**Terms of Use**

**Version 1.0**

**Last revised on february 3, 2022**

THESE TERMS OF USE (“TERMS”) APPLY TO ANY USE OF AND ACCESS TO CALAVO GROWERS, INC. AND ITS AFFILIATED ENTITIES (“COMPANY” OR “CALAVO”), WEBSITE OR APPS (COLLECTIVELY, “SERVICES”) BY YOU AND YOUR AFFILIATES. BY ACCESSING OR USING THE SERVICES (OR ENABLING AN AFFILIATE TO ACCESS OR USE THE SERVICES), YOU ARE INDICATING THAT YOU HAVE READ THESE TERMS AND CALAVO’S PRIVACY POLICY AND AGREE TO BE BOUND BY ITS TERMS. IF YOU DO NOT AGREE WITH ALL OF THESE TERMS, YOU MAY NOT ACCESS OR USE ANY SERVICES.

YOU FURTHER REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, AUTHORITY, AND CAPACITY TO ENTER INTO THESE TERMS (ON BEHALF OF YOURSELF AND YOUR AFFILIATES). YOU MAY NOT ACCESS OR USE THE SERVICES IF YOU ARE NOT AT LEAST 18 YEARS OLD.

SUPPLEMENTAL TERMS AND CONDITIONS OR DOCUMENTS THAT MAY BE POSTED ON THE WEBSITE FROM TIME TO TIME ARE HEREBY EXPRESSLY INCORPORATED HEREIN BY REFERENCE. WE RESERVE THE RIGHT, IN OUR SOLE DISCRETION, TO MAKE CHANGES OR MODIFICATIONS TO THESE TERMS AT ANY TIME AND FOR ANY REASON. WE WILL ALERT YOU ABOUT ANY CHANGES BY UPDATING THE “LAST UPDATED” DATE OF THESE TERMS, AND YOU WAIVE ANY RIGHT TO RECEIVE SPECIFIC NOTICE OF EACH SUCH CHANGE. IT IS YOUR RESPONSIBILITY TO PERIODICALLY REVIEW THESE TERMS OF USE TO STAY INFORMED OF UPDATES. YOU WILL BE SUBJECT TO AND WILL BE DEEMED TO HAVE BEEN MADE AWARE OF AND TO HAVE ACCEPTED, THE CHANGES IN ANY REVISED TERMS BY YOUR CONTINUED USE OF THE SERVICES AFTER THE DATE SUCH REVISED TERMS ARE POSTED.

1. **Accounts**
	1. **Account Creation.** In order to use the Services, Customer must register for an Account and provide certain information about Customer as prompted by the account registration form. Customer may allow Customer Affiliates and Authorized Users to have access to Customer’s Account for the purposes of using the Services. Customer will be solely responsible for its Affiliates’ and Authorized Users’ use of the Account in accordance with these Terms of Use.
	2. **Customer Representations**. Customer represents and warrants that: (a) all required registration information Customer submits is truthful and accurate; and (b) Customer will maintain the accuracy of such information.
	3. **Account Responsibilities.** Customer is responsible for maintaining the confidentiality of Customer’s Account login information and is fully responsible for all activities that occur under Customer’s Account. Customer agrees to immediately notify CALAVO of any unauthorized use, or suspected unauthorized use of Customer’s Account or any other breach of security. CALAVO cannot and will not be liable for any loss or damage arising from Customer’s failure to comply with the above requirements.
2. **LICENSE AND INTELLECTUAL PROPERTY RIGHTS**

**2.1** **License to Customer****.** The Website is a copyrighted work belonging to CALAVO . CALAVO grants the Customer a limited, non-exclusive, non-transferable, non-sublicenseable, revocable license and right to use the Services solely for the Customer's own internal business purposes subject to these Terms of Use.

**2.2 CUSTOMER RESTRICTIONS.** Customer may only use the Services for its own lawful, internal business purposes. In addition to the restrictions set forth in Section 2.1 above, Customer will be responsible for Affiliates and Authorized Users’ compliance with the Terms of Use and liable for Affiliates and Authorized Users’ breach thereof. Customer will ensure that it has obtained all necessary consents and approvals for the CALAVO to access Customer Data for the purposes permitted under this Terms of Use. If Customer is in breach of this section, CALAVO may suspend Services if and to the extent necessary to mitigate or avoid imminent damage, in addition to any other rights and remedies CALAVO may have at law or in equity.

