

WEBSITE TERMS OF USE

- 1. Overview.** These Terms of Use (these “Terms of Use”) set forth the terms and conditions that apply to your access and use of the web site located at www.dairy.com, (including any sub-domains or affiliated sites, the “Site”), as owned and operated by Dairy, LLC dba Dairy.com, a Delaware limited liability company (“Dairy.com”, “we”, “us” or “our”).
- 2. Acceptance of Terms.** Subject to Section 16, by accessing the Site and using the information, tools, features and functionality located on the Site (the “Services”), you agree to be bound by these Terms of Use, whether i) you are a “visitor” to the Site or ii) you are a “User”, and are subject to the terms and conditions of a Dairy.com User Agreement. If you wish to become a User, communicate with other users and make use of the Services as a User, you should contact Dairy.com at notices@dairy.com to request the then current version of the Dairy.com User Agreement. In case of conflict between these Terms of Use and any applicable User Agreement, the User Agreement shall control.
- 3. Changes to Terms and Conditions.** We reserve the right, in our sole discretion, with or without notice, to change, modify, add or remove any portion of these Terms of Use, in whole or in part, at any time. Notification of any changes to these Terms of Use, will be posted on the Site. However, any changes to the dispute resolution and jurisdiction provisions set forth herein will not apply to any disputes for which the parties have actual notice on or prior to the date the changes are posted on the Site. Your continued use of the Site, after such changes, constitutes your binding acceptance of the modified Terms of Use. If at any time the terms and conditions contained herein are not agreeable to you, you should immediately cease use of and access to the Site.
- 4. Privacy.** For information about Dairy.com’s data protection practices, please read the Dairy.com Privacy Policy, which is hereby incorporated into these Terms of Use by reference. The Privacy Policy may be updated from time to time at our discretion. Changes will be effective upon posting to the Site.
- 5. Third Party Sites.** The Site may contain links to other websites on the Internet. Those other websites are not under the control of Dairy.com, and Dairy.com does not endorse, warrant or guarantee the products or services offered through such third party websites, nor is it responsible for the accuracy of information on those sites, their copyright compliance, their conditions or terms of use, their privacy policies, or any other aspects of those sites. You agree that these links are provided for convenience only, and your use of any third party websites is at your sole risk.
- 6. System Integrity.** You shall not use any device, software or routine to interfere or attempt to interfere with the proper working of the Site. You shall not take any action that intentionally imposes or should reasonably be expected to impose an unreasonable or disproportionately large load on the Site infrastructure.
- 7. Content Standards; Prohibited Behavior.**

 - 7.1.** You shall not post any content on the Site that:

 - (a) Is false, misleading, inaccurate or would be likely to deceive any other person;
 - (b) Is defamatory, obscene, offensive, pornographic, vulgar, profane, indecent, hateful, inflammatory, abusive, harassing or threatening;
 - (c) Is discriminatory based on race, sex, religion, nationality, disability, sexual orientation or age;
 - (d) Violates the legal rights of others, such as content that 1) infringes any copyright, trademark, patent, trade secret, or other intellectual property rights, 2) violates any right of privacy or publicity, or 3) contains material that could give rise to any civil or criminal liability;
 - (e) Constitutes unsolicited or unauthorized advertising, promotional materials, “junk mail,” “spam,” “chain letters,” “pyramid schemes,” or any other form of solicitation; or
 - (f) Otherwise promotes any illegal activity, or violates any applicable law, including, specifically, all laws, statutes, ordinances or regulations (including without limitation those governing export control, antitrust, consumer protection, unfair competition, antidiscrimination, false advertising, or any Federal or applicable state dairy commodity regulation).

7.2. You shall not use the Site to:

- (a) harvest or otherwise access, collect or store any information (including personally identifiable information) about other users of the Site, including e-mail addresses, without the express consent of such users;
- (b) use, download or otherwise copy, or provide to any person or entity any Site user's directory or other user or usage information or any portion thereof;
- (c) introduce any viruses, trojan horses, worms, logic bombs or other material which is malicious or technologically harmful;
- (d) impersonate any person or entity, including, but not limited to, a Dairy.com employee, or falsely state or otherwise misrepresent your affiliation with a person or entity;
- (e) attempt to gain unauthorized access to any part of the Site, other computer systems or networks connected to the Site, through password mining or any other means;
- (f) interfere with or disrupt networks or servers connected to the Site or violate the regulations, policies or procedures of such networks;
- (g) use the Site to harm minors in any way;
- (h) interfere with any other party's use and enjoyment of the Site;
- (i) include descriptions of, or hyperlinks to, goods or services that Dairy.com has not authorized or that you do not have a legal right to describe or link to; or
- (j) copy, reproduce, alter, modify, create derivative works, or publicly display any content (except for content you provide to us) from the Site without the expressed written permission of Dairy.com.

