

Terms of Use

Price Protection

THIS AGREEMENT CONTAINS AN ARBITRATION CLAUSE AND CLASS ACTION WAIVER IN SECTION 17 TO RESOLVE ANY DISPUTE RELATED TO THE MULBERRY SITES, SOFTWARE, OR SERVICE PROVIDED BY MULBERRY.

These Terms of Use ("Terms of Use") are entered into by and between you ("you," "your," or "End User"), and Mulberry Technology, Inc., a New York company ("Mulberry," "we," or "us"). The following Terms of Use, together with any documents they expressly incorporate by reference (collectively, the "Agreement"), govern your access to and use of the [List Mulberry Sites, Apps & Extensions], including any content, functionality, and services offered on or through the Mulberry Sites, the Mulberry Mobile App, and Browser Extension (the "Services"), whether as a guest, registered user, or as a member.

Please read these Terms of Use carefully before you access any of the Services, and before you download, install, or use our Software. By using or accessing any part of the Services, or by clicking to accept or agree to the Terms of Use when this option is made available to you, you unconditionally accept and agree to be bound and abide by these Terms of Use, and our privacy policy, found at <https://www.getmulberry.com/privacy-policy> ("Privacy Policy"), which is incorporated herein by reference. If you do not want to agree to these Terms of Use or the Privacy Policy, you must not access or use any part of our Services. Your access to the Services provided by Mulberry, or any part thereof, is subject at all times to the terms and conditions of this Agreement and is at the sole discretion of Mulberry. By using or accessing any part of the Services, you agree that your personal information may be transferred to the United States in accordance with the data practices disclosed in our Privacy Policy.

TERRITORY RESTRICTIONS – THE SERVICES ARE LIMITED TO RESIDENTS OF, AND ALL REGISTERED ACCOUNTS MUST HAVE A HOME ADDRESS LOCATED IN THE UNITED STATES OR CANADA (THE “SERVICE AREA”). YOU AGREE MULBERRY SHALL NOT BE OBLIGATED TO PAY ANY BENEFITS TO YOU IF YOU RESIDE IN A TERRITORY OUTSIDE THE SERVICE AREA.

AGE REQUIREMENT : The Services provided by Mulberry are offered and available to people who are eighteen (18) years of age or older, and are not a person barred from receiving the Services under the laws of the United States of America or other applicable jurisdiction. You must also be at least eighteen (18) years of age to use our Services, including but not limited to, registering as a subscriber to Mulberry. By using any part of our Services, you represent and warrant that you are of legal age to form a binding contract with Mulberry and meet the foregoing eligibility requirements. If you are not at least eighteen years of age or if you do not agree to this Agreement, you must not access or use any Services provided by Mulberry. Mulberry does not knowingly collect any data from anyone under the age of 18 years old.

NOW, therefore, for good and adequate consideration, the receipt of which is acknowledged, the parties agree as follows:

1. LEGAL AGREEMENT

1.1 You must carefully read this Agreement along with our Privacy Policy. Upon (1) downloading our Browser Extension, or (2) accessing any part of the Services provided by Mulberry, including but not limited to, the Mulberry Sites, you represent and warrant that you have read, that you understand, and agree to be bound by the terms of this Agreement, as modified by Mulberry from time to time and posted on the Mulberry Sites. If you do not agree to this Agreement, or any modifications to this Agreement by Mulberry, then you have no right to download, install, or access the Software, the Mulberry Sites, or any part thereof.

1.2 By accepting or agreeing to this Agreement, including but not limited to, by using or accessing any part of the Mulberry Sites or Browser Extension on behalf of a company or other legal entity, you represent and warrant that you have the authority to bind that company or other legal entity to this Agreement and, in such event, "End User", "you" and "your" will refer and apply to that company or other legal entity.

2. DEFINITIONS

2.1 "Account" means a Mulberry user account a user creates on any of the Mulberry Sites to sign up as a registered user or subscriber to Mulberry, and which is required as a condition to access certain features and services provided by Mulberry.

2.2 "Active Account" means you have made at least one Qualifying Purchase during each one (1) year period commencing on the date of your last Qualifying Purchase in which you earned the Benefits.

2.3 "Benefits" means Price Protection enabled by Mulberry features which scan selected Merchants for changes to price of the identical product purchased while You are using the Browser Extension. Benefits to receive monetary compensation extend up to 30-days from the date of purchase.

2.4 "Browser Extension" means the proprietary browser extension software named "Mulberry," which is owned and operated by Mulberry (available for download on the Mulberry Sites and the Chrome Web Store), which enables you to access benefits.