**2.3** **Certain Restrictions.** The rights granted to you in these Terms are subject to the following restrictions: (a) you shall not license, sell, rent, lease, transfer, assign, distribute, host, or otherwise commercially exploit the Services whether in whole or in part, or any content displayed on the Services; (b) you shall not modify, make derivative works of, disassemble, reverse compile or reverse engineer any part of the Services; (c) you shall not access the Services in order to build a similar or competitive website, product, or service; and (d) except as expressly stated herein, no part of the Services may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means. Unless otherwise indicated, any future release, update, or other addition to functionality of the Services shall be subject to these Terms. All copyright and other proprietary notices on the Services (or on any content displayed on the Services) must be retained on all copies thereof.

**2.4** **Modification.** CALAVO reserves the right, at any time, to modify, suspend, or discontinue the Services (in whole or in part) with or without notice to you. You agree that CALAVO will not be liable to you or to any third party for any modification, suspension, or discontinuation of the Services or any part thereof.

**2.5** **Ownership**. Excluding any User Content that you may provide (defined below), you acknowledge that all the intellectual property rights, including copyrights, patents, trademarks, and trade secrets, in the Services and its content are owned by CALAVO or CALAVO’s suppliers. Neither these Terms (nor your access to the Services) transfers to you or any third party any rights, title or interest in or to such intellectual property rights, except for the limited access rights expressly set forth in Section 2.1. CALAVO and its suppliers reserve all rights not granted in these Terms. There are no implied licenses granted under these Terms.

1. **User Content**

**3.1 User Content.** “**User Content**” means any and all information and content that a user submits to, or uses with, the Services (e.g., content in the user’s profile or postings). You are solely responsible for your User Content. You assume all risks associated with use of your User Content, including any reliance on its accuracy, completeness or usefulness by others, or any disclosure of your User Content that personally identifies you or any third party. You hereby represent and warrant that your User Content does not violate our Acceptable Use Policy (defined in Section 3.3). You may not represent or imply to others that your User Content is in any way provided, sponsored or endorsed by CALAVO. Because you alone are responsible for your User Content, you may expose yourself to liability if, for example, your User Content violates the Acceptable Use Policy. CALAVO is not obligated to backup any User Content, and your User Content may be deleted at any time without prior notice. You are solely responsible for creating and maintaining your own backup copies of your User Content if you desire.

**3.2 License.** You hereby grant (and you represent and warrant that you have the right to grant) to CALAVO an irrevocable, nonexclusive, royalty-free and fully paid, worldwide license to reproduce, distribute, publicly display and perform, prepare derivative works of, incorporate into other works, and otherwise use and exploit your User Content, and to grant sublicenses of the foregoing rights, solely for the purposes of including your User Content in the Services. You hereby irrevocably waive (and agree to cause to be waived) any claims and assertions of moral rights or attribution with respect to your User Content.

**3.3 Acceptable Use Policy.** The following terms constitute our “**Acceptable Use Policy**”:

a) You agree not to use the Services to collect, upload, transmit, display, or distribute any User Content (i) that violates any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; (ii) that is unlawful, harassing, abusive, tortious, threatening, harmful, invasive of another’s privacy, vulgar, defamatory, false, intentionally misleading, trade libelous, pornographic, obscene, patently offensive, promotes racism, bigotry, hatred, or physical harm of any kind against any group or individual or is otherwise objectionable; (iii) that is harmful to minors in any way; or (iv) that is in violation of any law, regulation, or obligations or restrictions,.

b) In addition, you agree not to: (i) upload, transmit, or distribute to or through the Services any computer viruses, worms, or any software intended to damage or alter a computer system or data; (ii) send through the Services unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, or any other form of duplicative or unsolicited messages, whether commercial or otherwise; (iii) use the Services to harvest, collect, gather or assemble information or data regarding other users, including e-mail addresses, without their consent; (iv) interfere with, disrupt, or create an undue burden on servers or networks connected to the Services, or violate the regulations, policies or procedures of such networks; (v) attempt to gain unauthorized access to the Services (or to other computer systems or networks connected to or used together with the Services), whether through password mining or any other means; (vi) harass or interfere with any other user’s use and enjoyment of the Services; or (vi) use software or automated agents or scripts to produce multiple accounts on the Services, or to generate automated searches, requests, or queries to (or to strip, scrape, or mine data from) the Services (provided, however, that we conditionally grant to the operators of public search engines revocable permission to use spiders to copy materials from the Services for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials, subject to the parameters set forth in our robots.txt file).

