

## JEROME'S FURNITURE TERMS OF USE

Effective Date: [April 22, 2019]

Welcome to the Jerome's Furniture Platform!

BY ACCESSING OR USING THE PLATFORM YOU ARE INDICATING THAT YOU HAVE READ AND UNDERSTAND THE TERMS, AND THAT YOU AGREE TO COMPLY WITH AND BE LEGALLY BOUND BY THE TERMS.

IF YOU DO NOT AGREE TO THE TERMS, YOU MAY NOT ACCESS OR USE THE PLATFORM.

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### 1. ABOUT THE TERMS

#### 1.1 Key Terms

As used in these Terms of Use:

- **"App"** refers to any downloadable application (including, a mobile application) owned or operated by JF. References to the "App" include any and all features, functionality, tools and content available on or through each such application.
- **"Platform"** refers, collectively, to the Website, App and other technology through which JF provides its content.
- **"User Content"** refers to videos, text, photos, information and other content captured, recorded, stored, shared or otherwise made available or caused to be made available by Users on or through the Platform. **"Your Content"** refers to User Content that is provided or made available or caused to be made available by you.
- **"Users"** means any and all persons that access or use the Platform. References to "access" and/or "use" of the Platform (and any variations thereof) include the acts of accessing or browsing the Website or App.
- **"Website"** refers to any website owned or operated by JF (including the website currently located at [www.jeromes.com](http://www.jeromes.com)). References to the "Website" include any and all content, features, functionality, and tools available on or through each such website.
- **"JF," "we," or "us"** refer to Jerome's Furniture Warehouse and our officers, directors, employees, contractors and agents.

## **1.2 Platform Rules and Supplemental Terms**

Your access to and use of the Platform is governed by the terms and conditions of these Terms of Use, our Privacy Policy, currently located at [www.jeromes.com/privacy](http://www.jeromes.com/privacy) (as described in more detail below), any and all other policies and rules referenced herein, posted on the platform, or otherwise communicated to users (the “**Platform Rules**”).

Certain of the features, functionality, tools, content and promotions available on or through the Platform may be subject to additional or supplemental terms and conditions (“**Supplemental Terms**”). If you choose to access or use those features, functionality, tools or content or participate in those promotions, the applicable Supplemental Terms are also incorporated and deemed part of these Terms of Use.

If there is a conflict between these Terms of Use and the Supplemental Terms, the Supplemental Terms will govern and control with respect to the applicable features, functionality, tools, content and promotions.

PLEASE READ THESE TERMS OF USE, OUR PRIVACY POLICY, PLATFORM RULES AND ALL APPLICABLE SUPPLEMENTAL TERMS (COLLECTIVELY, THE “**TERMS**”) CAREFULLY, AS THEY CONTAIN TERMS AND CONDITIONS THAT IMPACT YOUR RIGHTS, OBLIGATIONS AND REMEDIES IN CONNECTION WITH YOUR USE OF THE PLATFORM. FOR EXAMPLE, THE TERMS INCLUDE:

- THE FUNCTIONAL LIMITATIONS OF THE PLATFORM;
- YOUR OBLIGATION TO COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS;
- LIMITATIONS OF OUR LIABILITY TO YOU; AND
- A REQUIREMENT THAT YOU PURSUE CLAIMS OR SEEK RELIEF AGAINST US (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ON AN INDIVIDUAL BASIS, RATHER THAN AS A PARTICIPANT IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING.

YOUR ACCESS TO AND USE OF THE PLATFORM IS CONDITIONED ON YOUR ACCEPTANCE OF AND COMPLIANCE WITH THESE TERMS.

## **1.3 Amendment of Terms**

JF reserves the right, in its sole discretion, to amend the Terms, at any time and without prior notice, including to change, modify, add to, update or remove terms and conditions (collectively “amend” or “update”). If we choose to amend the Terms, we will update the Effective Date at the top of the Terms and post the updated version. We may also, at our option, choose to notify you by e-mail or another means. By continuing to use the Platform after we have posted an updated version of the Terms or otherwise notified you of an update, you are affirming that you agree to be bound by the amended Terms. This provision is subject to a few limitations in the “Dispute Resolution” section below. If the amended Terms are not acceptable to you, your only recourse is to stop using the Platform.

No other modification, amendment, supplement of or to the Terms will be binding on JF unless it is in writing and signed by an authorized representative of JF.

## **1.4 Consequences of Non-Compliance**

Your failure to comply with the Terms may result in the suspension or termination of your access to the Platform, and may subject you to civil and criminal penalties.

# **2. IMPORTANT INFORMATION ABOUT THE PLATFORM**

## **2.1 License to Use**

Subject to your compliance with the Terms, JF grants you a limited non-exclusive, non-transferable, non-assignable and non-sublicensable license to access and use the Platform, including the right to download and install a copy of the App on each mobile device that you own or control, for your own personal use only, and not for use for any business purpose or commercial activity. This license is granted for the sole purpose of enabling you to use and enjoy the benefit of the Platform as provided by JF, in the manner permitted by the Terms.

## **2.2 Service Limitations**

The Platform is currently configured for use in the United States only and is not intended for use outside of United States. The products sold by JF through the Platform may not be available in your state. Please check the Website or App for additional information on where JF can deliver.