2.5 "Intellectual Property" means copyrights, trademarks, trade dress, trade secrets, database rights, rights of confidentiality, and patents.

2.6 "Mulberry Subscribers" means a Mulberry subscriber who subscribes to Mulberry through the <http://www.getmulberry.com> website domain including downloading the Browser Extension.

2.7 "Marks" means Mulberry's trademarks, service marks, logos, and trade dress.

2.8 "Merchant" means any Third Party entity or person that is in Mulberry's merchant network through the Software, to enable Benefits which is not affiliated with Mulberry in any way.

2.9 "Price Protection" means identification of a lower price for the identical make, model & vintage product purchased from qualified Merchants. As a guarantee of the effectiveness of software & technology service Mulberry provides to You, Mulberry provides a Benefit to pay for the difference between the actual purchase price and one advertised via ecommerce website for qualified Merchants. The maximum benefit payable is \$250 within 30-days of original purchase.

2.10 "Qualified/Qualifying Purchase" means a non-fraudulent, non-commercial, purchase by you of a Merchant's product "qualified purchase" for a Price Protection payment by Mulberry. Qualified Purchases are limited to original purchase amounts of \$1,000 and only for eligible products as determined by Mulberry. Non eligible products are food, drinks, cars, medication, animals, plants, air tickets and event tickets.

2.12 "Services" means the services provided by Mulberry via the Mulberry Sites, Mulberry, Browser Extension, and Mulberry Mobile App. Services provided by Mulberry are on a best effort basis.

2.13 "Mulberry Mobile App" means the proprietary mobile application named "Mulberry," which is available for download on mobile devices using the latest Apple iOS and Android software, which provides access to the Services provided by Mulberry.

2.14 "Mulberry" means Mulberry's premium subscription-based service, which allows Mulberry's subscribers to access additional features and services for Qualified Purchases made from Mulberry Merchants on the Mulberry Sites and/or through the Software.

2.15 "Mulberry Sites" means the websites owned and operated by Mulberry and located at <https://www.getmulberry.com>.

2.16 "Software" means Mulberry's Browser Extension and Mulberry Mobile App and any coding or programming associated therewith.

3. USING OUR SERVICES

3.1 Access to Our Services. Mulberry reserves the right in its sole discretion to suspend or cancel your Account, the provision of any Service in connection with the Mulberry Sites, the Mulberry, our Browser Extension, and/or our Mulberry Mobile App. Mulberry reserves the right in its sole discretion to refuse you access to the Services, or any part thereof, without notice to you.

3.2 Deletion of Software Upon Mulberry's Request. Mulberry reserves the right in its sole discretion to request that you delete the Browser Extension and/or Mulberry Mobile App from your computing device where you have installed the Browser Extension and/or Mulberry Mobile App, at any time, and you shall promptly comply with any such request.

3.3 Fraud. Mulberry regularly monitors your use of the Services for any suspicious activities, including but not limited to, engaging in fraudulent behavior. Mulberry reserves the right to freeze any transactions regardless if such transaction was deemed a Qualifying Purchase, to suspend or terminate your Account, and/or block your access to any part of the Service offered by Mulberry if Mulberry determines you have engaged in any suspicious behavior, or have otherwise violated the terms and conditions in this Agreement. If Mulberry determines you have engaged in any fraudulent behavior and Mulberry terminates your Account, you agree Mulberry's decision is final and controlling, and Mulberry will have no liability to you for any Benefit that was not paid out to you or which was expected to be credited to your account for any transactions previously determined to be a Qualified Purchase.

4. LICENSE AND INTELLECTUAL PROPERTY

4.1 Ownership Rights. End User acknowledges and agrees Mulberry and/or its licensors own all Intellectual Property in connection with the Services. Except as expressly stated herein, this Agreement does not grant End User any Intellectual Property rights or licenses in or to the Services, or any part thereof. Mulberry will retain all right, title and interest in and to the Services, and all data generated by Mulberry, including without limitation, data generated by its click tracking system and other performance measurement applications, and all associated Intellectual Property and proprietary rights worldwide (including, but not limited to, ownership of all copyrights, trademarks, patents, derivative works, modifications, lists of advertisers and information, algorithms, taxonomies, trade secrets and other intellectual property rights therein). Except as expressly stated herein, this Agreement does not grant End User any rights to, or in, copyrights, database rights, trademarks, trade names, trade secrets (registered or unregistered), or any other rights or licenses in respect to the Services.

