

Pockitapp Terms of Service and End User License Agreement

Last Updated: [12-15-17]

Welcome, and thank you for your interest in Pockit Inc. (“**Pockitapp**,” “**we**,” or “**us**”) and our website at www.Pockitapp.com, along with our related websites, networks, applications, mobile applications, and other services provided by us (collectively, the “**Service**”). These Terms of Service and End User License Agreement are a legally binding contract between you and Pockitapp regarding your use of the Service.

PLEASE READ THE FOLLOWING TERMS CAREFULLY.

BY CLICKING “I ACCEPT,” OR BY DOWNLOADING, INSTALLING, OR OTHERWISE ACCESSING OR USING THE SERVICE, YOU AGREE THAT YOU HAVE READ AND UNDERSTOOD, AND, AS A CONDITION TO YOUR USE OF THE SERVICE, YOU AGREE TO BE BOUND BY, THE FOLLOWING TERMS AND CONDITIONS, INCLUDING POKKITAPP’S PRIVACY POLICY (TOGETHER, THESE “**TERMS**”). IF YOU ARE NOT ELIGIBLE, OR DO NOT AGREE TO THE TERMS, THEN YOU DO NOT HAVE OUR PERMISSION TO USE THE SERVICE. YOUR USE OF THE SERVICE, AND POKKITAPP’S PROVISION OF THE SERVICE TO YOU, CONSTITUTES AN AGREEMENT BY POKKITAPP AND BY YOU TO BE BOUND BY THESE TERMS.

ARBITRATION NOTICE. Except for certain kinds of disputes described in Section 16, you agree that disputes arising under these Terms will be resolved by binding, individual arbitration, and BY ACCEPTING THESE TERMS, YOU AND POKKITAPP ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN ANY CLASS ACTION OR REPRESENTATIVE PROCEEDING. YOU AGREE TO GIVE UP YOUR RIGHT TO GO TO COURT to assert or defend your rights under this contract (except for matters that may be taken to small claims court). Your rights will be determined by a NEUTRAL ARBITRATOR and NOT a judge or jury. (See Section 16);

1. **Pockitapp Service Overview.** The Service allows you to collect and manage the change you are owed from various physical-world transactions on a digital platform. As a user of the Service, when you pay in cash at a Service-enabled retailer, you may choose to have your change (“**Change**”) loaded into your Service account (“**Account**”), rather than worry about carrying the loose Change around. You may either transfer the Change stored in your Service account (your “**Balance**”) (“**Transfer**”) to your bank account or donate to one of our partner charities (collectively, “**Linked Entities**”). You expressly authorize Pockitapp’s service provider, Dwolla, Inc. (“**Dwolla**”) to originate credit transfers to your accounts with Linked Entities. You authorize Pockitapp to share your identity and account data

with Dwolla for the purposes of completing such transfers, and you are responsible for the accuracy and completeness of that data.

2. **Eligibility.** You must be at least 18 years old to use the Service. By agreeing to these Terms, you represent and warrant to us that: (a) you are at least 18 years old; (b) you have not previously been suspended or removed from the Service; and (c) your registration and your use of the Service is in compliance with any and all applicable laws and regulations. If you are an entity, organization, or company, the individual accepting these Terms on your behalf represents and warrants that they have authority to bind you to these Terms and you agree to be bound by these Terms.
3. **Accounts and Registration.** You may collect Change in an Account without having registered, but to access most features of the Service (including to Transfer your Balance to a Linked Entity), you must register for an Account. Regardless of whether you register for an Account, we may require you to provide your mobile phone number or device UUID in order to collect Change through the Service. When you register for an Account, you may be required to provide us with some information about yourself, such as your name, email address, or other contact information. You agree that the information you provide to us is accurate and that you will keep it accurate and up-to-date at all times. When you register, you will be asked to provide a password. You are solely responsible for maintaining the confidentiality of your account and password, and you accept responsibility for all activities that occur under your Account. If you believe that your Account is no longer secure, then you must immediately notify us at info@Pockitapp.com.
4. **General Payment Terms.** Certain features of the Service may require you to pay fees. Before you pay any Fees (defined below), you will have an opportunity to review and accept the Fees that you will be charged. All Fees are in U.S. Dollars and are non-refundable.
 - 4.1 **Price.** Pockitapp reserves the right to determine pricing for the Service. Pockitapp charges a percentage of Change you collect through the Service (the “**Fee**”). The Fees are deducted immediately from the Change when you use the Service to make a deposit into your Account. Pockitapp will make reasonable efforts to keep pricing information published on the Service up to date. We encourage you to check the Service periodically for current pricing information. Pockitapp may change the Fees for any feature of the Service, including additional fees or charges, if Pockitapp gives you advance notice of changes before they apply. Pockitapp, at its sole discretion, may make promotional offers with different features and different pricing to any of Pockitapp’s customers. These promotional offers, unless made to you, will not apply to your offer or these Terms. The current rate card for the Service is [here](#).