**3.4 Enforcement.** We reserve the right (but have no obligation) to review any User Content, and to investigate and/or take appropriate action against you in our sole discretion if you violate the Acceptable Use Policy or any other provision of these Terms or otherwise create liability for us or any other person. Such action may include removing or modifying your User Content, terminating your Account, and/or reporting you to law enforcement authorities.

**3.5 License from Customer**. Subject to these Terms of Use, the Customer grants to CALAVO the limited, non-exclusive, non-transferable, non-sublicenseable, revocable license and right to use, copy, store, transmit and display the Customer Data and End User Data solely to the extent necessary to provide the Service as requested by the Customer, except where Customer grants CALAVO authorization beyond such use.

**3.6 Intellectual Property**. As between the parties, CALAVO will and does retain all proprietary and intellectual property rights, title and interest (including, without limitation, all intellectual property rights) in and to the Services, Marks and CALAVO Content. Customer retains all proprietary and intellectual property rights, title and interest in and to Customer Data, End User Data and Customer Content.

**3.7 Feedback.** If Customer provides CALAVO with anyFeedback**,** Customer hereby assigns to CALAVO all rights in such Feedback and agrees that CALAVO shall have the right to use and fully exploit such Feedback and related information in any manner it deems appropriate. CALAVO will treat any Feedback Customer provide to CALAVO as non-confidential and non-proprietary. Customer agrees that Customer will not submit to CALAVO any information or ideas that Customer considers to be confidential or proprietary.

**4. PAYMENT**

**4.1** **Fee for Services**. Customer may be required to purchase or pay a fee to access some of the Services. Customer agrees to provide current, complete and accurate purchase information for all purchases made and Services accessed through CALAVO’s website or app. Customer further agrees to promptly update account and payment information, including email address, payment method and payment card expiration date, so that CALAVO may complete Customer’s transactions and contact Customer as necessary. We may change prices at any time. All payments will be in US dollars.

**4.2** **Reservation of Rights**. CALAVO reserves the right to correct any errors or mistakes in pricing, even if CALAVO has already requested or received payment. CALAVO also reserves the right to refuse any order or subscription placed through the website or app.

**5. USE OF CUSTOMER DATA AND CUSTOMER CONTENT**

**5.1 CALAVO Use of Customer Data**. CALAVO will maintain commercially reasonable administrative, physical, and technical safeguards for the protection and security of any Customer Data managed, stored, and processed by the Service. If Customer Data (including End User Data) is lost or damaged, the remedy is that CALAVO will restore the affected Customer Data from CALAVO’s most recent backup of such Customer Data. Customer agrees that CALAVO shall have no liability to Customer for any loss or corruption of any such data, and Customer hereby waives any right of action against us arising from any such loss or corruption of such data.

**5.2**. **Statistical Data**. Without limiting the confidentiality rights and intellectual property rights protections set forth in this Agreement, CALAVO has the perpetual right to use aggregated, anonymized, and statistical data derived from the operation of the Software as a Service, and nothing herein shall be construed as prohibiting CALAVO from utilizing the Statistical Data for business and/or operating purposes, provided that CALAVO does not share with any third party Statistical Data which reveals the identity of Customer, Customer's End Users, or Customer's confidential information.