8. Intellectual Property Rights.

8.1. The Site and its entire contents, features and functionality, (including, but not limited to all information, software, text, displays, images, video and audio, and the design, selection and arrangement thereof), are protected by United States copyright, trademark, patent, trade secret and other proprietary and intellectual property rights of Dairy.com or its licensors. All content on the Site is copyrighted as a collective work of Dairy.com pursuant to applicable copyright law. You agree to comply with any additional copyright notices, information, or restrictions contained in any content available on or accessed through the Site.

8.2. You may not modify, publish, transmit, transfer, sell, reproduce, create derivative works from, distribute, perform, display, or in any way exploit any of the content on the Site, in whole or in part, except as expressly permitted by Dairy.com. The Site and the Services may not be decompiled, disassembled, modified, translated, adapted or reverse engineered.

8.3. You are solely responsible for providing, at your own expense, all equipment, facilities and services necessary to access and use the Site, including, without limitation, computer hardware and software, telephone service and Internet access.

8.4. Notwithstanding the foregoing provisions, and subject to any broader rights you are granted under a separate written agreement with Dairy.com, you are granted a limited license to print or download sufficient copies of the Site's content for internal business use only, provided you keep intact all copyright and other proprietary notices. Systematic retrieval of data or other content from the Site to create or compile, directly or indirectly, a collection, compilation, database or directory without written permission from Dairy.com is prohibited. In addition, use of the Site for any purpose not expressly permitted in the Agreement is prohibited. Except as expressly provided above, all rights are reserved.

9. Feedback. The Site may be equipped with the ability for you to provide feedback about various aspects of the Site, its functionality and any developments you would be interested in seeing on the Site or with the business of Dairy.com. You acknowledge and agree that any ideas, suggestions or other information you provide will become the property of Dairy.com upon submission and you hereby irrevocably assign to Dairy.com all such right, title and interest

in such materials and agree to execute all documents necessary to implement and confirm the intent of this provision. In addition, Dairy.com shall have the right to archive, redistribute and otherwise make available your feedback in print, electronic or other forms of media.

10. Termination. Except as otherwise provided in any applicable User Agreement, Dairy.com reserves the right, in its sole discretion, to restrict, suspend or terminate your access to all or any part of the Site, at any time for any reason without prior notice or liability. Dairy.com may change, suspend or discontinue all or any aspect of the Site at any time, including the availability of any feature, database or content, without prior notice or liability.

11. Disclaimer of Warranties.

11.1. You understand that we cannot and do not guarantee or warrant that files available for downloading from the Internet or the Site will be free of viruses or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for anti-virus protection and accuracy of data input and output. WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY VIRUSES OR OTHER SIMILARLY HARMFUL MATERIAL THAT MAY INFECT YOUR COMPUTER OR NETWORK DUE TO YOUR USE OF THE SITE, THE SERVICES, THE DOWNLOADING OF ANY CONTENT POSTED ON THE SITE OR ANY OTHER WEBSITES LINKED TO THE SITE.

11.2. THE SITE AND ALL CONTENT AND MATERIALS THEREON ARE PROVIDED "AS IS" AND "AS AVAILABLE," WITHOUT ANY WARRANTIES OR INDEMNITIES OF ANY KIND. DAIRY.COM EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES (i) CONCERNING THE AVAILABILITY, ACCURACY, APPROPRIATENESS, RELIABILITY OR TIMELINESS OF THE SITE AND ALL CONTENT THEREON; (ii) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT; (iii) THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; (iv) THAT UNAUTHORIZED ACCESS TO OR MISAPPROPRIATION OF THE SITE'S CONTENT WILL NOT OCCUR; OR (v) THAT THE SITE'S CONTENT IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. YOUR USE OF THE SITE IS SOLELY AT YOUR RISK. THE FOREGOING DOES NOT AFFECT ANY WARRANTIES WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

