

# Terms of Use

Last Update September 30, 2014

## 1. Introduction

Welcome to Choosito! Inc.'s website. We are pleased to provide to you Choosito's sites, software, applications, content, products and services (collectively called "Choosito Services"). These terms and conditions ("Terms") apply to your use of Choosito Services.

If you are using the Choosito Services on behalf of an educational institution or any entity ("Your School") you certify that you are authorized to accept these Terms on behalf of Your School and that Your School agrees to indemnify you and Choosito for violations of these terms. You agree to be responsible for ensuring that all users on your account ("Your Users", including teachers and students of Your School, employees of Your School, etc.) comply with these terms.

If you are the parent or guardian of a child ("Your Child") and provide your consent to Your Child's Registration with the Choosito Services or it comes to your attention that Your Child is using the Choosito Services, you are agreeing to be bound by these Terms in respect of Your Child's use of the Choosito Services. Please also read our [Privacy Policy](#) for details on the measures we take in relation to your child's personal information. If you do not agree to be bound by these Terms, please ensure that Your Child does not use the Choosito Services.

Please read these Terms carefully before using the Choosito Services.

**Any dispute between you and us must be resolved by individual binding arbitration.**

**Please read the arbitration provision in these terms, as it affects your rights under this contract.**

**Nothing in these terms is intended to affect your rights under the law.**

## 2. Acceptance

This is a contract between you and Choosito! Inc. By using the Choosito Services you acknowledge that you have read, understood, and agreed to be bound by these Terms. If you do not agree, you may not use the Choosito Services. These Terms describe the limited basis on which the Choosito Services are available.

You will be agreeing to these Terms when:

1. you accept them at the time of creating an account ("Registering") including accounts you create for yourself for Your School, for Your Child or for Your Users or
2. you purchase a subscription or

3. when you access any interactive features made available to you on a trial basis prior to creating an account.

If you do not want to be bound by these Terms as above, please do not access, Register, use or place any order with Choosito Services or allow Your Child or Your Users to do so.

By agreeing to these Terms you are also agreeing to all terms of our [Privacy Policy](#), which is an integral part of this contract.

Supplemental terms and conditions may apply to particular Choosito Services (for example specific activities, games, competitions or other). In such circumstances we will post the supplemental terms in connection with the applicable Choosito Service. Any supplemental terms and conditions are in addition to these Terms and, in the event of a conflict, prevail over these Terms.

We may immediately terminate this contract with respect to you (including terminating access by you, Your Users or Your Child to the Choosito Services) if you fail to comply with any provision of these Terms.

#### The Choosito Services

The Choosito Services are for your personal, noncommercial use and are intended for educational, informational and entertainment purposes only. They do not constitute legal, financial, professional, medical or healthcare advice and cannot be used for such purposes.

The Choosito Services are our copyrighted property or the copyrighted property of our licensors or licensees and all trademarks, service marks, trade names, trade dress and other intellectual property rights in the Choosito Services are owned by us or our licensors or licensees. No element of the Choosito Services may be used or exploited in any way other than as part of the Choosito Services offered to you, unless there is a written agreement between us. You may own the physical media on which elements of the Choosito Services are delivered to you, but we retain the full and complete ownership of the Choosito Services.

### **3. Subscription Based Choosito Services**

Some Choosito Services may be offered to you on a paid subscription basis. All fees are quoted and must be paid in U.S Dollars.

By signing up for a subscription, you agree to pay all fees, including any applicable sales taxes, you incur. You also agree that your subscription will be automatically renewed and, unless you cancel your subscription, you authorize us to charge your payment method for the renewal term. The period of auto-renewal will be the same as your initial subscription period unless otherwise disclosed to you at the time of sale. The renewal rate will be no more than the rate for the immediately prior subscription period, excluding any promotional and discount pricing, unless we notify you of a rate change prior to your auto-renewal. From time to time, we may offer a free trial subscription for a Choosito Service. If you register for a free trial subscription, we will begin to bill your account when the free trial subscription expires, unless you cancel your subscription before that time.

Any account name, password, or user ID supplied to you in connection with any subscription-based Choosito Services you purchase is personal to you and Your School, Your Users or Your Child. You may not transfer or make available any Registration Information such as your username(s), password(s), or user IDs to others. Any distribution by you of such Registration Information may result in cancellation of the subscription-based Choosito Services without refund and the imposition of additional charges based on your unauthorized use.

When you provide payment information, you certify that the information is accurate, that you are authorized to use the payment method provided, and that you will notify us of changes to the payment information. We reserve the right to utilize third party credit card updating services to obtain current expiration dates on credit cards.

