

TERMS OF USE

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INTRODUCTION

Please read these terms of use (the “**Terms**”) carefully before using the **gmoji.us** website and the App. You are required to read and understand them before using any of the Services. If you do not accept these Terms, you shall not use the App, the Website or the Services offered by the App and the Website. If you are in any doubt about any of the contents of this document, you should obtain independent professional advice.

By accessing, browsing and using our Website or our App through whatever platform and/or by completing a registration, you acknowledge and agree to have read, understood and agreed to the terms and conditions set out below.

TERMS AND DEFINITIONS

Account means a digital record of the User’s details, such as personal details, phone number and e-mail, which have been recorded by completing the registration process within the App.

App means Company’s software in a form of a mobile application called “Gmoji” which is distributed through AppStore and Google Play and which enables its Users to prepay goods and/or services of the Vendors and to pass a right to receive such prepaid goods and/or services to any other person in any messenger application.

Company or We, us, our means Gmoji, Inc., a company duly registered and acting under the laws of the state of Delaware, with registered number 14676729 and legal address at 340 S Lemon Ave #3322, Walnut, CA 91789.

Good means a good or a service available to be purchased by Users from Vendors via the App. Goods are provided directly by Vendors and their purchase is not subject to these Terms and is regulated by a separate agreement between a Receiving User and a Vendor.

Receiving User means a person who has been passed the right to receive Goods from Vendor.

Services means services that are offered by us via the App, which includes facilitation of prepayment of Goods to be received from the Vendors and of passing a right to receive such prepaid Goods (“a gift certificate”) to the User’s designated contacts.

Terms means these terms of use and all other operating rules, policies, procedures, privacy policy, cookies policy, anti-fraud etc., that may be issued, amended and published from time to time by the Company on the Website.

Unique Code means a QR code, a bar code, a random digital code or any other identifying code generated by the App and designated to each Good.

User or You, your means a natural person accessing or visiting the Website or the App and using Services.

Vendor means a company or an entrepreneur selling its goods and/or services via the App for business purposes.

Website means a website run by the Company which domain is at <https://gmoji.us>, including all its subdomains and all their respective page, that provides an access to the App.

IMPORTANT DISCLAIMER

BY USING THE WEBSITE AND THE APP, THE USER AGREES TO THESE TERMS AND AGREES TO BE BOUND BY THE TERMS. TO THE EXTENT PERMITTED BY LAW, THE USER AGREES NOT TO HOLD THE COMPANY (INCLUDING ITS AFFILIATES, DIRECTORS, EMPLOYEES, AGENTS, CONTRACTORS AND SERVICE PROVIDERS) LIABLE FOR ANY LOSSES OR ANY SPECIAL,

INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING FROM, OR IN ANY WAY CONNECTED TO THE SERVICES INCLUDING LOSSES ASSOCIATED WITH THE TERMS SET FORTH BELOW.

THESE TERMS DO NOT CONSTITUTE A PURCHASE AGREEMENT FOR GOODS OR A SERVICE AGREEMENT AND THE COMPANY SHALL NOT BE HELD LIABLE FOR GOODS AND SERVICES RECEIVED BY YOU AND FOR VENDORS' OBLIGATIONS AND PROMISES REGARDING ANY GOODS OR SERVICES.

GENERAL

Subject to these Terms set herein, you are granted a limited non-exclusive royalty-free revocable license by the Company to use the App for the purpose of receiving Services that are enabled by the App.

The Company provides no financial services including but not limited to accepting deposits or money transferring. The Company does not provide the goods and services purchased from Vendors and does not guarantee promised quality and/or quantity of the goods and services purchased.

We will charge you the price of the Goods you are prepaying with the App. All of the prices will be displayed for the User to accept. The price of the Goods will be charged from your bank account the information for which you are requested to provide during the purchase process.

Company retains a right to alter the prices upon its own discretion, such alterations always to be displayed to the User before the payment. It is restricted for Vendors to charge Receiving User additional fees for the Goods prepaid, please contact us at hi@gmoji.us if a Vendor has charged you any extra fees for the Good.

ACCOUNT REGISTRATION AND SERVICES ACCESS

In order to get access to the Services provided by us you will need to complete an Account registration process within the App. The first step of Account registration procedure will include providing us with your phone number. You will be required to verify the phone number by entering a pass code from a text forwarded to you. One User may register only one Account providing the same ID Information. Also you will be required to add the App's keyboard in your device's settings to the keyboards permitted for use on your Device. You will need to enter your email and date of birth to gain full access to the Services. Completing the first step will allow you to access the App and to choose the App's keyboard in any messenger application.

