GOVERNMENT LIST OF PROHIBITED OR RESTRICTED PARTIES.

YOU REPRESENT AND WARRANT THAT YOU ARE NOT LOCATED IN A COUNTRY SUBJECT TO A U.S. GOVERNMENT EMBARGO, OR THAT HAS BEEN DESIGNATED BY THE U.S. GOVERNMENT AS A “TERRORIST SUPPORTING” COUNTRY, AND THAT YOU ARE NOT LISTED ON ANY U.S. GOVERNMENT LIST OF PROHIBITED OR RESTRICTED PARTIES.

## **11. PRIVACY AND SECURITY**

Please review the [Privacy Policy](#) and [Cookie Policy](#) for Zorachka Services. These documents describe practices regarding the information that Zorachka may collect from users of the Services, including any Content or User Submissions.

Zorachka cares about the integrity and security of your personal information. We endeavor to implement appropriate security measures. However, Zorachka cannot guarantee that unauthorized third parties will never be able to defeat our security measures or use your personal information for improper purposes. You acknowledge that you provide your personal information at your own risk.

## **12. AGREED USAGE AND LIMITATIONS OF SERVICES**

The Services are intended to be accessed and used for non-time-critical information and control of Zorachka Products. While we aim for the Services to be highly reliable and available, they are not intended to be reliable or available 100% of the time. The Services are subject to sporadic interruptions and failures for a variety of reasons beyond Zorachka’s control, including network intermittency, service provider downtime, mobile notifications and operators, among others. You acknowledge these limitations and agree that Zorachka is not responsible for any damages allegedly caused by the failure or delay of the Services.

You acknowledge that the Services are not error-free or 100% reliable and 100% available. Proper functioning of the Services relies and is dependent on the transmission of data through your Wi-Fi network, your enabled wireless device (such as a phone or tablet) and broadband internet access, among others, and may be interrupted, delayed, refused, or otherwise limited for a variety of reasons, including but not limited to insufficient coverage, power outages, and other such interruptions (collectively, “Service Interruptions”). You understand that Service Interruptions may result in the Services being unreliable or unavailable for the duration of the Service Interruption and Zorachka is not responsible for that.

The Services may be suspended temporarily, without notice, for security reasons, systems failure, maintenance and repair, or other circumstances. You agree that you will not be entitled to any refund or rebate for such suspensions. Zorachka does not offer any specific uptime guarantee for the Services.

You acknowledge and agree that the Products and Services, whether stand-alone or interfaced with third-party products or services, are not certified for emergency response, unless expressly approved and certified by Zorachka as enabled for central station monitoring through a professional central station monitoring facility (“Pro Monitoring Enabled Zorachka Products”). Zorachka makes no warranty or representation that use of the Products or Services with any third-party product or service will affect or increase any level of safety. You understand that the Products and Services, whether stand-alone or interfaced with third-party products or services, are not a third-party monitored emergency notification system. Further, you understand that under no circumstances will Zorachka dispatch emergency services to your home in the event of an emergency.

The Services will not be accessible without: (i) a working Wi-Fi network in your home that is positioned to communicate reliably with the Products; (ii) an enabled and supported wireless device, such as a phone or tablet (required for some features and functionalities of the Service); (iii) always-on broadband internet access in your home with bandwidth sufficient to support the Products you use; and (iv) other system elements that may be specified by Zorachka. It is your responsibility to ensure that you have all required system elements and that they are compatible and properly configured. You acknowledge that the Services may not work as described when the requirements and compatibility have not been met.

Unless explicitly promising a “guarantee,” Zorachka does not guarantee or promise any specific level of energy savings or other monetary benefit from the use of the Product, Product Software and other Services or any of their features.

It is your responsibility to install, test and use the Products and Services, and check and replace any batteries for the Products, when necessary, pursuant to the applicable manual and instructions.