When you subscribe to a Choosito Service, you have the right to cancel your contract within fourteen (14) days after your receipt and acceptance of these terms and you will receive a full refund of the subscription fee paid. For semi-annual and annual subscriptions, if notice of cancellation is received within the first thirty (30) days following the first day of initial billing, you will receive a refund of the subscription fee paid. If we refund your subscription fee, you will still be obligated to pay other charges incurred.

We may revise the pricing for all or some of the Choosito Services. If you pay a periodic subscription fee for the Choosito Services, we will provide you with reasonable notice of changes to the fees or billing methods in advance of their effective date and you will be able to cancel your subscription prior to such change.

## **4. Eligibility & Registration**

We make the Choosito Services available for users of all ages. However, if you are under the age of 18 (“Minor”) you must take certain steps (and if you are under the age of 13 you must also take further steps) described below, before you can enjoy the Choosito Services. The Choosito Services may include specific services which are not available to all users (for example services specific to teachers or specific to parents etc.).

For normal access to Choosito Services you need to first create an account (“Choosito Account”) by Registering. You may be provided limited access to Choosito Services on a trial basis, prior to creating a Choosito Account.

If you are an adult individual when you Register you certify that you are older than 18 years old and have full legal capacity to enter into this contract without need for any additional approvals or consents.

As an adult individual, in addition to Registering yourself, you may Register Your Child to use the Choosito Services. As the safety and privacy of children are important to us, in this case please read carefully the [Privacy Policy](#), especially the parts that concern how we treat personal information related to children. When Registering Your Child, you consent to Your Child’s use of the Choosito Services.

If you are a Minor, you must check with Your Parent that they give you permission to use the Choosito Services and you should review these Terms (including our [Privacy Policy](#) with them to make sure that you and Your Parent understand them. Should Your Parent notify us that they revoke their consent for you to use the Choosito Services, we will remove access to your Choosito Account and you may not create another Choosito Account or access the Choosito Services by any means, unless Your Parent provides their consent again or until you are no longer a Minor.

If you are under the age of 13, when you Register we will ask you to provide Your Parent's email address so we can request that they provide their consent to your using the Choosito Services. You must not provide false details for Your Parent. Until we receive Your Parent's response you can continue to use your Choosito Account, with limited access to the Choosito Services. If Your Parent expressly refuse to consent or if they do not confirm their consent within a reasonable time, we will suspend your Choosito Account. In that case you may not create another Choosito Account.

If you are Registering Your School or Your Users, by the very act of Registering you certify that you are properly authorized by Your School and Your Users to do so. In such a case, please read carefully our [Privacy Policy](#) on how we treat personal information, especially of children and in particular of children under 13.

Please also review carefully the [COPPA](#) guidelines regarding schools contracting a website operator to offer online programs for the benefit of their students. You will find in our [Privacy Policy](#) details on how we comply to COPPA requirements for treating personal information of children under 13. By Registering Your Users, if they are under 13 years of age (“Your Users under 13”), you provide us with consent to the collection of Your Users' under 13 personal information. We understand that this consent is, as per COPPA requirements, limited to the educational context, which means that we will only use it for the benefit of Your School and for no other commercial purpose. We will provide Your School with all notices regarding Your Users under 13, as per COPPA requirements. We will also, as per COPPA requirements, provide to parents of Your User's under 13, upon request, all information relevant to their child's personal information and our relevant policies and safety measures.

You Register by providing certain information (“Registration Information”). By Registering yourself or others you certify that:

1. all Registration Information you submit is accurate, current and complete;
2. you will maintain and promptly update all Registration Information you have provided to keep it accurate, current, and complete;
3. your use of the Choosito Services does not violate any applicable law or regulation and neither does their use by any of the ones you Register;

If we have reason to suspect that any of the above is not so, we may suspend or terminate your account and the accounts of Your Child or Your Users, if any.

Part of the Registration Information is the username and password. You are responsible for the confidentiality of your account and password and for restricting access to your computer. You are solely responsible for any activity related to your account. If you suspect any unauthorized use of your account, you must notify us immediately.

Furthermore, without limiting the above, you understand that you are responsible for the actions of Your Child and Your Users when using the Choosito Services.

## **5. User Generated Content (UGC) & Licenses**

Any information, material and content which you and other users post, contribute, communicate or otherwise submit (collectively referred to with the verb “Post”) to the Choosito Services is called “User Generated Content” (“UGC” for short). Examples of UGC include educational material like individual or group exercises and exercise samples, ideas and samples for research projects, links or collections of links to educational material available on the internet and assessments to the educational value of such material, data, text, code, messages, opinions, advice, statements, reviews, comments, chats with other users etc., which are Posted through the Choosito Services and are accessible when using the Choosito Services.

