

# HBT Terms of Use

Updated May 21, 2019

## AGREEMENT TO TERMS

These Terms of Use constitute a legally binding agreement made between you, whether personally or on behalf of an entity (“you”) and HBT (“Company”, “we”, “us”, or “our”), concerning your access to and use of the mobile application as well as any other media form, media channel, website, mobile website or mobile application related, linked, or otherwise connected thereto (collectively, the “Application”). You agree that by accessing the Application, you have read, understood, and agreed to be bound by all of these Terms of Use. IF YOU DO NOT AGREE WITH ALL OF THESE TERMS OF USE, THEN YOU ARE EXPRESSLY PROHIBITED FROM USING THE APPLICATION AND YOU MUST DISCONTINUE USE IMMEDIATELY.

Supplemental terms and conditions or documents that may be posted on our website (hbtapp.com) 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 of Use at any time and for any reason. We will alert you about any changes by updating the “Updated” date of these Terms of Use, 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 of Use by your continued use of the Application after the date such revised Terms of Use are posted.

The information provided on the Application is not intended for distribution to or use by any person or entity in any jurisdiction or country where such distribution or use would be contrary to law or regulation or which would subject us to any registration requirement within such jurisdiction or country. Accordingly, those persons who choose to access the Application from other locations do so on their own initiative and are solely responsible for compliance with local laws, if and to the extent local laws are applicable.

## INTELLECTUAL PROPERTY RIGHTS

Unless otherwise indicated, the Application is our proprietary property and all source code, databases, functionality, software, website designs, audio, video, text, photographs, and graphics

on the Applications (collectively, the “Content”) and the trademarks, service marks, and logos contained therein (the “Marks”) are owned or controlled by us or licensed to us, and are protected by copyright and trademark laws and various other intellectual property rights and unfair competition laws of the United States, foreign jurisdictions, and international conventions. The Content and the Marks are provided on the Application “AS IS” for your information and personal use only. Except as expressly provided in these Terms of Use, no part of the Application and no Content or Marks may be copied, reproduced, aggregated, republished, uploaded, posted, publicly displayed, encoded, translated, transmitted, distributed, sold, licensed, or otherwise exploited for any commercial purpose whatsoever, without our express prior written permission.

Provided that you are eligible to use the Application, you are granted a limited license to access and use the Application and to download or print a copy of any portion of the Content to which you have properly gained access solely for your personal, non-commercial use. We reserve all rights not expressly granted to you in and to the Application, the Content and the Marks.

## **USER REPRESENTATIONS**

By using the Application, you represent and warrant that: (1) all registration information you submit will be true, accurate, current, and complete; (2) you will maintain the accuracy of such information and promptly update such registration information as necessary; (3) you have the legal capacity and you agree to comply with these Terms of Use; (4) you will not access the Application through automated or non-human means, whether through a bot, script, or otherwise; (5) you will not use the Application for any illegal or unauthorized purpose; and (6) your use of the Application will not violate any applicable law or regulation.

If you provide any information that is untrue, inaccurate, not current, or incomplete, we have the right to suspend or terminate your account and refuse any and all current or future use of the Application (or any portion thereof).

## **USER REGISTRATION**

You may be required to register with the Application. You agree to keep your password confidential and will be responsible for all use of your account and password. We reserve the right to remove, reclaim, or change a name or username you select if we determine, in our sole discretion, that such name/username is inappropriate, obscene, or otherwise objectionable.

## PROHIBITED ACTIVITIES

You may not access or use the Application for any purpose other than that for which we make the Application available. The Application may not be used in connection with any commercial endeavors except those that are specifically endorsed or approved by us. As a user of the Application, you agree not to:

1. Systematically retrieve data or other content from the Application to create or compile, directly or indirectly, a collection, compilation, database, or directory without written permission from us.
2. Make any unauthorized use of the Application, including collecting usernames and/or email addresses of users by electronic or other means for the purpose of sending unsolicited email, or creating user accounts by automated means or under false pretenses.
3. Use the Application to advertise or offer to sell goods and services.
4. Circumvent, disable, or otherwise interfere with security-related features of the Application, including features that prevent or restrict the use or copying of any Content or enforce limitations on the use of the Application and/or the Content contained therein.
5. Engage in unauthorized framing of or linking to the Application.
6. Trick, defraud, or mislead us and other users, especially in any attempt to learn sensitive account information such as user passwords.
7. Make improper use of our support services or submit false reports of abuse or misconduct.
8. Engage in any automated use of the system, such as using scripts to send comments or messages, or using any data mining, robots, or similar data gathering and extraction tools.
9. Interfere with, disrupt, or create an undue burden on the Application or the networks or services connected to the Application.
10. Attempt to impersonate another user or person or use the username of another user.
11. Use any information obtained from the Application in order to harass, abuse, or harm another person.
12. Attempt to bypass any measures of the Application designed to prevent or restrict access to the Application, or any portion of the Application.
13. Harass, annoy, intimidate, or threaten any of our employees or agents engaged in providing any portion of the Application to you.
14. Delete the copyright or other proprietary rights notice from any Content.
15. Copy or adapt the Application's software, including but not limited to Swift, Javascript, Java, or other code.
16. Upload or transmit (or attempt to upload or to transmit) viruses, Trojan horses, or other material, including excessive use of capital letters and spamming (continuous posting of repetitive text), that interferes with any party's uninterrupted use and enjoyment of the

Application or modifies, impairs, disrupts, alters, or interferes with the use, features, functions, operation, or maintenance of the Application.

17. Upload or transmit (or attempt to upload or to transmit) any material that acts as a passive or active information collection or transmission mechanism, including without limitation, clear graphics interchange formats ("gifs"), 1×1 pixels, web bugs, cookies, or other similar devices (sometimes referred to as "spyware" or "passive collection mechanisms" or "pcms").
18. Except as may be the result of standard search engine or Internet browser usage, use, launch, develop, or distribute any automated system, including without limitation, any spider, robot, cheat utility, scraper, or offline reader that accesses the Application, or using or launching any unauthorized script or other software.
19. Disparage, tarnish, or otherwise harm, in our opinion, us and/or the Application.
20. Use the Application in a manner inconsistent with any applicable laws or regulations.

## **USER GENERATED CONTRIBUTIONS**

The Application may invite you to chat, contribute to, or participate in blogs, message boards, online forums, and other functionality, and may provide you with the opportunity to create, submit, post, display, transmit, perform, publish, distribute, or broadcast content and materials to us or on the Application, including but not limited to text, writings, video, audio, photographs, graphics, comments, suggestions, or personal information or other material (collectively, "Contributions"). Contributions may be viewable by other users of the Application and through third-party websites. As such, any Contributions you transmit may be treated as non-confidential and non-proprietary. When you create or make available any Contributions, you thereby represent and warrant that:

1. The creation, distribution, transmission, public display, or performance, and the accessing, downloading, or copying of your Contributions do not and will not infringe the proprietary rights, including but not limited to the copyright, patent, trademark, trade secret, or moral rights of any third party.
2. You are the creator and owner of or have the necessary licenses, rights, consents, releases, and permissions to use and to authorize us, the Application, and other users of the Application to use your Contributions in any manner contemplated by the Application and these Terms of Use.
3. You have the written consent, release, and/or permission of each and every identifiable individual person in your Contributions to use the name or likeness of each and every such identifiable individual person to enable inclusion and use of your Contributions in any manner contemplated by the Application and these Terms of Use.
4. Your Contributions are not false, inaccurate, or misleading.
5. Your Contributions are not unsolicited or unauthorized advertising, promotional materials, pyramid schemes, chain letters, spam, mass mailings, or other forms of solicitation.
6. Your Contributions are not obscene, lewd, lascivious, filthy, violent, harassing, libelous, slanderous, or otherwise objectionable (as determined by us).

7. Your Contributions do not ridicule, mock, disparage, intimidate, or abuse anyone.
8. Your Contributions do not advocate the violent overthrow of any government or incite, encourage, or threaten physical harm against another.
9. Your Contributions do not violate any applicable law, regulation, or rule.
10. Your Contributions do not violate the privacy or publicity rights of any third party.
11. Your Contributions do not contain any material that solicits personal information from anyone under the age of 18 or exploits people under the age of 18
12. Your Contributions do not violate any federal or state law concerning child pornography, or otherwise intended to protect the health or well-being of minors
13. Your Contributions do not include any offensive comments that are connected to race, national origin, gender, sexual preference, or physical handicap.
14. Your Contributions do not otherwise violate, or link to material that violates, any provision of these Terms of Use, or any applicable law or regulation.

Any use of the Application in violation of the foregoing violates these Terms of Use and may result in, among other things, termination or suspension of your rights to use the Application.

