

Spirit Terms of Service

Updated 10/30/2019

Welcome to Spirit

Please review the following Terms and Conditions of Use (“Terms”) carefully. These Terms govern your access and use of www.spiritapp.co, the SPIRIT APP application, and related products and the services (jointly, the “Services”). By accessing and using the Services, you agree to be bound by and comply with these Terms and any additional guidelines, restrictions or rules that may be posted in connection with the services, which together with our Privacy Policy govern Spirit App, LLC’s (“Spirit”) relationship with you.

The terms Spirit, “us” or “we” refer to the owner and operator of the website at getspirit.io (the “Website”) and the Services associated therewith. The term “you” refers to the user or viewer of the Services. You acknowledge that these Terms are between Spirit and you, and not with Apple Inc. (Apple) or any other third party. You acknowledge that Spirit, not Apple, is responsible for the Services.

In order to utilize the Services you must create an account or an account must be created on your behalf, and as part of the account creation a unique access code associated with a specific school, company or organization (“Your Organization”) in order to access Your Organization’s calendar, to purchase event tickets, and otherwise utilize the Website and Services. Any use or access of the Website or the Services by anyone under the age of 13 is prohibited. When you create an account, you must provide us with accurate and complete information.

General Terms

Subject to these Terms, our Privacy Policy, and to any additional guidelines, restrictions or rules that may be posted in connection with the Services, we grant to you a limited, non-exclusive, non-transferable, and revocable license to use the SPIRIT APP Application. When you download the SPIRIT APP Application to a mobile device, smartphone, tablet, or other device you acknowledge that you are

downloading the SPIRIT APP Application to a mobile device, smartphone or tablet which you own or control.

Changes to the Services and Terms

We reserve the right to make changes to the Services and these Terms at any time and without prior notice. Your continued use of the Services constitutes your acceptance of such changes. Accordingly, you should review these Terms from time to time for such changes.

Communications with Us

You agree that we may provide all legal communications and notices to you electronically by posting them on our website or, at our election, by sending an email to an email address that you may have provided to us. You may withdraw your consent to receive communications from us electronically by contacting us at support@spiritapp.co.

User Conduct

In your use of our Service, you agree to act responsibly in a manner demonstrating the exercise of good judgment. For example and without limitation, you agree not to: (a) violate any applicable law or regulation, (b) infringe the rights of any third party, including without limitation, intellectual property, privacy, publicity or contractual rights, (c) use the information available through our Service for any unauthorized purpose, (d) interfere with or damage our Service, including, without limitation, through the use of viruses, cancel bots, Trojan horses, harmful code, flood pings, denial of service attacks, packet or IP spoofing, forged routing or electronic mail address information or similar methods or technology, including methods that in any way reproduce or circumvent the navigational structure or presentation of the Service or its contents, (e) use our Service to transmit, distribute, post or submit any information concerning any other person or entity, including without limitation, photographs of others, personal contact information or credit, debit, calling card or account numbers, (f) use our Service in connection with the distribution of unsolicited commercial email ("Spam") or advertisements, (g) "stalk" or harass any other user of our Service, (h) collect or store any information about any other user other than in the course of the permitted use of our Service, (i) use our Service for any commercial purpose whatsoever, (j) impersonate any

person or entity, (k) remove any copyright, trademark or other proprietary right notices contained in the Service, (l) modify, adapt, sublicense, translate, sell, reverse engineer, decipher, decompile or otherwise disassemble any portion of the Service or our Site or any software used on or for the Service, or (m) assist any third party in doing any of the foregoing.

