

## SUPERBLOOM TERMS OF SERVICE

Effective Date: August 18, 2023.

This Terms of Service (the “**Agreement**”), is a binding legal agreement between you (referred to as “**User**”, “**you**”, or “**your**”) and SuperBloom (“**SuperBloom**”, “**we**”, “**our**”, or “**us**”). This Agreement governs your use of our website and related software provided by us (including without limitation any updates and upgrades thereto, and all features, content, and documentation provided with or for the foregoing) (collectively, the “**Website**”). Please read this Agreement carefully. By using or otherwise accessing the Website, you affirmatively consent to the terms of this Agreement. If you do not agree to all of its terms, you are not permitted to access or use the Website.

THIS AGREEMENT CONTAINS A **BINDING INDIVIDUAL ARBITRATION AND CLASS ACTION WAIVER** PROVISION IN THE “DISPUTE RESOLUTION; BINDING INDIVIDUAL ARBITRATION; CLASS ACTION WAIVER” SECTION THAT AFFECTS HOW DISPUTES ARE RESOLVED BETWEEN YOU AND US. THESE PROVISIONS SIGNIFICANTLY AFFECT YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT AND TO HAVE A JURY HEAR YOUR CLAIMS. YOU HAVE A TIME-LIMITED RIGHT TO OPT OUT OF THE BINDING INDIVIDUAL ARBITRATION REQUIREMENT AS EXPLAINED BELOW.

### 1. Your Use of the Website.

1.1. **About this Agreement.** By indicating your acceptance of this Agreement, or by continuing to use the Website after being notified of a change to this Agreement, you agree to be bound by the terms of this Agreement (including its dispute resolution terms) and our [\[Privacy Policy\]](#) (“**Privacy Policy**”). You are legally and financially responsible for all actions using or accessing the Website, including the actions of anyone you allow to access your copy of the Website. We reserve the right, in our sole discretion, to modify this Agreement and to modify, suspend, or discontinue the Website, in whole or in part, at any time. You understand and agree that you have no monetary or other interest in any feature or content contained in the Website. If you do not agree and consent to this Agreement, please do not use the Website.

1.2. **Content.** The Website contain: (i) materials and other items relating to us and our products and services, and similar items from our licensors, and other third parties, including all information, text, data, files, images, scripts, designs, graphics, instructions, illustrations, photographs, sounds, titles, themes, objects, characters, names, dialogue, locations, stories, animation, concepts, music, audio-visual effects, pictures, videos, copy, URLs, technology, software, interactive features, the “look and feel” of the Website, and the compilation, assembly, and arrangement of the materials of the Website and any and all copyrightable material; (ii) trademarks, logos, trade names, trade dress, service marks, and trade identities of various parties, including those of SuperBloom; and (iii) other forms of intellectual property (all of the foregoing, collectively “**Content**”). We reserve the right to remove any Content from the Website for any reason or no reason.

### 2. License.

2.1. **Limited License. IF YOU DO NOT ACCEPT THIS AGREEMENT, YOU HAVE NO RIGHT TO AND MUST NOT ACCESS OR USE THE WEBSITE.** Provided that you comply with the terms of this Agreement, we grant you a limited, non-exclusive, revocable, non-assignable, non-sublicensable, personal, and non-transferable license to use the Website for your personal, non-commercial use only. The Website may include third-party code. Any third-party scripts or code, linked to or referenced from the Website, are licensed to you by the third parties that own such code, not by us.

2.2. **Scope of License.** The Website is licensed, not sold, and we reserve all rights to the Website and Content not expressly granted by us, whether by implication, estoppel, or otherwise. The limited license granted in this Agreement: (i) does not give you any ownership of, or any other intellectual property interest in, the Website and/or Content; and (ii) may be suspended or terminated for any reason, in our sole discretion, and without advance notice or liability. Your unauthorized use of the Website and/or Content may violate copyright, trademark, privacy, publicity, communications, and other laws, and any such use may result in your personal liability, including potential criminal liability.

