

## Terms of Service

**Effective Date:** [November 26, 2019]

Welcome to the Cher, Inc. (hereinafter “**Cher**,” “**we**” or “**us**”) website at <https://www.cher.app> (including all content under the “cher.app” domain name and referred to herein as the “**Website**”). We provide the Website and the associated products, services, data, information, tools, software, updates, mobile applications and materials (altogether, the “**Services**”), subject to your agreement to and compliance with the terms and conditions set forth in this document (the “**Terms of Service**” or “**Agreement**”). Please carefully read this Agreement that governs your access to and use of the Website and Services, and that applies to all users of the Website. **If you do not agree and consent to this Agreement, please do not use the Website and/or the Services.** If you are accepting this Agreement on behalf of a legal entity other than yourself as an individual, including a business or a government, you represent and warrant that you have full legal authority to bind such entity to this Agreement.

### OUR SERVICES

We provide social networking Services via our Website and mobile application to allow our users to search for real estate properties, engage with friends, and ultimately purchase real estate together as co-owners. Using our Services, two or more people may be separately approved for part of a mortgage on a property, and collectively such co-owners / co-borrowers may borrow funds and purchase the property together. In this manner, we make affordable home co-ownership possible where the individual co-owners share their ownership interests as tenants in common. These Services are available for co-borrowers looking to co-own their primary residence, as well as investment properties. Using our Services, existing homeowners are also able to add new co-owners to their existing title and share their mortgage payments with such new co-owners. In this Agreement, a “**Transaction**” means a real estate sale or change of ownership involving a property, where such sale or change is the result of or arises from the matching of the buyer and seller, and where such matching originated from Cher and/or its Services. As part of our Services, Cher may also offer access to optional services as provided by third party service providers. For example, we offer a third-party identity verification service

that reads, reviews, and extracts information from thousands of licenses and credentialing documents, enabling it to work under real-world business conditions.

## **INCORPORATED TERMS**

The following additional terms are incorporated into this Agreement as if fully set forth herein:

- Privacy Policy
- Intellectual Property Policy (attached hereto as Schedule A)
- Acceptable Use Policy (attached hereto as Schedule B)

## **1. IMPORTANT NOTICES**

**A. By using and/or visiting the Website, you represent that you have read, understand, and agree to all the terms and conditions of this Agreement, including our Privacy Policy (“Privacy Policy”) incorporated herein by reference. This Agreement and Privacy Policy are subject to the provisions of the European Union (“EU”) General Data Protection Regulation (“GDPR”) and other applicable privacy laws. Under the GDPR, we are a data “Controller” and you are a “Data Subject” with certain protected privacy rights concerning your “Personal Data.”**

**B. We reserve the right to change, modify, add to, or otherwise alter this Agreement at any time, or to change or discontinue any aspect or feature of the Website or Services without notice to you. Such changes, modifications, additions or deletions shall be effective immediately upon their posting on the Website. You agree to review this Agreement periodically to be aware of such revisions. Your use of the Website and/or Services after we post such changes, modifications, additions or deletions constitutes your acceptance of such changes, modifications, additions or deletions. Notwithstanding the foregoing, we will notify you via email regarding any changes in the Privacy Policy, if you have provided your email address to us.**

**C. THIS AGREEMENT CONTAINS A BINDING AND FINAL ARBITRATION PROVISION AND CLASS ACTION WAIVER. WHERE PERMITTED BY LAW, YOU UNDERSTAND AND AGREE TO SUBMIT TO ARBITRATION PROCEEDINGS TO SETTLE ANY DISPUTES HEREUNDER, THAT SUCH ARBITRATION WILL BE IN LIEU OF LITIGATION, AND EACH PARTY HEREBY WAIVES THE RIGHT TO SUE IN COURT IN FAVOR OF THE ARBITRATION PROCEEDING EXCEPT AS PERMITTED UNDER THIS AGREEMENT.**

## **2. LICENSE**

**A. As long as you are in compliance with all the terms and conditions of this Agreement (and all incorporated documents) and have paid any applicable Fees (as defined below), we hereby grant to you during the Term (as defined below) a limited, revocable, non-assignable, non-transferrable, non-sublicensable, non-exclusive license to use the Website, and to access and receive the Services thereon that are intended for public display or access. Any rights not explicitly granted in this Agreement are strictly withheld and reserved by us.**

**B. You agree that (i) except in your normal use of the Website, you will not copy or distribute any part of the Website or Services in any medium without our prior written authorization; (ii) you will not alter or modify any part of the Website or Services other than as is**

necessary to use the Website or Services for their intended purposes; and (iii) you will otherwise comply with this Agreement.