## **2.3 Acknowledgements**

YOU AFFIRM THAT YOU HAVE READ THE FOREGOING AND ACKNOWLEDGE THAT:

- JF DOES NOT AND CANNOT GUARANTEE THAT THE PLATFORM WILL BE CONTINUOUS OR ERROR-FREE, OR THAT THE PRODUCTS SOLD THROUGH THE WEBSITE ARE OR WILL BE AVAILABLE IN YOUR AREA.
- IF YOUR MOBILE OR DATA PLAN SERVICES OR ACCESS TO THE INTERNET OR OUR PLATFORM IS/ARE SUSPENDED, CANCELLED OR TERMINATED (E.G., AS A RESULT OF BILLING ISSUES OR OTHER BREACH), YOU MAY NOT BE ABLE TO USE SOME OR ALL OF THE PLATFORM.
- YOU ARE EXCLUSIVELY RESPONSIBLE FOR YOUR USE OF THE PLATFORM AND YOUR CONTENT. ABUSE OF THE PLATFORM MAY SUBJECT YOU TO CIVIL AND CRIMINAL FINES AND PENALTIES.

## **2.4 Modifications and Updates to the Platform**

JF reserves the right, in its sole discretion, to modify or discontinue offering the Website and/or App, in whole or in part, any features, functionality, content or tools thereof, at any time, for any reason or no reason, with or without notice to you. We also retain the right to impose limits on your use and storage of Your Content at our sole discretion at any time without prior notice to you.

We may from time to time develop and provide updates for the App, which may include upgrades, bug fixes, patches and other error corrections and/or new features, functionality, tools or content (collectively, “**Updates**”). Updates may also modify or delete features, functionality, tools or content in their entirety. Based on your mobile device settings, when your mobile device is connected to the internet either: (a) the Updates will automatically download and install; or (b) you may receive notice of or be prompted to download and install available Updates. Please promptly download and install all Updates. If you do not, portions of the App may not properly operate. All Updates will be deemed part of the App and be subject to all terms and conditions of the Terms.

You agree that JF has no obligation to provide any updates or to continue to provide or enable any particular features, functionality, tools or content, and will not be liable with respect to any such modifications, discontinuance or deletions.

## **2.5 International Users**

The Platform is controlled and operated within the United States and is not intended for use outside of the United States. You are hereby prohibited from accessing or using the Platform from any territory where the Platform or any of the features, functionality, tools, content thereof, is illegal. If you choose to access the Platform from a location outside the United States, you do so at your own risk and you are solely responsible for compliance with applicable laws, rules and regulations, including export laws and any regulations and local laws regarding online conduct and content.

## **3. PURCHASES; PAYMENT**

### **3.1 Prices**

You acknowledge that the amount billed may vary due to promotional offers or changes in applicable taxes or other charges, and you authorize us (or our third party-payment processor) to charge your payment method for the corresponding amount. We reserve the right to adjust product prices as we may determine in our sole discretion, at any time and without notice.

### **3.2 Payment/ Credit Cards**

YOU ARE RESPONSIBLE FOR PROVIDING JF WITH VALID CREDIT CARD OR PAYMENT ACCOUNT DETAILS AND FOR THE TIMELY PAYMENT OF ALL FEES. Please note that the payment information, including name and contact information, that you submit when you register may be used and shared with our payment processing services provider and otherwise used in accordance with our Privacy Policy.

### **3.3 Orders; Refunds**

All of the products sold through the Platform are subject to availability, and we reserve the right to impose quantity limits on any order, to reject all or part of an order, to discontinue offering certain products and to substitute products without prior notice. Unless JF agrees or states otherwise in writing, all fees and charges are nonrefundable.

### **3.4 Shipping; Deliveries**

You agree to pay any shipping and handling charges shown at the time you make a purchase. When you purchase a product through our Platform, any shipping times shown are estimates only. Actual delivery dates may vary. All products should be shipped to you personally and are not for resale or export.

Any individual at the delivery address who accepts a delivery from us is presumed to be authorized to receive such delivery. In cases in which you have designated an alternative receiver, such person shall accept the delivery under all of the same terms and conditions that would apply had you accepted the delivery yourself.

If you are not at home when your delivery arrives, the courier will generally leave the package for you at your door, unless other delivery instructions have been communicated to you. All deliveries will be made in accordance with JF's [Delivery Policy](#) and are subject to JF's [Return Policy](#).

## **4. USER CONDUCT GUIDELINES**

Any time you access or use the Platform, you are required to comply with our User conduct guidelines, as set forth below.

You agree that you will access and use the Platform for your personal use only.

**Public Areas:** Your Content that you share may be viewed by other Users and by other persons or entities, including through third party services and websites. Thus, you should only share or post store videos, images, information and other content that you are comfortable sharing with others.