In order to pay for selected Goods you will be required to complete the second step of registration procedure, that will include providing us with either your credit or debit card credentials or choosing Apple Pay or Google Pay as a payment method.

Goods can be selected from a list of icons in the App or from the App's keyboard directly in the messenger. The icons depicting the Goods are for reference purposes only and you shall not rely on the icons as exact depiction of Goods to be received. Company shall not be liable for any discrepancies between the icons and actual Goods received.

After payment for selected Goods is fully processed you will receive an electronic receipt to the email address designated in your Account containing all necessary information as required by law. You are solely responsible for putting correct information in your Account so that the receipt can be forwarded to you. Please be aware that we use third parties' services to process all payments and Company does not process any payments and is not liable for any actions taken by such third parties and any payment errors. Nevertheless, we encourage you to contact us at hi@gmoji.us if you are experiencing problems with processing your payment and we will make our best attempt to assist you when possible.

After we receive your payment your Account will be replenished with an electronic document that proves your right to receive the prepaid Good. Such document shall contain:

- a) the Good's name and description along with its depiction;
- b) Unique Code;
- c) an expiration date;
- d) an interactive map of Vendor's locations;
- e) delivery options (when applicable);
- f) Vendor's contact details.

You then will be able to pass the electronic document to a Receiving User via messenger applications or directly via App's functionality. Receiving User shall present the Unique Code and the pin code to the Vendor or type the pin code on Vendor's website to receive the Good before the expiration date. The right to receive the Good ceases and becomes null after the expiration date.

PURCHASE REVERSION

UPDATE TO THE APP AND CHANGES TO THE SERVICE

From time to time we may automatically update the App and the Website and change the Services to improve performance, enhance functionality, reflect changes to the operating system or address security issues. Alternatively we may ask you to update the App for these reasons. If you choose not to install such updates or if you opt out of automatic updates you may not be able to continue using the App and the Services.

However, the App will always work with the current or previous version of the operating system (as it may be updated from time to time) and match the core description of it provided to you when you installed it.

WARRANTIES

Further, by using the App, the Website and the Services you acknowledge and agree that:

- (a) You are of legal age to purchase the type of Goods selected;
- (b) You are of sound mind and are capable of taking responsibility for your own actions;
- (c) All the details that you have submitted to us within the registration and/or verification process or otherwise, are accurate, up-to-date as of the date of provision, complete and not misleading;
- (d) You will notify us immediately of any changes to any information you have provided to us in connection with these Terms or your access to and use of the App, the Website and/or the Services;
- (e) You will not use the App, the Website and/or the Services for or in connection with any illegal activity in any country or jurisdiction;
- (f) You waive the right to participate in any class action lawsuit or any class wide arbitration against the Company, its affiliates, directors, officers, suppliers or employees;
- (g) You shall not hack into, interfere with, disrupt, disable, overburden or otherwise impair the proper working of the App and the Website or violate or attempt to violate the security of the App and the Website;
- (h) You shall not access information or data which he or she is not authorised to access;

- (i) The Company reserves the right to refuse to process any transaction placed by you through the App or the Website without giving a notice or stating a reason, and particularly where there is suspicious activity or potentially fraudulent, illicit, illegal or related activities suspected;
- (j) You shall promptly provide the Company, upon request, any additional information which we may consider necessary for providing Services;
- (k) You expressly agree to these Terms;
- (l) You accept that the App and the Services are provided on an “as is” and “under development” basis. Therefore, provided the Company acts in good faith, you accept that the Company is providing the App and the Services without being able to provide any warranties, including, but not limited to title, merchantability or fitness for a particular purpose.

The User warrants to the Company that each of the User’s warranties set in these Terms are true, accurate, not misleading as at the date hereof and each of the User’s warranties:

- is a separate warranty and shall in no way be limited or restricted by inference from the terms of any other warranty or by any other words in these Terms;
- continue and remain in force irrespective of whether the User’s Account is active, suspended or closed;
- and be deemed to be material.

You acknowledge and agree that we may terminate the Terms immediately, refuse any of your transactions and restrict your access to the App if any of your warranties set forth herein appear to be false or misleading.

THIRD-PARTIES’ SERVICES

The App and the Website may contain services owned or operated by parties other than the Company. The Company does not undertake any responsibility for the services and other activities carried out by third parties and does not take any part in the relationship that may arise between third parties and Users of the App and the Website. By using services of third parties, you agree to be bound by third parties’ terms of services. If you do not agree to these terms of services, then do not use services of third parties.