- 4.2 **Authorization.** You authorize Pockitapp to deduct the Fee from your Change once your Change is deposited into your Account.

5. Licenses

- 5.1 **Limited License.** Subject to your complete and ongoing compliance with these Terms, Pockitapp grants you, solely for your personal, non-commercial use, a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to: (a) install and use one object code copy of any mobile application associated with the Service obtained from a legitimate marketplace (whether installed by you or pre-installed on your mobile device by the device manufacturer) on a mobile device that you own or control; and (b) access and use the Service.
- 5.2 **License Restrictions.** Except and solely to the extent such a restriction is impermissible under applicable law, you may not: (a) reproduce, distribute, publicly display, or publicly perform the Service; (b) make modifications to the Service; or (c) interfere with or circumvent any feature of the Service, including any security or access control mechanism. If you are prohibited under applicable law from using the Service, then you may not use it.
- 5.3 **Feedback.** If you choose to provide input and suggestions regarding problems with or proposed modifications or improvements to the Service (“**Feedback**”), then you hereby grant Pockitapp an unrestricted, perpetual, irrevocable, non-exclusive, fully-paid, royalty-free right to exploit the Feedback in any manner and for any purpose, including to improve the Service and create other products and services.
6. **Ownership; Proprietary Rights.** The Service is owned and operated by Pockitapp. The visual interfaces, graphics, design, compilation, information, data, computer code (including source code or object code), products, software, services, and all other elements of the Service (“**Materials**”) provided by Pockitapp are protected by intellectual property and other laws. All Materials included in the Service are the property of Pockitapp or its third party licensors. Except as expressly authorized by Pockitapp, you may not make use of the Materials. Pockitapp reserves all rights to the Materials not granted expressly in these Terms.

7. Managing Your Balance

- 7.1 Pockitapp may, at our discretion, impose limits on the amount of transactions and Transfers you conduct through the Service. These limits may change from time to time in Pockitapp’s sole discretion. Pockitapp does not offer the ability to access funds via ATM or at retail locations.

- 7.2 Your Balance consists of the funds you have in your Pockitapp account that are available for Transfer and are not subject to pending transactions.
- 7.3 The Service will provide you with the opportunity to Transfer any or all of your Balance. Once initiated, the Service will endeavor to have the Transfer completed within 4 days. Once a Transfer is initiated, your Balance will be reduced accordingly. If your Linked Entity is a charity, then the charity is responsible for providing you with any tax documentation.
- 7.4 Pockitapp is not a bank or other chartered depository institution. The amounts held by Pockitapp (or its service providers, including any bank service providers) in connection with the processing of transactions through the Service are not deposit obligations and are not insured for your benefit by the Federal Deposit Insurance Corporation or any other governmental agency.
- 7.5 You agree that you will not receive interest or any other earnings on the Balance that Pockitapp handles and places in pooled accounts. Pockitapp does not typically receive interest on funds held for its users.