You agree that you will not access or use the Platform to capture, record, upload, stream, share or store any video or images, or otherwise act in any manner, that:

- is intended to perpetrate a hoax or otherwise defraud, mislead or deceive any person or entity;
- violates, breaches or circumvents any local, state, federal or other law, rule or regulation, including any ruling or order of a court or administrative body;
- violates, breaches or circumvents the rights of any person or entity, including infringing or misappropriating such party's patent, copyright, trademark, trade secret, moral rights or other intellectual property rights, or rights of publicity or privacy;
- is defamatory, obscene, pornographic, vulgar, lewd, offensive or unlawful;
- promotes discrimination, bigotry, racism, hatred, harassment or harm against any individual or group;
- is inflammatory, abusive, violent or threatening or promotes violence or actions that are threatening to any other person;
- promotes illegal or harmful activities or substances; or
- is harmful to children

Without limiting the above, you are not authorized to access or use the Platform:

- to impersonate any person or entity, or falsify or otherwise misrepresent your identity, credentials, affiliations or intentions;
- to collect, store or use any information from or about another User;
- to “stalk” or harass any other User;
- to distribute unsolicited commercial or bulk electronic communications (or, “spam”), chain letters or “pyramid” schemes;
- for political campaigning, recruiting votes or soliciting donations or other support for legislative or other initiatives;
- to systematically retrieve information or content to create or compile, directly or indirectly, in single or multiple downloads, a collection, compilation, database, directory or the like, whether by manual methods, through the use of bots, crawlers, or spiders, or otherwise;
- if you are not able to form legally binding contracts (for example, if you are under 18);
- if you are a person barred from receiving services under the laws of the United States or other applicable jurisdiction; or
- for any other purposes that are not expressly permitted by the Terms.

Further, you may not:

- access, copy, distribute, share, publish, use or store any JF content, including any information from or about any other User, for purposes that are inconsistent with our Privacy Policy, or otherwise violate the privacy rights or any other rights of other Users or any other third party, including by disclosing, selling, renting, distributing or exposing any such content to a third party, using it for marketing purposes, or otherwise using it for any purposes unrelated to the Platform;
- access, copy, distribute, share, publish, use or store, or prepare derivative works from any content that belongs to JF, another User or to a third party, including works covered by any copyrights, trademark, patent, or other intellectual property right, except with prior express permission of the person or entity party holding the rights to license such use;
- circumvent our system or, policies, including by attempting to access or use the Platform if you have been temporarily or permanently prohibited or blocked from using the Platform;
- access, search, collect information from, or otherwise interact with the Platform by “scraping,” “crawling” or “spidering” the Platform, by the use of any software, device, script or robot, or by any other means (automated or otherwise) other than through the currently available, published interfaces that are provided by JF, unless you have been specifically authorized to do so in a separate agreement with JF;
- use, display, mirror or frame the Platform, or any feature, functionality, tool or content of the Platform, JF’s name, any JF trademark, logo or other proprietary information, without JF’s express written consent;
- interfere with, disrupt, damage or compromise the Platform or our systems or the access of any User, host or network in any way, including through the use of viruses, cancel bots, Trojan horses, harmful code, flood pings, denial-of-service attacks, backdoors, packet or IP spoofing, forged routing or electronic mail address information or similar methods or technology or by overloading, flooding, spamming, mail-bombing the Platform or otherwise imposing an unreasonable or disproportionately large load on the Platform;
- access, tamper with or use non-public areas of any of the Platform, JF’s computer systems, or the technical delivery systems of JF’s providers;
- probe, scan, or test the vulnerability of any system or network of JF or its providers, or breach or circumvent any security or authentication measures of such system or network;

- avoid, bypass, remove, deactivate, impair, descramble, or otherwise circumvent any technological measure implemented by JF or any of JF’s providers or any other third party to protect the Platform;
- forge any TCP/IP packet header or any part of the header information in any e-mail or posting, or in any way use the Platform to send altered, deceptive or false source-identifying information;
- attempt to decipher, decompile, disassemble or reverse engineer any of the code or software used to provide the Platform;
- export or re-export the Platform, except in compliance with the export control laws and regulations of any relevant jurisdictions;
- otherwise abuse the Platform or breach the Terms; or
- attempt to do any of the foregoing, or advocate, encourage or assist any third party in doing any of the foregoing.

#### **4.1 Responsibility for User Content**

Ultimately, all User Content, whether publicly posted or privately transmitted, is the sole responsibility of the User who originated such content. We do not endorse, support, represent or guarantee the completeness, truthfulness, accuracy, or reliability of any User Content or endorse any opinions expressed in such User Content. You understand that by using the Platform, you may be exposed to User Content that is offensive, harmful, inaccurate, misleading, fraudulent or otherwise inappropriate. Under no circumstances will JF be liable in any way for any User Content, including, but not limited to, any errors or omissions in any User Content, or any loss or damage of any kind incurred as a result of any User Content.

We may, but are not required to monitor or control the User Content captured, recorded, uploaded, streamed, shared or stored on or through the Platform, and we cannot take responsibility for such User Content. Any use or reliance on any User Content is at your own risk.

#### **4.2 Reporting Misconduct**

If you feel that another User has violated the Terms, abused the Platform or otherwise acted inappropriately, you may report the User to JF at [customerservice@jeromes.com](mailto:customerservice@jeromes.com). JF reserves the right, but assumes no obligation, to investigate and take appropriate action in response to such reports. Regardless of its action or inaction, in no event will JF be liable for the acts or omissions of any User or any third party.