### **13. LIMITATIONS OF ZORACHKA SERVICES DUE TO THIRD PARTIES**

Zorachka Services rely on or interoperate with third-party products and services. These third-party products and services are beyond Zorachka’s control, but their operation may impact on, or be impacted by, the use and reliability of Zorachka Services. You acknowledge and agree that: (i) the use and availability of the Services is dependent on third-party product vendors and service providers, (ii) these third-party products and services may not operate in a reliable manner 100% of the time and they may impact on the way that Zorachka Services operate, and (iii) Zorachka is not responsible for damages and losses due to the operation of these third-party products and services.

You acknowledge that Zorachka uses third-party service providers to enable some aspects of the Services. You agree not to rely on the services for any life/safety or time-critical purposes. Further, to the fullest extent permitted by applicable law, you agree to release and

hold harmless third-party service providers from all liability, damages or losses of any kind or sort, personal injury or loss of life arising from your use of the products and services.

The Website may contain links to other websites operated by third parties (“Third-Party Websites”) and referrals to third-party vendors (“Referred Vendors”). Such Third-Party Websites and Referred Vendors are not under our control. Zorachka provides these links and referrals only as a convenience and does not review, approve, monitor, endorse, warrant or make any representations with respect to such Third-Party Websites or Referred Vendors. Your use of these Third-Party Websites is at your own risk.

You acknowledge and agree that the availability of Mobile Apps is dependent on the Third-Party Websites from which you download the Mobile Apps, e.g. the Google Play Store from Google or the App Store from Apple (each an “App Store”). You acknowledge that these Terms are between you and Zorachka and not with any App Store. Each App Store may have its own terms and conditions to which you must agree before downloading Mobile Apps from it. You agree to comply with such App Store terms and conditions, and your license to use the Mobile Apps is conditioned upon your compliance with such App Store terms and conditions. To the extent that other terms and conditions from such App Stores are less restrictive than, or otherwise conflict with, the terms and conditions of these Terms, the more restrictive or conflicting terms and conditions in these Terms apply.

You acknowledge that the availability of the Services is dependent on (i) your computer, mobile device, home wiring, home Wi-Fi network, Bluetooth connection and other related equipment (“Equipment”), (ii) your internet service provider (“ISP”) and (iii) your mobile device operator (“Operator”). You acknowledge that you are responsible for all fees charged by your ISP and Operator in connection with your use of the Services. You also acknowledge that you are responsible for compliance with all applicable agreements, terms of use/service and other policies of your ISP and Operator.

Zorachka is not responsible for any Authorized User’s behavior, or for any personal injury, death, property damage (including, without limitation, to your home), or other harm or losses arising from or relating to the Authorized User’s use of the Services.

Zorachka is not responsible for third parties or their products and services, including, without limitation, the App Stores, Third-Party Products and Services, Third-Party Websites, Referred Vendors, Equipment, ISP and Operators. Zorachka hereby disclaims, and you hereby discharge, waive and release Zorachka and its licensors and suppliers from any past, present and future claims, liabilities and damages, known or unknown, arising out of or relating to your interactions with such third parties and their products and services. To the fullest extent permitted by applicable law, you hereby waive California Civil Code Section 1542 in connection with the foregoing, which states: “A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.” You hereby waive any similar provision in any other jurisdiction.

## **14. INTELLECTUAL PROPERTY**

You acknowledge that all intellectual property rights, including, without limitation, copyrights, patents, trademarks and trade secrets, in the Product, Product Software and Services (i.e. the Websites, Web Apps and Mobile Apps) are owned by Zorachka Inc., our affiliates or our licensors. Your possession, access to and use of the Product, Product Software and Services do not transfer to you or any third party any rights, title or interest in or to such intellectual property rights. Zorachka Inc. and its affiliates, licensors and suppliers, reserve all rights not granted in these Terms. The Services are licensed to you, not sold, under these Terms.

**ALL PRODUCTS, WEBSITES, MOBILE APPS AND OTHER SERVICES ARE FOR PERSONAL, NON-COMMERCIAL USE ONLY.**

You may choose to or Zorachka may invite you to submit comments, suggestions or ideas about the Products and Services, including how to improve the Products and Services (“Ideas”). By submitting any Ideas, you agree that your submissions are voluntary, gratuitous, unsolicited and without restriction, and will not place Zorachka under any fiduciary or other obligation. Zorachka may use, copy, modify, publish or redistribute the submission and its Contents for any purpose and in any way without any compensation to you. You also agree that Zorachka does not waive any rights to use similar or related ideas previously known to Zorachka, developed by its employees or obtained from other sources.