**5.3 Confidentiality.**  A Party will not disclose or use any Confidential Information of the other Party except: (a) as reasonably necessary to perform its obligations or exercise any rights granted pursuant to this Agreement; (b) with the other Party's prior written permission; or (c) to the extent required by law or order of a court or other governmental authority or regulation. Each Party agrees to protect the other Party’s Confidential Information in the same manner that it protects its own Confidential Information of like kind, but in no event using less than a commercially reasonable standard of care. Confidential Information will not include any information that: (a) is or becomes generally known to the public without breach of any obligation owed to the disclosing Party; (b) was known to a Party prior to its disclosure by the other Party without breach of any obligation owed to the other Party; (c) was independently developed by a Party without breach of any obligation owed to the other Party; or (d) was or is received from a third party without breach of any obligation owed to the other Party. For clarity, nothing in this Section 5.3 will restrict CALAVO with respect to CALAVO Data or Statistical Data.

**6.**  **THIRD PARTY WEBSITES AND CONTENT AND OFFERINGS**

**6.1 No responsibility for Third-Party Websites.** The Website or App may contain (or Customer may be sent via the Website or App) links to Third-Party Websites as well as "Third-Party Content. Such Third-Party Websites and Third-Party Content and Third Party Offerings are not investigated, monitored, or checked for accuracy, appropriateness, or completeness by us, and we are not responsible for any Third-Party Websites accessed through the Website or App or any Third-Party Content posted on, available through, or installed from the Website, including the content, accuracy, offensiveness, opinions, reliability, privacy practices, or other policies of or contained in the Third-Party Websites or the Third-Party Content. Inclusion of, linking to, or permitting the use or installation of any Third-Party Websites or any Third-Party Content does not imply approval or endorsement thereof by us. If Customer decides to leave the Website or App and access the Third-Party Websites or to use or install any Third-Party Content, Customer does so at Customer’s own risk, and Customer should be aware these Terms of Use no longer govern. Customer should review the applicable terms and policies, including privacy and data gathering practices, of any website to which Customer navigates from the Website or relating to any applications Customer uses or install from the Website.

**6.2** **Purchases through Third-Party Websites**. Any purchases Customer makes through Third-Party Websites will be through other websites and from other companies, and CALAVO takes no responsibility whatsoever in relation to such purchases which are exclusively between Customer and the applicable third party. Customer agrees and acknowledges that CALAVO does not endorse the products or services offered on Third-Party Websites and Customer shall hold CALAVO harmless from any harm caused by Customer’s purchase of such products or services. Additionally, Customer shall hold CALAVO harmless from any losses sustained by Customer or harm caused to Customer relating to or resulting in any way from any Third-Party Content or any contact with Third-Party Websites or Third-Party Offerings.

1. **MODIFICATION.** CALAVO reserves the right, but not the obligation, to: (1) monitor the Services for violations of these Terms of Use; (2) take appropriate legal action against anyone who, in our sole discretion, violates the law or these Terms of Use, including without limitation, reporting such user to law enforcement authorities; (3) in our sole discretion and without limitation, notice, or liability, to remove from the Services or otherwise disable all files and content that are excessive in size or are in any way burdensome to our systems; and (4) otherwise manage the Services in a manner designed to protect our rights and property and to facilitate the proper functioning of the Services.
2. **DISCLAIMERS**

THE SERVICES ARE PROVIDED ON AN “AS-IS” AND “AS AVAILABLE” BASIS, AND COMPANY (AND OUR SUPPLIERS) EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ALL WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, ACCURACY, OR NON-INFRINGEMENT. WE (AND OUR SUPPLIERS) MAKE NO WARRANTY THAT THE SERVICES WILL MEET CUSTOMER’S REQUIREMENTS, WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS, OR WILL BE ACCURATE, RELIABLE, FREE OF VIRUSES OR OTHER HARMFUL CODE, COMPLETE, LEGAL, OR SAFE. IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE SERVICES, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DATE OF FIRST USE.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO CUSTOMER. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO CUSTOMER. IN SUCH EVENT, THE IMPLIED WARRANTY WILL BE DEEMED TO BE EXCLUDED TO THE MAXIMUM AMOUNT ALLOWED UNDER SUCH LAW.

