

TERMS OF USE

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7. MISCELLANEOUS

7.1. TERMINATION

We may terminate these Terms of Use or your access to the Site at any time with or without notice to you. You may terminate these Terms of Use by (a) discontinuing your use of the Site and (b) destroying and removing all copies of Content from the Site (if any) that is otherwise in your possession and control.

7.2. JURISDICTION

This agreement will be governed and interpreted under the laws of the state of California. Courts located in Sacramento County, California have jurisdiction in any dispute arising from these Terms of Use.

In the event that any provision of these Terms of Use is found to be in conflict with the law, such provision shall be restated to reflect the original intent, and all other terms and conditions shall remain in full force and effect.

7.3. DISPUTE RESOLUTION AND ARBITRATION

You and *excelerate* agree to the following dispute resolution process for any legal controversy or legal claim arising out of or relating to these Terms of Use or the Site (the "Subject Legal Claim"). Please note that Subject Legal Claims do not include disputes arising in connection with *excelerate*'s performance of services pursuant to an order form or contract; any such dispute shall be governed by the terms of the applicable Service Agreement.

In an attempt to find the quickest and most efficient resolution of our issues, you and *excelerate* agree to first discuss any issue informally for at least 30 days. To do that, please send your full name and contact information, your concern and your proposed solution by email to us at: hello@excelerate.com.

If we do not reach an agreed upon solution after our discussions for at least 30 days, you and *excelerate* agree that any Subject Legal Claim that either of us may have must be resolved through binding individual arbitration before the American Arbitration Association using its Consumer Arbitration Rules. There are two limited exceptions to this Dispute Resolution and Arbitration provision: (i) either party may pursue in small claims court any action that is within that jurisdiction, as long as the case proceeds on an individual basis only; (ii) either party may seek to enforce its patents, trademarks, copyrights or trade secrets in an appropriate state or federal court.

To help resolve any issues between us promptly and directly, you and *excelerate* agree to begin any arbitration within one year after a Subject Legal Claim arises; otherwise, the Subject Legal Claim is waived. You and *excelerate* also agree to arbitrate in each of our individual capacities only, not as a representative or member of a class, and each of us expressly waives any right to file a class action or seek relief on a class basis. All arbitration hearings will be held in Sacramento, California. The parties agree that this Dispute Resolution and Arbitration provision is subject to, and will be governed and enforced under, the Federal Arbitration Act.

You may download a form Notice to initiate arbitration at www.adr.org. If you initiate the arbitration, your arbitration fees will be limited to the filing fee set forth in the AAA's Consumer Rules. It is important that you understand that the arbitrator's decision will be binding and may be entered as a judgment in any court of competent jurisdiction. If the arbitrator rules against *excelerate*, in addition to accepting whatever responsibility is ordered by the arbitrator, we think it's fair that *excelerate* reimburse your reasonable attorneys' fees and costs, regardless of who

initiated the arbitration. In addition, if the arbitrator rules in *excelerate*'s favor, it will not seek reimbursement of our attorney's fees, regardless of who initiated the arbitration.

7.4. SEVERABILITY

If any provision of these Terms of Use shall be deemed unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from these Terms of Use and shall not affect the validity and enforceability of any remaining provisions.

7.5. COMPLETE AGREEMENT

These Terms of Use represents the complete agreement concerning the subject matter hereof between the parties and supersedes all prior and contemporaneous agreements and understandings between them, whether written or oral.

7.6. VOID WHERE PROHIBITED BY LAW

These Terms of Use are void where prohibited by law, and the right to access the Site is revoked in such jurisdictions.

7.7. RELATIONSHIP OF THE PARTIES

These Terms of Use create no partnership, joint venture, agency, franchise, sales representative or employment relationship between you and *excelerate*. You have no authority to make or accept any offers or representations on our behalf and you shall not make any statement, orally, in writing, online or otherwise, that conflicts with these Terms of Use.

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