You hereby grant us a non-exclusive, worldwide, royalty-free, perpetual, irrevocable, sub-licensable and transferable right to access, display or otherwise use your User Submissions (including all related intellectual property rights) solely in connection with providing you with the Services and as directed by you. You also hereby do and shall grant to each user of the Services a non-exclusive licence to access and use your User Submissions through the Services and as permitted through the functionality of the Services and under these Terms. Furthermore, you understand that we retain the right to reformat, modify, create derivative works of, excerpt and translate any User Submissions submitted by you. For clarity, the foregoing licence grant to Zorachka does not affect your ownership of or right to grant additional licences to the material in your User Submissions, unless otherwise agreed in writing.

## **15. INDEMNITY**

You agree to defend, indemnify and hold harmless Zorachka Inc., its subsidiaries and affiliates from and against any and all claims, proceedings, injuries, liabilities, losses, costs and expenses (including reasonable attorney fees) including, but not limited to, claims alleging negligence, invasion of privacy, copyright infringement and/or trademark infringement against Zorachka Inc., its subsidiaries and affiliates of Zorachka Services, relating to or arising out of your breach of any provision of these Terms, your misuse of Zorachka Products or Services, or your unauthorized modification or alteration of Zorachka Products or software.

## 16. WARRANTY AND OTHER DISCLAIMERS

Zorachka has a [Limited Warranty](#) on Zorachka Products.

The services are provided for your convenience, “as is” and “as available,” and Zorachka, and our licensors and suppliers, expressly disclaims any warranties and conditions of any kind, whether express or implied, including the warranties or conditions of merchantability, fitness for a particular purpose, accuracy and non-infringement.

Zorachka, and our licensors and suppliers, make no warranty that defects will be corrected or that the services: (i) will meet your requirements; (ii) will be compatible with your home network, computer or mobile device; (iii) will be available on an uninterrupted, timely, secure or error-free basis; or (iv) will be accurate or reliable. No advice or information, whether oral or written, obtained by you from Zorachka or through the Services, shall create any warranty.

Zorachka does not warrant, endorse, guarantee or assume responsibility for any service advertised or offered by a third party through, or in connection with, the products or services, or any hyperlinked website or service, and Zorachka will not be a party to, or in any way monitor, any transaction between you and third-party providers of such products or services.

Zorachka makes no representations concerning any Content contained in or accessed through the Services, and Zorachka will not be responsible or liable for the accuracy, copyright compliance, legality or decency of material contained in or accessed through the Services. Zorachka makes no representations or warranties regarding suggestions or recommendations of Services or products offered or purchased through the Services.

The Services may provide you information regarding your products (“Product Information”) or other peripherals connected to your products (“Product Peripherals”). The type of Product Peripherals that may be connected to your product may change from time to time. Without limiting the generality of the disclaimers above, all product information is provided for your convenience, “as is” and “as available”. Zorachka does not represent, warrant, or guarantee that product information will be available, accurate, or reliable.

When you install, set up or use the Products and Services, you are given the opportunity to change defaults or choose particular settings. The choices you make can cause non-recommended or unintended operation or non-operation of your Products and Services and any connected equipment or systems.

You assume all liability for any damages and losses caused by, or related to, the choices you make for the particular settings for the Products and Services, and setting or changing defaults. You understand and agree that some of the Products and Services are notification, signalling and detection Products and Services. Those Products and Services do not eliminate occurrences of events such as fires, floods, burglaries, robberies, and medical issues. Further, you understand and agree that those Products and Services may not avert or minimise such occurrences of events, or their consequences, and, therefore, Zorachka makes no express or implied warranty or representation (including any implied warranty of merchantability or fitness for particular purpose) that those products and services will so avert or minimise such occurrences of events, or their consequences.