7.6 **Unauthorized Transactions; Errors**

- An “**Unauthorized Transaction**” happens when money is sent from your Account that you have not authorized and that does not benefit you. For example, if your password is stolen and used to send money from your Account, an Unauthorized Transaction will be deemed to have occurred. If you share your log-in credentials with a third party, however, you are fully responsible for any actions that third-party takes under your Account, and those transactions are not Unauthorized Transactions.

- An “**Error**” happens when money is incorrectly credited to, or debited from, your Account, or any other time when a transaction is incorrectly recorded in your Account. Pockitapp will be liable for Errors solely in the following circumstances: (a) you initiate a Transfer and Pockitapp debits the incorrect amount from your Account, (b) Pockitapp credits an incorrect amount to your Account, as demonstrated by documentary evidence (e.g., a receipt), (c) a transaction is missing from or not correctly identified in your Account, (d) Pockitapp commits a computational or mathematical error.

- To report an Unauthorized Transaction or Error, you must identify with specificity the transaction that you believe was subject to an Unauthorized Transaction or Error. General requests for information will not constitute reports of Unauthorized Transactions or Errors. To report an Unauthorized Transaction, Error, or other unauthorized access to your Account, or if you believe your

Account has been compromised, please email info@Pockitapp.com within 7 days of your becoming aware of the Unauthorized Transaction or Error. Your notification must include the following information: your name, the email address associated with your Account, a description of the Unauthorized Transaction or Error and an explanation of why you believe the transaction is incorrect or whether you need more information to make such determination, the dollar amount in question, and the date of the transaction. Upon validating the Unauthorized Transaction or Error, Pockitapp will reimburse you for the amount compromised by such Unauthorized Transaction or Error.

- It is your responsibility to regularly log into your Account and review your transaction history to ensure no Unauthorized Transactions or Errors have occurred.

7.7 **Processing Errors.** If Pockitapp commits a processing error, then it will correct such error promptly after being discovering such error. For errors that result in your receipt of less than the amount of Change to which you are entitled, Pockitapp will credit your Balance for the difference. If the error results in your receipt of more than the correct amount to which you are entitled, then Pockitapp will debit the extra Change from your Balance, or if your Balance will not cover the extra Change, you authorize Pockitapp to withdraw the extra Change from your bank to correct the error.

8. Third Party Terms

8.1 **Third Party Services and Linked Websites.** Pockitapp may provide tools through the Service that enable you to export information, including User Content, to third party services. By using one of these tools, you agree that Pockitapp may transfer that information to the applicable third party service. Third party services are not under Pockitapp's control, and, to the fullest extent permitted by law, Pockitapp is not responsible for any third party service's use of your exported information. The Service may also contain links to third party websites (which may include websites of Linked Entities). Linked websites are not under Pockitapp's control, and Pockitapp is not responsible for their content.

8.2 **Third Party Software.** The Service may include or incorporate third party software components that are generally available free of charge under licenses granting recipients broad rights to copy, modify, and distribute those components ("**Third Party Components**"). Although the Service is provided to you subject to these Terms, nothing in these Terms prevents, restricts, or is intended to prevent or restrict you from obtaining Third Party Components under the applicable third party licenses or to limit your use of Third Party Components under those third party licenses.

9. User Content

9.1 **User Content Generally.** Certain features of the Service may permit users to upload content to the Service, including reviews, photos, folders, data, text, and other types of works (“**User Content**”) and to publish User Content on the Service. You retain any copyright and other proprietary rights that you may hold in the User Content that you post to the Service.

9.2 **Limited License Grant to Pockitapp.** By submitting, posting, publishing, or sharing User Content, you grant Pockitapp a worldwide, non-exclusive, royalty-free, fully paid right and license (with the right to sublicense) to host, store, transfer, display, perform, reproduce, modify for the purpose of formatting for display, and distribute your User Content, in whole or in part, in any media formats and through any media channels now known or hereafter developed, for the sole purpose of hosting User Content in your profile on the Service.