### 3. RESTRICTIONS

A. You agree with all the terms of the Acceptable Use Policy ("AUP"), attached hereto.

B. You agree that you will not violate any applicable law or regulation in connection with your use of the Website or Services.

C. You agree that you will not distribute, upload, make available or otherwise publish through the Website or Services any suggestions, information, ideas, comments, causes, promotions, documents, questions, notes, plans, drawings, proposals, graphics, text, information, links, profiles, personal information, name, likeness, audio, photos, software, music, sounds, video, comments, messages, tags or similar materials ("Submissions") that:

- are unlawful or encourage another to engage in anything unlawful;
- contain a virus or any other similar malicious software that may damage the operation of our or another's computers;
- infringe upon any copyright, patent, trademark, trade secret, right of privacy, right of publicity or other right of any person or entity;
- are false, inaccurate, fraudulent or misleading; or
- are libelous, defamatory, obscene, inappropriate, abusing, harassing, threatening or bullying.

D. You further agree that you will not do any of the following:

- modify, adapt, translate, copy, reverse engineer, decompile or disassemble any portion of the Website or Services;
- interfere with or disrupt the operation of the Website or Services, including restricting or inhibiting any other person from using the Website or Services by means of hacking or defacing;
- transmit to or make available in connection with the Website or Services any denial of service attack, virus, worm, Trojan horse or other harmful code or activity;
- attempt to probe, scan or test the vulnerability of the Website or Services or to breach our security or authentication measures;
- take any action that imposes an unreasonable or disproportionately large load on our infrastructure, as determined in our sole discretion;
- harvest or collect the email addresses or other contact information of other users of the Website or Services;
- scrape or collect any content from the Website or Services via automated means;
- submit or post false, incomplete or misleading information to the Website or Services, or otherwise provide such information to us;
- register for more than one user account; or,

- impersonate any other person or business.

E. In addition, we reserve the right to review, edit or remove any Submissions, however, we are not required to routinely screen, monitor or review Submissions on the Website or Services. **YOU AGREE THAT WE ARE NOT RESPONSIBLE FOR ANY SUCH SUBMISSIONS, AND YOUR RELIANCE ON ANY SUCH INFORMATION IS AT YOUR OWN RISK.**

F. You agree that you are not licensed to access any portion of the Website or Services that we have not made public or accessible to users (whether registered or not), and you may not attempt to override any security measures in place on the Website or Services.

G. Notwithstanding the foregoing rules of conduct, our unlimited right to terminate your access to the Website or Services shall not be limited to violations of this Restrictions section.

#### **4. ELIGIBILITY AND MEMBERSHIP**

A. Eligibility Requirements. Some parts or all of the Website or Services may not be available to the general public, and we may impose eligibility rules from time to time. We reserve the right to amend these eligibility requirements at any time. You are not eligible to use the Website or Services if doing so would violate any applicable law or regulation, including but not limited to U.S. export controls or restrictions.

B. Age Requirements. You must be over the age of 18 to register an account on the Website or use the Services. By registering an account or using the Services, you represent that you meet this minimum age requirement. In any case, you affirm that you are over the age of 18, as the Website and the Services are not intended for use by anyone under 18. If you are under 18 years of age, then please do not use the Website without the consent of your parent or guardian. Pursuant to 47 U.S.C. Section 230(d), as amended, we hereby notify you that parental control protections (such as computer hardware, software or filtering services) are commercially available to assist you in limiting access to material that is harmful to minors. More information on the availability of such software can be found through publicly available sources. You may wish to contact your Internet service provider for more information.