2.3. **Restrictions.** The limited license granted in this Agreement does not give you any right to, and you may not: (i) publish, copy, rent, lease, sell, export, import, or distribute the Website or Content; (ii) engage in any activity in connection with the Website or Content that is unlawful, harmful, offensive, sexually explicit, obscene, violent, threatening, harassing, abusive, falsely representative of your persona, invasive of someone else’s privacy, or otherwise objectionable to us; (iii) harvest or scrape any information from the Website or Content; (iv) disassemble, decompile, decrypt, hack, emulate, exploit, or reverse engineer or modify the Website or Content; (v) interfere with the proper operation of or any security measure and/or circumvent or bypass any technological

protection measures used by the Website or Content; (vi) infringe any intellectual property or other right of any third party; (vii) use the Website or Content in a manner that suggests an unauthorized association or is beyond the scope of the limited license granted to you; or (viii) otherwise violate this Agreement or any applicable third-party terms. You agree to comply with all local, state, federal, national, foreign, and international laws, statutes, ordinances, regulations, treaties, directives, and agreements that apply to your use of the Website and Content. We are not liable for any violation of this Agreement by you or by any other user.

2.4. **Ownership.** All right, title, and interest in and to the Website and the Content is the property of SuperBloom or our licensors, or certain other third parties, and is protected by U.S. and international copyright, trademark, trade dress, patent, and/or other intellectual property and unfair competition rights and laws to the fullest extent permitted by applicable law.

### 3. **Software Features.**

3.1. **Availability.** The Website and Content may be unavailable from time to time, may be offered for a limited time, or may vary depending on your region or device. SuperBloom is not liable for any disruption or loss you may suffer as a result of any occasional disruptions and outages in availability of the Website. In the event of an outage, you may not be able to retrieve your information that you've stored. We may suspend or terminate the availability of the Website and Content, in whole or in part, to any individual user or all users, for any reason, in our sole discretion, and without advance notice or liability. Upon suspension or termination of your access to the Website, or upon notice from us, all rights granted to you under this Agreement will cease immediately, and you agree that you will immediately discontinue use of the Website and Content.

3.2. **Account Registration.** Some elements of the Website may require that you register an account with us or with a third party service. Such account registration and use will be subject to the terms and policies of this Agreement or other applicable policies, or the applicable third party service. You agree that you are entirely liable for all activities conducted through your account, and any activity that results from use of your login name and password by you, or by any person to whom you may have disclosed your login and/or password, regardless of whether such disclosure was intentional or negligent. You may not sell or charge others for the right to use your account or transfer your account except as expressly permitted hereunder. We may take any action if we believe your account has been compromised, including, without limitation, suspending your access to and use of the Website.

4. **Governing Law and Jurisdiction.** This Agreement is entered into in the State of New York and shall be governed by, and construed in accordance with, the laws of the State of New York without regard to any state's choice or conflict of law rules. For any claims not subject to binding individual arbitration, you and SuperBloom agree to submit to the exclusive jurisdiction of the state and federal courts in New York County, New York, and you and SuperBloom hereby consent to venue in and personal jurisdiction before such courts (but without prejudicing either party's rights to remove a case to federal court if permissible). This paragraph will be interpreted as broadly as applicable law permits. We have the right to prosecute civil claims against you for any violation of this Agreement, or any other governing terms and conditions related to the Website, whether for breach of contract, violation of common law rights, or violation of any applicable state or federal statute.

### 5. **Dispute Resolution; Binding Individual Arbitration; Class Action Waiver.**

**PLEASE READ THIS SECTION CAREFULLY – IT MAY SIGNIFICANTLY AFFECT YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT AND TO HAVE A JURY HEAR YOUR CLAIMS.**

Most issues can be resolved quickly and amicably by contacting SuperBloom's customer support at [operations@superbloomhouse.com](mailto:operations@superbloomhouse.com). But we understand that sometimes disputes can't be easily resolved by customer support. This Section explains how you and SuperBloom agree to resolve those disputes, including (where applicable) by binding, individual arbitration. "**Dispute**" means any dispute, claim or controversy between you and SuperBloom that relates to your use or attempted use of the Website.