We positively encourage you to make full use of Choosito Services and to participate in the relevant electronic communities, whether you are a teacher, a student, or a parent or by any other capacity. However, to ensure that everyone has an enjoyable and satisfying experience and to secure safety which is of paramount importance to us, especially for children, we require that you take into consideration some clarifications regarding UGC, CC and IC material, and abide by the guidelines set in these terms.

Access to Choosito Services that allow you to either Post or access UGC may be subject to age or other restrictions (for example, in some cases it may be restricted to teachers).

### UGC Restrictions

You agree that:

1. any UGC you Post will not contain any personal information about you or any other person. This includes any information that could potentially identify an individual such as their surname, date of birth, email or home address, information about their family or other contact information;
2. you will not Post UGC that is unlawful, defamatory, harassing, threatening, bigoted, hateful, violent, vulgar, obscene, pornographic, or otherwise offensive or that harms or can reasonably be expected to harm any person or entity and in particular minors and students, whether or not such material is protected by law;
3. you will ensure to the best of your ability and knowledge that all UGC that you may Post is accurate, up to date at the time of the posting, and not misleading in any way;
4. you will not Post UGC that you do not have a right to transmit under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships, or under nondisclosure agreements);
5. you will not Post UGC that infringes any patent, trademark, trade secret, copyright, or other proprietary rights ("Rights") of any party;
6. you will not Post UGC that is unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other forms of solicitation;
7. you will not Post UGC that contains software viruses or any other computer code, files, or programs designed to interrupt, destroy, or limit the functionality of any computer software or hardware or telecommunications equipment;
8. you will not make commercial use of any UGC of other users;
9. you will not edit any other user's UGC unless as provided for by the Choosito Services or unless with their express permission;

We are not responsible for UGC of Choosito Services users. UGC does not constitute any form of recommendation, representation, endorsement or arrangement by us. In particular we have no control over and are not responsible for the truth or accuracy of any UGC and we are not responsible for verifying the ownership and appropriateness of any such material. Please note that any such material Posted, unless we explicitly mention otherwise, is the opinion of the person or entity that has Posted it. Choosito Services may be misused when Posting UGC and may present you with material which is not suitable to your needs, and sometimes could even be misleading, deceptive, or indeed completely wrong and unwanted. You should not therefore rely on any such material to being accurate, beneficial or suitable. You accept that if you do rely in any way on UGC, you do so at your own risk.

All UGC is the sole responsibility of the person from whom the UGC originated and not of Choosito!, Inc., or its shareholders, directors, officers, or employees. Under no circumstances will Choosito!, Inc. or its stockholders, directors, officers, employees, agents, representatives, partners, or affiliates be held liable for any loss or damage caused by your reliance on UGC.

By posting or providing UGC, you are promising to us and to other users that:

1. you either own all rights (including copyright) in that UGC or that you have obtained the necessary permissions to make the UGC available through the Choosito Services in accordance with these terms and permit its use via the Choosito Services and by any third parties we authorize, and that you will provide us with evidence of such permissions should we require;
2. you will not be infringing anyone's rights or breaching any law or regulation (including data protection and privacy laws), by contributing that UGC and by allowing it to be used in the ways described in these terms;
3. that your UGC conforms to these Terms.

When you Post UGC:

We do not claim ownership to your UGC; however, you grant us a nonexclusive, fully sublicensable, perpetual, irrevocable and royalty-free worldwide license under all copyrights, trademarks, patents, trade secrets, privacy and publicity rights and other intellectual property rights to use, re-use, abridge, amend, reproduce, transmit, print, publish, publicly display, exhibit, distribute, redistribute, copy, index, comment on, modify, adapt, translate, develop, create derivative works based upon, publicly perform, make available, communicate to the public, delete (in whole or in part) and otherwise exploit such UGC, in whole or in part, in all media formats and channels now known or hereafter devised (including in connection with the Choosito Services and on third-party sites and platforms such as Facebook, YouTube, Twitter etc.), in any number of copies and without limit as to time, manner and frequency of use, whether on a commercial or non-commercial basis anywhere in the world, without further notice to you, with or without attribution, and without the requirement of permission from or payment to you or any other person or entity. By way of example only, this will include permission to;

1. make your UGC available through the Choosito Services to other users of the Choosito Services
2. allow any third parties authorized by us, including our partners to reproduce, display, publish, communicate and/or embed your UGC on their platforms, including their websites and applications.