Your Interactions with Other Users of The Services

You are solely responsible for your interactions with other users of our Services, including but not limited to the content of the materials you post for event feedback or surveys, or photographs of events. We will not be responsible for any damage or harm resulting from your interactions with Your Organization or other users of our Service. In certain instances You may have the option of providing feedback anonymously to Your Organization. If you chose to provide anonymous feedback you are still bound by this Agreement, including but not limited to Sections 4 and 7. If Your Organization believes that your anonymous feedback violates any term of this Agreement, Your Organization may report the feedback to us. If, in our sole and unfettered discretion we determine that your anonymous feedback violates any terms of this Agreement, your anonymity will be forfeited, your identity will be reported to Your Organization, and we reserve the right to terminate your access to the Services, as outlined in Section 11. You understand that we do not in any way screen users or organizations, nor do we inquire into the backgrounds of our users or organizations, or attempt to verify their statements. We make no representations or warranties as to the conduct of our users, organizations, or their compatibility with any current or future users. We reserve the right, but have no obligation, to monitor all interactions between you, Your Organization, or other users of our Services and to take any action in good faith to restrict access to or the availability of any material that we, Your Organization, or another user of our Service may consider to be obscene, lewd, lascivious, filthy, excessively violent, harassing or otherwise objectionable.

Email messages sent between you, Your Organization, or other users of the Services that are not readily accessible to the general public may be reviewed by us for compliance with these Terms, but will be treated by us as private to the extent required by applicable law. You agree to take reasonable precautions in all interactions with your Organization, or other users of the Service.

You should not provide your financial information (for example, your credit card or bank account information) to other users of our Services.

In no event shall we be liable for any damages whatsoever, whether direct, indirect, general, special, compensatory, consequential, and/or incidental, arising out of or relating to the conduct of you or anyone else in connection with the use of the Service, including without limitation, bodily injury, emotional distress, and/or any other damages resulting from communications or meetings with other users of the Service or persons you meet through the Service.

Privacy

Use of the Service is also governed by our Privacy Policy at getspirit.io/legal/privacy

User Content

By submitting any content (including without limitation your photograph, text, images, works of authorship, and other materials) to the Website and through our Services, you automatically grant, and you represent and warrant that you have the right to grant, to us, and our licensees, affiliates and successors, a perpetual, worldwide, non-exclusive, royalty-free right and license to use, reproduce, display, perform, adapt, modify, distribute, have distributed and promote such content in any form, in all media now known or hereinafter created, anywhere in the world, and for any purpose, to prepare derivative works of, or incorporate into other works such content, and to grant and to authorize sub-licenses of the foregoing.

By submitting any Content (including without limitation, your photograph, text, images, works of authorship, and other materials) through our Services, you represent and warrant to us that the content, including your photograph, is posted by you and that you (i) own the content posted by you on or through our Services or otherwise have the right to grant the license to us as identified in Section 7; (ii) that our use of your content will not infringe or violate the rights of any third party, including but not limited to privacy rights, publicity rights, or copyrights; and you agree to pay any and all royalties, fees, or other monies owed to any person or entity by reason of any content posted by you on or through our Services.

To the extent permissible under law, you waive any and all moral rights to be identified as the author of the content, including your photograph, and any similar rights in any jurisdiction in the world.

You are solely responsible for any content that you submit post or transmit via our Service. You agree not to post or submit any content that: (a) is libelous, defamatory or slanderous, (b) contains sexually explicit content (including nudity), (c) may denigrate any ethnic, racial, sexual or religious group by stereotypical depiction or otherwise, including by promoting racism, bigotry, hatred or physical harm of any kind against any group, (d) exploits images or the likeness of individuals under 18 years of age including in a sexual or violent manner, or solicits personal information from anyone under the age of 18, (e) encourages or otherwise depicts glamorized drug use (including alcohol and tobacco products), (f) makes use of offensive language or images or is otherwise patently offensive to the online community, (g) harasses or advocates harassment of another person, (h) involves the transmission of "junk mail", "chain letters" or unsolicited mass mailing or Spam, (i) promotes an illegal or unauthorized copy of another person's copyrighted work, (j) characterizes violence as acceptable, glamorous or desirable, (k) contains any illegal material or any material that infringes or violates another party's rights (including without limitation intellectual property rights and rights of privacy and publicity), (l) provides instructional information about illegal activities such as making or buying illegal weapons, violating someone's privacy, or providing or creating computer viruses, (m) solicits passwords or personal identifying information for commercial or unlawful purposes from other users, (n) provides or promotes inaccurate, misleading or false information, (o) engages in commercial activities and/or sales without our prior written consent such as contests, sweepstakes, barter, advertising, and pyramid schemes or (p) contains any of your personal contact information. If any information that you provide to us subsequently becomes inaccurate, misleading or false, you will promptly notify us of such change.