**9.** **LIMITATION ON LIABILITY**

TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL COMPANY (OR OUR SUPPLIERS) BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY LOST PROFITS, LOST DATA, COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS, OR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES ARISING FROM OR RELATING TO THESE TERMS OR CUSTOMER’S USE OF, OR INABILITY TO USE, THE SITE, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ACCESS TO, AND USE OF, THE SITE IS AT CUSTOMER’S OWN DISCRETION AND RISK, AND CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER’S DEVICE OR COMPUTER SYSTEM, OR LOSS OF DATA RESULTING THEREFROM.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, OUR LIABILITY TO CUSTOMER FOR ANY DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT (FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION), WILL AT ALL TIMES BE LIMITED TO A MAXIMUM OF FEES PAID TO COMPANY FOR THE SIX MONTHS PRECEDING THE CAUSE OF ACTION. THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE THIS LIMIT. CUSTOMER AGREE THAT OUR SUPPLIERS WILL HAVE NO LIABILITY OF ANY KIND ARISING FROM OR RELATING TO THIS AGREEMENT.

SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO CUSTOMER. IN SUCH EVENT, THE LIMITATION OF LIABILITY WILL BE DEEMED TO BE THE MAXIMUM AMOUNT ALLOWED UNDER SUCH LAW.

1. **INDEMNIFICATION.**

Customer agrees to defend, indemnify, and hold CALAVO harmless, including our subsidiaries, affiliates, and all of our respective officers, agents, partners, and employees, from and against any loss, damage, liability, claim, or demand, including reasonable attorneys’ fees and expenses, made by any third party due to or arising out of: (1) use of the Services; (2) breach of these Terms of Use; (3) any breach of Customer’s representations and warranties set forth in these Terms of Use; (4) Customer’s violation of the rights of a third party, including but not limited to intellectual property rights; or (5) any overt harmful act toward any other user of the Services with whom Customer connected via the Services. Notwithstanding the foregoing, we reserve the right, at Customer’s expense, to assume the exclusive defense and control of any matter for which Customer are required to indemnify us, and Customer agree to cooperate, at Customer’s expense, with our defense of such claims. We will use reasonable efforts to notify Customer of any such claim, action, or proceeding which is subject to this indemnification upon becoming aware of it.

**11**. **TERM AND TERMINATION**. Subject to this Section, these Terms will remain in full force and effect while Customer uses the Services. We may suspend or terminate Customer’s rights to use the Services (including Customer’s Account) at any time for any reason at our sole discretion, including for any use of the Services in violation of these Terms. Upon termination of Customer’s rights under these Terms, Customer’s Account and right to access and use the Services will terminate immediately. CALAVO will not have any liability whatsoever to Customer for any termination of Customer’s rights under these Terms, including for termination of Customer’s Account or deletion of Customer’s Customer Content or Customer Data. The following will survive any expiration or termination of this Agreement: the Preamble and Sections 1.2, 1.3, 2.3, 2.4, 4, 5, 6, 8, 9, 10 and 12.

**12. GENERAL**

**12.1 Governing Law; Jurisdiction.** This Terms of Use will be governed by and construed in accordance with the laws of the State of Delaware and the federal laws of the United States of America, without regards to conflict of law principles.

**12.2** **Mandatory Informal Dispute Resolution**. If you have any dispute with CALAVO arising out of or relating to this Agreement, you agree to notify CALAVO in writing with a brief, written description of the dispute and your contact information, and CALAVO will have thirty (30) days from the date of receipt within which to attempt resolve the dispute to your reasonable satisfaction. If the parties are unable to resolve the dispute through good faith negotiations over such thirty (30) day period under this informal process, either Party may pursue resolution of the dispute in accordance with the arbitration agreement below.