When Posting UGC you are granting to every other user of the Choosito Services unlimited, non-terminable and free permission to use all or any part of your UGC on the same terms as you are permitted to use their UGC.

When Posting UGC you agree to indemnify and hold us and our subsidiary and affiliated companies, and each of their respective stockholders, directors, officers, employees, agents, representatives, partners and affiliates, harmless from any demands, loss, liability, claims or expenses (including attorneys' fees), made against us by any third party arising out of or in connection with our use and exploitation of your UGC. You also agree not to enforce any moral rights, ancillary rights or similar rights in or to the UGC against us or our licensees, distributors, agents, representatives and other authorized users, and agree to procure the same agreement not to enforce from others who may possess such rights.

## Misuse of Choosito Services regarding UGC

We make efforts to prevent unlawful or otherwise inappropriate UGC material from appearing in Choosito Services, by filtering out such material before it appears. However, we cannot guarantee that all such material is removed. If any UGC makes you feel threatened, damaged or abused, or if you believe it is offensive, inappropriate or otherwise, if you suspect it is an infringement of copyright or believe that breaches these Terms, please contact us directly.

We may review and delete any UGC, or any part of it, that in our judgment violates these Terms. While our moderators will treat your UGC contributions with all deserved respect and appreciation, their decision regarding them (for example, as to the edit or removal of any UGC) will be final and binding.

We reserve the right (but we are not obliged) to do any or all of the following for all users of any age including users who are Minors:

1. Record all or part of the user's UGC.
2. Investigate a claim that one or more items of the user's UGC do not conform to these Terms.
3. Request the removal or remove ourselves any UGC that does not conform to these Terms or for any other reason at our sole discretion.
4. Monitor, or edit any UGC.
5. Disclose any UGC subject to our [Privacy Policy](#).

If you disagree with a decision made by us, please contact us. You must not use the Choosito Services and you must not Post any UGC to discuss, dispute, or argue about any decision we make.

## **6. External Links**

You acknowledge that Choosito Services may include links to third party websites or third party platforms or content. Such links will be called "External Links".

External Links will primarily but not exclusively refer to educational material on the internet, outside the control of Choosito Services.

"External Link Site" is the third party website or platform to which the External Link refers. In what follows, the expression to "Access an External Link Site" means to access the website or platform than an External Link refers to, and/or use the services it provides, including accessing the content provided by the External Link Site.



When Accessing an External Link Site, you understand that we do not have control over it or over its availability. We do not, therefore, endorse or make any representations about External Link Sites, or about any results that may be obtained from using them. If you decide to Access any External Link Site, you do so entirely at your own risk.

Any personal information you provide when Accessing an External Link Site, will be dealt with in accordance to the [Privacy Policy](#) of the third party the External Link Site belongs to, not ours, so please ensure that you read their terms and conditions and privacy policy in advance of providing any such information and in advance of Accessing the External Link Site.

Although we review or automatically assess some External Links (see CRELs and URELs below for details), we do not promise that we do it for all External Links. Furthermore, we cannot guarantee that all External Link Site content will be appropriate, even for the External Links we do review. You understand that, even regarding External Links that we do review, the content of an External Link Site is not under our control and can change at any time following our review.

If you come across any External Links that are offensive or inappropriate in any way, please report them using the relevant functionality of the Choosito services, or contact us directly.

#### “Choosito Referred External Links” (“CRELs”)

External Links reviewed by us may be included as part of original educational content generated by us (“Choosito Generated Content”). Choosito Services may also refer you to External Links which have been assessed automatically by Choosito Services to contain educational content, as a response to your query. In both these cases the External Links are called “Choosito Referred External Links” or “CRELs” for short.

We make efforts so that Choosito Services provide to you CRELs which are appropriate and of educational value, and screen any inappropriate CRELs before they appear. However, we cannot guarantee that all CRELs that are inappropriate are removed from the material available in the Choosito Services. When Accessing a CREL Site, you understand that we do not have control over it or over its availability. We do not, therefore, endorse or make any representations about CREL Sites, or about any results that may be obtained from using them. If you decide to Access any CREL Site, you do so entirely at your own risk.

If you come across any CREL Sites that are offensive or inappropriate in any way, please report them using the relevant functionality of the Choosito services, or contact us directly.

#### “User Referred External Links” (“URELs”)

External Links may also be included as part of User Generated Content. In this case they are called “User Referred External Links” or “URELs” for short.

As a general rule we do not review and neither do we automatically assess URELs. When Accessing an External Link Site, you understand that we do not have control over it or over its availability. We do not, therefore, endorse or make any representations about UREL External Link Sites, or about any results that may be obtained from using them. If you decide to Access any UREL External Link Site, you do so entirely at your own risk.