4.2 License Grant. Subject to all terms, limitations and conditions herein, Mulberry grants to End User a limited, non-exclusive, revocable, non-sublicensable, and non-transferable license during the Term to access the Mulberry Sites, and to download, install, and access the Browser Extension and Mulberry Mobile App. All rights granted by Mulberry to End User shall expire upon termination of this Agreement. All rights not granted herein are hereby reserved.

4.3 Intellectual Property Infringement Claims. In no event shall Mulberry, its employees, agents or subcontractors be liable to End User for any alleged Intellectual Property infringements: (i) based on a modification of the Software, the Mulberry Sites, by anyone other than Mulberry; (ii) if End User has been notified of the alleged or actual infringement by Mulberry or any appropriate authority, and End User continued to use the Service after such notice was given; or (iii) if End User uses the Software, the Mulberry Sites, or any portion thereof, in way that is contrary to the instructions provided by Mulberry, whether by email, on the Mulberry Sites, the or in the Software. The foregoing constitutes your sole and exclusive remedy and Mulberry's sole liability in the event of any claim regarding infringement of any Intellectual Property.

5. LIMITATIONS ON LICENSE

5.1 Limitations on License Grant. Without limiting any other term in this Agreement, the license granted above is further conditioned upon End User's observance of the following restrictions: (i) except as expressly permitted herein, End User will not display, use, reproduce, cache, store, distribute, make derivative works of, modify, sell, resell, rent, license, sublicense, transfer, assign or redistribute in any way any materials in connection with the Services, except in accordance with the terms of this Agreement; (ii) End User will not display, sublicense or syndicate the Software, or any links from the Software or Mulberry Sites, on or to any Third Party or website, unless it first obtains Mulberry's prior written consent; and (iii) Mulberry reserves the right, in its sole discretion, to modify, discontinue or terminate this Agreement or the Service, in whole or in part, at any time, with or without notice to you.

6. Mulberry ACCOUNT

6.1 Account Creation. As a condition to accessing and using certain features and services of the Mulberry Sites you will be required to create an Account on the Mulberry Sites by following the instructions as provided on the Mulberry Sites. Mulberry shall have the right to deny, approve, or terminate any Account at any time in its sole discretion with or without cause. You shall provide Mulberry with accurate, complete, and updated registration information. Failure to do so may result in immediate termination or suspension of your Account. You acknowledge and agree that your credited funds in your Account may be delayed in the event that your Account information is not up-to-date, complete and accurate. Misrepresenting ownership or fraudulently claiming control over an Account is strictly prohibited and may result in a permanent ban from use of the Services, or any part Services, as determined by Mulberry in its sole discretion. Mulberry reserves the right to suspend, deny and/or revoke access to the Services, any part thereof, and your Account at its discretion, if your activities are reasonably deemed a threat to the integrity of the Services, Merchants, or any part of the Services. You may not utilize third parties to claim on your behalf in any matter, and if this occurs your account will be terminated and no benefits payable. Mulberry reserves the right to withhold any payments you earn from these Benefits to investigate any breach of this Agreement, or to determine if any fraud has occurred. If you cancel your Mulberry Account at any time, or if your Account is terminated by Mulberry for your breach of any term of this Agreement as determined solely by Mulberry, you agree that you forfeit all Benefits and/or any other types of payment credits in your Account at the time your Account was terminated. Mulberry shall have no liability to refund you for any credits that you forfeit as a result of you or Mulberry terminating your Account. Your Account is at all times owned by Mulberry and all Accounts are part of the Mulberry Service. You agree you have no ownership interest whatsoever in your Account.

6.2 Account Security. Any passwords used for an Account to access any part of the Services is for individual use only. You will be responsible for the security of your password(s). From time to time, Mulberry may require that you change your password. You are prohibited from using any services or facilities provided in connection with the Services to compromise security or tamper with system resources and/or Accounts. The use or distribution of tools designed for compromising security (e.g., password crackers, rootkits, Trojan horses, or network probing

tools) is strictly prohibited. If you become involved in any violation of any system security, Mulberry reserves the right to release your Account details and any other information we have about you to system administrators at other websites and/or the authorities in order to assist them in resolving security incidents. Mulberry reserves the right to investigate suspected violations of these Terms of Use and to fully cooperate with any law enforcement authorities or court order requesting or directing Mulberry to disclose the identity of anyone publishing or otherwise making available any materials that are believed to violate these Terms of Use.