**12.3** **Arbitration Agreement**. ALL DISPUTES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY ASPECT OF THE RELATIONSHIP BETWEEN YOU AND CALAVO, WHETHER BASED IN CONTRACT, TORT, STATUTE, FRAUD, MISREPRESENTATION OR ANY OTHER LEGAL THEORY, THAT ARE NOT RESOLVED PURSUANT TO SECTION 12.2 ABOVE WILL BE RESOLVED THROUGH FINAL AND BINDING ARBITRATION BEFORE A NEUTRAL ARBITRATOR INSTEAD OF IN A COURT BY A JUDGE OR JURY, AND CALAVO AND YOU EACH HEREBY WAIVE THE RIGHT TO TRIAL BY A JURY. YOU AGREE THAT ANY ARBITRATION UNDER THIS AGREEMENT WILL TAKE PLACE ON AN INDIVIDUAL BASIS; CLASS ARBITRATIONS AND CLASS ACTIONS ARE NOT PERMITTED AND YOU ARE AGREEING TO GIVE UP THE ABILITY TO PARTICIPATE IN A CLASS ACTION. The arbitration will be administered by the American Arbitration Association under its Commercial Arbitration Rules and Mediation Procedures (currently accessible at www.adr.org/aaa/faces/rules/searchrules/rulesdetail?doc=ADRSTG\_004130) as amended by these Terms of Use. Any arbitration hearing will be held in Los Angeles County, California. The applicable governing law will be as set forth in Section 12.1 (provided that with respect to arbitrability issues, federal arbitration law will govern). The arbitrator’s decision will follow the terms of this Agreement and will be final and binding. The arbitrator will have authority to award temporary, interim or permanent injunctive relief or relief providing for specific performance of this Agreement, but only to the extent necessary to provide relief warranted by the individual claim before the arbitrator. The award rendered by the arbitrator may be confirmed and enforced in any court having jurisdiction thereof.

12.4 **Copyright Policy**. CALAVO respects the intellectual property of others and asks that users of our Services do the same. In connection with our Services, we have adopted and implemented a policy respecting copyright law that provides for the removal of any infringing materials and for the termination, in appropriate circumstances, of users of our online Services who are repeat infringers of intellectual property rights, including copyrights. If you believe that one of our users is, through the use of our Services, unlawfully infringing the copyright(s) in a work, and wish to have the allegedly infringing material removed, the following information in the form of a written notification (pursuant to 17 U.S.C. § 512(c)) must be provided to our designated Copyright Agent:

1. your physical or electronic signature;
2. identification of the copyrighted work(s) that you claim to have been infringed;
3. identification of the material on our services that you claim is infringing and that you request us to remove;
4. sufficient information to permit us to locate such material;
5. your address, telephone number, and e-mail address;
6. a statement that you have a good faith belief that use of the objectionable material is not authorized by the copyright owner, its agent, or under the law; and
7. a statement that the information in the notification is accurate, and under penalty of perjury, that you are either the owner of the copyright that has allegedly been infringed or that you are authorized to act on behalf of the copyright owner.

Please note that, pursuant to 17 U.S.C. § 512(f), any misrepresentation of material fact (falsities) in a written notification automatically subjects the complaining party to liability for any damages, costs and attorney’s fees incurred by us in connection with the written notification and allegation of copyright infringement.

The designated Copyright Agent for CALAVO is: Calavo Marketing

Designated Agent: Marketing Manager

Address of Agent: 1141-A Cummings Road, Santa Paula, CA. 93060

Telephone: 805-525-1245

Fax: 805-921-3219

Email: marketing@calavo.com

**12.4 Export.** The Services may be subject to U.S. export control laws and may be subject to export or import regulations in other countries. Customer agrees not to export, reexport, or transfer, directly or indirectly, any U.S. technical data acquired from CALAVO, or any products utilizing such data, in violation of the United States export laws or regulations.

**12.5 Disclosures.** CALAVO is located at the address in Section 12.10. If you are a California resident, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Product 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.

**12.7 Electronic Communications**. The communications between Customer and CALAVO use electronic means, whether Customer use the Services or send us emails, or whether CALAVO posts notices on the Services or communicates with Customer via email. For contractual purposes, Customer (a) consent to receive communications from CALAVO in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that CALAVO provides to Customer electronically satisfy any legal requirement that such communications would satisfy if it were in a hardcopy writing. The foregoing does not affect Customer’s non-waivable rights.