Arbitration is an alternative dispute-resolution process and allows us to seek to resolve Disputes without the formality or expense of litigating in court. Arbitration is often faster and less expensive than formal court litigation. Any qualifying Dispute between you and us will be submitted to a neutral arbitrator instead of being presented in court to a judge or jury. If you wish to opt-out of this binding individual arbitration requirement, you must comply with the opt-out process set forth in the "Your 30-Day Opt-Out Right" paragraph below. This Binding Individual Arbitration agreement will not apply to the extent prohibited by the laws of your country of residence.

#### 5.1. **Informal Resolution.**

If you have an issue that our customer support can't resolve, before starting arbitration you and SuperBloom agree to attempt to resolve the Dispute informally to help get us to a resolution and control costs for both parties. You and SuperBloom agree to make a good-faith effort to negotiate any Dispute between us for at least 30 days ("**Informal Resolution**"). Those informal negotiations will start on the day you or SuperBloom receive a written Notice of a Dispute (defined below) in accordance with this Agreement.

If you have a Dispute with us, you will send written notice to 4212 W Jefferson Blvd, Los Angeles, CA 90016 in order to give us the opportunity to resolve the Dispute through Informal Resolution ("**Notice of Dispute**"). Include your name, registered email address you use to play the Website, address, how to contact you, what the problem is, and what you want SuperBloom to do. If SuperBloom has a Dispute with you, SuperBloom will send our Notice of Dispute to your registered email address and any billing address you have provided us.

If the Dispute isn't resolved by Informal Resolution or small-claims court (below), you or SuperBloom may start an arbitration in accordance with this Agreement.

## 5.2. **Small Claims Court.**

Instead of using Informal Resolution, you and SuperBloom agree that you may sue us in small-claims court in your choice of the county where you live or New York County, New York (if you meet the requirements of small-claims court). We hope you'll try Informal Resolution first, but that is not required before going to small-claims court.

## 5.3. **Binding Individual Arbitration.**

THE ARBITRATION PROCEEDINGS IN THIS SECTION WILL BE CONDUCTED ON AN INDIVIDUAL BASIS ONLY.

### Arbitration Rules.

The arbitration will be administered by the American Arbitration Association ("AAA") in accordance with the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (the "AAA Rules") then in effect, except as modified by this Dispute Resolution Section. (The AAA Rules are available at <https://www.adr.org/mediation> or by calling the AAA at 1-800-778-7879.) The Federal Arbitration Act will govern the interpretation and enforcement of this Dispute Resolution Section.

### Arbitration Process.

A party who desires to initiate arbitration must provide the other party with a written Demand for Arbitration as specified in the AAA Rules (The AAA provides a form Demand for Arbitration). The arbitrator will be either a retired judge or an attorney licensed to practice law and will be selected by the parties from the AAA's roster of arbitrators. If the parties are unable to agree upon an arbitrator within seven (7) days of delivery of the Demand for Arbitration, then the AAA will appoint the arbitrator in accordance with the AAA Rules.

### Arbitration Location and Procedure.

Unless you and SuperBloom otherwise agree, the arbitration will be conducted in the state where you reside, with the option for you to participate telephonically to the extent the AAA Rules allow. If your claim does not exceed \$10,000, then the arbitration will be conducted solely on the basis of the documents that you and SuperBloom submit to the arbitrator, unless you request a hearing, or the arbitrator determines that a hearing is necessary. If your claim exceeds \$10,000, your right to a hearing will be determined by the AAA Rules. Subject to the AAA Rules, the arbitrator will have the discretion to direct a reasonable exchange of information by the parties, consistent with the expedited nature of the arbitration.

### Arbitrator's Decision.

The arbitrator will render an award within the time frame specified in the AAA Rules. The arbitrator's decision will include the essential findings and conclusions which the arbitrator based its award on. Judgment on the arbitration award may be entered in any court having jurisdiction over the arbitration award. The arbitrator's award of damages must be consistent with the terms of the "Limitation of Liability" Section of this Agreement as to the types and amounts of damages for which a party may be held liable. The arbitrator may award declaratory or injunctive relief only in favor of the claimant and only to the extent necessary to provide relief warranted by the claimant's individual claim. If you prevail in arbitration, you will be entitled to an award of attorneys' fees and expenses, to the extent provided under applicable law. SuperBloom will not seek, and hereby waives all rights it may have under applicable law to recover, attorneys' fees and expenses if it prevails in arbitration, unless such arbitration is found by the arbitrator to be frivolous under the standards of the Federal Rules of Civil Procedure 11(b) and in that case, SuperBloom shall be entitled to recover attorneys' fees in addition to any damages awarded to it.