YOU WAIVE ALL RIGHTS AND AGREE TO HOLD Mulberry HARMLESS FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY Mulberry DURING OR AS A RESULT OF ITS INVESTIGATIONS AND/OR FROM ANY ACTIONS TAKEN AS A CONSEQUENCE OF INVESTIGATIONS BY EITHER Mulberry OR LAW ENFORCEMENT AUTHORITIES.

6.3 Unauthorized Access. Account access is provided on a password-protected basis. You will be solely responsible for keeping your Account password confidential and for all use of your password and Account, including any unauthorized use. If you become aware of any unauthorized use of your Account, you must notify us immediately by writing to support@getmulberry.com. You may not authorize third-parties to access your account. Mulberry will not be liable for any loss or damage arising from the unauthorized access to or use of your Account. Upon termination of this Agreement for any reason, Mulberry may disable and/or delete your Account.

7. PRICE PROTECTION

7.1 Requirements and Limitations. In order to earn PRICE PROTECTION through the Mulberry Sites and/or by using the Software all of the following conditions must be met:

(i) YOU MUST HAVE MADE THE TRANSACTIONS THROUGH THE MULBERRY EXTENSION TO OPT INTO PRICE PROTECTION BENEFIT;

(ii) THE MAXIMUM AMOUNT OF PRICE PROTECTION YOU MAY EARN AS A FREE USER OF MULBERRY IS TEN HUNDRED DOLLARS (\$1,000.00) PER CALENDAR YEAR BEGINNING ON THE DATE YOU REGISTER FOR AN ACCOUNT ON THE Mulberry SITES (THE "PRICE PROTECTION MAXIMUM");

(iii) The Maximum amount of price protection claims you may use as a free user of Mulberry is four (4) claims per calendar year beginning on the date you register for an account on the Mulberry sites;

(iv) Once a claim has been paid by Mulberry on a particular product, no other claim can be made on that particular product.

(v) Price Protection is paid in United States currency, provided that if Mulberry determines you reside outside the United States and within the Service Area, Price Protection will be paid in your local currency;

(vi) you must be at least eighteen (18) years old;

(vii) you must be a current resident in a country located in the Service Area and have registered for an Account using a mailing address in the Service Area;

(viii) you must have an updated and active Account with your current and truthful information;

(ix) you must have registered for a Qualifying Purchase & Merchant using the Browser Extension as supplied by Mulberry on the Mulberry Sites or Software, and which is traced by Mulberry to you;

(x) you must be logged in to your Mulberry Account at the time you make a Qualifying Purchase;

(xi) all Price Protection may only be earned on qualified Mulberry Merchants;

(xii) the receipt that shows the purchase price of the product and proof of alternative price is required to use the Price Protection; and

(xiii) you must not have requested a charge back from your credit card company and caused Mulberry to incur any fees as a result of submitting a charge back request.

You are limited to a maximum of one (1) Account. If Mulberry determines in its sole discretion you have more than one Account or otherwise engaged in any fraudulent or suspicious behavior, Mulberry reserves the right to immediately terminate all of your Accounts without any liability to you, and you agree to forfeit all payment credits in your Account. Price Protection is only offered and paid on the net purchase amount of a Qualifying Purchase, which excludes fees, discounts, coupon codes, rebates, taxes, shipping costs, return and cancellation costs. All Price Protection is paid in United States currency unless you are in another eligible service area where it will be paid in the local currency. All Price Protection payments are conditioned on you being a resident of a country located in the Service Area. All Price Protection payments are further conditioned on verification methods to prove your identity as may reasonably be requested by Mulberry. Without limiting any of Mulberry's other rights in this Agreement, Mulberry shall not be liable to pay for any untracked Price Protection caused by conditions beyond its control, including but not limited to, your use of other browser applications at the time of your purchase.

MULBERRY RESERVES THE RIGHT TO CHANGE ITS PRICE PROTECTION PROGRAM AND BENEFIT AMOUNTS OFFERED THROUGH MERCHANT AT ANY TIME WITH OR WITHOUT NOTICE TO YOU.

7.2 How Price Protection Works. Mulberry works with Merchants to offer Price Protection for Qualifying Purchases from a Merchant's Store after the Browser Extension or through the

Software. The Browser Extension displays Price Protection, which may offer you Price Protection opportunities through a Merchant if you complete a Qualifying Purchase of an eligible product.

Each Qualifying Purchase must be directly tracked by Mulberry and the Purchase must be completed in the same session while you are logged in to your Account. It may take up to thirty (30) days from the date Mulberry identifies a lower price available on the exact Qualifying Purchase for your Price Protection to display in your Account. The balance in your Account can be cashed out and will be paid.