If you are a California resident, you may also report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 400 R Street, Sacramento, CA 95814, or by telephone at (800) 952-5210. See the “California Residents” subsection below for the full information required under California Civil Code §1789.3.

#### **4.3 Investigations**

JF reserves the right to investigate and prosecute violations of any and all reports, complaints and claims, or otherwise suspected misconduct or violations of the law to the fullest extent of the law.

Without limiting the foregoing, you acknowledge that JF has the right, but not the obligation, at any time and without prior notice, to monitor access to or use of the Platform by any User, to access, review, preserve and disclose any User Content, or to remove or disable access to any User Content, if we believe in good faith that it is reasonably necessary (i) to comply with any law or regulation or satisfy any legal process or governmental request (for example, a subpoena, warrant, order or other requirement of a court, administrative agency or other governmental body), (ii) to respond to claims asserted against JF, (iii) to enforce and to ensure a User’s compliance with the Terms, including the investigation of potential violations, (iv) to conduct risk assessments, and prevent, detect and investigate incidents of fraud, security and technical issues, (v) to protect the rights, property or safety of JF, its Users or members of the public, and (vi) for the purpose of operating and improving the Platform (including for customer support purposes).

#### **4.4 User Cooperation**

You agree to cooperate with and assist JF or its representative in good faith, in any such investigations, including by providing us with such information as we may reasonably request.

#### **4.5 Policy Enforcement**

When an issue arises, we reserve the right to consider such User's performance history and the specific circumstances in applying our policies, and to determine how strictly to enforce such policies in an effort to achieve a fair outcome for all parties involved.

### **5. INTELLECTUAL PROPERTY OWNERSHIP**

#### **5.1 The Platform**

The Platform, including Website, App and all features, functionality, content and tools thereof, is protected by copyright, trademark, patent and other laws of the United States and foreign countries. You acknowledge and agree that the Platform, and all intellectual property rights therein are the exclusive property of JF and its licensors. You will not remove, alter or obscure any copyright, trademark, service mark, patent marking, or other proprietary rights notices incorporated in or accompanying the Platform.

Without limiting the foregoing, you acknowledge and agree that the trade names, logos, and other trademarks and service marks associated with JF (the "**JF Marks**") are the property of JF, and that you are not permitted to use the JF Marks without our prior written consent.

You may not use, copy, reproduce, distribute, license, sell, transfer, publish, post, publicly display, publicly perform, transmit, broadcast, adapt, modify, prepare derivative works based upon, or otherwise exploit any features, functionality, tools or content of the Platform in any form or by any means, or sublicense the rights granted in the Terms, except as expressly permitted herein, without the prior written permission of JF or the intellectual property owner, as applicable.

This foregoing license is subject to modification or revocation at any time at JF's sole discretion.

No licenses or rights are granted to you by implication or otherwise under any intellectual property rights owned or controlled by JF or its licensors, except for the licenses and rights expressly granted in the Terms. All rights not expressly granted to you by the Terms are hereby reserved.

#### **5.2 Your Content**

By capturing, recording, uploading, sharing or storing Your Content, you hereby grant JF a worldwide, non-exclusive, transferable, sublicensable, royalty-free right and license to use, copy, reproduce, process, adapt, modify, distribute, post, broadcast, publicly perform, publish and display Your Content in any and all media as necessary to provide the Platform to you, including, customer support services, and otherwise operate the Platform, including for product development and de-bugging purposes. Such additional uses by JF may be made with no compensation paid to you.

We may modify or adapt Your Content in order to transmit, display or distribute it over computer networks and in various media and/or make changes to Your Content as necessary to conform and adapt that content to any requirements or limitations of any networks, devices, services or media.

JF does not claim any ownership rights in Your Content and nothing in the Terms will be deemed to restrict any rights that you may have to use and exploit any such content, subject only to the licenses granted to JF under these Terms.

You acknowledge and agree that you are solely responsible for Your Content, and for any consequences thereof, including the use of Your Content by other users and our third party partners.

You represent and warrant that you have all the rights, power and authority necessary to grant the rights granted herein to Your Content, and that neither Your Content, nor JF's use of Your Content (or any portion thereof) on or through the Platform will infringe, misappropriate or violate the rights of any person or entity, including patent, copyright, trademark, trade secret, moral rights, industrial rights, database rights or other proprietary or

intellectual property rights, rights of publicity or privacy or data protection or contractual rights, or result in the violation of any applicable law or regulation.

JF will not be responsible or liable for any use of Your Content by JF, any other User, or any third party in accordance with the Terms.

### **5.3 Feedback**

We welcome and encourage you to provide feedback, comments, ideas and suggestions for improvements, enhancements and modifications to the Platform (“**Feedback**”). You may submit Feedback by e-mailing us, at [customerservice@jeromes.com](mailto:customerservice@jeromes.com). You acknowledge and agree that all Feedback you give us (i) will be treated as non-confidential, and (ii) will be the sole and exclusive property of JF. Without limiting the foregoing, you acknowledge that your Feedback may be disseminated or used by JF or its affiliates for any purpose whatsoever, including developing, improving and marketing products. You hereby irrevocably transfer and assign to JF all of your right, title, and interest in and to all Feedback, including all worldwide patent, copyright, trade secret, moral and other proprietary or intellectual property rights therein, and waive any moral rights you may have in such Feedback.