## **CONTRIBUTION LICENSE**

By posting your Contributions to any part of the Application or making Contributions accessible to the Application by linking your account from the Application to any of your social networking accounts, you automatically grant, and you represent and warrant that you have the right to grant, to us an unrestricted, unlimited, irrevocable, perpetual, non-exclusive, transferable, royalty-free, fully-paid, worldwide right, and license to host, use, copy, reproduce, disclose, sell, resell, publish, broadcast, retitle, archive, store, cache, publicly perform, publicly display, reformat, translate, transmit, excerpt (in whole or in part), and distribute such Contributions (including, without limitation, your image and voice) for any purpose, commercial, advertising, or otherwise, and to prepare derivative works of, or incorporate into other works, such Contributions, and grant and authorize sublicenses of the foregoing. The use and distribution may occur in any media formats and through any media channels.

This license will apply to any form, media, or technology now known or hereafter developed, and includes our use of your name, company name, and franchise name, as applicable, and any of the trademarks, service marks, trade names, logos, and personal and commercial images you provide. You waive all moral rights in your Contributions, and you warrant that moral rights have not otherwise been asserted in your Contributions.

We do not assert any ownership over your Contributions. You retain full ownership of all of your Contributions and any intellectual property rights or other proprietary rights associated with your Contributions. We are not liable for any statements or representations in your Contributions provided by you in any area on the Application. You are solely responsible for your Contributions

to the Application and you expressly agree to exonerate us from any and all responsibility and to refrain from any legal action against us regarding your Contributions.

We have the right, in our sole and absolute discretion, (1) to edit, redact, or otherwise change any Contributions; (2) to re-categorize any Contributions to place them in more appropriate locations on the Application; and (3) to pre-screen or delete any Contributions at any time and for any reason, without notice. We have no obligation to monitor your Contributions.

## **MOBILE APPLICATION LICENSE**

### **Use License**

When you access the mobile application, we grant you a revocable, non-exclusive, non-transferable, limited right to install and use the mobile application on wireless electronic devices owned or controlled by you, and to access and use the mobile application on such devices strictly in accordance with the terms and conditions of this mobile application license contained in these Terms of Use. You shall not: (1) decompile, reverse engineer, disassemble, attempt to derive the source code of, or decrypt the application; (2) make any modification, adaptation, improvement, enhancement, translation, or derivative work from the application; (3) violate any applicable laws, rules, or regulations in connection with your access or use of the application; (4) remove, alter, or obscure any proprietary notice (including any notice of copyright or trademark) posted by us or the licensors of the application; (5) use the application for any revenue generating endeavor, commercial enterprise, or other purpose for which it is not designed or intended; (6) make the application available over a network or other environment permitting access or use by multiple devices or users at the same time; (7) use the application for creating a product, service, or software that is, directly or indirectly, competitive with or in any way a substitute for the application; (8) use the application to send automated queries to any website or to send any unsolicited commercial e-mail; or (9) use any proprietary information or any of our interfaces or our other intellectual property in the design, development, manufacture, licensing, or distribution of any applications, accessories, or devices for use with the application.

### **Apple and Android Devices**

The following terms apply when you use a mobile application obtained from either the Apple Store or Google Play (each an "App Distributor") to access the Application: (1) the license granted to you for our mobile application is limited to a non-transferable license to use the application on a device that utilizes the Apple iOS or Android operating systems, as applicable, and in accordance with the usage rules set forth in the applicable App Distributor's terms of service; (2) we are responsible for providing any maintenance and support services with respect to the mobile application as specified in the terms and conditions of this mobile application license contained in these Terms of Use or as otherwise required under applicable law, and you

acknowledge that each App Distributor has no obligation whatsoever to furnish any maintenance and support services with respect to the mobile application; (3) in the event of any failure of the mobile application to conform to any applicable warranty, you may notify the applicable App Distributor, and the App Distributor, in accordance with its terms and policies, may refund the purchase price, if any, paid for the mobile application, and to the maximum extent permitted by applicable law, the App Distributor will have no other warranty obligation whatsoever with respect to the mobile application; (4) you represent and warrant that (i) you are not located in a country that is subject to a U.S. government embargo, or that has been designated by the U.S. government as a “terrorist supporting” country and (ii) you are not listed on any U.S. government list of prohibited or restricted parties; (5) you must comply with applicable third-party terms of agreement when using the mobile application, e.g., if you have a VoIP application, then you must not be in violation of their wireless data service agreement when using the mobile application; and (6) you acknowledge and agree that the App Distributors are third-party beneficiaries of the terms and conditions in this mobile application license contained in these Terms of Use, and that each App Distributor will have the right (and will be deemed to have accepted the right) to enforce the terms and conditions in this mobile application license contained in these Terms of Use against you as a third-party beneficiary thereof.