7.3 Price Protection Modifications and Withholdings. Mulberry, in its sole discretion, may modify or remove the amount of Price Protection credited to your account or the payment schedule at any time in its sole discretion if Mulberry determines you are engaged in suspicious activity, fraud, and/or have violated any term in this Agreement. Mulberry may delay or withhold payment as a result of suspicion of fraud or violation of any term in this Agreement. YOU AGREE THAT YOU WILL IMMEDIATELY FORFEIT ALL PRICE PROTECTION IN THE EVENT YOU HAVE INITIATED A CHARGE BACK REQUEST WITH YOUR CREDIT CARD COMPANY AND Mulberry INCURRED FEES AS A RESULT OF THE CHARGE BACK REQUEST. YOU AGREE TO SUBMIT ALL FEE DISPUTES TO Mulberry PRIOR TO CONTACTING YOUR CREDIT CARD COMPANY TO ATTEMPT TO RESOLVE ANY FEE DISPUTES.

7.4 Agency & Authorization. You understand and agree you are unequivocally allow Mulberry to work with Merchants to verify necessary details through a variety of medium including via email scanning and Internet cookie enablement as well as direct contact with Merchants.

7.5 Taxes. You are solely liable for any taxes, levies, duties, or fees owed to any applicable government authority as a result of the Price Protection paid to you by Mulberry.

7.6 Cookies Required for Price Protection. If you disable cookies, you may not earn Benefits for your purchase transaction, since cookies are used to verify eligible Accounts for the Service.

7.7 Price Protection Exclusions. Price Protection is only available for Qualifying Purchases and only after You properly register the transaction.

8. UNINSTALLATION INSTRUCTIONS

You may remove the Mulberry Browser Extension at any time, by following the instructions at the following link: [Uninstallation Instructions](#) . However, uninstalling the Browser Extension will null & void any Benefits you may have accrued or be entitled to. You may uninstall the Mulberry Mobile App at any time by uninstalling the application from your mobile device.

9. SERVICE MODIFICATIONS BY Mulberry

The Mulberry Sites, Software, Service, or any part thereof may be modified, suspended, or terminated by Mulberry at any time in its sole discretion and without notice.

10. END USER REPRESENTATIONS AND WARRANTIES

10.1 End User represents and warrants it has the full right and authority to enter into this Agreement and to perform the acts and obligations required of it hereunder.

10.2 End User represents and warrants that execution of this Agreement and performance of its obligations hereunder do not and will not violate any agreement to which it is a party or by which it is bound, and it will comply with all applicable laws, rules and regulations (including, without limitation, privacy and data control laws).

10.3 End User represents and warrants that the information provided to Mulberry in any registration application, forms and otherwise is accurate, complete, and does not contain any untruthful statements.

10.4 End User represents, warrants and authorizes thorough understanding of the agency granted in Section 7.4 above (Agency & Authorization).

11. NON-CIRCUMVENTION

End User represents and warrants to Mulberry that End User will not use the Service, the Mulberry Sites, the Software, or any part thereof, or any technology learned from the relationship covered in this Agreement to (i) build a service that competes with the Service; (ii) assist any other person or company to compete with the Service; or (iii) in any other way compete with the Mulberry Service.

12. PRIVACY POLICY

12.1 Mulberry Privacy Policy. Our Privacy Policy explains how we treat your personal information and protect your privacy when you use our Mulberry Sites and Software. Our Privacy Policy is located on the Mulberry Site and homepage here and is hereby incorporated into this Agreement. By using our Services, you agree that Mulberry can use such data in accordance with our Privacy Policy.

12.2 Data Obligations. With respect to any personally identifiable information or other data you provide in connection with this Agreement ("Data"), if any, then you hereby consent to the use and disclosure of the Data in accordance with Mulberry's Privacy Policy. With respect to any Data provided you shall ensure the Data has and will continue to comply with all applicable data protection and privacy laws. You shall ensure you have obtained all necessary rights, consents, and authorizations from any data subjects for which the data relates in connection with this Agreement to allow Mulberry to process the personal data outside the data subject's country of residence. Any Data sent to Mulberry will be processed in the United States, or any other country where Mulberry, or its contractors maintain data storage or processing facilities, and by using the Services, you hereby consent to such processing and storing of the Data.

12.3 Data Communications Security. You acknowledge and agree email communications are generally not an encrypted form of communication, and Mulberry shall not be responsible for any interception of Data by third-parties, that is sent to Mulberry by way of email or other form of unencrypted electronic communication.