**12.8 Entire Terms.** These Terms constitute the entire agreement between Customer and us regarding the use of the Services. Our failure to exercise or enforce any right or provision of these Terms shall not operate as a waiver of such right or provision. The section titles in these Terms are for convenience only and have no legal or contractual effect. The word “including” means “including without limitation”. If any provision of these Terms is, for any reason, held to be invalid or unenforceable, the other provisions of these Terms will be unimpaired and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law. Customer’s relationship to CALAVO is that of an independent contractor, and neither Party is an agent or partner of the other. These Terms, and Customer’s rights and obligations herein, may not be assigned, subcontracted, delegated, or otherwise transferred by Customer without CALAVO’s prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void. law. We may assign any or all of our rights and obligations to others at any time. The terms and conditions set forth in these Terms shall be binding upon assignees.

**12.9 Copyright/Trademark Information.** Copyright © 2019 CALAVO Technologies, Inc.. All rights reserved. All trademarks, logos and service marks (“Marks”) displayed on the Services are our property or the property of other third parties. Customer are not permitted to use these Marks without our prior written consent or the consent of such third Party which may own the Marks.

**13. Definitions**

**13.1** “**Account**” means the online account established by Customer pursuant to which Customer will pay for the Services and manage Customer’s receipt of Services.

**13.2** “**Affiliate**” means any entity that directly or indirectly controls, is controlled by, or is under common control with you, and that has been designated to receive Services under this Agreement. “**Control**” for purposes of this definition means the power to direct or cause the direction of the management and policies of the subject entity, whether through equity ownership, a credit arrangement, franchise agreement or other contractual arrangement.

**13.3** “**Apps**” means any mobile applications through which CALAVO makes the Service available.

**13.4** “**Authorized User**” means any Customer volunteers, staff, employees, consultants, advisors, and/or independent contractors to whom Customer provide access to Customer’s Account.

**13.5** "**Confidential Information**" means (a) any software utilized by CALAVO in the provision of the Services and its respective source code; (b) each Party’s business or technical information, including but not limited to information relating to software plans, designs, costs, prices and names, business opportunities, personnel, research, development or know-how that is designated by the disclosing Party as “confidential” or “proprietary” or the receiving Party knows or should reasonably know is confidential or proprietary; and (c) any special pricing or other non-standard terms agreed to by the Parties in a separate written document.

**13.6**  “**Customer**” means the individual or entity which enters into these Terms of Use or other agreement with CALAVO.

**13.7** “**Customer Content**” means any and all documents created and/or supplied by Customer.

**13.8** “**Customer Data**” means any data, information or material provided or submitted or made available by you and Affiliates to the Services. Customer Data may include End User Data (and your or their representative’s data) or information related to business leads), but excludes Statistical Data.

**13.9 "CALAVO Content**" means the audio and visual information, data, documents, software, products and services contained or made available to the Customer in the course of using the Services.

**13.10** “**End User**” means a business or individual that schedules or purchases products or services from you through the Services or otherwise interacts with you through the Services.

**13.11** “**End User Data**” means all data, information or other material about an End User that you, an Affiliate or End User provides or submits to the Services.

**13.12 “Feedback”** means any feedback or suggestion regarding the Services provided by Customer to CALAVO.

**13.13 “Marks**” means all trademarks, logos and service marks owned or asserted by CALAVO in and to the Services.

**13.14 “Party”** means CALAVO on the one hand and Customer or you on the other. Both sides are collectively referred to as the **“Parties”.**

**13.15 “Privacy Policy**” means the CALAVO Privacy Policy accessible at www.dojoflo.com/privacy-policy (or such other URL as specified by CALAVO), as may be updated by CALAVO from time to time.

**13.16** “**Services**” means collectively the Software as a Service, the Website and the Apps.

**13.17** “**Statistical Data**” means anonymized or aggregated data derived by or through the operation of the Services that is created by or on behalf of CALAVO and that does not reveal any personally identifying information.

**13.18** "**Third-Party Content**" means articles, photographs, text, graphics, pictures, designs, music, sound, video, information, applications, software, and other content or items belonging to or originating from third parties.

**13. 19**“**Third-Party Offerings**” means any third-party products, applications, websites, implementations or services, including loyalty programs, that the Services link to, or that interoperate with or are used in conjunction with the Services.

**13.20** "**Third-Party Websites**" means a website operated by a third party not Affiliated with CALAVO.

**13.21** “**Website**” or “**Services**” means the website located at www.CALAVO.com along with all related subdomains and mobile applications through which CALAVO makes the Service available.