C. Membership. You may use this Website for information as a non-member, however, in such case you will not be able to use the primary Services to engage in Transactions. To have an account within the Services as a member (“**Member**”), you must provide certain Personally Identifiable Information (“**PII**”) in order to register with Cher and to socialize and contract with other Members with respect to property Transactions. The PII that you must disclose in order to register as a Member may include, without limitation, your name and address, e-mail address, telephone number, geographical location, work history, financial information, and such other information as requested by Cher from time to time in accordance with our Privacy Policy (“Member Information”), which will be stored within our systems in our records, or under Your “Account(s)” (or “Profile(s)”) page. You may register as a buyer or seller Member, or as a real estate professional Member (including without limitation escrow officers, mortgage brokers/underwriters, buyer/seller agents, and listing agents) (“Real Estate Professional Member”). If you are registering as a Real Estate Professional Member, we may ask for additional information such as your business contact information, type of business, resume LinkedIn profile, professional license information, or other relevant qualifications. You agree and acknowledge that your submission of PII to use to register for a Member account is voluntary and entirely at your own risk. Please refer to our Privacy Policy for additional information.

D. Real Estate Professional Members. If you register as a Real Estate Professional Member, you expressly agree to that to the extent that you are involved in the residential purchase escrow process for any Transactions, you shall communicate all timelines regarding such process to Cher and to other Members involved in such Transactions. You will put forth reasonable collaborative efforts during escrow for the purpose of expediting the escrow process to reduce the standard 45 or 30 day escrow period for the benefit of buyers and sellers.

## 5. PAYMENTS

A. As more fully described on the Website, access to certain Website features or Services may require your payment of fees (“Fees”), and your use of the Services may involve certain real estate Transactions. You may be asked to supply certain information relevant to such Transactions, including without limitation bank account information, financing information, credit ratings, credit card number, your credit card verification or other security code, the expiration date of your credit card, and your address affiliated with your selected payment method. We will treat any such information provided through the Website in accordance with this Agreement and the Privacy Policy. Verification of information may be required prior to the acknowledgment or completion of any Transaction. You represent and warrant that you have the legal right to use any banking, credit card(s) or other Payment Method (as defined below) that you have used in connection with any Transaction.

B. You may be required to register your personal and/or financial information with us in order to use certain areas of the Website or the Services, for example, to initiate Transactions. In doing so, you agree that you will provide accurate and complete information. We may refuse to process your information or requested Transactions if we believe that you may be: i) impersonating another person; ii) violating the intellectual property or other rights of any entity; iii) posting Submissions that are offensive; iv) providing any information that we may otherwise

reject for any or no reason in our sole discretion; v) using paid services and request a refund after the fact, it is at the sole discretion of Cher Inc. to provide any refunds and all sales are final.

C. We may use a third-party payment processor (the “Payment Processor”) to charge Fees to you through your registered account for use of the Services. The processing of payments will be subject to the terms, conditions and privacy policies of the Payment Processor in addition to this Agreement. We are not responsible for errors made by the Payment Processor. You agree to pay us, through the Payment Processor, all charges for purchases made by you, and you authorize us, through the Payment Processor, to charge your chosen payment provider (e.g., credit card) (your “Payment Method”).

D. Your account will be considered delinquent if payment in full is not successful when a charge is initiated. Unless specified in an invoice, amounts due are exclusive of all applicable taxes, levies, or duties, and you will be responsible for payment of all such amounts. If you believe that any specific charge under this Agreement is incorrect, in order to obtain a credit, you must contact us in writing within thirty (30) days after the payment due date, and set forth the nature and amount of the requested correction. Otherwise, charges are final.

E. In addition to other applicable remedies, we reserve the right to suspend and/or terminate your access to the Services and/or terminate this Agreement if your Payment Method is declined or fails and your account therefore is delinquent. Charges to delinquent accounts are subject to interest of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is less, plus all expenses of collection, including reasonable attorneys’ fees and court costs.