9.3 **User Content Representations and Warranties.** Pockitapp disclaims any and all liability in connection with User Content. You are solely responsible for your User Content and the consequences of submitting, posting, publishing, or sharing User Content. By submitting, posting, publishing, or sharing User Content, you affirm, represent, and warrant that:

- a. you are the creator and owner of the User Content, or have the necessary licenses, rights, consents, and permissions to authorize Pockitapp and users of the Service to use and distribute your User Content as necessary to exercise the licenses granted by you in this Section, in the manner contemplated by Pockitapp, the Service, and these Terms;
- b. your User Content, and the use of your User Content as contemplated by these Terms, does not and will not: (i) infringe, violate, or misappropriate any third party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; (ii) slander, defame, libel, or invade the right of privacy, publicity or other property rights of any other person; or (iii) cause Pockitapp to violate any law or regulation; and
- c. your User Content could not be deemed by a reasonable person to be objectionable, profane, indecent, pornographic, harassing, threatening, embarrassing, hateful, or otherwise inappropriate.

9.4 **User Content Disclaimer.** We are under no obligation to edit or control User Content that you or other users post or publish, and will not be in any way responsible or liable for User Content. Pockitapp may, however, at any time and without prior notice, screen, remove, edit, or block any User Content that in our sole judgment violates these Terms or is otherwise objectionable. You

understand that when using the Service you will be exposed to User Content from a variety of sources and acknowledge that User Content may be inaccurate, offensive, indecent, or objectionable. You agree to waive, and do waive, any legal or equitable right or remedy you have or may have against Pockitapp with respect to User Content. If notified by a user or content owner that User Content allegedly does not conform to these Terms, we may investigate the allegation and determine in our sole discretion whether to remove the User Content, which we reserve the right to do at any time and without notice. For clarity, Pockitapp does not permit copyright-infringing activities on the Service.

9.5 Monitoring Content. Pockitapp does not control and does not have any obligation to monitor: (a) User Content; (b) any content made available by third parties; or (c) the use of the Service by its users. You acknowledge and agree that Pockitapp reserves the right to, and may from time to time, monitor any and all information transmitted or received through the Service for operational and other purposes. If at any time Pockitapp chooses to monitor the content, Pockitapp still assumes no responsibility or liability for content or any loss or damage incurred as a result of the use of content. During monitoring, information may be examined, recorded, copied, and used in accordance with our Privacy Policy.

10. Prohibited Conduct. BY USING THE SERVICE YOU AGREE NOT TO:

- a. use the Service for any illegal purpose or in violation of any local, state, national, or international law;
- b. violate, or encourage others to violate, any right of a third party, including by infringing or misappropriating any third party intellectual property right;
- c. interfere with security-related features of the Service, including by: (i) disabling or circumventing features that prevent or limit use or copying of any content; or (ii) reverse engineering or otherwise attempting to discover the source code of any portion of the Service except to the extent that the activity is expressly permitted by applicable law;
- d. interfere with the operation of the Service or any user's enjoyment of the Service, including by: (i) uploading or otherwise disseminating any virus, adware, spyware, worm, or other malicious code; (ii) making any unsolicited offer or advertisement to another user of the Service; (iii) collecting personal information about another user or third party without consent; or (iv) interfering with or disrupting any network, equipment, or server connected to or used to provide the Service;
- e. perform any fraudulent activity including impersonating any person or entity, claiming a false affiliation, accessing any other Service account without permission;

- f. attempt to double dip during the course of a dispute by receiving or attempting to receive funds from both Pockitapp and the applicable Linked Entity for the same transaction;
 - g. sell or otherwise transfer the access granted under these Terms or any Materials (as defined in Section 6) or any right or ability to view, access, or use any Materials; or
 - h. attempt to do any of the acts described in this Section 10 or assist or permit any person in engaging in any of the acts described in this Section 10.
11. **Modification of these Terms.** We reserve the right to change these Terms on a going-forward basis at any time upon 7 days' notice. Please check these Terms periodically for changes. If a change to these Terms materially modifies your rights or obligations, you will be required to accept the modified Terms in order to continue to use the Service. Material modifications are effective upon your acceptance of the modified Terms. Immaterial modifications are effective upon publication. Except as expressly permitted in this Section 11, these Terms may be amended only by a written agreement signed by authorized representatives of the parties to these Terms. Disputes arising under these Terms will be resolved in accordance with the version of these Terms that was in effect at the time the dispute arose.