The Company does not regulate services of third parties and has no opportunity to affect the process of providing these services and its results.

LICENSE RESTRICTIONS

You agree that you will:

- not rent, lease, sub-license, loan, provide, or otherwise make available, the App or the Services in any form, in whole or in part to any person without prior written consent from us;
- not copy the App, any of these Terms or Services, except as part of the normal use of the App or where it is necessary for the purpose of back-up or operational security;
- not translate, merge, adapt, vary, alter or modify, the whole or any part of the App, any of these Terms or Services nor permit the App or the Services or any part of them to be combined with, or become incorporated in, any other programs, except as necessary to use the App and the Services on devices as permitted in these terms;
- not disassemble, de-compile, reverse engineer or create derivative works based on the whole or any part of the App nor attempt to do any such things;

- comply with all applicable technology control or export laws and regulations that apply to the technology used or supported by the App or any Service.

USE RESTRICTIONS

You must:

- not use the App or any Service in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with these terms, or act fraudulently or maliciously, for example, by hacking into or inserting malicious code, such as viruses, or harmful data, into the App, any Service or any operating system;
- not infringe our intellectual property rights or those of any third party in relation to your use of the App or any Service (to the extent that such use is not licensed by these terms);
- not transmit any material that is defamatory, offensive or otherwise objectionable in relation to your use of the App or any Service;
- not use the App or any Service in a way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other Users; and
- not collect or harvest any information or data from any Service or our systems or attempt to decipher any transmissions to or from the servers running any Service.

AMENDMENTS TO THESE TERMS

The Company reserves the right to update these Terms at any time with immediate effect by publishing the updated Terms on the Website. All such changes will take effect once they have been posted on the Website and the User will be deemed to have accepted any such changes by using the App and the Website from such time, or, where possible, giving notice to the User by email to the User's last known email address, such notice to be effective immediately.

RISK, LOSSES OR DAMAGES

THE USER HEREBY AGREES THAT SUBJECT TO APPLICABLE LAWS AND REGULATIONS, THE COMPANY WILL NOT BE LIABLE FOR:

- ANY INTERRUPTION, MALFUNCTION, DOWNTIME, OFF-LINE SITUATION OR OTHER FAILURE ONLINE SERVICES PROVIDED BY ANY THIRD PARTIES, INCLUDING ANY THIRD PARTY'S SYSTEM, DATABASES OR ANY OF ITS COMPONENTS;
- REGULATORY COMPLIANCES MEASURES, NOTICES OR ACTIONS IMPOSED OR ANY TAX LIABILITY INCURRED BY THE USER;
- ANY LOSS OR DAMAGE WITH REGARD TO THE USER'S DATA OR OTHER DATA DIRECTLY OR INDIRECTLY CAUSED BY MALFUNCTION OF ANY THIRD PARTY SYSTEMS, POWER FAILURES, UNLAWFUL ACCESS TO OR THEFT OF DATA, COMPUTER VIRUSES OR DESTRUCTIVE CODE ON ANY THIRD PARTY SYSTEMS OR PROGRAMMING DEFECTS;
- AND/OR ANY INTERRUPTION, MALFUNCTION, DOWNTIME OR OTHER FAILURE OF SERVICES PROVIDED BY THIRD PARTIES, INCLUDING, WITHOUT LIMITATION, THIRD PARTY SYSTEMS SUCH AS THE PUBLIC SWITCHED

TELECOMMUNICATION SERVICE PROVIDERS; INTERNET SERVICE PROVIDERS, ELECTRICITY SUPPLIERS, RELEVANT LOCAL AUTHORITIES AND CERTIFICATION AUTHORITIES; OR ANY OTHER EVENT OVER WHICH THE COMPANY HAS NO DIRECT CONTROL.

USERS SHALL TAKE PROPER MEASURES TO PROTECT THEIR ACCOUNT DETAILS, WITHOUT WHICH USERS WILL NOT BE ABLE TO ACCESS THEIR ACCOUNTS AND USE GOODS WHICH THEY HAVE PURCHASED. THE COMPANY WILL NOT BE REFUNDING THE USER FOR ANY LOSSES INCURRED DUE TO USER'S FAULT.