## **6. CREDENTIALS SECURITY**

A. You understand and agree that in order to use certain functions of the Website or Services, we may ask you to provide us with certain credentials or other login information (“Credentials”). You are under no obligation to provide Credentials to us, however, if you do, you represent and warrant that you are authorized to provide these Credentials for use with the Services, and that the Credentials are and will be true and accurate throughout the Term of this Agreement. By providing your Credentials, you agree that we may store and use the Credentials in accordance with our Privacy Policy.

B. If you are registered with a user account on the Website, you agree to keep your user name and password and/or any other Credentials needed to login to the Website or Services confidential and secure. You are responsible for controlling the access to and use of your account. You understand and agree that we assume that instructions we receive from your account are authoritative, and that we should act upon such instructions. We are not responsible for any unauthorized access to your account or profile or the ramifications of such access, and we are not required to take action to disable any account. You agree that you will not bring any action against us arising out of or related to any claimed unauthorized access using your account Credentials.

C. Notwithstanding the foregoing, if we believe that there has been an unauthorized access to your account, we may take reasonable actions to disable or lock your account, or otherwise address your situation.

## **7. SUBMISSIONS MADE AVAILABLE TO US**

A. You are under no obligation to submit anything to us, and unless otherwise noted, we will not claim ownership of your Submissions. In order for us to provide the Services to you or for promotion of our Services, however, we require your permission to process, display, reproduce and otherwise use Submissions you make available to us. Therefore, if you choose to submit any Submissions (including your name, likeness and other personal information) to the Website or Services, or otherwise make any Submissions available through the Services, you hereby grant to us a perpetual, irrevocable, transferrable, sub-licensable, non-exclusive, worldwide, royalty-free license to reproduce, use, modify, display, perform, distribute, translate and create derivative works from any such Submissions, including without limitation distributing part or all of the Submissions in any media format through any media channels.

B. Notwithstanding the foregoing grant, as further identified in the Privacy Policy, Personal Data that you upload or make available for the purpose of using the Services (such as financial information and similar data) will only be used by us for the purpose of providing the Website and Services to you.

C. By submitting any Submissions to us, you hereby agree, warrant and represent that: (a) the Submissions do not contain proprietary or confidential information, and your provision of the Submissions does not violate any third party's rights; (b) all such Submissions are accurate and true, (c) we are not under any confidentiality obligation relating to the Submissions; (d) we may use or disclose the Submissions in any way; and (e) you are not entitled to compensation or attribution from us in exchange for the Submissions.

D. You acknowledge that we are under no obligation to maintain any Submissions that you submit, post or make available to or on the Website or Services. We reserve the right to withhold, remove and or discard any such materials at any time.

## **8. INFORMATION SHARED THROUGH THE SERVICES**

You understand that by sharing information on the Website or Services, and requesting information to be sent through the Services, you may be revealing information about yourself and/or your business that you may include or that may be generated by the Services. You understand and acknowledge that you are fully aware and responsible for the impact of sharing such materials, and you agree that we are not responsible or liable in any way in connection with such sharing.

## **9. LINKS TO THIRD PARTY WEBSITES**

For your convenience, the Website may contain links to the websites of third parties on which you may be able to obtain information or use services. For example, we may provide links to social media sites (e.g., Twitter). Except as otherwise noted, such third party websites, and such information and services are provided by organizations that are independent of us. We do not make any representations or warranties concerning such websites. We have no control over, and assume no responsibility for, the content, privacy policies, or practices of any third party websites. In addition, we cannot censor or edit the content of any third party site. Therefore, we make no representation as to the accuracy or any other aspect of the information contained in or on such websites, sources or servers. Any linking to or from any such off-site pages or other websites by you is at your own risk. By using the Website, you expressly relieve us from any and all liability arising from your use of any third party website. Accordingly, we encourage you

to be aware when you leave the Website, and to read the agreements and privacy policy of each other website that you visit.