12. **Term, Termination and Modification of the Service**

- 12.1 **Term.** These Terms are effective beginning when you accept the Terms or first download, install, access, or use the Service, and ending when terminated as described in Section 12.2.
- 12.2 **Termination.** If you violate any provision of these Terms, your account and these Terms automatically terminate. In addition, Pockitapp may, at its sole discretion, terminate these Terms or your account on the Service, or suspend or terminate your access to the Service, at any time for any reason or no reason, with or without notice. You may terminate your account and these Terms at any time by contacting customer service at info@Pockitapp.com.
- 12.3 **Effect of Termination.** Upon termination of these Terms: (a) your license rights will terminate and you must immediately cease all use of the Service; (b) you will no longer have access to your Account; and (c) all payment obligations to Pockitapp that have accrued prior to termination and Sections 5.3, 6, 7.4, 7.5, 7.6, 12.3, 13, 14, 15, 16, and 17 will survive. Any Change in your Account will be immediately Transferred to a Linked Entity that is a bank.
- 12.4 **Modification of the Service.** Pockitapp reserves the right to modify or discontinue the Service at any time (including by limiting or discontinuing

certain features of the Service), temporarily or permanently, without notice to you. Pockitapp will have no liability for any change to the Service or any suspension or termination of your access to or use of the Service.

13. **Indemnity.** To the fullest extent permitted by law, you are responsible for your use of the Service, and you will defend and indemnify Pockitapp and its officers, directors, employees, consultants, affiliates, subsidiaries and agents (together, the “**Pockitapp Entities**”) from and against every claim brought by a third party, and any related liability, damage, loss, and expense, including reasonable attorneys’ fees and costs, arising out of or connected with: (a) your unauthorized use of, or misuse of, the Service; (b) your violation of any portion of these Terms, any representation, warranty, or agreement referenced in these Terms, or any applicable law or regulation; (c) your violation of any third party right, including any intellectual property right or publicity, confidentiality, other property, or privacy right; or (d) any dispute or issue between you and any third party. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you (without limiting your indemnification obligations with respect to that matter), and in that case, you agree to cooperate with our defense of those claims.

14. **Disclaimers; No Warranties**

THE SERVICE AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE SERVICE ARE PROVIDED “AS IS” AND ON AN “AS AVAILABLE” BASIS. POKKITAPP DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, RELATING TO THE SERVICE AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE SERVICE, INCLUDING: (A) ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, OR NON-INFRINGEMENT; AND (B) ANY WARRANTY ARISING OUT OF COURSE OF DEALING, USAGE, OR TRADE. POKKITAPP DOES NOT WARRANT THAT THE SERVICE OR ANY PORTION OF THE SERVICE, OR ANY MATERIALS OR CONTENT OFFERED THROUGH THE SERVICE, WILL BE UNINTERRUPTED, SECURE, OR FREE OF ERRORS, VIRUSES, OR OTHER HARMFUL COMPONENTS, AND POKKITAPP DOES NOT WARRANT THAT ANY OF THOSE ISSUES WILL BE CORRECTED.

NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THE SERVICE OR POKKITAPP ENTITIES OR ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE SERVICE WILL CREATE ANY WARRANTY REGARDING ANY OF THE POKKITAPP ENTITIES OR THE SERVICE THAT IS NOT EXPRESSLY STATED IN THESE TERMS. WE ARE NOT RESPONSIBLE FOR ANY DAMAGE THAT MAY RESULT FROM THE SERVICE AND YOUR DEALING WITH ANY OTHER SERVICE USER. YOU UNDERSTAND AND AGREE THAT YOU USE ANY PORTION OF THE SERVICE AT YOUR OWN DISCRETION AND RISK, AND THAT WE ARE NOT RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY (INCLUDING YOUR COMPUTER SYSTEM OR

MOBILE DEVICE USED IN CONNECTION WITH THE SERVICE) OR ANY LOSS OF DATA, INCLUDING USER CONTENT.