You agree to sign and deliver such documents, and otherwise provide such assistance, as may reasonably be required from time to time to perfect JF’s rights in such improvements, enhancements and modifications.

## **6. COPYRIGHT POLICY**

JF respects copyright law and the intellectual property rights of others, and we expect our Users to do the same. We will respond to notices of alleged copyright infringement that comply with applicable law and are properly provided to us. In appropriate circumstances, we will restrict access for Users who are determined to be repeated copyright infringers.

If you believe that your proprietary work has been copied in a way that constitutes copyright infringement by any content or material on our Platform, please e-mail our registered agent for notification of claims of infringement pursuant to Section 512(c) of the Copyright Act at [dmca@jeromes.com](mailto:dmca@jeromes.com). In your notice, please provide the following information:

1. a physical or electronic signature of a person authorized to act on behalf of the owner of the copyright;
2. a description of the copyrighted work that you claim has been infringed;
3. a description of the material that you claim 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 sufficient to permit us to locate the material;
4. your contact information, including your address, telephone number and e-mail address;
5. a statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
6. a statement that the information in the notification is accurate and, under penalty of perjury, that you are the copyright owner or are authorized to act on behalf of the owner of a copyright that is allegedly infringed.

We reserve the right to remove User Content alleged to be infringing without prior notice, at our sole discretion.

If you believe that any of Your Content was subsequently removed from the Platform, or to which access was disabled, were improperly removed or disabled, please provide the following Counter-Notification to our Copyright Agent (see 17 U.S.C. Section 512(g) for further detail):

1. your physical or electronic signature.
2. a description of the materials that have been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled.



3. a statement, under penalty of perjury, that you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled.

4. your name, address and telephone number, and a statement that you consent to the jurisdiction of the Federal District Court for the judicial district in which the address is located, and that you will accept service of process from the person who provided notification of the alleged infringement.

(See 17 U.S.C. Section 512(c)(3) for further detail about the Digital Millennium Copyright Act).

Our designated copyright agent for notice of alleged copyright infringement is:

Copyright Agent  
16960 Mesamint Street  
San Diego, CA 92127  
E-mail: [dmca@jeromes.com](mailto:dmca@jeromes.com)

## **7. NO ENDORSEMENTS**

### **7.1 Users**

Users are required by the Terms to provide accurate information and, although JF may conduct certain limited checks and/or institute certain processes designed to help verify information provided by Users, we do not guarantee the completeness or accuracy of any information provided by any User, including the User's purported identity, credentials or background.

We recommend that you exercise due diligence when deciding to communicate or interact with another User, and we will not be responsible or liable for any damage or harm resulting from your interactions with other Users.

### **7.2 Links to Third Party Websites and Services**

The Platform may also provide links to third-party websites, resources or services. You acknowledge and agree that JF is not responsible or liable for (i) the availability, terms or practices of such websites, resources or services, or (ii) the content, products or services available on or through such websites, resources or services, including that any information provided is complete, accurate or up-to-date. Links to such websites, resources or services do not imply any endorsement by JF of such websites, resources or services or the content, products or services available on or through such websites, resources or services. You acknowledge sole responsibility for and assume all risk arising from your use of any such websites, resources or services or the content, products or services available on or through such websites or services.

We will not be responsible or liable for any damage or harm resulting from your interactions with such websites or services, or the content, products or services available on or through such websites or services.

## **8. APPS DOWNLOADED FROM THIRD PARTY APP STORES**

Our App may be available for download from third party app stores which are not owned or operated by JF. When downloading, installing, accessing, using or browsing the App, you must comply with any applicable third party terms and conditions, including any End User License Agreement, your mobile device agreement or any wireless data service agreement, and ensure that your use of the App is not in violation of any such terms or conditions.

Without limiting the foregoing, any Apps accessed through or downloaded from Apple's App Store (an "**App Store Download**") may only be used (i) on an Apple-branded product that runs the iOS (Apple's proprietary operating system), and (ii) as permitted by the "Usage Rules" set forth in the Apple App Store Terms and Conditions.

Without limiting the foregoing, the following applies to App Store Downloads:

- You acknowledge and agree that (i) these Terms are between you and JF only, and not Apple, and (ii) JF, not Apple, is solely responsible for the App Store Download and content thereof. Your use of the App Store Download must comply with the App Store Terms and Conditions.
- You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the App Store Download.

- In the event of any failure of the App Store Download to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the App Store Download to you and to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App Store Download. As between JF and Apple, any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be the sole responsibility of JF.
- You acknowledge that, as between JF and Apple, Apple is not responsible for addressing any claims you have or any claims of any third party relating to the App Store Download or your possession and use of the App Store Download, including: (i) product liability claims; (ii) any claim that the App Store Download fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.
- You acknowledge that, in the event of any third-party claim that the App Store Download or your possession and use of that App Store Download infringes that third party's intellectual property rights, as between JF and Apple, JF, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by the Terms.
- You acknowledge and agree that Apple and its subsidiaries, are third-party beneficiaries of the Terms as related to your license of the App Store Download, and that, upon your acceptance of the terms and conditions of the Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce the Terms as related to your license of the App Store Download against you as a third party beneficiary thereof.