## **10. OUR INTELLECTUAL PROPERTY**

A. Our graphics, logos, names, designs, page headers, button icons, scripts and service names are our trademarks, trade names and/or trade dress. The “look and feel” of the Website and Services (including color combinations, button shapes, layout, design and all other graphical elements) are protected by international copyright and trademark laws. All product names, services names, trademarks and service marks (“Marks”) are either our property or the property of their respective owners, as indicated. You may not use the Marks for any purpose whatsoever other than as permitted by this Agreement.

B. You acknowledge that i) the software used to provide the Services, and all enhancements, updates, upgrades, corrections and modifications to such software (the “Software”), ii) all copyrights, patents, trade secrets, or trademarks or other intellectual property rights protecting or pertaining to any aspect of the Software (or any enhancements, corrections or modifications) and iii) all documentation therefor, are the sole and exclusive property of us and/or our licensors. This Agreement does not convey title or ownership to you, but instead gives you only the limited use rights set forth herein.

C. To the extent that you gain access to or receive any copies of the Software, you agree that you will delete such copies of the Software upon any termination of this Agreement, termination of your use of the Services, or at our request.

## **11. TERM AND TERMINATION**

A. The “Term” of this Agreement will continue until the Agreement is terminated as provided herein. We reserve the right to terminate this Agreement and/or deny all or some portion of the Website or Services to any user, in our sole discretion, at any time.

B. Without limiting the foregoing or assuming any additional legal obligations, we reserve the right to terminate violators of the Copyright Act, in accordance with applicable law. All rights that you grant to us herein related to Submissions shall survive any termination of this Agreement. Further, your representations, warranties and indemnification obligations herein shall survive any termination of this Agreement.

C. You may terminate this Agreement at any time by ceasing use of the Website or Services, and by closing your account.

## **12. DISCLAIMERS AND LIMITATION ON LIABILITY**

A. We do not represent or warrant that access to the Services will be error-free or uninterrupted, and we do not guarantee that users will be able to access or use the Services, or their features at all times. We reserve the right at any time to modify or discontinue (temporarily or permanently) the Services, or any part thereof, with or without notice.

B. The Services may be used to perform data analysis and other analytics; however, we do not guarantee the results of any such use.



C. Certain data displayed by the Services rely on the receipt of underlying data from third party sources. Such data sources may not be real-time or accurate, and there may be delays or inaccuracies in such displayed data.

D. The Website or Services may contain typographical errors or inaccuracies, and may not be complete or current. We reserve the right to correct any such errors, inaccuracies or omissions, and to change or update information at any time without prior notice.

E. Although we have the right to review, edit, remove or modify information from or on the Website or Services, we may not screen this material or control the sources of this information, and we do not guarantee the accuracy, suitability, completeness, currency, quality, adequacy or applicability of any such information.

F. The materials appearing on the Website or Services, including but not limited to summaries, descriptions, publications and any other such materials, are not intended to and DO NOT constitute legal, financial, investment, business or professional advice of any kind. Those accessing the materials appearing on the Services should not act upon them without first seeking relevant professional counsel. The materials should not be used as a substitute for consultation with a professional adviser. You agree that we are not responsible for any financial, business or legal decisions that you may make.

G. Circular 230 Disclosure: Pursuant to U.S. Treasury Department Regulations, we are required to advise you that, unless otherwise expressly indicated, any federal tax advice contained in the Website or Services, including attachments and enclosures, is not intended or written to be used, and may not be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

H. BY USING THE WEBSITE AND/OR SERVICES YOU AGREE AND ACKNOWLEDGE THAT WE PROVIDE THE WEBSITE AND SERVICES "AS IS" AND WITHOUT ANY WARRANTIES, EXPRESS, IMPLIED OR STATUTORY. WE AND OUR PARENTS, SUBSIDIARIES, OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS, MANAGERS, EMPLOYEES AND SUPPLIERS, SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTIES OF TITLE, ACCURACY, SUITABILITY, APPLICABILITY, MERCHANTABILITY, PERFORMANCE, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR ANY OTHER WARRANTIES OF ANY KIND. NO ADVICE OR INFORMATION (ORAL OR WRITTEN) OBTAINED BY YOU FROM US SHALL CREATE ANY WARRANTY.