## **SOCIAL MEDIA**

As part of the functionality of the Application, you may link your account with online accounts you have with third-party service providers (each such account, a “Third-Party Account”) by either: (1) providing your Third-Party Account login information through the Application; or (2) allowing us to access your Third-Party Account, as is permitted under the applicable terms and conditions that govern your use of each Third-Party Account. You represent and warrant that you are entitled to disclose your Third-Party Account login information to us and/or grant us access to your Third-Party Account, without breach by you of any of the terms and conditions that govern your use of the applicable Third-Party Account, and without obligating us to pay any fees or making us subject to any usage limitations imposed by the third-party service provider of the Third-Party Account. By granting us access to any Third-Party Accounts, you understand that (1) we may access, make available, and store (if applicable) any content that you have provided to and stored in your Third-Party Account (the “Social Network Content”) so that it is available on and through the Application via your account, including without limitation any friend lists and (2) we may submit to and receive from your Third-Party Account additional information to the extent you are notified when you link your account with the Third-Party Account. Depending on the Third-Party Accounts you choose and subject to the privacy settings that you have set in such Third-Party Accounts, personally identifiable information that you post to your Third-Party Accounts may be available on and through your account on the Application. Please note that if a Third-Party Account or associated service becomes unavailable or our access to such Third Party Account is terminated by the third-party service provider, then Social Network Content may no longer be available on and through the Application. You will have the ability to disable the connection

between your account on the Application and your Third-Party Accounts at any time. PLEASE NOTE THAT YOUR RELATIONSHIP WITH THE THIRD-PARTY SERVICE PROVIDERS ASSOCIATED WITH YOUR THIRD-PARTY ACCOUNTS IS GOVERNED SOLELY BY YOUR AGREEMENT(S) WITH SUCH THIRD-PARTY SERVICE PROVIDERS. We make no effort to review any Social Network Content for any purpose, including but not limited to, for accuracy, legality, or non-infringement, and we are not responsible for any Social Network Content. You acknowledge and agree that we may access your email address book associated with a Third-Party Account and your contacts list stored on your mobile device or tablet computer solely for purposes of identifying and informing you of those contacts who have also registered to use the Application. You can deactivate the connection between the Application and your Third-Party Account by contacting us using the contact information below or through your account settings (if applicable). We will attempt to delete any information stored on our servers that was obtained through such Third-Party Account, except the name, username and profile picture that become associated with your account.

## **SUBMISSIONS**

You acknowledge and agree that any questions, comments, suggestions, ideas, feedback, or other information regarding the Application ("Submissions") provided by you to us are non-confidential. You shall own exclusive rights to your Submissions, including all intellectual property rights, and we shall be entitled to the unrestricted use and dissemination of these Submissions for any lawful purpose, commercial or otherwise, without acknowledgment or compensation to you. You agree there shall be no recourse against us for any alleged or actual infringement or misappropriation of any proprietary right in your Submissions.

## **THIRD-PARTY WEBSITES AND CONTENT**

The Application may contain (or you may be sent via the Application) links to other websites ("Third-Party Websites") as well as articles, photographs, text, graphics, pictures, designs, music, sound, video, information, applications, software, and other content or items belonging to or originating from third parties ("Third-Party Content"). Such Third-Party Websites and Third-Party Content 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 Application or any Third-Party Content posted on, available through, or installed from the Application, 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 you decide to leave the Application and access the Third-Party Websites or to use or install any Third-Party Content, you do so at your own risk, and you should be aware these Terms of Use no longer govern. You

should review the applicable terms and policies, including privacy and data gathering practices, of any website to which you navigate from the Application or relating to any applications you use or install from the Application. Any purchases you make through Third-Party Websites will be through other websites and from other companies, and we take no responsibility whatsoever in relation to such purchases which are exclusively between you and the applicable third party. You agree and acknowledge that we do not endorse the products or services offered on Third-Party Websites and you shall hold us harmless from any harm caused by your purchase of such products or services. Additionally, you shall hold us harmless from any losses sustained by you or harm caused to you relating to or resulting in any way from any Third-Party Content or any contact with Third-Party Websites.