Without limiting any other terms of the Terms, you must comply with all applicable third party terms and conditions when using the App Store Download.

## **9. WARRANTIES, DISCLAIMERS, LIMITATION OF LIABILITY & INDEMNIFICATION**

### **9.1 Warranties by Users**

You represent and warrant to JF that:

- (i) you have the power and authority to accept and agree to the Terms,
- (ii) you own or control all of the rights necessary to grant the rights and licenses granted herein,
- (iii) you will not violate any federal, state or local laws, rules or regulations or infringe the rights of any third party, including, any intellectual property, privacy or publicity-related rights, in connection with Your Content or otherwise in connection with your access to or use of the Platform,
- (iv) the exercise by JF of the rights granted by you hereunder will not cause JF to violate any applicable laws, rules or regulations, to infringe the rights of any third party, and
- (v) all payment information provided by you will be complete, accurate and up-to-date when provided, and updated as necessary to ensure that it remains complete, accurate and up-to-date.

### **9.2 Disclaimers**

EXCEPT AS EXPRESSLY PROVIDED HEREIN OR IN JF'S [Warranty Policy](#), THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED. TO THE MAXIMUM EXTENT NOT PROHIBITED BY APPLICABLE LAW, JF EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR TITLE OR RIGHTFUL CLAIM, WARRANTIES AS TO THE RELIABILITY OR AVAILABILITY OF THE PLATFORM, OR THAT USE OF THE PLATFORM WILL BE UNINTERRUPTED OR ERROR FREE, WARRANTIES AS TO THE COMPLETENESS, ACCURACY OR TIMELINESS OF ANY CONTENT.

ANY VR RENDERINGS OF HOME FURNISHINGS ARE FOR INFORMATIONAL PURPOSES ONLY. USERS MUST TAKE THEIR OWN MEASUREMENTS, AND CANNOT RELY ON ANY VR RENDERINGS TO DETERMINE WHAT FURNITURE TO BUY OR NOT TO BUY, AND WHETHER ANY FURNITURE PHYSICALLY OR STYLISTICALLY FITS IN THE DESIRED LOCATION.

### **9.3 Limitation of Liability**

YOU ACKNOWLEDGE AND AGREE THAT, TO THE MAXIMUM EXTENT NOT PROHIBITED BY LAW:

- THE ENTIRE RISK ARISING OUT OF OR RELATING TO YOUR USE OF THE PLATFORM IS AND REMAINS WITH YOU.
- WITHOUT LIMITING THE FOREGOING, JF DISCLAIMS ANY AND ALL LIABILITY RELATED TO (I) YOUR USE OF OR INABILITY TO USE THE PLATFORM, (II) THE ACTS OR OMISSIONS OF ANY OTHER USER OR ANY OTHER PERSONS WITH WHOM YOU COMMUNICATE OR INTERACT AS A RESULT OF YOUR USE OF THE PLATFORM, AND (III) ANY CONTENT ACCESSED, VIEWED OR DOWNLOADED IN CONNECTION WITH THE USE OF THE PLATFORM.
- YOU ACKNOWLEDGE AND AGREE THAT THE ACCESSING AND USING THE PLATFORM, SUBMITTING AND TRANSMITTING YOUR CONTENT, COMMUNICATING OR INTERACTING WITH OTHER USERS AND ACCESSING, VIEWING OR DOWNLOADING THE USER CONTENT OF OTHER USERS ARE DONE AT YOUR OWN DISCRETION AND RISK, AND YOU AND HEREBY RELEASE JF AND WAIVE ANY AND ALL CLAIMS AND CAUSES OF ACTION WITH RESPECT TO ANY DAMAGES CAUSED BY ANY OF THE FOREGOING.
- IN NO EVENT WILL JF BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, OR DAMAGES FOR LOST REVENUES OR PROFITS, LOSS OF DATA OR LOSS OF GOODWILL, SERVICE INTERRUPTION, COMPUTER DAMAGE OR SYSTEM FAILURE, OR FOR ANY DAMAGES FOR PERSONAL OR BODILY INJURY OR EMOTIONAL DISTRESS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER BASED IN WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT JF HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.
- CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSIVE OR LIMITATION OF CERTAIN DAMAGES AS SET FORTH IN THIS SECTION, SO THESE LIMITATIONS AND EXCLUSIONS APPLY TO YOU ONLY TO THE EXTENT PERMITTED BY APPLICABLE LAW. IN THE EVENT THAT THE FOREGOING LIMITATION OF LIABILITY IS DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE UNENFORCEABLE, JF'S AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO ONE HUNDRED U.S. DOLLARS (US\$100).