## **7. Choosito Generated Content “CGC”**

All content on the Choosito Services which is not User Generated Content is called Choosito Generated Content and is owned by us or our licensors and is protected by USA and international copyright and other intellectual property laws. Examples of CGC are educational exercises, educational games, thematic collections of quality educational External Links, ideas for classroom group projects, automatic assessments of External Links readability level as a response to your queries, automatic assessment of thematic content of External Link material, virtual items, etc.

We make efforts for CGC content to be educational and appropriate. However, we cannot guarantee that it is actually appropriate to your needs. We do not, therefore, make any representations about CGC or about any results that may be obtained from using it. If you decide to use CGC, you do so entirely at your own risk.

## **8. “Choosito Content” (“CC”)**

By “Choosito Content” (“CC” for short) these Terms refer to any content accessible within the Choosito Services, including User Generated Content and Choosito Generated Content. It also includes any External Links contained within any UGC or CGC.

Regarding CC:

1. We have the right but not the obligation to monitor, screen, post, remove, modify, store and review CC, at any time and for any reason, including to ensure that such material conforms to these Terms. CC does not constitute any form of recommendation, representation, endorsement or arrangement by us, unless this is explicitly specified.
2. You may access CC for your own personal or for Your School's purposes only and for non-commercial purposes only.
3. You are not, in any circumstances, permitted to make commercial use of CC.
4. Unless explicitly stated, you cannot edit any CC.
5. You are not to remove, obscure, or otherwise tamper with any copyright and proprietary notices that relate to or are contained within any CC.
6. You may use CC to produce derivative works only to the extent provided for by the Choosito Services and only for use from within the Choosito Services.
7. You are not permitted to reproduce or publish outside the Choosito Services any CC, unless you have first obtained our written permission to do so. No CC content may be republished, posted, transmitted, stored, sold, distributed or modified in ways not provided for by the Choosito Services or for use outside the Choosito Services, without our prior written consent.

## **9. Choosito Services' Usage Guidelines and Restrictions**

You agree when using the Choosito Services that:

1. you will not harass or mislead or act unlawfully towards any person that you may contact through the Choosito Services;
2. you will cease to contact anyone that you have contacted via the Choosito Services, if they request you to do so;
3. you will not impersonate any person or entity, or otherwise misrepresent your affiliation with a person or entity;
4. you will not interfere with or disrupt the Choosito Services, or any equipment or hardware or software technology such as servers, networks, communications devices etc., used to provide the Choosito Services, or disobey any requirements, procedures, policies, or regulations of networks used in providing the Choosito Services;
5. you will not intentionally or unintentionally violate any applicable local, state, national, or international law, "stalk" or otherwise harass another;
6. in case you get any access to personal information of other users of the Choosito Services, you will not collect or store or publish it nor use it in any way and you will promptly permanently destroy it; in such a case please notify us of the incident;
7. you will not use any automated means (including, without limitation, robots, spiders, or scripts) to access the functionality, or software or data that comprise the Choosito Services, or collect any information in any way related to the Choosito Services;
8. you will not frame the Site, Software or the Services, utilize framing techniques to enclose any service mark, logo, or other proprietary information, place pop-up windows over its pages, or otherwise affect the display of its pages. This means, among other activities, that you must not engage in the practices of "screen scraping," "database scraping," or any other activity with the purpose of obtaining lists of users or other information.
9. you will not knowingly or recklessly introduce a virus or other harmful component;
10. you will not interfere with any user's use of the Choosito Services;
11. you will not copy, modify or distribute any Choosito Content or any part, or our trade marks, or any content or trade marks owned by a third party including our commercial partners and other users of the Choosito Services, unless you have their explicit permission and unless as permitted under these Terms;
12. you will not copy, modify or distribute wholly or in part the Choosito Software or the Choosito Services;
13. you will not allow any other person or entity to use your Registration Information in any way, or your account for using the Choosito Services;
14. you will not continue to use the Choosito Services whilst your account is temporarily suspended or permanently terminated, including cases where this has been effected following refusal or revocation of consent by your parent or guardian, if you are a Minor;
15. you will not advertise or offer to sell products or services (whether or not for profit), or that solicit others (including solicitations for contributions or donations).
16. you will not make, negotiate or enter into any arrangements or agreements through the Choosito Services;

We monitor user activity on the Choosito Services, but please inform us in case you spot any abusive content or inappropriate behavior, or any violation of these Terms.