## Fees.

If the arbitrator finds that your payment of the administrative and arbitrator fees (excluding any attorney's fees) under this subsection is a burden on you, we agree to pay those fees for you (but not any attorney's fees).

## Changes.

By rejecting any changes to this Agreement, you agree that you will arbitrate any Dispute between you and SuperBloom in accordance with the provisions of this Section as of the date you first accepted these Terms (or accepted any subsequent changes to these Terms).

## Your Choices.

If you do not want to settle Disputes by arbitration as described above, you will notify us by sending us written notice (including by email to [operations@superbloomhouse.com](mailto:operations@superbloomhouse.com) telling us that you do not want to use arbitration, within thirty (30) days of the date on which you agreed to this Agreement (such notice, an "Arbitration Opt-out Notice"). If you do not provide us with an Arbitration Opt-out Notice within the thirty (30) day period, you will be deemed to have knowingly and intentionally waived your right to litigate any dispute except for a Small Claims Action and an IP Protection Action as stated above.

5.4. **No Class Actions.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YOU AND SUPERBLOOM AGREE TO BRING DISPUTES UNDER THIS AGREEMENT ON AN INDIVIDUAL BASIS ONLY. The arbitrator may not combine or consolidate individual proceedings unless all parties to this Agreement and all other actions or arbitrations expressly consents to such consolidation. Neither you nor SuperBloom may arbitrate any dispute in a representative capacity, including, without limitation, as a representative member of a class, collective or class-wide arbitration, or in private attorney general actions. The arbitrator may award any relief permitted by applicable law with respect to your individual claim, but to the maximum extent permitted by applicable law, may not award relief against SuperBloom respecting any person other than you.

5.5. **Severability.** If any clause within this Binding Individual Arbitration agreement is found to be invalid, unenforceable, or illegal, that clause will be severed and the remainder of this arbitration agreement will be given full force and effect. The only exception to this is the "No Class Actions" paragraph. If the "No Class Actions" paragraph is found to be invalid, illegal or unenforceable in its entirety, this entire arbitration agreement will be void and unenforceable, and the Dispute will proceed in court. Under no circumstances shall arbitration be conducted on a class basis without SuperBloom's express consent. If, for any reason, a claim proceeds in court rather than in arbitration, the dispute shall be exclusively brought in state or federal court in New York County, New York. Suits brought in state court may be removed to federal court by either party if permissible by law.

5.6. **Your 30-Day Opt-Out Right.** YOU HAVE THE RIGHT TO OPT OUT OF THIS BINDING INDIVIDUAL ARBITRATION REQUIREMENT AND CLASS ACTION WAIVER. IF YOU DO NOT WISH TO BE BOUND BY THE BINDING INDIVIDUAL ARBITRATION AND CLASS ACTION WAIVER IN THIS AGREEMENT, YOU MUST NOTIFY US IN WRITING OF YOUR INTENT TO DO SO WITHIN 30 DAYS OF THE DATE THAT YOU FIRST ACCEPT THIS AGREEMENT UNLESS A LONGER PERIOD IS REQUIRED BY APPLICABLE LAW. Your written notification must be sent to SuperBloom, ATTN: ARBITRATION OPT-OUT, 4212 W Jefferson Blvd, Los Angeles, CA 90016. Your notice must include: (1) your full name; (2) your mailing address; (3) your user account name, if you have one; and (4) a clear statement that you do not wish to resolve disputes with SuperBloom through arbitration. You are responsible for ensuring our receipt of your opt-out notice, and you therefore may wish to send a notice by means that provide a written receipt of delivery.

