

# SUNBASKET® TERMS AND CONDITIONS

(Last Updated: March 19, 2021)

Welcome to Sunbasket!

At Sunbasket (also “Sun Basket” or “Sun Basket, Inc.”), our mission is to make healthy eating easy, delicious and personalized for your healthy lifestyle. Let our chefs and nutritionists, led by award-winning Executive Chef Justine Kelly, do the meal planning for you! Through our service, we offer a variety of meal plan subscriptions – including *Paleo, Lean & Clean, Carb Conscious, Vegetarian, Vegan, Mediterranean, Pescatarian, Diabetes Friendly, Quick and Easy, and Chef's Choice* – so you can eat the way you want. You can further personalize your Sunbasket delivery by selecting your own meals (and even proteins) from our entire weeks’ menu offerings. All our meal plans feature fresh organic produce, pre-measured clean ingredients, and delicious recipes delivered to your door. We test all our recipes in our kitchens to make sure they are nutritious, tasty, and easy to prepare – often in 30 minutes or less. To help you beyond dinner, we curate additional delicious foods which can be added to your delivery.

We are passionate about supporting independent farmers, ranchers and fishermen who offer the highest quality, sustainable ingredients, including organic produce, Anti-Biotic Free (ABF) proteins, and seafood that follows the Monterey Bay Aquarium Seafood Watch® Program’s guidelines. By working directly with farmers, we can provide you with food that is fresher than what is available at many local supermarkets.

WE GUARANTEE YOU WILL LOVE YOUR SUNBASKET FOOD OR WE WILL REFUND YOU 100%, SUBJECT TO THE TERMS OF THIS AGREEMENT. MOREOVER, OUR CUSTOMER SERVICE TEAM, AVAILABLE THROUGH OUR HELP CENTER AT [WWW.SUNBASKET.COM/HELP](http://WWW.SUNBASKET.COM/HELP), PRIDES ITSELF IN HELPING RESOLVE ANY ISSUES YOU MIGHT HAVE.

That said, if for any reason we are not able to resolve things, we believe that individual arbitration is the fairest and least expensive approach and accordingly have included a class action waiver and an arbitration agreement in our Terms and Conditions. By using our Sunbasket Offerings, you agree to submit to arbitration in accordance with our arbitration agreement below.

**PLEASE READ THE FOLLOWING TERMS AND CONDITIONS CAREFULLY**

**BEFORE USING ANY ASPECT OF THE SUNBASKET OFFERINGS, INCLUDING OUR WEBSITE OR OUR MOBILE APPLICATION.**

## **1. Your Acknowledgment and Acceptance of Terms**

You agree to be bound by the following terms and conditions (“Terms and Conditions”) of Sunbasket, Inc. (“Sunbasket”, “we” or “us”), in their entirety, when you: (a) access or use the Sunbasket.com website or any other online Sunbasket platform (collectively, the “Site”); (b) access or use the Sunbasket mobile application (the “App”); (c) access and/or view any of the video, audio, stories, text, recipes, food safety tips, cooking tips, photographs, graphics, artwork and/or other content featured on the Site and/or in the App (collectively, with newsletters, information included with shipments, and other Sunbasket information, “Content”); (d) sign up to receive Sunbasket newsletters or other information; (e) sign up to receive the Sunbasket subscription food delivery service (the “Sunbasket Subscription Service”) and/or any other products or services offered by Sunbasket from time to time (collectively, the “Sunbasket Service”); (e) purchase or otherwise redeem or sign up to receive or send Sunbasket Gift Cards or Rewards (each as defined in the Sunbasket Gift Card and Reward Terms and Conditions), Trial Offers (as defined in 3(k)); (f) access links to Sunbasket’s social media pages/accounts on third-party social media websites or mobile or other platforms, such as Facebook®, Instagram®, Pinterest®, LinkedIn®, Twitter®, Snapchat®, and YouTube® (collectively, “Social Media Pages”); (g) enter any sweepstakes, contest and/or other promotion offered or conducted by Sunbasket from time-to-time (collectively, “Promotions”); and/or (h) utilize any of the interactive features of the Site and/or App designed to facilitate interaction between you, Sunbasket and other users of the Site and App, respectively, including, but not limited to, blogs and associated comment sections located in designated areas of the Site and App, as applicable (collectively, the “Interactive Services” and together with the Site, App, Content, Sunbasket Service, Gift Cards, Trial Offers, Social Media Pages and Promotions, the “Sunbasket Offerings”).