12.4 Prohibited Data. In no event shall you send Mulberry any data that is generally considered highly sensitive or falls under the "special categories of personal data" under the California Consumer Privacy Act or any other applicable data privacy law. This includes, but is not limited to, personal data revealing racial or ethnic origin, religious beliefs, genetic data, data concerning a person's health, a person's sexual orientation, trade union membership, or biometric data.

13. INDEMNITY

You agree to indemnify and hold Mulberry and its officers, directors, agents, affiliates, licensors and employees harmless from and against any and all claims, actions, liabilities, losses, expenses, damages, and costs, whether based on active negligence, passive negligence or gross negligence (including without limitation all attorneys' fees and costs of every kind, including expert fees and not limited to statutory costs), arising out of (1) your acts or omissions arising out of or related to your use of the Service, (2) your breach of any term, warranty, representation or covenant in this Agreement, (3) any claims by any Third Party in connection with this Agreement, or (4) your violation of any applicable law, rule, or regulation. End User's obligation to indemnify Mulberry is conditioned upon Mulberry providing prompt notification of any and all such claims, unless the failure to notify does not materially and adversely affect the defense. Mulberry will reasonably cooperate with End User in the defense and/or settlement thereof, at End User's expense. Mulberry may have its own counsel in attendance at all proceedings and substantive negotiations relating to such claim at the Mulberry's sole cost and expense. End User shall not settle any Third Party claim in a manner detrimental to Mulberry without the written consent of Mulberry, not to be unreasonably withheld or delayed.

14. DISCLAIMERS

14.1 TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, Mulberry HEREBY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED (INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE), WITH RESPECT TO THE PROVISION OF THE SERVICES PROVIDED TO END USER HEREIN. ABSENT ANY PROVISION TO THE CONTRARY HEREIN, AND WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, END USER ACKNOWLEDGES THAT THE Mulberry SITES, SOFTWARE, AND ALL SERVICES PROVIDED BY Mulberry HEREIN ARE PROVIDED "AS IS" WITHOUT ANY WARRANTIES OF ANY KIND.

14.2 Mulberry is not responsible if the Service, Software, Mulberry Sites, or related services provided by Mulberry is inaccessible, unavailable or inoperable for any reason, including, without limitation: (i) equipment malfunctions; (ii) periodic maintenance procedures or repairs which Mulberry may undertake from time to time; or (iii) other causes beyond the control of Mulberry, including, without limitation, interruption or failure of telecommunication or digital transmission links, hostile network attacks, the unavailability, operation, or inaccessibility of websites or interfaces, network congestion or other failures.

15. LIMITATION OF LIABILITY

UNDER NO CIRCUMSTANCES, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, WILL Mulberry OR ITS AFFILIATES, CONTRACTORS, EMPLOYEES, AGENTS, OR THIRD-PARTY PARTNERS, LICENSORS, OR SUPPLIERS BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE, OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION DAMAGES ARISING FROM ANY UNSUCCESSFUL COURT ACTION OR LEGAL DISPUTE, LOST BUSINESS, LOST REVENUES, OR LOSS OF ANTICIPATED PROFITS OR ANY OTHER PECUNIARY OR NON-PECUNIARY LOSS OR DAMAGE OF ANY NATURE WHATSOEVER) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THAT RESULT FROM YOUR USE OF OR YOUR INABILITY TO USE THE SOFTWARE, SERVICE, Mulberry SITES, OR ANY OTHER INTERACTIONS WITH Mulberry, EVEN IF Mulberry OR A MULBERRY AUTHORIZED REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. APPLICABLE LAW MAY NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY OR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. IN SUCH CASES, Mulberry'S LIABILITY WILL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

ANY LIABILITY OF MULBERRY, ITS INFORMATION PROVIDERS, LICENSORS, LICENSEES, EMPLOYEES, AGENTS, CONSULTANTS OR CONTRACTORS, INCLUDING, WITHOUT LIMITATION, ANY LIABILITY FOR DAMAGES CAUSED OR ALLEGEDLY CAUSED BY ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, FAILURE OF DELIVERY OF MERCHANDISE OR INFORMATION, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUS, COMMUNICATIONS LINE FAILURE, THEFT OR DESTRUCTION OR UNAUTHORIZED ACCESS TO, ALTERATION OF, OR UNLAWFUL USE OF Mulberry'S RECORDS, WHETHER FOR BREACH OF CONTRACT, TORTUOUS BEHAVIOR, NEGLIGENCE, OR UNDER ANY OTHER CAUSE OF ACTION, SHALL NOT EXCEED FIFTY DOLLARS (\$50.00).