## **ADVERTISERS**

We may allow advertisers to display their advertisements and other information in certain areas of the Application, such as sidebar advertisements or banner advertisements. If you are an advertiser, you shall take full responsibility for any advertisements you place on the Application and any services provided on the Application or products sold through those advertisements. Further, as an advertiser, you warrant and represent that you possess all rights and authority to place advertisements on the Application, including, but not limited to, intellectual property rights, publicity rights, and contractual rights. We simply provide the space to place such advertisements, and we have no other relationship with advertisers.

## **PAYMENTS AND SUBSCRIPTIONS**

### **In App Purchases**

If you would like to change the styling of your map or make use of any of our paid features that are not included in our Premium Services you may do so by making an In App Purchase. When you make an In App Purchase, you accept that your iTunes or Google Play account will be charged for the full price of the purchase along with applicable fees and taxes. By making an In App Purchase YOU AGREE WE WILL NOT ISSUE PARTIAL OR FULL REFUNDS FOR ANY IN APP PURCHASES.

### **Premium Subscription**

If you would like to add more than 3 goals or participate in any other activity that we deem part of our Premium Services, then you can upgrade your account to a premium account. Our premium accounts are subscription based. When you sign up for our Premium subscription you agree to pay all applicable fees, and accept that your iTunes or Google Play account will be charged at the beginning of each subscription period.

## **Subscription Renewal**

Your subscription will be automatically renewed at the end of your subscription or trial period and your iTunes or Google Play account will be automatically charged on a monthly or annual basis, as applicable, until you cancel your subscription. If we are unable to charge your account or are otherwise unable to obtain payment for Services when due, we reserve the right to suspend or terminate your access to our Premium Services until we receive payment from you. For example, and without limitation, if we are unable to charge your iTunes account when a payment is due, we may downgrade your access to our free service and limit the goals you can view, at our discretion. Any limits imposed on your usage will be lifted once we can process a payment or you sign up for our Premium Services at a later date.

## **Right to Modify Fees Service**

We reserve the right to modify our fees at any time, for any reason upon notice to you. Any increase in our pricing will go into effect at the time that your next subscription payment is due. Your subscription pricing will not change without your explicit approval and you will not be charged in the case of a price change on our part until you approve the change, in our app, the App Store or the Google Play Store. If you neglect to approve a price change, this might result in your subscription renewal to fail. HBT reserves the right to modify, add or remove certain Premium Services, and to charge you additional or different fees for providing new or modified services to you.

## **Cancelling Your Subscription**

You can cancel your subscription at any time by turning off auto-renewal in your Account Settings at least 24 hours before expiration of your membership period. You can refer to your application store provider for details on the cancellation process. You will remain liable for all charges through the end of the current subscription period. Your subscription will remain active until the end of the current subscription period even after cancellation. By subscribing to our Premium Services, YOU AGREE WE WILL NOT ISSUE PARTIAL OR FULL REFUNDS FOR ANY SUBSCRIPTION SERVICES FOR WHICH YOU HAVE PREPAID.

## **Trial Period**

Before your first subscription purchase you may be eligible for a free trial period when applicable. If you cancel your subscription during your trial period, any unused trial days will be forfeited.

## **APPLICATION MANAGEMENT**

We reserve the right, but not the obligation, to: (1) monitor the Application 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, refuse, restrict access to, limit the availability of, or disable (to the extent technologically feasible) any of your Contributions

or any portion thereof; (4) in our sole discretion and without limitation, notice, or liability, to remove from the Application or otherwise disable all files and content that are excessive in size or are in any way burdensome to our systems; and (5) otherwise manage the Application in a manner designed to protect our rights and property and to facilitate the proper functioning of the Application.

## **PRIVACY POLICY**

We care about data privacy and security. Please review our [Privacy Policy](#). By using the Application, you agree to be bound by our Privacy Policy, which is incorporated into these Terms of Use. Please be advised the Application is hosted in the United States. If you access the Application from the European Union, Asia, or any other region of the world with laws or other requirements governing personal data collection, use, or disclosure that differ from applicable laws in the United States, then through your continued use of the Application, you are transferring your data to the United States, and you expressly consent to have your data transferred to and processed in the United States. Further, we do not knowingly accept, request, or solicit information from children or knowingly market to children under the age of 13. Therefore, in accordance with the U.S. Children's Online Privacy Protection Act, if we receive actual knowledge that anyone under the age of 13 has provided personal information to us without the requisite and verifiable parental consent, we will delete that information from the Application as quickly as is reasonably practical.