These Terms and Conditions are inclusive of the Sunbasket Gift Card and Reward Terms and Conditions, the rules applicable to the Promotions (“Promotion Rules”) and any and all other applicable Sunbasket operating rules, policies, prices and other supplemental terms and conditions or documents that may be published on the Site and/or in the App which reference these Terms and Conditions, or which you may be otherwise notified of in writing, from time to time, all of which are expressly incorporated in these Terms and Conditions by reference, and which form a legally binding agreement that governs your access to and use of the Sunbasket Offerings(collectively, the “Agreement”). By using and/or accessing the Sunbasket Offerings, you agree to comply with and be bound by the Agreement. PLEASE READ THIS ENTIRE AGREEMENT CLOSELY. IF YOU DO NOT AGREE WITH ANY PART OF THIS AGREEMENT, YOU MAY NOT USE THE SUNBASKET OFFERINGS.

**IMPORTANT: BY USING THE SUNBASKET OFFERINGS, IF YOU AND SUNBASKET HAVE A DISAGREEMENT RELATING TO THIS AGREEMENT OR THE SUNBASKET OFFERINGS, YOU AGREE TO RESOLVE THE DISAGREEMENT OUTSIDE OF COURT, THROUGH BINDING ARBITRATION, IN ACCORDANCE WITH SECTION 15 BELOW.**

If you have any questions about the Agreement or the Sunbasket Offerings, please access our Frequently Asked Questions or reach out to our Customer Service team at <https://sunbasket.com/help>.

## **2. Modification of Terms**

We may amend the Agreement from time to time in our sole discretion, without notice to you; provided, however, that: (a) any amendment or modification to the provisions applicable to dispute resolution (collectively, “Dispute Resolution Provisions”) shall not apply to any disputes arising prior to the applicable amendment or modification; and (b) any amendment or modification to pricing and/or billing provisions (“Billing Provisions”) shall not apply to any charges incurred prior to the applicable amendment or modification. The latest Agreement will be posted on the Site and in the App, and you should review the Agreement prior to using the Sunbasket Offerings and from time to time thereafter. By continuing to use any of the Sunbasket Offerings, you hereby agree to comply with, and be bound by, all of the terms and conditions contained within the Agreement, as in effect at that time (other than with respect to disputes arising prior to the amendment or modification of the Dispute Resolution Provisions, or charges incurred prior to the

amendment or modification of the Billing Provisions, which shall be governed by the Dispute Resolution Provisions and/or Billing Provisions in effect at the time of the subject dispute or incurred charges, as applicable). All amendments or modifications to the Agreement shall be effective immediately upon publication on the Site and App.

### 3. Sunbasket Offerings

(a) **Sunbasket Subscription Service**. The Sunbasket Subscription Service is a continuous subscription service. As part of the Sunbasket Subscription Service, we offer a number of subscription options that you can choose from (each chosen combination of type of meal, number of meals and number of people, a “Plan”). Our standard subscription service is weekly; however, you may select weekly, bi-weekly or monthly subscriptions. Whether you have signed up for our standard weekly subscription service or a weekly, bi-weekly or monthly subscription, we refer to such frequency as your “Subscription Period” in this Agreement. Each Subscription Period (excluding those you choose to skip in accordance with the Agreement) you will receive a package from Sunbasket with the contents of your enrolled Plan (each, including as modified in accordance with the Agreement, a “Delivery”). You can always find specific details regarding your Plan and the Sunbasket Service (“Account”) by accessing your Account details on the Site or App.

To allow for greater personalization of your Sunbasket Subscription Service, you can modify any specific Delivery prior to the applicable Cut Off Time. You can (subject to any restrictions in your Plan or our Service):

- (i) Make your own meal selections from our available meals for that Subscription Period in lieu of the ones we have chosen for you based on your Plan;
- (ii) Increase or decrease the number of meals you receive;
- (iii) Change or add proteins; and
- (iv) Order additional products, such as salads or snacks.