## 6. **Warranty Disclaimer**

6.1. **Warranty Disclaimer.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE WEBSITE IS PROVIDED TO YOU "AS IS," "AS AVAILABLE," AND "WITH ALL FAULTS." NEITHER SUPERBLOOM, NOR ANY OF OUR OR ITS RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES, AGENTS, OR LICENSORS (COLLECTIVELY, THE "**SUPERBLOOM PARTIES**") MAKE ANY REPRESENTATIONS, WARRANTIES, PROMISES, OR GUARANTEES OF ANY KIND WHATSOEVER AS TO THE WEBSITE, CONTENT, THIRD PARTY SERVICES, OR OTHER SERVICES, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE. THE SUPERBLOOM PARTIES DO NOT WARRANT THAT THE WEBSITE OR THIRD PARTY SERVICES WILL BE ACCURATE OR RELIABLE, UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, OR FREE OF VIRUSES. TO THE FULLEST EXTENT PERMITTED BY YOUR LOCAL LAW, THE SUPERBLOOM PARTIES DISCLAIM ANY IMPLIED WARRANTIES INCLUDING FOR NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND SATISFACTORY QUALITY.

7. **Limitations of Our Liability.**

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE SUPERBLOOM PARTIES BE LIABLE TO YOU FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE LOSSES OR DAMAGES, OR DAMAGES FOR SYSTEM FAILURE OR MALFUNCTION OR LOSS OF PROFITS, DATA, USE, BUSINESS OR GOOD-WILL, ARISING OUT OF OR IN CONNECTION WITH THE WEBSITE OR THIS AGREEMENT, WHETHER ARISING IN CONTRACT, TORT, STRICT LIABILITY, STATUTE OR ANY OTHER LEGAL OR EQUITABLE THEORY.

**In the event you have any basis for recovering damages arising from the Website or a breach of this Agreement, you agree that your exclusive remedy is to recover from the SuperBloom Parties direct damages and the maximum liability is limited up to an amount equal to five hundred U.S. dollars (\$500 USD).**

8. **Your Responsibilities to the SuperBloom Parties.**

To the fullest extent permitted by applicable law, you agree to defend, indemnify and hold harmless the SuperBloom Parties from and against any and all claims, liabilities, damages, losses, costs and expenses (including, reasonable attorneys' fees and costs) arising out of or in connection with: (i) your breach or alleged breach of this Agreement; (ii) any information or content provided by you; and/or (iii) your acts or omissions. The SuperBloom Parties reserve the right to assume, at their own expense, the exclusive defense and control of any matter subject to indemnification by you, and in such case you agree to cooperate with our defense of any claim.

You are solely responsible for any third party costs you incur to use the Website, and you bear all risk of loss for accessing or downloading the Website.

9. **Termination.** You may stop using the Website and related services at any time. We may modify, suspend, discontinue, substitute, remove, replace or limit your access to any aspect of the Website or Content at any time to the fullest extent under applicable law. We may terminate your access to any aspects of the Website or Content immediately in the event you violate this Agreement. If your use of the Website is terminated, whether by you or us, the rights granted to you under this Agreement will stop immediately, you must stop using the Website and Content, and your information associated with your use of the Website will be deleted or otherwise disassociated from you (unless otherwise required by law to retain, return, or transfer it to a third party designated by you). You will not be able to access any Content, or other information stored on the Website.

10. **Miscellaneous.**

10.1. **General.** We may assign this Agreement, in whole or in part, at any time without notice to you. You may not assign your rights or obligations under this Agreement or transfer any rights to use the Website. All parts of this Agreement apply to the fullest extent permitted by applicable law. If any provision of this Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable and the remaining provisions of this Agreement shall not be affected. Sections 2.4, 4–10, and those that by their nature apply after this Agreement ends will survive any termination or cancellation of this Agreement. We reserve the right to investigate and prosecute any suspected breaches of this Agreement or use of the Website. We may disclose any information as necessary to satisfy any law, regulation, legal process or governmental request.

10.2. **Remedies.** In the event that you breach this Agreement, you hereby agree that we would be irreparably damaged if this Agreement were not specifically enforced, and therefore you agree that we shall be entitled, without bond, other security, or proof of damages, to obtain 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.

10.3. **Contact Us.** If you have any questions or concerns about the Website or this Agreement, please contact us at [operations@superbloomhouse.com](mailto:operations@superbloomhouse.com).