FORCE MAJEURE

Neither the User nor the Company (including its affiliates, directors, employees, agents, contractors and service providers) shall be held liable towards the other party for any failure to perform any obligation, if such failure is caused by circumstances beyond the reasonable control of the party failing to fulfil its obligations. This includes lightning, flood, exceptionally severe weather, fire, explosion, war, civil disorder, industrial disputes, acts or omissions of persons for whom we are not responsible, acts of government or other competent authorities (including telecommunications and internet service providers).

The User indemnifies and holds the Company (including its affiliates, directors, employees, agents, contractors and service providers) harmless against all and any losses, liability, actions, suits, proceedings, costs, demands and damages of all and every kind, (including direct, indirect, special or consequential damages), and whether in an action based on contract, negligence or any other action, arising out of or in connection with the failure or delay in the performance of the App or the Website, whether due to the Company's (including its affiliates, directors, agents, contractors and service providers) negligence or not.

NOTIFICATION OF SPECIAL PURPOSE

Unless otherwise provided in the applicable laws and regulations, should the User proceed to purchase any Goods that fail to be suitable for the special or particular purpose as intended by the User and which do not relate to the Terms, the Company shall not be liable towards the User.

TRANSMISSION AND ACCURACY OF INFORMATION

The Company shall be responsible neither for proper and/or complete transmission of the information contained in any electronic communication or of the electronic communication itself nor for any delay in its delivery or receipt.

The Company has implemented security measures to ensure the safety and integrity of any of the Services. However, despite this, information that is transmitted over the internet or blockchain may be susceptible to unlawful access and monitoring.

The Company does not provide a warranty (express or implied) or make any representation that the Company (including its affiliates, directors, employees, agents, contractors and service providers) will operate error free or without interruption or that any errors will be corrected or that the content is complete, accurate, up to date, or fit for a particular purpose.

GOVERNING LAW AND LEGAL DISPUTES

Any matters arising from these Terms, shall be governed by and interpreted in accordance with the substantive laws of state of Delaware.

If a dispute arises between the User and the Company, the User is strongly encouraged to first contact us directly to seek a resolution.

The Delaware courts will have exclusive jurisdiction to settle any disputes which may arise out of or in connection with these Terms, or use of the Services, the App or the Website.

INTELLECTUAL PROPERTY

The Company shall retain all right, title and interest in all of Company's intellectual property, including, without limitation, inventions, ideas, concepts, code, discoveries, processes, marks, methods, software, compositions, formulae, techniques, information and data, whether patentable, copyrightable or protectable in trademark, and any trademarks, copyright or patents based thereon. The User shall not use any of Company's intellectual property for any reason without Company's prior written consent.

WAIVER

The failure of the Company to require or enforce strict performance by the User of any provision of these Terms or the Company's failure to exercise any right under these Terms shall not be construed as a waiver or relinquishment of the Company's right to assert or rely upon any such provision or right. The express waiver by the Company of any provision, condition, or requirement of these Terms shall not constitute a waiver of any future obligation to comply with such provision, condition or requirement. Except as expressly and specifically set forth in these Terms, no representations, statements, consents, waivers, or other acts or omissions by the Company shall be neither considered as an amendment of these Terms nor be legally binding.

NOTICES

For all purposes of these Terms, any notice required to be in writing shall include email.

WHOLE AGREEMENT

These Terms, as may be amended from time to time, constitute the whole agreement between the User and the Company with respect to the App, the Website and the Services and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

These Terms create a legally binding agreement between the User and the Company only. Accordingly, unless expressly stated to be the case, these Terms do not create rights in favor of any third party.

LIMITATION OF LIABILITY AND INDEMNITY

SUBJECT TO ANY APPLICABLE LAWS AND REGULATIONS, THE USER AGREES THAT THE COMPANY SHALL NOT BE LIABLE FOR ANY COSTS, CLAIMS, DAMAGES (INCLUDING, WITHOUT LIMITATION, INDIRECT, EXTRINSIC, SPECIAL, PENAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL LOSSES (SUCH AS LOSS OF PROFITS, BUSINESS, GOODWILL, REVENUE OR ANTICIPATED SAVINGS) OR DAMAGE OF ANY KIND), PENALTIES, ACTIONS, JUDGMENTS, SUITS, EXPENSES, DISBURSEMENTS, FINES OR OTHER AMOUNTS THAT YOU OR ANY THIRD PARTY MIGHT SUFFER THAT RELATE TO OR ARISE FROM THESE TERMS, OR TERMINATION

OF THESE TERMS, FOR ANY REASON, WHETHER OR NOT ANYONE ANTICIPATED OR SHOULD HAVE ANTICIPATED THAT THE DAMAGES WOULD OCCUR.