You can also **skip any Subscription Period** prior to the applicable Cut Off Time. For information on Cut Off Times and how to change, modify or cancel your Plan or skip a Subscription Period, please see Section 3(e). We continue to innovate and improve our Service and reserve the right to modify, terminate or otherwise amend, our offered Plans. Please note that when you skip a particular Subscription Period, you are only skipping Plan Delivery(ies) during the immediately upcoming Subscription Period, and any Deliveries during any subsequent Subscription Period will resume in accordance with your subscription frequency.

WHEN YOU REGISTER FOR THE SUNBASKET SUBSCRIPTION SERVICE (AND EACH TIME YOU CHANGE YOUR PLAN) YOU EXPRESSLY AUTHORIZE AND AGREE THAT SUNBASKET AND/OR OUR THIRD PARTY PAYMENT PROCESSOR ARE AUTHORIZED TO AUTOMATICALLY CHARGE YOUR PAYMENT METHOD (AS DEFINED BELOW) ON THE APPLICABLE WEEKLY, BI-WEEKLY OR MONTHLY RECURRING BASIS (BASED ON YOUR SUBSCRIPTION FREQUENCY) IN AN AMOUNT EQUAL TO THE THEN-EFFECTIVE RATE FOR YOUR PLAN, TOGETHER WITH ANY APPLICABLE TAXES AND SHIPPING (the “PLAN RATE”), FOR AS LONG AS YOU CONTINUE TO USE THE SUNBASKET SUBSCRIPTION SERVICE, EXCEPT FOR SUBSCRIPTION PERIODS YOU CHOOSE TO SKIP PRIOR TO THE CUT OFF TIME (AS DEFINED BELOW) OR UNLESS YOU CANCEL YOUR SUNBASKET SUBSCRIPTION SERVICE IN ACCORDANCE WITH THE AGREEMENT PRIOR TO THE CUT OFF TIME.

YOUR PLAN RATE MAY BE A FIXED AMOUNT OR MAY BE A RANGE. YOU ACKNOWLEDGE AND AGREE THAT SUNBASKET WILL NOT OBTAIN ANY ADDITIONAL AUTHORIZATION FROM YOU FOR SUCH AUTOMATIC, RECURRING PAYMENTS. IN ADDITION, YOU AUTHORIZE US (AND/OR OUR THIRD-PARTY PAYMENT PROCESSOR) TO CHARGE YOUR PAYMENT METHOD FOR ANY ADDITIONAL SUNBASKET OFFERINGS PURCHASED BY YOU FROM TIME TO TIME OUTSIDE OF OR IN EXCESS OF YOUR PLAN, PLUS ANY APPLICABLE TAXES AND SHIPPING. EVERY TIME THAT YOU USE THE SUNBASKET SUBSCRIPTION SERVICE, YOU RE-AFFIRM THAT SUNBASKET IS AUTHORIZED TO CHARGE YOUR PAYMENT METHOD AS PROVIDED IN THE AGREEMENT, AND TO HAVE ALL APPLICABLE FEES AND CHARGES APPLIED TO SAME.

(b) **Payment and Billing Information.** By providing your credit or debit card information (or other payment method accepted by Sunbasket from time to time) when you sign up for a Sunbasket Service or other Sunbasket Offering, and as updated from time to time on your Account page (your “Payment Method”), you authorize Sunbasket and/or our third-party payment processor to charge your Payment Method as provided in this Agreement. Sunbasket is unable to accept checking account transactions, paper checks, food stamps or third-party coupons at this time. If we are not able to process a payment using your Payment Method, we may suspend or cancel your Delivery for the affected Subscription Period(s). In the event of

such failure of your Payment Method, we may take reasonable steps to retry your Payment Method. We may contact you to reconfirm or update your Payment Method. We may also use card updating services available through the provider of your Payment Method (which are authorized by you unless you opt out with your Payment Method provider). We are not responsible for any fees incurred by you when charging or retrying your Payment Method, including but not limited to, overdraft fees. You can update or change your Payment Method and other billing and payment account information by visiting your Account page on the Site or App, as applicable. In the event any such update or change is made after the Cut Off Time (as defined below) for your next scheduled Delivery, such update or change may not take effect immediately. Your right to use the Sunbasket Service is subject to limits established by Sunbasket and/or by the issuer of your Payment Method.