## **COPYRIGHT INFRINGEMENTS**

We respect the intellectual property rights of others. If you believe that any material available on or through the Application infringes upon any copyright you own or control, please immediately notify us using the contact information provided below (a "Notification"). A copy of your Notification will be sent to the person who posted or stored the material addressed in the Notification. Please be advised that pursuant to federal law you may be held liable for damages if you make material misrepresentations in a Notification. Thus, if you are not sure that material located on or linked to by the Application infringes your copyright, you should consider first contacting an attorney.

## **TERM AND TERMINATION**

These Terms of Use shall remain in full force and effect while you use the Application. WITHOUT LIMITING ANY OTHER PROVISION OF THESE TERMS OF USE, WE RESERVE THE RIGHT TO, IN OUR SOLE DISCRETION AND WITHOUT NOTICE OR LIABILITY, DENY ACCESS TO AND USE OF THE APPLICATION (INCLUDING BLOCKING CERTAIN IP ADDRESSES), TO ANY PERSON FOR ANY REASON OR FOR NO REASON, INCLUDING WITHOUT LIMITATION FOR BREACH OF ANY REPRESENTATION, WARRANTY, OR COVENANT CONTAINED IN THESE TERMS OF USE OR OF ANY APPLICABLE LAW OR REGULATION. WE MAY TERMINATE YOUR USE OR PARTICIPATION

IN THE APPLICATION OR DELETE YOUR ACCOUNT AND ANY CONTENT OR INFORMATION THAT YOU POSTED AT ANY TIME, WITHOUT WARNING, IN OUR SOLE DISCRETION.

If we terminate or suspend your account for any reason, you are prohibited from registering and creating a new account under your name, a fake or borrowed name, or the name of any third party, even if you may be acting on behalf of the third party. In addition to terminating or suspending your account, we reserve the right to take appropriate legal action, including without limitation pursuing civil, criminal, and injunctive redress.

## **MODIFICATIONS AND INTERRUPTIONS**

We reserve the right to change, modify, or remove the contents of the Application at any time or for any reason at our sole discretion without notice. However, we have no obligation to update any information on our Application. We also reserve the right to modify or discontinue all or part of the Application without notice at any time. We will not be liable to you or any third party for any modification, price change, suspension, or discontinuance of the Application.

We cannot guarantee the Application will be available at all times. We may experience hardware, software, or other problems or need to perform maintenance related to the Application, resulting in interruptions, delays, or errors. We reserve the right to change, revise, update, suspend, discontinue, or otherwise modify the Application at any time or for any reason without notice to you. You agree that we have no liability whatsoever for any loss, damage, or inconvenience caused by your inability to access or use the Application during any downtime or discontinuance of the Application. Nothing in these Terms of Use will be construed to obligate us to maintain and support the Application or to supply any corrections, updates, or releases in connection therewith.

## **GOVERNING LAW**

These Terms of Use and your use of the Application are governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania applicable to agreements made and to be entirely performed within the Commonwealth of Pennsylvania, without regard to its conflict of law principles.

## **DISPUTE RESOLUTION**

### **Informal Negotiations**

To expedite resolution and control the cost of any dispute, controversy, or claim related to these Terms of Use (each a "Dispute" and collectively, the "Disputes") brought by either you or us (individually, a "Party" and collectively, the "Parties"), the Parties agree to first attempt to negotiate any Dispute (except those Disputes expressly provided below) informally for at least thirty (30) days before initiating arbitration. Such informal negotiations commence upon written notice from one Party to the other Party.

### **Binding Arbitration**

If the Parties are unable to resolve a Dispute through informal negotiations, the Dispute (except those Disputes expressly excluded below) will be finally and exclusively resolved by binding arbitration. YOU UNDERSTAND THAT WITHOUT THIS PROVISION, YOU WOULD HAVE THE RIGHT TO SUE IN COURT AND HAVE A JURY TRIAL. The arbitration shall be commenced and conducted under the Commercial Arbitration Rules of the American Arbitration Association ("AAA") and, where appropriate, the AAA's Supplementary Procedures for Consumer Related Disputes ("AAA Consumer Rules"), both of which are available at the AAA website [www.adr.org](http://www.adr.org). Your arbitration fees and your share of arbitrator compensation shall be governed by the AAA Consumer Rules and, where appropriate, limited by the AAA Consumer Rules. If such costs are determined to be excessive, we will pay all arbitration fees and expenses. The arbitration may be conducted in person, through the submission of documents, by phone, or online. The arbitrator will make a decision in writing, but need not provide a statement of reasons unless requested by either Party. The arbitrator must follow applicable law, and any award may be challenged if the arbitrator fails to do so. Except where otherwise required by the applicable AAA rules or applicable law, the arbitration will take place in United States County, Pennsylvania. Except as otherwise provided herein, the Parties may litigate in court to compel arbitration, stay proceedings pending arbitration, or to confirm, modify, vacate, or enter judgment on the award entered by the arbitrator.