You agree that Zorachka is not an insurer and that Zorachka is not providing you with insurance of any type. Any amounts that you pay Zorachka for the Service are not insurance premiums and are not related to the value of your property, anyone else's property located in your premises, or any risk of loss at your premises. If you want insurance to protect against any risk of loss at your premises, you will purchase insurance. In the event of any loss, damage or injury, you will not look to Zorachka to compensate you or anyone else. You release and waive for yourself and your insurer all subrogation and other rights to recover against Zorachka arising as a result of the payment of any claim for loss, damage or injury.

## **17. LIMITATION OF LIABILITY**

Nothing in these Terms and, in particular, within this Limitation of Liability clause shall be interpreted or construed to limit or exclude liability that cannot be so limited or excluded under applicable law.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN ADDITION TO THE WARRANTY AND OTHER DISCLAIMERS IN THESE TERMS, IN NO EVENT WILL (A) ZORACHKA BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL OR INCIDENTAL DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES FOR LOST DATA OR LOST PROFITS ARISING FROM OR RELATING TO THE SERVICES, EVEN IF ZORACHKA KNEW, OR SHOULD HAVE KNOWN, OF THE POSSIBILITY OF SUCH DAMAGES, AND (B) ZORACHKA'S TOTAL CUMULATIVE LIABILITY FOR ANY DIRECT DAMAGES, PROPERTY DAMAGE, PERSONAL INJURY, LOSS OF LIFE OR ANY OTHER DAMAGES NOT EXCLUDED OR PRECLUDED PURSUANT TO (A) ABOVE, ARISING FROM OR RELATED TO THE SERVICES, WHETHER IN CONTRACT OR TORT OR OTHERWISE, SHALL BE LIMITED TO AN AMOUNT NEVER TO EXCEED TWO (2) TIMES THE FEES ACTUALLY PAID BY YOU TO ZORACHKA OR ZORACHKA'S AUTHORIZED RESELLER FOR THE SERVICES AT ISSUE IN THE PRIOR 12 MONTHS (IF ANY). ZORACHKA DISCLAIMS ALL LIABILITY OF ANY KIND OF ZORACHKA'S LICENSORS AND SUPPLIERS. UNDER NO CIRCUMSTANCES WILL ZORACHKA BE LIABLE IN ANY WAY FOR ANY CONTENT, INCLUDING, BUT NOT LIMITED TO, ANY ERRORS OR OMISSIONS IN ANY CONTENT OR ANY LOSS OR DAMAGE OF ANY KIND INCURRED IN CONNECTION WITH THE USE OF, OR EXPOSURE TO, ANY CONTENT POSTED, EMAILED, ACCESSED, TRANSMITTED OR OTHERWISE MADE AVAILABLE VIA THE SERVICES.

You understand and agree that the limitation of liability in this section shall apply even if Zorachka is found liable for any loss or damage due to breach of contract, breach of express or implied or Limited Warranty, negligence of any kind or degree, strict product liability, subrogation, indemnification or contribution, or any other theory of liability. However, this limitation of liability shall not apply to any willful, wanton, intentional or reckless misconduct of Zorachka or gross negligence of Zorachka in those states that do not permit limitation of liability for gross negligence.

## **18. TERM AND TERMINATION**

These Terms will remain in full force and effect as long as you continue to access or use the Services or until terminated in accordance with the provisions of these Terms. You may cancel your Zorachka Services or delete your Account at any time, upon which you will lose access to the Services and/or Account. At any time, Zorachka may (i) suspend or terminate your rights to access or use the Services, or (ii) terminate these Terms with respect to you if Zorachka, in good faith, believes that you have used the Services in violation of these Terms, including any incorporated guidelines, terms or rules. If you transfer a Product to a new owner, your right to use the Services with respect to that Product automatically terminates and the new owner will have no right to use the Services under your Account and will need to register for a separate Account with Zorachka and accept these Terms.

Upon termination of these Terms, your Account and your right to use the Services will automatically terminate.