(c) **Credit or Debit Card Temporary Authorizations**. Sunbasket may execute an authorization or temporary charge on your Payment Method to up to One Dollar (\$1.00) to verify that your Payment Method is valid and that the information you provide to Sunbasket is correct (the “Temporary Authorization”). The Temporary Authorization will expire in a few days (debit card authorizations typically expire in 24-48 hours depending on your Payment Method provider’s rules). If you experienced trouble enrolling with Sunbasket, you may see multiple Temporary Authorizations. These Temporary Authorizations will expire in accordance with your Payment Method provider’s rules.

(d) **Changes, Cancellations & Other Modifications to the Plan**. You can skip a Subscription Period (or multiple Subscription Periods to the extent allowed) at any time in accordance with this Agreement by logging into your Account on the Site or App, visiting your “Schedule” page and following the instructions located there, or by contacting our CustomerService Team at <https://sunbasket.com/help/your-subscription>. You can cancel your Plan (and the related Sunbasket Subscription Service) at any time by logging into your Account on the Site or App and following the instructions located under “Manage Meal Subscription”, or by contacting our Customer Service Team at <https://sunbasket.com/help>. Please note that if you cancel the Plan, and subscribe to any of our other Sunbasket Offering(s), the other Sunbasket Offerings will also be cancelled.

**Changes to, or cancellations of, your Plan, or requests to skip any Subscription Period Delivery (whether weekly, bi-weekly or monthly) of your Sunbasket Subscription Service, must be received by Sunbasket by 12:00 p.m. (noon) California time on the Wednesday before the week of your scheduled Delivery (the “Cut Off Time”) in order to take effect**

**prior to the next scheduled Delivery.**

**If you do not submit such cancellation, skip or change request before the applicable Cut Off Time, your Subscription Period Delivery will be shipped and you will be charged your Plan Rate as provided in this Agreement, and if you requested to change or cancel your Plan, such change will not take effect until the following Subscription Period.**

(e) **Prices and Price Changes.** At Sunbasket, we continue to innovate and improve our Service. Accordingly, we will adjust our prices from time to time. We display the prices applicable to each Delivery on our Site and App, and you can modify your Delivery each Subscription Period prior to the Cut Off Time. We will also provide you with at least seven (7) days' advance notice of any price increases associated with your Plan. If you are dissatisfied with any Plan price increases, you can change your Plan (thereby accepting the current effective Plan Rate for your new Plan) or cancel your Sunbasket Subscription Service, in each case in accordance with this Agreement. If you make no change to your Plan and continue to receive Sunbasket Subscription Deliveries after we have provided you with notice of a Plan price increase, such continued Deliveries will constitute your acceptance of such price increase. All prices shown on the Site and/or in the App are in U.S. dollars. Any applicable taxes and other fees or charges are not included and are additional to any prices shown on the Site and/or in the App. Prices, taxes or other fees may vary geographically.

(f) **Quality, Availability and Substitutions.** Because we only want to deliver the freshest products possible, sometimes certain products may be unavailable or fail to meet our quality standards due to market or other conditions beyond our reasonable control. If one of our ingredients or products is unavailable or fails to meet our quality standards for any reason, and we have a replacement item that is comparable, we may decide to make a substitution for that ingredient or product. All of our products and ingredients are subject to availability, and in order to ensure that we please as many Sunbasket customers as possible, we might limit the contents of your Delivery or the quantity of a particular product that you may order.

(g) **Delivery of Products.** Sunbasket currently delivers only to certain locations within the continental United States. You can locate our delivery coverage by visiting <https://sunbasket.com/service-availability>. We actively are expanding the reach of Sunbasket, so if we currently do not deliver to your area, but you would like us to, we recommend that you create an account, and we will notify you when we launch in your area.

We use the best national and regional third-party delivery companies to deliver Sunbasket

Deliveries to your door. If you are not home, we will leave the package at your door. In case of bad weather, extreme temperatures or other unexpected events or during certain holiday weeks, we may need to adjust, suspend or reschedule a Delivery. If we cannot reschedule the Delivery during that week, we will provide the appropriate credit or refund. Of course, we will try to let you know about any such delivery complications or adjustments. If you are expecting a Delivery and we have not proactively contacted you to make you aware of a delivery issue, please contact our Customer Service Team at <https://sunbasket.com/help>.