YOU ACKNOWLEDGE AND AGREE THAT (A) THE REMEDIES, EXCLUSIONS, LIMITATIONS OF LIABILITY, AND LIMITATION OF DAMAGES HEREIN, REFLECT A REASONABLE ALLOCATION OF RISKS; (B) THAT YOU AND Mulberry WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE EXCLUSIONS, LIMITATIONS OF LIABILITY, AND ALL OTHER TERMS IN THIS AGREEMENT. YOU ACKNOWLEDGE THAT THE TERMS CONTAINED IN THIS AGREEMENT ARE A FAIR ALLOCATION OF RISKS BETWEEN YOU AND MULBERRY.

16. ASSIGNMENT; CHANGE OF CONTROL

16.1 End User shall not assign any of its rights or obligations under this Agreement, in whole or in part, without Mulberry's written consent.

16.2 Mulberry may at any time assign, in whole or in part, its rights or obligations under this Agreement without the consent of and without prior notification of End User.

17. ARBITRATION

17.1 Confidential Arbitration. Any dispute arising out of or related to this Agreement shall be resolved by confidential arbitration before a single arbitrator. Arbitration shall be conducted in accordance with then current and applicable rules of the American Arbitration Association ("AAA"). All arbitration-related hearings shall be conducted in New York, NY. The arbitrator shall be selected by the mutual agreement of the parties. If the parties cannot agree on a single arbitrator, then the arbitrator shall be selected in accordance with the then in effect rules of the American Bar Association. Once selected, the Arbitrator shall be empowered to hear and resolve any and all issues related to, arising from, based upon or in any way related to the dispute, whether based in law or equity. The Arbitrator shall issue rulings, decisions, orders, judgments, and permanent injunctions as applicable and appropriate. The prevailing party in said arbitration shall be awarded, Attorney's fees and costs as well of the costs of the arbitrator. If a party files a motion or petition to compel arbitration, then the prevailing party in said motion or petition shall be awarded interim attorney's fees and costs related to the motion or petition. THE PARTIES HEREBY AGREE TO WAIVE THEIR RIGHT TO A JURY TRIAL.

17.2 Arbitration Procedure. A Party who intends to seek arbitration must first send a written notice of the dispute to the other, by certified mail or Federal Express (signature required), or in the event that We do not have a physical address on file for You, by electronic mail ("Notice"). Mulberry's address for Notice is: Mulberry, Attention: Legal, 90 5th Avenue, 8th Floor, New York, NY 10011. The Notice must (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought ("Demand"). We agree to use good faith efforts to resolve the claim directly, but if We do not reach an agreement to do so within 30 days after the Notice is received, You or Mulberry may commence an arbitration proceeding.

17.3 Individual Capacity. You specifically agree that any claim or cause of action You may have arising out of this Agreement will be brought only in Your individual capacity. You agree and acknowledge that You will not be a Party, class member, or representative of any class action proceedings against Us. Also, an arbitrator may not consolidate more than one person's claims and may not otherwise preside over any form of a representative or class proceeding.

17.4 Time To Bring Claim. ANY CLAIM OR CAUSE OF ACTION RELATING TO OR PERTAINING TO THIS AGREEMENT MUST BE ARBITRATED AS SET OUT IN THIS SECTION 20 WITHIN ONE (1) YEAR OF THE OCCURRENCE GIVING RISE TO THE CLAIM OR CAUSE OF ACTION. THIS TIME LIMITATION APPLIES TO ALL TERMS AND CONDITIONS SET OUT IN THIS AGREEMENT. ALL CLAIMS OR CAUSES OF ACTION NOT

INITIATED WITHIN THE TIME RESTRICTION AS SET FORTH IN THIS SECTION 20.4 ARE PERMANENTLY BARRED.

18. GOVERNING LAW; VENUE

This Agreement will be governed by and construed in accordance with the laws of the State of New York, notwithstanding the actual state or country of residence or incorporation of the parties. Arbitration hearings shall be held solely in New York, NY for all actions arising out of or related to this Agreement. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. YOU UNDERSTAND AND AGREE THAT, BY ENTERING INTO THESE TERMS, YOU AND Mulberry ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION WITH RESPECT TO ANY CLAIM, COUNTERCLAIM OR ACTION ARISING FROM THE TERMS OF THIS AGREEMENT .