I. USE OF THE WEBSITE AND/OR SERVICES IS AT YOUR SOLE RISK. WE DO NOT WARRANT THAT YOU WILL BE ABLE TO ACCESS OR USE THE WEBSITE AND/OR SERVICES AT THE TIMES OR LOCATIONS OF YOUR CHOOSING; THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE; THAT DEFECTS WILL BE CORRECTED; OR THAT THE SERVICES ARE FREE OF INACCURACIES, MISREPRESENTATIONS BY USERS, VIRUSES OR OTHER HARMFUL COMPONENTS.

J. TO THE MAXIMUM EXTENT PERMITTED BY LAW, AND EXCEPT AS OTHERWISE PROHIBITED BY LAW, IN NO EVENT SHALL WE OR OUR AFFILIATES, LICENSORS OR BUSINESS PARTNERS (COLLECTIVELY, THE “RELATED PARTIES”) BE LIABLE TO YOU BASED ON OR RELATED TO THE SERVICES, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND SHALL NOT BE RESPONSIBLE FOR ANY LOSSES OR DAMAGES, INCLUDING WITHOUT LIMITATION DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH ACCESS TO OR USE OF THE WEBSITE AND/OR SERVICES, EVEN IF WE AND/OR RELATED PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

K. Notwithstanding the foregoing, in the event that a court shall find that any of the above disclaimers are not enforceable, then you agree that neither we nor any of our subsidiaries, affiliated companies, employees, members, shareholders, or directors shall be liable for (1) any damages in excess of the greater of the Fees you have paid to us during the most recent twelve (12) month period or \$100.00, or (2) any indirect, incidental, punitive, special, exemplary or consequential damages or loss of use, lost revenue, lost profits or data to you or any third party from your use of the Website or Services. This limitation shall apply regardless of the basis of your claim or whether or not the limited remedies provided herein fail of their essential purpose.

L. SOME JURISDICTIONS MAY NOT PERMIT CERTAIN DISCLAIMERS AND LIMITATIONS, AND ANY SUCH DISCLAIMERS OR LIMITATIONS ARE VOID WHERE PROHIBITED.

### **13. INDEMNIFICATION**

You agree to defend, indemnify and hold harmless us and our officers, directors, employees and agents, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to reasonable attorney’s fees) arising from: (i) your use of and access to the Website or Services; (ii) your violation of any term of this Agreement; (iii) your violation of any third party right, including without limitation any copyright, property or privacy right; (iv) any claim that any of your Submissions caused damage to a third party; or (v) any conduct, activity or action that is unlawful or illegal under any state, federal or common law, or is violative of the rights of any individual or entity, engaged in, caused by, or facilitated in any way through the use of the Website or Services. This defense and indemnification

obligation will survive any termination or expiration of this Agreement or your use of the Website and/or Services.

#### **14. DISPUTES, GOVERNING LAW AND JURISDICTION**

A. You agree that any claim or dispute arising out of or relating in any way to your use of the Website, Services or any service provided by us, will be resolved solely and exclusively by binding arbitration, rather than in court, except that you may assert claims in small claims court if your claims qualify. The Federal Arbitration Act and federal arbitration law apply to this Agreement. YOU UNDERSTAND AND AGREE TO SUBMIT TO ARBITRATION PROCEEDINGS TO SETTLE ANY DISPUTES HEREUNDER, THAT SUCH ARBITRATION WILL BE IN LIEU OF LITIGATION, AND EACH PARTY HEREBY WAIVES THE RIGHT TO SUE IN COURT IN FAVOR OF THE ARBITRATION PROCEEDING EXCEPT AS PERMITTED UNDER THIS AGREEMENT.

B. There is no judge or jury in arbitration, and court review of an arbitration award is limited. An arbitrator, however, may award on an individual basis the same damages and relief as a court (including injunctive and declaratory relief or statutory damages), and must follow the terms of this Agreement as a court would.

C. To begin an arbitration proceeding, you must send a letter requesting arbitration and describing your claim to our address specified in the Notice section, below.

D. Arbitration under this Agreement will be conducted by the American Arbitration Association (“AAA”) under its rules then in effect. Payment of all filing, administration and arbitrator fees will be governed by the AAA's rules.