HOWEVER, NOTHING IN THESE TERMS SHALL LIMIT OUR LIABILITY RESULTING FROM OUR FRAUD OR FRAUDULENT MISREPRESENTATION, GROSS NEGLIGENCE, WILLFUL MISCONDUCT, FOR DEATH OR PERSONAL INJURY RESULTING FROM EITHER OUR OR OUR SUBCONTRACTOR'S NEGLIGENCE OR TO THE EXTENT SUCH LIMITATION OR EXCLUSION IS NOT PERMITTED BY APPLICABLE LAW.

SUBJECT TO APPLICABLE LAW AND REGULATIONS, THE USER AGREES TO INDEMNIFY AND HOLD THE COMPANY HARMLESS IN RESPECT OF ANY CLAIM THAT A THIRD PARTY MIGHT BRING AGAINST THE COMPANY THAT RELATES TO OR ARISES FROM THESE TERMS.

SEVERABILITY

The User and the Company agree that if any provision of the Terms is found to be invalid, illegal or unenforceable, such provision shall be severed and the remainder of the provisions of the Terms shall continue in full force and effect as if the provision in question had been deleted.

VIOLATION OF THE TERMS

We may end your rights to use the App, the Website and Services at any time by contacting you if you have broken these Terms. If what you have done can be put right we will give you a reasonable opportunity to do so.

If we end your rights to use the App, the Website and Services:

- You must stop all activities authorised by these Terms, including your use of the App, the Website and any Services.
- You must delete or remove the App from all devices in your possession and immediately destroy all copies of the App which you have and confirm to us that you have done this.
- We may remotely access your devices and remove the App from them and cease providing you with access to the Services.

RISK STATEMENT

Prior to using the Services, the App or the Website, the User shall consider and acknowledge the following risks associated with online platforms.

- Operational error. User may never receive Goods and may lose the entire amount User paid for such Goods as a result of interruptions and operational errors in the process of purchasing or receiving the Goods.
- The Company cannot be liable under any circumstances for any transaction made by you with your Account. The Company has no control over, or liability for, the delivery, quality, safety, legality or any other aspect of any goods or services that you may purchase or sell to or from a third party (including other users of the App). Any dispute you have concerning a transaction you shall resolve with such third party directly without involving the Company. If you believe that a third party behaved in a fraudulent, misleading, or inappropriate manner, or if you cannot adequately resolve a dispute with a third party, you may notify our support team via e-mail hi@gmoji.us for assistance so that we may consider what action to take, if any.

- Security. Accounts may be subject to expropriation and or/theft. Hackers or other malicious groups or organizations may attempt to interfere with your Account in a variety of ways. Furthermore, there is the risk that source code may contain intentional or unintentional bugs or weaknesses which may negatively affect the Services or result in the loss of User's electronic documents on Goods or the loss of any other assets in User's Account. In the event of such software bug or weakness, there may be no remedy and Users are not guaranteed any remedy, refund or compensation.
- Risk of government action. As noted above, the industry in which Company operates is new, and may be subject to heightened oversight and scrutiny, including investigations or enforcement actions. There can be no assurance that governmental authorities will not examine the operations of Company and/or pursue enforcement actions against Company. Such governmental activities may or may not be the result of targeting Company in particular. All of this may subject Company to judgments, settlements, fines or penalties, or cause Company to restructure its operations and activities or to cease offering certain products or services, all of which could harm Company's reputation or lead to higher operational costs, which may in turn have a material adverse effect on the Services and/or the development of the App.

User understands that there is no warranty whatsoever on the Services, express or implied, to the extent permitted by law, and that the Services are provided on an "as is" basis. The User also understands that the Company will not provide any refund of the purchase price for Goods under any circumstance except if explicitly stated otherwise in these Terms. The User further agrees to accept sole risk for the using the Services.

In order to reduce the possibility of fraud, phishing attempts and other schemes perpetrated by malicious third parties, the User agrees not to respond directly to any inquiry regarding their Accounts. The User understands that the Company may send him or her emails from time-to-time, but these email notices will never ask for information or require any direct email response from the User.

The User understands, that while the Company and its affiliates will make reasonable efforts to further promote the App, it could potentially be shut down or left without maintenance and technical support due to lack of public interests in the App making it economically unreasonable to support.

FEEDBACK

If you have any questions about these Terms, please contact us at hi@gmoji.us.