## **10. Personal information**

Please be careful when using the Choosito Services that you do not reveal any personal information including your contact details, your surname and date of birth or where you live. Also be careful to not reveal the same information of other users.

We take your privacy very seriously. Please read our [Privacy Policy](#) to see how how the personal information that you provide to us is dealt with.

## **11. Dormant Choosito Accounts**

We reserve the right to suspend or terminate your access to the Choosito Services and delete your Choosito Account and any personal information including your User Generated Content, if there is no activity on your Choosito Account for more than six (6) consecutive months.

## **12. Choosito Software and Choosito Content License**

The Choosito Services are configured to enable the use of software which provides access to the Choosito Services including access to Choosito Content. In order to access the Choosito Services, we grant you a limited, non-exclusive, non-sublicensable, non-transferable license to use the Choosito Software for your personal or for Your School's or for Your Child's noncommercial use only. Except for this license granted to you, we retain all right, title, and interest in and to the Choosito Software and to the Choosito Services, including all related intellectual property rights.

Your right to access the Choosito Software and the Choosito Services will be limited by these Terms. The Choosito Software and the Choosito Services are protected by applicable intellectual property laws, including United States copyright law and international treaties.

Regarding the Choosito Software and the Choosito Content you will not and will not permit third parties to:

1. Rent, lease, or sublicense;
2. Circumvent or disable any security or technological features or measure or any content protection system or digital rights management technology used with any Choosito Service;
3. Decompile, reverse engineer, disassemble or otherwise reduce any Choosito Service to a human-readable form;
4. Remove identification, copyright or other proprietary notices;
5. Access or use in an unlawful or unauthorized manner or in a manner that suggests an association with our products, services or brands;
6. Access or use in violation of United States export control and economic sanctions requirements.

The trade marks appearing on the Choosito Services and Choosito Content are owned by us or our licensors. No permission is given in respect of the use of any of these brands or marks and any such use may constitute an infringement of the holder's rights.

You acknowledge that you may need to download and activate certain third party software in order to use the Choosito Services or specific Choosito Services, such as a browser etc. This software will be clearly identified on the Choosito Services. You may have to accept the terms of a license agreement with that third party. You acknowledge that we have no responsibility or control over such third party software.

#### Disclaimers and Limitation of Liability

We promise that we will operate the Choosito Services with reasonable skill and care and that we will use our reasonable endeavors to correct any faults of which we are aware. We do not make any promises about the availability of the Choosito Services, or any services made available through them. In particular we disclaim any liability in connection with:

1. any technical problems you may experience with the Choosito Services which may result in interruptions of the services;
2. bugs or viruses in the Choosito Software or any other platform that the Choosito Services are delivered through;
3. the server that makes the Choosito Services available or the Choosito Content;
4. the Choosito Content;
5. the Choosito Software.

We do not represent or warrant that the Choosito Content is complete, current or will be updated or corrected. We do not warrant, endorse, guarantee, or assume responsibility for any product or service advertised or offered by a third party or any hyper-linked site or featured in any banner or other advertising.

While we attempt to make your access and use of the Choosito Services safe, we cannot and do not represent or warrant that the Choosito Services, the Choosito Software, or its server(s) are free of viruses or other harmful components; therefore, you should use industry recognized software to detect and disinfect viruses.

THE CHOOSITO SERVICES INCLUDING THE CHOOSITO SOFTWARE AND THE CHOOSITO CONTENT ARE PROVIDED "AS IS" AND "AS AVAILABLE." WE EXPRESSLY DISCLAIM ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES NOT EXPRESSLY SET OUT IN THESE TERMS INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, AUTHENTICITY, TITLE, AND NON-INFRINGEMENT. WE AND OUR AFFILIATES, SUPPLIERS, AND THE RESPECTIVE OFFICERS, DIRECTORS, STOCKHOLDERS, EMPLOYEES, AGENTS, AND REPRESENTATIVES, WILL NOT BE LIABLE FOR LOSSES THAT RESULT FROM OUR FAILURE TO COMPLY WITH THESE TERMS THAT FALL INTO THE FOLLOWING CATEGORIES: ANY LOSS OF: INCOME OR REVENUE; BUSINESS; BARGAIN; DATA; PROFIT; GOODWILL; REPUTATION; OPPORTUNITY; WASTE OF MANAGEMENT OR OFFICE TIME; OR ANY INDIRECT, SPECIAL, ECONOMIC OR CONSEQUENTIAL LOSS. THE SAME AS ABOVE SHALL NOT BE LIABLE TO YOU FOR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOSS OF USE, BUSINESS INTERRUPTIONS, LOSS OF DATA AND PROPERTY DAMAGE, EVEN IF WE WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, NOR SHALL WE BE HELD LIABLE FOR DELAY OR FAILURE IN PERFORMANCE RESULTING FROM CAUSES BEYOND OUR REASONABLE CONTROL. IN NO EVENT SHALL OUR TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION EXCEED ONE THOUSAND U.S. DOLLARS (US \$1,000). EACH PROVISION OF THESE TERMS OF USE THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS UNDER THESE TERMS OF USE BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE FEES WE CHARGE, IF ANY, AND 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 OF USE. THE LIMITATIONS IN THIS SECTION WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY UNDER THESE TERMS OF USE.