E. You agree that any dispute resolution proceedings will be conducted only on an individual basis and not in a class, consolidated or representative action. If for any reason a claim proceeds in court rather than in arbitration, we both agree that we have each waived any right to a jury trial.

F. Notwithstanding the foregoing, you agree that we may bring suit in court to enjoin infringement or other misuse of intellectual property or other proprietary rights.

G. Any dispute or alleged claim you may have with respect to your access or use of the Website or Services must be commenced within one (1) year after the occurrence of the events leading to the dispute or alleged claim.

H. The laws of the State of California shall govern this Agreement. Any arbitration shall be held in Orange County, California (the “Dispute Resolution Location”). To the extent arbitration does not apply, you agree that any dispute arising out of or relating to the Website, Services or us, may only be brought by you in a state or federal court located in the Dispute Resolution Location. YOU HEREBY WAIVE ANY OBJECTION TO THIS VENUE AS INCONVENIENT OR INAPPROPRIATE, AND AGREE TO EXCLUSIVE JURISDICTION AND VENUE IN THE DISPUTE RESOLUTION LOCATION.

#### **15. GENERAL**

A. Severability. If any provision of this Agreement is found for any reason to be unlawful, void or unenforceable, then that provision will be given its maximum enforceable effect, or shall be deemed severable from this Agreement and will not affect the validity and enforceability of any remaining provision.

B. Revisions. This Agreement may only be revised in a writing signed by us or posted by us to the Website or Services. In the event that we update this Agreement and you are made aware of the update, your continued use of the Website or Services after the update shall constitute an agreement to the updated terms.

C. No Partnership. You agree that no joint venture, partnership, employment, or agency relationship exists between you and us as a result of this Agreement or your use of the Website or Services.

D. Assignment. We may assign our rights under this Agreement, in whole or in part, to any person or entity at any time with or without your consent. You may not assign the Agreement without our prior written consent. Any unauthorized assignment shall be null and void.

E. No Waiver. Our failure to enforce any provision of this Agreement shall in no way be construed to be a present or future waiver of such provision, nor in any way affect the right of any party to enforce each and every such provision thereafter. The express waiver by us of any provision, condition or requirement of this Agreement shall not constitute a waiver of any future obligation to comply with such provision, condition or requirement.

F. Equitable Remedies. You hereby agree that we would be irreparably damaged if the terms of this Agreement were not specifically enforced, and therefore you agree that we shall be entitled, without bond, other security, or proof of irreparable harm or other damages, to appropriate equitable remedies with respect to breaches of this Agreement, in addition to such other remedies as we may otherwise have available to us under applicable laws.

G. Entire Agreement. This Agreement, including the documents expressly incorporated by reference, constitutes the entire agreement between you and us with respect to the Website or Services, and supersedes all prior or contemporaneous communications, whether electronic, oral or written.

H. Electronic Communications. Your use of the Services or transmission of emails or other communications to Cher via the Website constitutes electronic communications. Under this Agreement, you consent to the transmission and reception of electronic communications, and you agree that all notices, disclosures and other communications that we provide to you electronically, via email and on the Website, satisfy any legal requirement that such communications be in writing.

I. Notices. All notices given by you or required under this Agreement shall be in writing and addressed to Cher, 16192 Coastal Highway, Lewes, Delaware 19958, Attn: Eric Chebil. Telephone: 949-683-7472.

J. Survival. Any provision of this Agreement that may reasonably be interpreted as being intended by the parties to survive termination or expiration of the Agreement, shall survive any such termination or expiration.