Each Sunbasket box utilizes carefully engineered packaging to sustain freshness even after our Delivery arrives on your doorstep. Our packages are designed to keep food products fresh if unopened and left at room temperature (i.e., 78 degrees Fahrenheit) through at least 9 p.m. of the scheduled delivery date. Please inspect each Delivery immediately to confirm the contents arrive in a cool, refrigerated condition. Please use a thermometer to check that the internal temperature of any meat, poultry or fish products is and remains at or below 41 degrees Fahrenheit. In the unlikely event a meat, poultry or fish product arrives at a temperature above 41 degrees Fahrenheit, you should discard the item and contact our Customer Service Team at <https://sunbasket.com/help> within 7 days to request a refund or credit. To maintain the integrity and quality of food products, you should immediately refrigerate all perishable items upon receipt of your Delivery. You should also always wash your fresh produce before using.

We take pride in our Sunbasket Offering and try to provide cooking, food safety and other tips to help you make the most of each Delivery. **However, you are responsible for the proper and safe washing, preparation, storage and cooking of the Delivery contents following delivery. Sunbasket recommends that all cooking instructions specified be followed, and that all meats, poultry, and seafood are cooked to the USDA's recommended internal temperatures (165 degrees Fahrenheit for poultry; 160 degrees Fahrenheit for ground meats; 145 degrees Fahrenheit for whole meats; and 145 degrees Fahrenheit for seafood).**

We strive to make every Delivery complete. Unfortunately, sometimes errors occur. If something is missing from your Delivery, please contact our Customer Service Team within 7 days at <https://sunbasket.com/help> to request a refund or credit.

(h)**Gift Cards and Rewards.** Terms relating to Sunbasket Gift Cards and Rewards are set forth in the Sunbasket Gift Card and Reward Terms and Conditions, which are incorporated into and made part of the Agreement.

(i) **Referral Programs.** We are confident that you are going to love Sunbasket and hope that you will refer friends and family to us. Sunbasket may establish referral programs from time to time, under which we may provide you with Account credits (which are Rewards as set forth in our [Sunbasket Refer-a-Friend Terms and Conditions](#)). Sunbasket may place restrictions on who can participate in any referral program or other referral offer, so please read the Sunbasket Gift Card and Reward Terms and Conditions and/or terms of the applicable referral program or offer to determine whether you are eligible to participate. If we believe you lied or intentionally misled us in any way, we may, among other things, cancel future Deliveries, your Account and/or any outstanding referral or other unpaid credits.

(j) **Trials.** We may offer, from time to time, discounted trials for the Sunbasket Subscription Service (“Trial Offers”). Additional terms relating to Trial Offers, including the number of discounted Deliveries, are specified during sign-up and/or in the terms applicable to such Trial Offer. Trial Offers may not be combined with any other offers or promotions. Trial Offers are for first-time users of the Sunbasket Subscription Service only, unless expressly provided otherwise in the terms applicable to such Trial Offers. Sunbasket reserves the right to determine your eligibility for any Trial Offer. If we believe you lied or intentionally misled us in any way, we may, among other things, cancel future Deliveries, your Account and/or any outstanding referral or other unpaid credits. At the end of the Trial Offer, unless you have cancelled your Sunbasket Subscription Service by the Cut Off Time, we will begin automatically billing your Payment Method the Plan Rate for your Plan on a recurring basis each Subscription Period as provided in this Agreement.

(k) **Promotions.** From time to time, Sunbasket offers Promotions by and through the Site, App, or other means. By providing true and accurate information in connection with the applicable Promotion registration form(s) and agreeing to the Promotion Rules applicable to each Promotion, you can obtain, or attempt to obtain, a chance to win the prize(s) and other awards offered through each Promotion, if any. You understand and agree that Sunbasket shall not be liable to you or any third party for any claim in connection with your participation in any of the Promotions.

**(m) Dietary Advice; Allergens and Ingredient Intolerances.** Blog posts, newsletters and other Content may contain recipes, meal recommendations, general health information and dietary advice (collectively, the “Dietary Advice”) and the food products delivered in connection with the Sunbasket Service (collectively, the “Dietary Options”) will contain various ingredients. The Dietary Advice and/or Dietary Options may include ingredients that you are allergic to.