We have no obligation to post any content that you or anyone else submits. In addition, we may, in our sole and unfettered discretion, edit, remove or delete any content that you post or submit.

The foregoing is a partial list of the kind of content that is illegal or prohibited through use of our Services. We reserve the right to investigate and take appropriate legal action in our sole discretion against anyone who violates this

Section 7, including without limitation, removing the offending communication from the Service and terminating the violator's access to the Service.

Third Party Content

In your use of our Service, you may access content, including event listings from third parties ("Third Party Content"), either via our Service or through links to third party websites. We do not control Third Party Content and make no representations or warranties about it. You agree that by using our Services, you may be exposed to Third Party Content that is false, offensive, indecent or otherwise objectionable. Under no circumstances will we be liable in any way for any Third Party Content, including, without limitation, any errors or omissions in any Third Party Content or any loss or damage of any kind incurred as a result of the use of any Third Party Content posted, stored or transmitted via our Service. You agree that you must evaluate, and bear all risks associated with, Third Party Content. We make no representations or warranties about the accuracy of the calendar or event listings by Your Organization, including but not limited to the date, time and place of an event, description or inclusion of an event. We have no responsibility for event cancellations or changes.

Proprietary Rights

A. Certain content and materials available through our Services are subject to copyright, trademark and/or service mark protection, patents, trade secrets, publicity rights, or other propriety rights and laws, said rights being owned by Spirit or our licensors. Except for that information which is in the public domain or for which you have been given express written permission by us, you agree not to sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit or create derivative works from materials or content available through our Services. Notwithstanding the above, you may use the content and materials available through our Services in the course of your normal, personal, non-commercial use of our Services.

B. You agree not to systematically retrieve data or other content or any materials from our Services to create or compile, directly or indirectly, a collection, compilation, database, directory or the like, whether by manual methods, through the use of "bots" or otherwise. You agree not to use any of our trademarks as metatags on other websites. You agree not to display any of our Website in a frame (or any of our content via in-line links) without our express written permission,

which may be requested by contacting us at legal@getspirit.io. You may, however, establish ordinary links to the homepage and other sections of our Website without our written permission.

Username and Password

During the registration process, a username and password will be selected by you or on your behalf. You are solely and fully responsible for maintaining the confidentiality of your username and password, and are solely and fully responsible for all activities that occur under your username and password. You agree to immediately notify us of any unauthorized use of your username and password or any other breach of security. We cannot and will not be liable for any loss or damage arising from your failure to comply with this Section 10.

Termination

You agree that we, in our sole and unfettered discretion, may terminate your access to our Service for any reason, including, without limitation, your breach of these Terms. You agree that any termination of your access to our Services may be effected without prior notice, and acknowledge and agree that we may immediately deactivate or delete any of your accounts and all related information and files in such accounts and/or bar any further access to such files or our Services. Further, you agree that we will not be liable to you or any third party for any costs or damages of any kind for or resulting from any termination of your access to our Services. To voluntarily terminate your account please enter the account settings page and click unsubscribe from service at the bottom of the page.

Discontinuance of Services

We reserve the right at any time to modify or discontinue, temporarily or permanently, any portion of our Services with or without prior notice. You agree that we will not be liable to you or to any third party for any modification or discontinuance of our Services.

Customer Service / Technical Support

Please send questions to help@getspirit.io. You may also visit our support site at help.getspirit.io.

You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Services, including but not limited to the SPIRIT APP Application.