### **9.4 Basis of the Bargain**

YOU ACKNOWLEDGE AND AGREE THAT THE WARRANTY DISCLAIMERS AND LIMITATIONS OF LIABILITY SET FORTH ABOVE ARE ESSENTIAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN JF AND YOU, AND WILL SURVIVE AND APPLY EVEN IF YOUR REMEDIES ARE FOUND OR ALLEGED TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

### **9.5 Exclusions**

NOTHING IN THE TERMS FURTHER IS INTENDED TO EXCLUDE OR LIMIT ANY CONDITION, WARRANTY, RIGHT OR LIABILITY WHICH MAY NOT BE LAWFULLY EXCLUDED OR LIMITED. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR CONDITIONS OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR LOSS OR DAMAGE CAUSED BY NEGLIGENCE, BREACH OF CONTRACT OR BREACH OF IMPLIED TERMS, OR INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR EXCLUSION OF LIABILITY FOR LOSS OR DAMAGE FROM DEATH OR PERSONAL INJURY. ACCORDINGLY, ONLY THE ABOVE LIMITATIONS IN THIS SECTION THAT ARE LAWFUL IN YOUR JURISDICTION WILL APPLY TO YOU, AND OUR LIABILITY WILL BE LIMITED TO THE MAXIMUM EXTENT REQUIRED BY LAW.

## **9.6 Indemnification**

To the maximum extent not prohibited by applicable law, you agree to release, defend, indemnify, and hold JF its parent, subsidiaries, affiliates, licensors and service providers, and its and their officers, directors, shareholders, agents, employees and representatives, harmless (collectively “indemnify” or any variation thereof) from and against any claims, liabilities, damages, losses, costs and expenses, including, any bodily injury, illness, death or damage to any real or personal property, or any other injuries, losses, or damages (whether compensatory, direct, incidental, consequential or otherwise) of any kind, and including reasonable legal fees and litigation expenses and costs, arising out of or relating to or in any way connected with (i) your access to or use of the Platform, including any and all features, functionality, content, tools, and promotions available on and through the Website and/or App, (ii) Your Content, (iii) any interactions with any other User, (iv) your breach of the Terms, including any violation of national, federal, state or local or other applicable laws, rules or regulations or any infringement or misappropriation of the rights of any third party, and (v) your gross negligence or willful misconduct.

## **9.7 Obligation to Defend.**

You agree that, at JF’s option, you will conduct the defense of any such claim or action; provided that, notwithstanding our election that you to conduct the defense, (i) JF may nevertheless participate in such defense or settlement negotiations and pay its own costs associated therewith, and (ii) you will not enter into any settlement or other compromise without the prior written approval of JF (which approval shall not be unreasonably withheld), unless such settlement or other compromise includes a full and unconditional release of the relevant parties from all liabilities and other obligations in respect of such claim or action.

## **9.8 No Implied Indemnity.**

No person or entity shall be entitled to any form of equitable or implied indemnification at any time, except as provided by the Terms.

## **10. GOVERNING LAW & DISPUTE RESOLUTION**

PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS YOUR RIGHTS AND WILL HAVE A SUBSTANTIAL IMPACT ON HOW CLAIMS YOU AND JF HAVE AGAINST EACH OTHER ARE RESOLVED.

### **10.1 Governing Law**

The Terms shall be governed by and interpreted in accordance with the laws of California without regard to conflict of law principles.

### **10.2 Arbitration**

Notwithstanding any contrary provision of these Terms, all disputes, claims, controversies and matters relating to or in connection with these Terms (or the breach thereof) or any transactions hereunder shall be settled by binding arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules (“AAA Rules”), and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitration shall take place in San Diego, California before a single neutral arbitrator appointed in accordance with the AAA Rules and shall be conducted in the English language. All arbitrations shall be conducted and resolved on an individual basis and not a class-wide, multiple plaintiff or similar basis. No arbitration shall be consolidated with any other arbitration proceeding involving any other person or entity.

### **10.3 Jurisdiction and Venue**

Subject to the above arbitration provisions, you and JF agree that any and all disputes, claims and actions, at law or in equity, arising out of or relating to or in connection with the Terms or the breach, termination, enforcement, interpretation or validity thereof, or to the use of the Platform, including the Website and App (collectively, “Disputes”) in the federal or state courts located in San Diego, California and each of us agrees that such courts shall have exclusive jurisdiction and venue for any such actions, except that JF retains the right to submit a Dispute to any court of competent jurisdiction. JF also may seek injunctive or other equitable relief for breach of these Terms in any court of competent jurisdiction wherever located. You consent to the jurisdiction of and venue in such courts and waive any objection as to inconvenient forum. The prevailing party in any suit, action or

proceeding, including any arbitration proceeding, will be entitled to recover its reasonable legal fees and costs and expenses from the other party.

#### **10.4 Prohibition of Class and Representative Actions and Non-Individualized Relief**

YOU AGREE THAT YOU MAY BRING CLAIMS AGAINST JF ONLY ON AN INDIVIDUAL BASIS AND HEREBY WAIVE THE RIGHT TO PARTICIPATE AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS ACTION OR REPRESENTATIVE PROCEEDING, TO THE MAXIMUM EXTENT NOT PROHIBITED BY APPLICABLE LAW. FURTHER, UNLESS BOTH YOU AND JF OTHERWISE AGREE IN WRITING, THE COURT MAY NOT CONSOLIDATE OR JOIN MORE THAN ONE PERSON'S CLAIMS, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF CONSOLIDATED, REPRESENTATIVE, OR CLASS PROCEEDING.