Nothing in these Terms will restrict our liability in respect of your statutory rights, for death or personal injury resulting from our negligence, fraudulent misrepresentation or for any other liability that cannot be limited or excluded by applicable law.

Occasionally we may be unable to perform our obligations under these Terms due to circumstances beyond our reasonable control. In such circumstances including, but not limited to, fire, flood, and other acts of God, strikes, trade disputes, lock outs, restrictions of imports or exports, riot, accident, disruption to energy supplies, civil commotion, acts of terrorism or war, our inability or delay in performing our obligations will not be deemed to be in breach of contract.

### **13. Complaints**

Your satisfaction when using the Choosito Services is very important to us so, if you are dissatisfied with the Choosito Services, please contact us to complain. However, you agree that, if you are dissatisfied with anything related to the Choosito Services, including these Terms, your sole remedy is to discontinue using them.

## **14. Indemnity**

You agree only to use the Choosito Services in accordance with these Terms. You agree that you will compensate us (and our employees, agents and suppliers) in full for any damages, losses, costs and expenses, including reasonable legal fees we incur that arise out of any breach by you of these Terms or any liability we incur as a result of your use of the Choosito Services, or by the use of any other person that may use your Choosito Account.

For the avoidance of doubt, your indemnification obligations described in this section will not apply in the event that a loss, liability, claim, or demand is caused by our gross negligence.

## **15. Changes to the Choosito Services**

The Choosito Services are constantly evolving and will change over time. If we make a material change to the Choosito Services, we will provide you with reasonable notice and you will be entitled to terminate this contract.

## **16. Third-Party Services and Content**

The Choosito Services may integrate, be integrated into, or be provided in connection with third-party services and content or links to third-party content. We do not control those third-party services and content. You should read the terms of use agreements and privacy policies that apply to such third-party services and content. If you access a Choosito Service using a third party platform this third party shall be a third-party beneficiary to this contract. However, these third-party beneficiaries are not a party to this contract and are not responsible for the provision or support of the Choosito Services. You agree that your access to the Choosito Services using these platforms also shall be subject to the usage terms specified by the third party terms of service.

## **17. Advertisements**

We do not make and we do not permit marketing promotions of any kind to our Minor users. In case that you become aware of marketing promotions through the Choosito Services to Minor users of the Choosito Services, please notify us immediately.

In the circumstance of your participation in promotions of third parties, such as other users, advertisers, partners etc., found on or through the Choosito Services, and any other terms, conditions, warranties, or representations associated with such dealings, are solely between you and the corresponding third party. You agree that we are not responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or as the result of the presence of such advertisers or partners on the Choosito Services.

## **18. Networks**

You access the Choosito Services through a network, stationary or mobile. Your network or roaming provider's messaging, data and other rates and fees will apply. Downloading, installing or using certain Choosito Services may be prohibited or restricted by your network provider and not all Choosito Services may work with your network provider or device.

## **19. Copyright Complaints**

We respect the intellectual property rights of others ourselves, and we prohibit users of the Choosito Services from Posting any materials that infringe or violate another person's intellectual property rights. Please notify us immediately in case you suspect any copyright infringement.

It is our policy to comply with clear notices of alleged copyright infringement. Furthermore, it is our policy to terminate usage rights and any applicable Choosito Accounts of users we determine to be repeat infringers of others' copyrights.

Content hosted on third party websites or platforms accessible from the Choosito Services is the responsibility of those websites or platforms, and not of Choosito. If you are the copyright owner of content hosted on a third party website, and you have not authorized the use of your content, please contact the administrator of the hosting website or platform directly to have the content removed.

## **20. Written communications**

Applicable laws require that some of the information or communications we send to you should be in writing. When using the Choosito Services, you accept that communication with us will be mainly electronic. We will contact you by email or provide you with information by posting notices on the Choosito Services. For contractual purposes, you agree to this electronic means of communication and you acknowledge that all contracts, notices, information and other communications that we provide to you electronically comply with any legal requirement that such communications be in writing. This condition does not affect you statutory rights.