Blocking of IP Addresses

In order to protect the integrity of the Services, we reserve the right at any time in our sole discretion to block users from certain IP addresses from accessing our Services. If you believe you have been blocked in error, please contact us at support@spiritapp.co.

Representations and Warranties

You hereby represent and warrant to us that: (a) you have the full power and authority to enter into and perform under these Terms, (b) your use of our Services will not infringe the copyright, trademark, right of publicity or any other legal right of any third party, (c) you will comply with all applicable laws in using our Services and in engaging in all other activities arising from, relating to or connected with these Terms, including, without limitation, contacting other users of our Services, and (d) you own or otherwise have all rights necessary to license the content you submit and that the posting and use of your content by us will not infringe or violate the rights of any third party.

You further represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.

DISCLAIMER OF WARRANTIES

YOU AGREE THAT:

A. IF YOU USE OUR SERVICES, YOU DO SO AT YOUR OWN AND SOLE RISK. OUR SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. WE EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF

MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

B. WE DO NOT WARRANT THAT (A) OUR SERVICES WILL MEET YOUR REQUIREMENTS, (B) OUR SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (C) ANY INFORMATION THAT YOU MAY OBTAIN ON OUR SERVICES WILL BE ACCURATE OR RELIABLE, (D) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH OUR SERVICES WILL MEET YOUR EXPECTATIONS, (E) ANY INFORMATION YOU PROVIDE OR WE COLLECT WILL NOT BE DISCLOSED TO THIRD PARTIES OR (F) ANY ERRORS IN ANY DATA OR SOFTWARE WILL BE CORRECTED. WE ARE NOT RESPONSIBLE FOR ANY PROBLEMS OR TECHNICAL MALFUNCTION OF ANY TELEPHONE NETWORK OR LINES, COMPUTER ONLINE SYSTEMS, SERVERS OR PROVIDERS, COMPUTER EQUIPMENT, SOFTWARE, FAILURE OF EMAIL OR PLAYERS ON ACCOUNT OF TECHNICAL PROBLEMS OR TRAFFIC CONGESTION ON THE INTERNET OR AT ANY WEBSITE OR COMBINATION THEREOF, INCLUDING INJURY OR DAMAGE TO USERS OR TO ANY OTHER PERSON'S COMPUTER, MOBILE DEVICE, SMARTPHONE, TABLET, OR OTHER DEVICE RELATED TO OR RESULTING FROM PARTICIPATING OR DOWNLOADING MATERIALS IN CONNECTION WITH THE WEB AND/OR IN CONNECTION WITH THE SERVICES. UNDER NO CIRCUMSTANCES WILL WE OR ANY OF OUR AFFILIATES, ADVERTISERS, PROMOTERS OR DISTRIBUTION PARTNERS BE RESPONSIBLE FOR ANY LOSS OR DAMAGE, INCLUDING PERSONAL INJURY OR DEATH, RESULTING FROM ANYONE'S USE OF THE SERVICES, ANY CONTENT POSTED VIA OUR SERVICES OR TRANSMITTED TO USERS, OR ANY INTERACTIONS BETWEEN USERS OF THE SERVICES, WHETHER ONLINE OR OFFLINE. IN THE EVENT OF ANY FAILURE OF THE SPIRIT APP APPLICATION TO CONFORM TO ANY APPLICABLE WARRANTY, AND TO THE EXTENT THAT YOU HAVE OBTAINED THE SPIRIT APP APPLICATION FROM APPLE'S APP STORE, YOU MAY NOTIFY APPLE, AND APPLE WILL REFUND THE PURCHASE PRICE FOR THE SPIRIT APP APPLICATION TO YOU. TO THE MAXIMUM EXTENT PERMITTED BY LAW, APPLE WILL HAVE NO OTHER WARRANTY OBLIGATIONS WHATSOEVER WITH RESPECT TO THE SPIRIT APP APPLICATION. YOU ACKNOWLEDGE THAT APPLE HAS NO RESPONSIBILITIES FOR ADDRESSING ANY CLAIMS YOU OR ANY THIRD PARTY MAY HAVE RELATING TO THE SPIRIT APP APPLICATION OR YOUR POSSESSION AND/OR USE OF THE SPIRIT APP APPLICATION, INCLUDING BUT NOT LIMITED TO: (i) PRODUCT LIABILITY CLAIMS; (ii) ANY CLAIM THAT THE SPIRIT APP APPLICATION FAILS TO CONFORM TO ANY APPLICABLE LEGAL OR REGULATORY REQUIREMENT; AND (iii) CLAIMS ARISING UNDER CONSUMER PROTECTION OR SIMILAR LEGISLATION. C. IF YOU ACCESS OR TRANSMIT ANY CONTENT THROUGH THE USE