#### **10.5 Future Amendments to this Section**

Both of us agree that if we make any amendment to this **Dispute Resolution** section (other than an amendment to any notice address or site link provided herein) in the future, that amendment will not apply to any claim that was filed in a legal proceeding against us prior to the effective date of the amendment. However, the amendment will apply to all other disputes or claims governed by this section that have arisen or may arise between you and JF. We will notify you of amendments to this section by posting the amended Terms on [www.jeromes.com](http://www.jeromes.com). If you do not agree to the amended terms, you must cease using the Platform immediately. By rejecting any change, you are agreeing that you will arbitrate any Dispute between you and JF in accordance with the provisions of this "Dispute Resolution" section as of the date you first accepted the Terms (or accepted any subsequent changes to the Terms).

### **11. MISCELLANEOUS**

#### **11.1 Privacy**

Our collection and use of information about Users is governed by our Privacy Policy. By accessing and using the Platform, you consent to the collection and use of this information by JF. As part of providing you the Platform, we may need to provide you with certain communications, such as service announcements and administrative messages. These communications are considered part of the Platform, which you may not be able to opt-out from receiving.

#### **11.2 Entire Agreement**

These Terms, including these Terms of Use, our Privacy Policy, the applicable Supplemental Terms and any and all Platform Rules, constitute the entire and exclusive understanding and agreement between you and JF regarding your access to and use of the Platform, including the App, and supersede and replace any and all prior or contemporaneous oral or written understandings or agreements between you and JF and regarding the subject matter hereof.

#### **11.3 Assignment**

You may not assign, transfer, delegate or sublicense any of your rights or obligations under the Terms, including by operation of law or merger or consolidation, without our express prior written consent, which may be granted or withheld in our sole discretion. Any attempted assignment, transfer, delegation or sublicense without the foregoing consent will be null and void. JF may assign, transfer, delegate and/or sublicense our rights and obligations under the Terms, in whole or in part, in its sole discretion, without restriction.

Subject to the foregoing, the Terms will bind and inure to the benefit of the parties, their successors and assigns.

#### **11.4 No Agency**

Except as otherwise expressly set forth herein, no agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created by the Terms.

#### **11.5 Survival of Terms**

Any provisions of the Terms that contemplate performance or observance subsequent to the expiration or termination of these Terms of Use shall survive such expiration or termination.

## **11.6 Notices**

Any notices or other communications permitted or required hereunder, including those regarding modifications to the Terms, will be in writing and given by JF (i) via e-mail (in each case to the address that you provide), or (ii) by posting to the Website or via the App. For notices made by e-mail, the date on which such notice is transmitted will be deemed the date of receipt.

## **11.7 Waiver**

Our failure to exercise any right or enforce any obligation under these Terms of Use or to take action with respect to a breach by you or others will not constitute a waiver of such right, obligation or breach. The waiver of any right, obligation or breach will be effective only if in writing and signed by a duly authorized representative of JF. In addition, no waiver granted in any instance shall constitute a waiver in any other instance.

## **11.8 Remedies**

Except as expressly set forth in the Terms, the exercise by either party of any of its remedies under the Terms will be without prejudice to its other remedies available under contract, at law, in equity or otherwise.

## **11.9 Severability**

Except as otherwise provided in the Terms, if an arbitrator or a court of competent jurisdiction finds any provision of the Terms to be invalid, void or unenforceable, in whole or in part, for any reason, the offending provision will be enforced to the maximum extent permissible and will not affect the validity or enforceability of the remaining provisions, which will remain in full force and effect.

## **11.10 Headings**

The headings in the Terms are for reference purposes only and do not limit or otherwise affect the meaning or interpretation of any of the provisions hereof.

## **11.11 Third Party Beneficiaries**

Except as otherwise expressly set forth herein, the Terms do not and are not intended to confer any rights or remedies upon any person other than the parties hereto.

## **11.12 Construction**

In the Terms, unless the context requires otherwise: (i) "herein," "hereof," "hereunder," "hereto," and similar terms refer to the Terms collectively and as a whole, and not merely to the specific section, paragraph or clause in which the term appears, (ii) "or" connotes any combination of all or any of the items listed, and (iii) "including" (and any of its derivative forms) means "including but not limited to."

## **11.13 Contact Us**

If you have any questions or concerns, please contact JF at [customerservice@jeromes.com](mailto:customerservice@jeromes.com).

You can also write to us at:

Jerome's Furniture Warehouse  
16960 Mesamint Street  
San Diego, CA 92127

## **11.14 California Residents**

Pursuant to California Civil Code §1789.3, California residents are also entitled to the following specific consumer rights notice:

Complaints regarding the Platform or requests to receive further information regarding use of the Platform may be sent to the above address or to [customerservice@jeromes.com](mailto:customerservice@jeromes.com).

The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 1625 North Market Boulevard, Suite N112, Sacramento, CA 95834 or by

telephone at (916) 445-1245 or (800) 952-5210. Hearing impaired persons may call TDD (800)-326-2297 or TDD (916)-928-1227, see [www.dca.ca.gov](http://www.dca.ca.gov) for additional information.

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