## **21. General**

### Governing Law and Arbitration

These Terms are governed in all respects by the laws of the State of Philadelphia, U.S.A., as such laws are applied to agreements entered into and to be performed entirely within Philadelphia, between Philadelphia residents. Any controversy or claim arising out of or relating to these Terms will be settled by binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association. Any such controversy or claim will be arbitrated on an individual basis, and will not be consolidated in any arbitration with any claim or controversy of any other party. The arbitration will be conducted in Philadelphia, and judgment on the arbitration award may be entered into any court having jurisdiction thereof. The award of the arbitrator will be final and binding upon the parties without appeal or review except as permitted by Philadelphia law. Notwithstanding the foregoing, either party may seek any interim or preliminary injunctive relief from any court of competent jurisdiction, as necessary to protect the party's rights or property, pending the completion of arbitration.

These Terms may be presented to you in more than one language. However, the English language version of these Terms shall prevail.

We make no representation that the Choosito Services are appropriate or available for use in your particular location. You are solely responsible for compliance with applicable local laws at the place where you are using the Choosito Services.

### Severability

If any portion of these Terms is found to be unenforceable, the unenforceable portion will be considered in accordance with applicable law to the greatest extent possible and the remainder of the provisions shall remain in full force. For the avoidance of doubt, should these Terms or any part of them be deemed void or voidable, this shall not affect the validity of any licence provided under these Terms (including for use of you UGC).

### Entire agreement

These Terms together with our [Privacy Policy](#) govern our relationship with you and represent our entire agreement with you.

### Termination

You agree that we may terminate your Choosito Account and your use of Choosito Services for any violation of these Terms on your part, at our sole discretion.

Your and our statutory rights notwithstanding, we and you each acknowledge that, in entering into an agreement under these Terms, neither of us has relied on any representation, undertaking or promise given by the other or implied from anything said or written in negotiations between us prior to such agreement except as expressly stated in these Terms.

## Assignment

This agreement is personal to you. You may not transfer, sub-license or otherwise dispose of any of your rights under these Terms.

## Waiver

If you breach these Terms and we choose to ignore your breach, we will still be entitled to use our rights and remedies at a later date or in any other situation where you breach the Terms again.

## Exclusion of third party rights

These Terms do not create any right enforceable by any person or entity who is not a party to this agreement.

## References to “for example” and similar expressions

In these Terms, words that appear after the expression “include”, “including”, “other”, “for example”, “such as” or “in particular” (or any similar expression) does not limit the meaning of the words appearing before such expression. Similarly, the abbreviation “etc.” explicitly means that references that precede it are indicative and not limiting or exclusive.

## Privacy

We take your privacy very seriously. Any information submitted using the Choosito Services is subject to our [Privacy Policy](#), the terms of which are incorporated into these Terms of Use. Please review our [Privacy Policy](#) carefully.

## Release

In the event that you have a dispute with one or more users of the Choosito Services, you release Choosito, Inc. and its stockholders, directors, officers, employees, agents, representatives, partners, and affiliates from claims, demands, and damages (actual and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with such disputes. If you are a California resident, you waive California Civil Code — 1542, which says: “A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.”

## No implied contract

We like to hear from you. However, please keep in mind that Choosito does not accept or consider unsolicited creative ideas, suggestions or materials. In connection with anything you submit to us – whether or not solicited by us – you agree that creative ideas, suggestions or other materials you submit are not being made in confidence or trust and that no confidential or fiduciary relationship is intended or created between you and us in any way, and that you have no expectation of review, compensation or consideration of any type.

### Modifications

We may change these Terms. We may notify you of such changes by sending you an email to the last email address that you provided to us, and/or by posting a copy of the changes on the Choosito Services. Any changes will be effective seven (7) days after the date of our email or the date we post the modified terms on the Choosito Services. If you continue to make use of the Choosito Services after that period expired you are confirming that you agree to be bound by the modified Terms.

As noted below, you are responsible for keeping your account information up to date, including in case you are not an adult the email address of your parent or guardian (“Your Parent”). If the email address to which we send notification to you under the previous paragraph is no longer valid but you failed to notify us of this, the sending of our email notifying you of any changes to the Terms will, nonetheless, be deemed to be effective notice of the modified terms. Please also read about changes and notifications to the way we collect, use and/or share personal information in our [Privacy Policy](#).

Our customer service representatives are not authorized to modify any provision of these Terms, either verbally or in writing.

### Contact details

Choosito! LLC  
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USA

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