If for any reason, a Dispute proceeds in court rather than arbitration, the Dispute shall be commenced or prosecuted in the state and federal courts located in United States County, Pennsylvania, and the Parties hereby consent to, and waive all defenses of lack of personal jurisdiction, and forum non conveniens with respect to venue and jurisdiction in such state and federal courts. Application of the United Nations Convention on Contracts for the International Sale of Goods and the the Uniform Computer Information Transaction Act (UCITA) are excluded from these Terms of Use. In no event shall any Dispute brought by either Party related in any way to the Application be commenced more than one (1) years after the cause of action arose. If this

provision is found to be illegal or unenforceable, then neither Party will elect to arbitrate any Dispute falling within that portion of this provision found to be illegal or unenforceable and such Dispute shall be decided by a court of competent jurisdiction within the courts listed for jurisdiction above, and the Parties agree to submit to the personal jurisdiction of that court.

### **Restrictions**

The Parties agree that any arbitration shall be limited to the Dispute between the Parties individually. To the full extent permitted by law, (a) no arbitration shall be joined with any other proceeding; (b) there is no right or authority for any Dispute to be arbitrated on a class-action basis or to utilize class action procedures; and (c) there is no right or authority for any Dispute to be brought in a purported representative capacity on behalf of the general public or any other persons.

### **Exceptions to Informal Negotiations and Arbitration**

The Parties agree that the following Disputes are not subject to the above provisions concerning informal negotiations and binding arbitration: (a) any Disputes seeking to enforce or protect, or concerning the validity of, any of the intellectual property rights of a Party; (b) any Dispute related to, or arising from, allegations of theft, piracy, invasion of privacy, or unauthorized use; and (c) any claim for injunctive relief. If this provision is found to be illegal or unenforceable, then neither Party will elect to arbitrate any Dispute falling within that portion of this provision found to be illegal or unenforceable and such Dispute shall be decided by a court of competent jurisdiction within the courts listed for jurisdiction above, and the Parties agree to submit to the personal jurisdiction of that court.

### **CORRECTIONS**

There may be information on the Application that contains typographical errors, inaccuracies, or omissions, including descriptions, pricing, availability, and various other information. We reserve the right to correct any errors, inaccuracies, or omissions and to change or update the information on the Application at any time, without prior notice.

### **DISCLAIMER**

THE APPLICATION IS PROVIDED ON AN AS-IS AND AS-AVAILABLE BASIS. YOU AGREE THAT YOUR USE OF THE APPLICATION AND OUR SERVICES WILL BE AT YOUR SOLE RISK. TO THE FULLEST EXTENT PERMITTED BY LAW, WE DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH THE APPLICATION AND YOUR USE THEREOF, INCLUDING, WITHOUT

LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. WE MAKE NO WARRANTIES OR REPRESENTATIONS ABOUT THE ACCURACY OR COMPLETENESS OF THE APPLICATION'S CONTENT OR THE CONTENT OF ANY WEBSITES LINKED TO THE APPLICATION AND WE WILL ASSUME NO LIABILITY OR RESPONSIBILITY FOR ANY (1) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT AND MATERIALS, (2) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF THE APPLICATION, (3) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR FINANCIAL INFORMATION STORED THEREIN, (4) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE APPLICATION, (5) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE WHICH MAY BE TRANSMITTED TO OR THROUGH THE APPLICATION BY ANY THIRD PARTY, AND/OR (6) ANY ERRORS OR OMISSIONS IN ANY CONTENT AND MATERIALS OR FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE APPLICATION. WE DO NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE APPLICATION, ANY HYPERLINKED WEBSITE, OR ANY WEBSITE OR MOBILE APPLICATION FEATURED IN ANY BANNER OR OTHER ADVERTISING, AND WE WILL NOT BE A PARTY TO OR IN ANY WAY BE RESPONSIBLE FOR MONITORING ANY TRANSACTION BETWEEN YOU AND ANY THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES. AS WITH THE PURCHASE OF A PRODUCT OR SERVICE THROUGH ANY MEDIUM OR IN ANY ENVIRONMENT, YOU SHOULD USE YOUR BEST JUDGMENT AND EXERCISE CAUTION WHERE APPROPRIATE.