19. ESIGN CONSENT

By clicking the “Submit” and/or “Continue” button on the Mulberry Sites, you consent and agree that such action constitutes your signature and has the same effect as if you signed an agreement manually in writing. You are further consenting and agreeing that Mulberry may provide you with electronic communications and disclosures via email, the Mulberry Sites, and/or other electronic communications that you may have opted in to receive. To opt out of receiving electronic communications from us, please email support@getmulberry.com to opt out of Mulberry electronic communications.

20. SMS TELEMARKETING CAMPAIGNS

By clicking the “Continue” button on the Mulberry Site after providing your phone number or email address and proceeding without clicking the “Click here to continue to sign up for Mulberry without receiving telemarketing messages from Mulberry” hyperlink on the Mulberry Site, you consent to receive telemarketing text messages from Mulberry, including text messages made with an autodialer, at the telephone number or email address you provided to Mulberry even if your phone is a mobile number or is listed on any federal, state, or other “Do not Call” list. You understand that your consent to receive telemarketing text messages from Mulberry is not required as a condition of purchasing any goods or services from Mulberry. Unless you click the “Click here to continue to sign up for Mulberry without receiving telemarketing messages from Mulberry” hyperlink to sign up for Mulberry without giving Mulberry consent to send you telemarketing messages, you agree Mulberry may send you up to one telemarketing message per week, which does not include the first message sent to you verifying your enrollment in the Mulberry’s telemarketing campaign nor does this frequency include any SMS messages sent to you in response to any SMS messages you send to Mulberry. You also understand your telephone company may charge you for each telemarketing text message sent by Mulberry. You may withdraw your consent to receive telemarketing text messages from Mulberry at any time by texting “STOP” or “HELP” in response to any text sent by Mulberry. Message and data rates may apply.

21. MODIFICATIONS

Mulberry reserves the right, in our sole discretion, to modify this Agreement, at any time and without prior notice to you. You agree to review the Terms of Use and our Privacy Policy periodically to ensure that you are aware of any changes we make to the Terms of Use and/or Privacy Policy. By continuing to access or use the Services after we have posted a modification on the Mulberry Sites, Browser Extension or Mulberry App, you are indicating that you agree to be bound by the modified Agreement. If the modified Agreement is not acceptable to you, your only recourse is to cease using the Services pursuant to the terms of this Agreement.

22. COMMUNICATIONS TO YOU

We will send you any information related to your Account with Mulberry (e.g. payment authorizations, changes to our services, payment method changes, confirmation notification, price plan changes, notices) in electronic format only. For example we may send important notices to you in the "Notification" tab of your Account or by email to the email address you provided to us. You agree that any notice, disclosure, modification, agreement, or other communication sent to you electronically satisfies all legal communication requirements, including but not limited to, any legal requirement that a communication be in writing.

23. CHANGES TO THESE TERMS

Mulberry may change these Terms of Use from time to time. Such revisions shall be effective immediately, provided that for any existing users, such changes will become effective thirty (30) days after the revision is posted. Any price changes will be communicated to you on the Site and in your Account.

24. FORCE MAJEURE

Any delay in or failure of performance by either party under this Agreement will not be considered a breach of this Agreement and will be excused to the extent caused by any occurrence beyond the reasonable control of such party including, but not limited to, acts of God, power outages and governmental restrictions.

25. SEVERABILITY AND WAIVER

25.1 In the event that any of the provisions of this Agreement are held by to be unenforceable by a court or arbitrator, the remaining portions of the Agreement will remain in full force and effect.

25.2 Failure of either Party to require strict performance by the other party of any provision shall not affect the Party's right to require strict performance thereafter. Waiver by either Party of a breach of any provision shall not waive either the provision itself or any subsequent breach.

26. ENTIRE AGREEMENT

This Agreement is the complete and exclusive agreement between the parties with respect to the subject matter hereof, superseding and terminating all previous communications, representations or Agreements, whether written or oral between the parties relating to the services provided hereunder.

27. COUNTERPARTS

This Agreement may be executed in two or more counterparts, each of which shall be an original or copy and all of which together shall constitute one instrument.

28. RELATIONSHIP OF THE PARTIES

Neither party shall be deemed to be an employee, agent, or legal representative of the other party hereto for any purpose and neither party hereto shall have any right, power or authority to create any obligation or responsibility on behalf of the other party hereto nor shall this be deemed an exclusive or fiduciary relationship. This Agreement will not be construed to create or imply any partnership, agency, or joint venture.