YOU ARE RESPONSIBLE FOR ALL REVERSALS, CHARGEBACKS, CLAIMS, FEES, FINES, PENALTIES AND OTHER LIABILITY INCURRED BY POKKITAPP OR A THIRD PARTY CAUSED BY OR ARISING OUT OF YOUR BREACH OF THIS AGREEMENT, AND/OR YOUR USE OF THE SERVICE. YOU AGREE TO REIMBURSE POKKITAPP OR THE APPLICABLE LINKED ENTITY FOR ANY AND ALL SUCH LIABILITY.

IF POKKITAPP DOES NOT COMPLETE A TRANSFER TO OR FROM YOUR ACCOUNT, OR USING YOUR SAVED LINKED ENTITY INFORMATION, ON TIME OR IN THE CORRECT AMOUNT ACCORDING TO THIS AGREEMENT, POKKITAPP WILL BE LIABLE FOR YOUR LOSSES OR DAMAGES TO THE EXTENT REQUIRED BY LAW. POKKITAPP WILL NOT BE LIABLE IF (A) THE FUNDS IN YOUR ACCOUNT ARE SUBJECT TO LEGAL PROCESS OR OTHER ENCUMBRANCE RESTRICTING THEIR USE; (B) THE SERVICE WAS NOT WORKING PROPERLY AND YOU KNEW ABOUT THE BREAKDOWN WHEN YOU STARTED THE TRANSFER; (C) THE TRANSFER APPEARS SUSPICIOUS, FRAUDULENT, OR UNAUTHORIZED, AND POKKITAPP CANNOT CONFIRM THAT IT IS A LEGITIMATE TRANSFER, OR IF YOUR ACCOUNT IS UNDER INVESTIGATION BY POKKITAPP; OR (D) THE TRANSFER IS OR APPEARS TO BE PROHIBITED BY ANY APPLICABLE LAW OR RULES.

THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS IN THIS SECTION APPLY TO THE FULLEST EXTENT PERMITTED BY LAW.

15. Limitation of Liability

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL THE POKKITAPP ENTITIES BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, OR ANY OTHER INTANGIBLE LOSS) ARISING OUT OF OR RELATING TO YOUR ACCESS TO OR USE OF, OR YOUR INABILITY TO ACCESS OR USE, THE SERVICE OR ANY MATERIALS OR CONTENT ON THE SERVICE, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT ANY POKKITAPP ENTITY HAS BEEN INFORMED OF THE POSSIBILITY OF DAMAGE.

EXCEPT AS PROVIDED IN SECTION 16.4(iii) AND TO THE FULLEST EXTENT PERMITTED BY LAW, THE AGGREGATE LIABILITY OF THE POKKITAPP ENTITIES TO YOU FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THE USE OF OR ANY INABILITY TO USE ANY PORTION OF THE SERVICE OR OTHERWISE UNDER THESE TERMS, WHETHER IN CONTRACT, TORT, OR OTHERWISE, IS LIMITED TO THE GREATER OF: (A) THE FEES YOU HAVE

PAID TO POCKITAPP IN THE 12 MONTHS PRIOR TO THE EVENT OR CIRCUMSTANCE GIVING RISE TO CLAIM; OR (B) \$100.