If you wish to terminate your Account, you may do so by following the instructions through your Account. Zorachka will not have any liability whatsoever to you for any termination of your rights under the Terms, including without limitation for termination of your Account and/or deletion of your Content.

## **19. FEES AND PAYMENT**

Certain Services may be provided for a fee. You shall pay all applicable fees in connection with the Services selected by you in accordance with the Sales Terms.

## **20. ARBITRATION**

Except for claims for injunctive or equitable relief or claims regarding intellectual property rights (which may be brought in any competent court without the posting of a bond), any dispute arising under the Terms shall be finally settled in accordance with the Comprehensive Arbitration Rules (“Rules”) of the Judicial Arbitration and Mediation Service, Inc. (“JAMS”) by three arbitrators appointed in accordance with such Rules.

The arbitration shall take place in San Francisco, California, in the English language and the arbitral decision may be enforced in any court. The prevailing party in any action or proceeding to enforce the Terms shall be entitled to costs and attorneys’ fees.

You can opt out and decline this agreement to arbitrate by contacting Zorachka at [support@zorachka.com](mailto:support@zorachka.com) within thirty (30) days from the date that you first became subject to this arbitration provision (i.e. the date you initially accepted the Terms).

(i) Waiver of jury trial. THE PARTIES HEREBY WAIVE THEIR CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A TRIAL IN FRONT OF A JUDGE AND JURY, instead electing that all claims and disputes shall be resolved by arbitration. Arbitration procedures are typically more limited, more efficient and less costly

than rules applicable in court and are subject to very limited judicial review. In the event that any litigation should arise between you and Zorachka in any state or federal court in a suit to vacate or enforce an arbitration award or otherwise, YOU AND ZORACHKA WAIVE ALL RIGHTS TO A JURY TRIAL, instead electing that the dispute be resolved by a judge.

(ii) Waiver of class or consolidated actions. ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS SECTION MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS, AND CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. In the event that this section is deemed invalid or unenforceable neither you nor we are entitled to arbitration and instead claims and disputes shall be resolved in a court located in San Francisco, California.

## **21. MISCELLANEOUS**

Unless otherwise agreed to by Zorachka and you in writing, the Terms (including without limitation the terms and conditions set forth herein and Zorachka's operating rules, policies and/or procedures as described above) constitutes the entire agreement between Zorachka and you concerning the subject matter hereof.

Except to the extent that applicable law, if any, provides otherwise, this Agreement and any access to or use of the Services will be governed by the laws of the State of California, U.S.A., excluding its conflict of law provisions.

If any part of the Terms is held invalid or unenforceable, that part will be construed to reflect the parties' original intent, and the remaining portions will remain in full force and effect. A waiver by either party of any term or condition of the Terms and/or any breach thereof, in any one instance, will not waive such term and/or condition or any subsequent breach thereof.

You may not assign your rights under the Terms to any other party without Zorachka's express prior written consent; Zorachka may assign its rights under the Terms without condition. The Terms will be binding upon and will insure to the benefit of the parties, their successors and permitted assigns.

Except for payment obligations, neither Zorachka nor you will be liable by reason of any failure or delay in the performance of its obligations on account of events beyond the reasonable control of a party, which may include denial-of-service attacks, a failure by a third-party hosting provider or utility provider, shortages, riots, fires, acts of God, war, strikes, terrorism, and governmental action.

All provisions of the Terms which by their nature should survive termination shall survive termination, including, without limitation, licenses of Content, ownership provisions, warranty disclaimers, indemnity provisions and limitations of liability.

No waiver by either you and/or Zorachka of any breach and/or default and/or failure to exercise any right allowed under the Terms is a waiver of any preceding and/or subsequent



breach and/or default and/or a waiver and/or forfeiture of any similar and/or future rights under the Terms.

## **22. TARGET COUNTRY**

For the purpose of these Terms, the Target Countries are USA and Canada.

## **23. CONTACT**

If you would like to request additional information regarding the Terms or for any questions regarding your relationship with Zorachka, please contact us at [support@zorachka.com](mailto:support@zorachka.com).

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