## **LIMITATIONS OF LIABILITY**

IN NO EVENT WILL WE OR OUR DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES, INCLUDING LOST PROFIT, LOST REVENUE, LOSS OF DATA, OR OTHER DAMAGES ARISING FROM YOUR USE OF THE APPLICATION, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, OUR LIABILITY TO YOU FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION, WILL AT ALL TIMES BE LIMITED TO THE AMOUNT PAID, IF ANY, BY YOU TO US DURING THE SIX (6) MONTH PERIOD PRIOR TO ANY CAUSE OF ACTION ARISING. CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MAY HAVE ADDITIONAL RIGHTS.

## **INDEMNIFICATION**

You agree to defend, indemnify, and hold us 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) your Contributions; (2) use of the Application; (3) breach of these Terms of Use; (4) any breach of your representations and warranties set forth in these Terms of Use; (5) your violation of the rights of a third party, including but not limited to intellectual property rights; or (6) any overt harmful act toward any other user of the Application with whom you connected via the Application. Notwithstanding the foregoing, we reserve the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us, and you agree to cooperate, at your expense, with our defense of such claims. We will use reasonable efforts to notify you of any such claim, action, or proceeding which is subject to this indemnification upon becoming aware of it.

## **USER DATA**

We will maintain certain data that you transmit to the Application for the purpose of managing the performance of the Application, as well as data relating to your use of the Application. Although we perform regular routine backups of data, you are solely responsible for all data that you transmit or that relates to any activity you have undertaken using the Application. You agree that we shall have no liability to you for any loss or corruption of any such data, and you hereby waive any right of action against us arising from any such loss or corruption of such data.

## **ELECTRONIC COMMUNICATIONS, TRANSACTIONS, AND SIGNATURES**

Visiting the Application, sending us emails, and completing online forms constitute electronic communications. You consent to receive electronic communications, and you agree that all agreements, notices, disclosures, and other communications we provide to you electronically, via email and on the Application, satisfy any legal requirement that such communication be in writing. YOU HEREBY AGREE TO THE USE OF ELECTRONIC SIGNATURES, CONTRACTS, ORDERS, AND OTHER RECORDS, AND TO ELECTRONIC DELIVERY OF NOTICES, POLICIES, AND RECORDS OF TRANSACTIONS INITIATED OR COMPLETED BY US OR VIA THE APPLICATION. You hereby waive any rights or requirements under any statutes, regulations, rules, ordinances, or other laws in any jurisdiction which require an original signature or delivery or retention of non-electronic records, or to payments or the granting of credits by any means other than electronic means.

## **CALIFORNIA USERS AND RESIDENTS**

If any complaint with us is not satisfactorily resolved, you can contact the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs in writing at 1625 North Market Blvd., Suite N 112, Sacramento, California 95834 or by telephone at (800) 952-5210 or (916) 445-1254.

## **MISCELLANEOUS**

These Terms of Use and any policies or operating rules posted by us on the Application or in respect to the Application constitute the entire agreement and understanding between you and us. Our failure to exercise or enforce any right or provision of these Terms of Use shall not operate as a waiver of such right or provision. These Terms of Use operate to the fullest extent permissible by law. We may assign any or all of our rights and obligations to others at any time. We shall not be responsible or liable for any loss, damage, delay, or failure to act caused by any cause beyond our reasonable control. If any provision or part of a provision of these Terms of Use is determined to be unlawful, void, or unenforceable, that provision or part of the provision is deemed severable from these Terms of Use and does not affect the validity and enforceability of any remaining provisions. There is no joint venture, partnership, employment or agency relationship created between you and us as a result of these Terms of Use or use of the Application. You agree that these Terms of Use will not be construed against us by virtue of having drafted them. You hereby waive any and all defenses you may have based on the electronic form of these Terms of Use and the lack of signing by the parties hereto to execute these Terms of Use.

## **CONTACT US**

In order to resolve a complaint regarding the Application or to receive further information regarding use of the Application, please contact us at [hello@hbtapp.com](mailto:hello@hbtapp.com).