OF OUR SERVICES, YOU DO SO AT YOUR OWN DISCRETION AND YOUR SOLE RISK. YOU ARE SOLELY RESPONSIBLE FOR ANY LOSS OR DAMAGE TO YOU IN CONNECTION WITH SUCH ACTIONS. WE ARE NOT RESPONSIBLE FOR ANY INCORRECT OR INACCURATE CONTENT POSTED IN CONNECTION WITH THE SERVICES, WHETHER CAUSED BY USERS OF THE SERVICES OR BY ANY OF THE EQUIPMENT OR PROGRAMMING ASSOCIATED WITH OR UTILIZED IN THE SERVICES. WE ARE NOT RESPONSIBLE FOR THE CONDUCT, WHETHER ONLINE OR OFFLINE, OF ANY USER OF THE SERVICES. WE ASSUME NO RESPONSIBILITY FOR ANY ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMMUNICATIONS LINE FAILURE, THEFT OR DESTRUCTION OR UNAUTHORIZED ACCESS TO, OR ALTERATION OF, USER COMMUNICATIONS.

D. NO DATA, INFORMATION OR ADVICE OBTAINED BY YOU IN ORAL OR WRITTEN FORM FROM US OR THROUGH OR FROM OUR SERVICES WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TERMS.

LIMITS ON LIABILITY

A. YOU AGREE THAT WE WILL NOT BE LIABLE FOR ANY DAMAGES WHATSOEVER, INCLUDING DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES (EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING FROM, RELATING TO OR CONNECTED WITH: (A) THE USE OR INABILITY TO USE OUR SERVICES, (B) THE COST OF REPLACEMENT OF ANY GOODS, SERVICES OR INFORMATION PURCHASED OR OBTAINED AS A RESULT OF ANY INFORMATION OBTAINED FROM OR TRANSACTIONS ENTERED INTO THROUGH OR FROM OUR SERVICES, (C) DISCLOSURE OF, UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR CONTENT, (D) STATEMENTS, CONDUCT OR OMISSIONS OF ANY SERVICE PROVIDERS OR OTHER THIRD PARTY ON OUR SERVICES OR (E) ANY OTHER MATTER ARISING FROM, RELATING TO OR CONNECTED WITH OUR SERVICES OR THESE TERMS.

B. WE WILL NOT BE LIABLE FOR ANY FAILURE OR DELAY IN PERFORMING UNDER THESE TERMS WHERE SUCH FAILURE OR DELAY IS DUE TO CAUSES BEYOND OUR REASONABLE CONTROL, INCLUDING NATURAL CATASTROPHES, GOVERNMENTAL ACTS OR OMISSIONS, LAWS OR REGULATIONS, TERRORISM, LABOR STRIKES OR DIFFICULTIES, COMMUNICATIONS SYSTEMS BREAKDOWNS, HARDWARE OR SOFTWARE FAILURES, TRANSPORTATION STOPPAGES OR SLOWDOWNS OR THE INABILITY TO PROCURE SUPPLIES OR MATERIALS.

C. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE LIMITATIONS OF SECTIONS 16 AND 17 MAY NOT APPLY TO YOU.