## **Schedule A**

### **Intellectual Property Policy**

#### **1. Copyright Policy**

If you believe in good faith that any materials posted on the Website or accessed via the Services (the “Materials”) infringe any copyright in any work of yours, you agree to contact our “DMCA Copyright Agent” as identified below, hereby designated under the Digital Millennium Copyright Act (“DMCA”) (17 U.S.C. §512(c)(3)), with correspondence containing the following:

- A physical or electronic signature of the owner, or a person authorized to act on behalf of the owner, of the copyright that is allegedly infringed;
- Identification of the copyrighted work claimed to have been infringed;
- Identification, with information reasonably sufficient to allow its location of the material that is claimed to be infringing;
- Information reasonably sufficient to permit us to contact you;
- 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,
- A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

You agree that if you fail to comply with all of the requirements of this policy, your DMCA notice may not be valid. For any questions regarding this procedure, or to submit a complaint, please contact us at our notice address given in our Terms of Service, above.

#### **2. Other Rights Infringement Complaint Notice**

If you believe in good faith that any Materials (as defined above) posted on the Website or accessed via the Services infringe any of your rights (including any trademark or privacy rights, but not including rights in copyright as addressed in the Copyright Policy, above), or are

otherwise unlawful, please contact us at our notice address given in our Terms of Service, above, and provide the following information:

- Your full name, physical address, e-mail address and phone number;
- A description of the Materials posted on the Website that you believe violate your rights or are otherwise unlawful, and which parts of said Materials you believe should be remedied or removed;
- For registered trademark violations, your trademarked work, symbol, etc., and trademark registration mark;
- For unregistered trademark violations, a description of the confusion with your marks, and your requested action;
- Identification of the location of the Material on the Website;
- If you believe that the Materials violate your rights, a statement as to the basis of the rights that you claim are violated;
- If you believe that the Materials are unlawful or violate the rights of others, a statement as to the basis of this belief;
- A statement under penalty of perjury that you have a good faith belief that use of the Materials in the manner complained of is not authorized and that the information you are providing is accurate to the best of your knowledge and in good faith; and,
- Your physical or electronic signature.

If we receive a message from you that complies with all of the above requirements, we will evaluate the submission, and if appropriate, in our sole discretion, we will take action. We may disclose your submission to any entity that posted the claimed violative Materials, or any other entity as we deem appropriate.

## **Schedule B**

### **Cher Acceptable Use Policy**

This Acceptable Use Policy (“AUP”) applies to all users of the Cher Website, products, software, and services (collectively “Services”). This policy establishes specific requirements for accessing and using Cher’s Services.

If an individual is found to be in violation of this AUP, Cher may suspend, deactivate, or terminate that individual’s account with the Services. Cher may further file a claim seeking remedies for any violations, including bringing an action in an appropriate legal venue and/or reporting any actions to a suitable law enforcement entity. Individuals are also subject to federal,

state and local laws governing many interactions that occur on the Internet. These policies and laws are subject to change as state and federal laws develop and change.

Prohibited activities regarding our Services include but are not limited to:

- Use or display of Cher's name, logo, trademark, or branding without Cher's authorization.
- Dissemination or use of any copyrighted material without permission.
- Attempts to gain unauthorized access to Cher's systems, or its technical providers' systems, including any attempt to probe, scan or test the vulnerability of same.
- Interference with the Services provided to any user, host or network, including attempts to overload or crash a system.
- Any attempt to access, search, scrape, download or change the Services.
- Posting or sending unsolicited, unapproved, or unrelated material to our users who have not expressly agreed to receive such material.
- Forgery of any TCP/IP packet header or header information in any email or newsgroup posting, or in any way use the Services to send altered source-identifying information.
- Any action that invades the privacy of other individuals or users, including collecting or storing any such individual's personal information, without the individual's permission.
- Impersonating or misrepresenting your affiliation with any person or entity.
- Creating or displaying any content that closely resembles or could reasonably be mistaken to be the Services.
- Any attempt to reverse engineer the Services.
- Sharing your account(s), password(s), username(s) or similar information pertaining to the Services.
- Engaging in any harassing, threatening, intimidating, predatory or stalking behavior.
- Use of the Services for any illegal or unauthorized purpose, or engaging in, encouraging or promoting any activity that violates the Terms of Service.
- Encourage or help anyone do any of the things on this list.

Cher, at its sole discretion, will determine what materials, files, information, software, communications, and other content and/or activity will be permitted or prohibited to be used with the Services. Cher may revise the Acceptable Use Policy at any time by amending this page.

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