EACH PROVISION OF THESE TERMS THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED TO AND DOES ALLOCATE THE RISKS BETWEEN THE PARTIES UNDER THESE TERMS. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THESE TERMS. THE LIMITATIONS IN THIS SECTION 15 WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

16. **Dispute Resolution and Arbitration**

- 16.1 **Generally.** In the interest of resolving disputes between you and Pockitapp in the most expedient and cost effective manner, and except as described in Section 16.2, you and Pockitapp agree that every dispute arising in connection with these Terms will be resolved by binding arbitration. Arbitration is less formal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, may allow for more limited discovery than in court, and can be subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. This agreement to arbitrate disputes includes all claims arising out of or relating to any aspect of these Terms, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory, and regardless of whether a claim arises during or after the termination of these Terms. YOU UNDERSTAND AND AGREE THAT, BY ENTERING INTO THESE TERMS, YOU AND POCKITAPP ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.
- 16.2 **Exceptions.** Despite the provisions of Section 16.1, nothing in these Terms will be deemed to waive, preclude, or otherwise limit the right of either party to: (a) bring an individual action in small claims court; (b) pursue an enforcement action through the applicable federal, state, or local agency if that action is available; (c) seek injunctive relief in a court of law in aid of arbitration; or (d) to file suit in a court of law to address an intellectual property infringement claim.
- 16.3 **Arbitrator.** Any arbitration between you and Pockitapp will be settled under the Federal Arbitration Act and administered by the American Arbitration Association (“**AAA**”) under its Consumer Arbitration Rules (collectively, “**AAA Rules**”) as modified by these Terms. The AAA Rules and filing forms are available online at www.adr.org, by calling the AAA at 1-800-778-7879, or by contacting Pockitapp. The arbitrator has exclusive authority to resolve any dispute relating to the interpretation, applicability, or enforceability of this binding arbitration agreement.

16.4 Notice of Arbitration; Process. A party who intends to seek arbitration must first send a written notice of the dispute to the other party by certified U.S. Mail or by Federal Express (signature required) or, only if that other party has not provided a current physical address, then by electronic mail ("**Notice of Arbitration**"). Pockitapp's address for Notice is: Pockit Inc., 4767 New Broad Street, Orlando, FL 32814. The Notice of Arbitration must: (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought ("**Demand**"). The parties will make good faith efforts to resolve the claim directly, but if the parties do not reach an agreement to do so within 30 days after the Notice of Arbitration is received, you or Pockitapp may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by you or Pockitapp must not be disclosed to the arbitrator until after the arbitrator makes a final decision and award, if any. If the dispute is finally resolved through arbitration in your favor, Pockitapp will pay you the highest of the following: (i) the amount awarded by the arbitrator, if any; (ii) the last written settlement amount offered by Pockitapp in settlement of the dispute prior to the arbitrator's award; or (iii) \$10,000.

16.5 Fees. If you commence arbitration in accordance with these Terms, Pockitapp will reimburse you for your payment of the filing fee, unless your claim is for more than \$10,000, in which case the payment of any fees will be decided by the AAA Rules. Any arbitration hearing will take place at a location to be agreed upon in Orange County, Florida, but if the claim is for \$10,000 or less, you may choose whether the arbitration will be conducted: (a) solely on the basis of documents submitted to the arbitrator; (b) through a non-appearance based telephone hearing; or (c) by an in-person hearing as established by the AAA Rules in the county (or parish) of your billing address. If the arbitrator finds that either the substance of your claim or the relief sought in the Demand is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all fees will be governed by the AAA Rules. In that case, you agree to reimburse Pockitapp for all monies previously disbursed by it that are otherwise your obligation to pay under the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator must issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the decision and award, if any, are based. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees or expenses at any time during the proceeding and upon request from either party made within 14 days of the arbitrator's ruling on the merits.

16.6 No Class Actions. YOU AND POCKITAPP AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless

both you and Pockitapp agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding.

16.7 Modifications to this Arbitration Provision. If Pockitapp makes any future change to this arbitration provision, other than a change to Pockitapp's address for Notice of Arbitration, you may reject the change by sending us written notice within 30 days of the change to Pockitapp's address for Notice of Arbitration, in which case your account with Pockitapp will be immediately terminated and this arbitration provision, as in effect immediately prior to the changes you rejected will survive.

16.8 Enforceability. If Section 16.6 is found to be unenforceable or if the entirety of this Section 16 is found to be unenforceable, then the entirety of this Section 16 will be null and void and, in that case, the parties agree that the exclusive jurisdiction and venue described in Section 17.1 will govern any action arising out of or related to these Terms.