Indemnity

You agree to defend, indemnify and hold us, and our subsidiaries, parents, affiliates, and each of our and their directors, officers, managers, members, partners agents and employees, harmless from any claim, demand, action, damage, loss, cost or expense, including without limitation, reasonable attorneys' fees, incurred in connection with any suit or proceeding brought against us arising out of your use of our Services or alleging facts or circumstances that could constitute a breach by you of any provision of these Terms and/or any of the representations and warranties set forth above. If you are obligated to indemnify us, we will have the right, in our sole and unfettered discretion, to control any action or proceeding and determine whether we wish to settle it, and if so, on what terms.

Copyright & Trademark Policy

© 2019 Spirit App, LLC. All rights reserved.

SPIRIT and SPIRIT (Stylized) and Design are trademarks of Spirit App, LLC. All rights reserved. You may not post, distribute, or reproduce in any way any copyrighted material, trademarks, or other proprietary information without obtaining the prior written consent of the owner of such proprietary rights. Without limiting the foregoing, if you believe that your work has been copied and posted through our Services in a way that constitutes copyright infringement please send us an email to: legal@getspirit.io

Digital Millennium Copyright Act

We respect the intellectual property rights of others and we expect users of the Website and Services do the same. It is our policy not to permit materials known by Spirit to infringe another party's copyright to remain on the Website or the SPIRIT APP Application or Services. If you believe that your work has been copied and is accessible in connection with our Services in a way that constitutes copyright infringement, or that the Website contains links or other references to another online location that contains material or activity that infringes your copyright rights,

you may notify Spirit App, LLC at legal@getspirit.io by providing the following information (as required by the Digital Millennium Copyright Act, 17 U.S.C. § 512) set forth below:

(i) Identification of the copyrighted work that you claim has been infringed, or, if multiple copyrighted works are covered by a single notification, a representative list of such works;

(ii) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit us to locate the material on the Website or the Services, such as a link to the infringing material;

(iii) Information reasonably sufficient to permit us to contact you, such as an address, telephone number, and, if available, an e-mail address, at which you may be contacted;

(iv) A statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;

(v) A statement by you (or your agent) that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive copyright that is allegedly infringed; and

(vi) A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive copyright that is allegedly infringed.

Spirit's Designated Copyright Agent for notification of claimed infringement can be notified by mail, facsimile or e-mail at the following:

legal@getspirit.io
Attn: Copyright Agent
Spirit App LLC
3423 Piedmont Rd NE
Atlanta, GA 30305

To the extent that there is a third party claim that the SPIRIT APP Application or your possession and use of the SPIRIT APP Application infringes that third party's intellectual property rights, you acknowledge that Apple has no responsibility for the investigation, defense settlement and discharge of any such intellectual property infringement claim.

User Disputes

You are solely responsible for your interactions with other users of our Services. We reserve the right, but have no obligation, to monitor disputes between you and other users.

Dispute Resolution

All disputes arising out of or relating to these Terms or your use of our Services will be exclusively resolved in a state or federal court located in Atlanta, Georgia to enforce these Terms or prevent an infringement of a third party's rights. Each party hereby irrevocably submits to the personal jurisdiction of such court.

Third Party Beneficiary

You acknowledge and agree that Apple and Apple's subsidiaries, are third party beneficiaries of the Terms, and that, upon your acceptance of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce the Terms against you as a third party beneficiary.

Miscellaneous

These Terms shall be interpreted in accordance with the laws of the State of Georgia without reference to conflict of law principles. These Terms contain the entire understanding of the parties regarding their subject matter, and supersede all prior and contemporaneous agreements and understandings between the parties regarding their subject matter. No failure or delay by a party in exercising any right, power or privilege under these Terms shall operate as a waiver thereof. The invalidity or unenforceability of any of these Terms shall not affect the validity or enforceability of any other of these Terms, all of which shall remain in full force and effect.