12. Limitation of Liability.

12.1. EXCEPT AS PROVIDED UNDER AN APPLICABLE USER AGREEMENT WITH DAIRY.COM, IN NO EVENT SHALL DAIRY.COM BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, THOSE RESULTING FROM INTERRUPTION OF USE, LOSS OF DATA, THE UNAUTHORIZED ACCESS TO OR THE MISAPPROPRIATION OF ANY CONTENT MADE AVAILABLE ON OR THROUGH THE SITE, OR LOST PROFITS ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OF USE OR USE OF THE SITE. THIS LIMITATION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF DAIRY.COM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THE FOREGOING DOES NOT AFFECT ANY LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

12.2. DAIRY.COM'S LIABILITY TO YOU UNDER THESE TERMS OF USE SHALL BE LIMITED TO THE GREATER OF (i) THE AMOUNT OF FEES PAID TO DAIRY.COM HEREUNDER BY YOU DURING THE THIRTY (30) DAYS PRECEDING THE DATE THE CLAIM ARISES OR (ii) ONE THOUSAND DOLLARS (\$1,000).

13. Release. You hereby release Dairy.com and its present and former officers, directors, agents, managers, members, investors, partners, employees, shareholders, fiduciaries, parents, affiliates, subsidiaries, divisions, legal representatives, predecessors, estates, trusts, executors, successors and assigns and all persons (natural, corporate or otherwise) in privity with Dairy.com or any of them (all of which collectively are jointly and severally referred to herein as the "**Dairy.com Group**") from all claims, demands and damages (actual and consequential) of every kind and nature, disclosed or undisclosed, known and unknown, suspected and unsuspected, in any way arising out of or in connection with your use of the Site or your activity with other users of the Site. User waives the provisions of any law limiting or prohibiting a general release including California Civil Code § 1542 which states "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his settlement with the debtor."

14. Indemnification. You agree to indemnify, defend and hold harmless the Dairy.com Group from and against any and all claims, losses, liabilities, and damages of any kind, including reasonable attorneys' fees, resulting from (i) your breach of these Terms of Use; or (ii) your use or misuse of the Site. Dairy.com reserves the right, at its own

expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will cooperate with Dairy.com in asserting any available defenses.

15. Electronic Record and Signature. You agree that any document or record which is transmitted or received by electronic transmission by either party shall be treated in all manner and respects as an original written, signed document where sufficient indicia of acceptance exists. You agree to accept reasonable electronic indicia, including but not limited to clicking on Site buttons designated by language such as "I Accept," "I Agree" or other similar such language, as effective indicia of acceptance. Such indicia of acceptance shall be considered for these purposes as an original signature and any such electronic record it is attributed to shall be considered to have the same binding legal effect as an original written, signed document.

16. Governmental Entity Access. Dairy.com provides certain agencies and departments of various states ("Authorized Governmental Users") with access to information relating to Dairy.com's Mobile Manifest product to facilitate compliance by Dairy.com customers with relevant milk delivery and distribution rules and regulations. Dairy.com acknowledges and agrees that these Terms of Use shall not apply to the use of the Site by such Authorized Governmental Users.

17. General.

17.1. All feedback, comments, requests for technical support and other communications relating to the Site should be sent to notices@dairy.com.

17.2. All matters related to the Site and these Terms of Use and any dispute or claim arising therefrom or related thereto shall be governed by and construed in accordance with the laws of the United States and the State of Texas without regard to the principles of conflicts of laws thereof. The exclusive forum for any legal suit, action or proceeding arising out of, or related to, these Terms of Use or the Site shall be instituted exclusively in the federal courts of the United States or the state courts of Collin County, Texas. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

17.3. No failure or delay in exercising any right hereunder by Dairy.com will operate as a waiver thereof, nor will any partial exercise of any right or power hereunder preclude further exercise.

17.4. If any provision of these Terms of Use shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that the remaining terms of the Terms of Use shall remain in full force and effect.

17.5. This Site is controlled and operated by Dairy.com from its offices within the state of Texas. Dairy.com makes no representation that materials on this Site are appropriate or available for use outside of the United States. If you choose to access the Site from locations outside of the United States, you do so at your own risk and you are responsible for compliance with the laws of whatever jurisdiction you are in at that time.

17.6. ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OF USE OR THE SITE MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

LAST MODIFIED: October __, 2021