17. General Terms. These Terms, together with the Privacy Policy and any other agreements expressly incorporated by reference into these Terms, are the entire and exclusive understanding and agreement between you and Pockitapp regarding your use of the Service. You may not assign or transfer these Terms or your rights under these Terms, in whole or in part, by operation of law or otherwise, without our prior written consent. We may assign these Terms at any time without notice or consent. The failure to require performance of any provision will not affect our right to require performance at any other time after that, nor will a waiver by us of any breach or default of these Terms, or any provision of these Terms, be a waiver of any subsequent breach or default or a waiver of the provision itself. Use of section headers in these Terms is for convenience only and will not have any impact on the interpretation of any provision. Throughout these Terms the use of the word "including" means "including but not limited to". If any part of these Terms is held to be invalid or unenforceable, the unenforceable part will be given effect to the greatest extent possible, and the remaining parts will remain in full force and effect.

17.1 Governing Law. These Terms are governed by the laws of the State of Florida without regard to conflict of law principles. You and Pockitapp submit to the personal and exclusive jurisdiction of the state courts and federal courts located within Orange County, Florida for resolution of any lawsuit or court proceeding permitted under these Terms. We operate the Service from our offices in Florida, and we make no representation that Materials included in the Service are appropriate or available for use in other locations.

17.2 Privacy Policy. Please read the Pockitapp [Privacy Policy](#) carefully for information relating to our collection, use, storage, disclosure of your personal information. The Pockitapp Privacy Policy is incorporated by this reference into, and made a part of, these Terms.

- 17.3 **Additional Terms.** Your use of the Service is subject to all additional terms, policies, rules, or guidelines applicable to the Service or certain features of the Service that we may post on or link to from the Service (the “**Additional Terms**”). All Additional Terms are incorporated by this reference into, and made a part of, these Terms.
- 17.4 **Consent to Electronic Communications.** By using the Service, you consent to receiving certain electronic communications from us as further described in our Privacy Policy. Please read our Privacy Policy to learn more about our electronic communications practices. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that those communications be in writing.
- 17.5 **Contact Information.** The Service is offered by Pockit Inc., located at 4767 New Broad Street, Orlando, FL 32814. You may contact us by sending correspondence to that address or by emailing us at info@Pockitapp.com. You can access a copy of these Terms by clicking here: <http://tos.pockitapp.com/>.
- 17.6 **Notice to California Residents.** If you are a California resident, under California Civil Code Section 1789.3, you may contact the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs in writing at 1625 N. Market Blvd., Suite S-202, Sacramento, California 95834, or by telephone at (800) 952-5210 in order to resolve a complaint regarding the Service or to receive further information regarding use of the Service.
18. **Notice Regarding Apple.** This Section 18 only applies to the extent you are using our mobile application on an iOS device. You acknowledge that these Terms are between you and Pockitapp only, not with Apple Inc. (“**Apple**”), and Apple is not responsible for the Service or the content thereof. Apple has no obligation to furnish any maintenance and support services with respect to the Service. If the Service fails to conform to any applicable warranty, you may notify Apple and Apple will refund any applicable purchase price for the mobile application to you; and, to the maximum extent permitted by applicable law, Apple has no other warranty obligation with respect to the Service. Apple is not responsible for addressing any claims by you or any third party relating to the Service or your possession and/or use of the Service, including: (a) product liability claims; (b) any claim that the Service fails to conform to any applicable legal or regulatory requirement; or (c) claims arising under consumer protection or similar legislation. Apple is not responsible for the investigation, defense, settlement and discharge of any third party claim that the Service and/or your possession and use of the Service infringe a third party’s intellectual property rights. You agree to comply with any applicable third party terms when using the Service. Apple and Apple’s subsidiaries are third party beneficiaries of these Terms, and upon your acceptance of these Terms,

Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third party beneficiary of these Terms. You hereby 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.