**PLEASE NOTE THAT THE SITE AND APP DO NOT PROVIDE MEDICAL OR OTHER LICENSED PROFESSIONAL ADVICE. NOTHING STATED OR POSTED ON THE SITE OR APP OR OTHERWISE AVAILABLE THROUGH ANY SERVICES ARE INTENDED TO BE, AND MUST NOT BE TAKEN TO BE, THE PRACTICE OF MEDICINE. THE CONTENT AND INFORMATION OBTAINED FROM THE SITE OR APP ARE FOR INFORMATIONAL PURPOSES ONLY. THE SITE IS NOT INTENDED TO BE A SUBSTITUTE FOR PROFESSIONAL MEDICAL ADVICE, DIAGNOSIS, OR TREATMENT. ALWAYS SEEK THE ADVICE OF YOUR PHYSICIAN OR OTHER QUALIFIED HEALTHCARE PROVIDER WITH ANY QUESTIONS YOU MAY HAVE REGARDING A MEDICAL CONDITION OR BEFORE ADOPTING ANY DIETARY ADVICE OR PARTAKING IN ANY DIETARY OPTIONS, WHETHER OFFERED THROUGH OR BY THE SUNBASKET OFFERINGS OR OTHERWISE. NEVER DISREGARD PROFESSIONAL MEDICAL ADVICE OR DELAY IN SEEKING IT BECAUSE OF INFORMATION YOU HAVE OBTAINED THROUGH THE SITE OR APP.**

You should always check the ingredients associated with any Dietary Advice and Dietary Options to avoid potential allergic reactions. If you have or suspect that you have an allergic reaction or other adverse health event, promptly call 911 or contact your health care provider.

**All eight (8) major U.S. allergens as determined by the U.S. Food and Drug Administration (“FDA”) (milk, wheat, egg, soybeans, fish, crustacean shellfish, peanuts and tree nuts) are stored, portioned and packed in each of Sunbasket’s facilities.** Although Sunbasket takes precautions to limit the potential for cross-contamination, cross-contamination may occur between food products, allowing meals or other products offered in connection with the Sunbasket Service to contain some or all of those allergens. Because of this risk of cross-contamination, the Sunbasket Service is not appropriate for people with severe allergies or gluten intolerance.

## **4. Access to the Sunbasket Offerings; Account Information**

(a) **Access.** You will provide all equipment and services and be responsible for all data, telephone and other charges necessary to access the Sunbasket Offerings. You agree to comply with all applicable laws and the terms of the Agreement in connection with your use of or participation in any Sunbasket Offerings. You hereby represent that you are at least eighteen (18) years of age

(or the applicable age of majority, if greater than eighteen (18) years of age in your jurisdiction), and have the requisite power and authority to enter into the Agreement and perform your obligations here under.

You acknowledge that from time to time the Site, App and/or other Sunbasket Offerings may be inaccessible or inoperable for any reason, including, without limitation: (a) equipment malfunctions; (b) periodic maintenance procedures or repairs which Sunbasket may undertake from time to time; or (c) causes beyond the reasonable control of Sunbasket or which are not reasonably foreseeable by Sunbasket. Sunbasket shall not be liable to you in any such event.

**(b) Account and Passwords.** Access to the Sunbasket Service is accomplished through the use of a registered email address and a password that you choose upon your registration for the Sunbasket Service, as updated from time to time. You are solely responsible for any authorized or unauthorized access to your Account by any person. You agree to bear all responsibility of the upkeep and maintenance of an accurate and active email address for access to the Site and App, as well as receipt of transactional, Account-related or marketing email communications or other communications relating to the Sunbasket Offerings. You agree to bear all responsibility for the confidentiality of your password. You agree to notify Sunbasket promptly of any unauthorized use of your password or Account and you will remain liable for any unauthorized use of the Sunbasket Service.

**(c) Your Account/Registration.** You are responsible for all charges (including applicable taxes) to your Account in connection with your use of the Sunbasket Service, including in connection with your Sunbasket Subscription Service (including your related Plan) and/or any add-on or other products that are selected for purchase from time to time, by you or anyone you allow to use your Account and password to access the Sunbasket Service.

To enhance your customer experience and assist in processing your transactions relating to the Sunbasket Offerings, you will be asked to provide us with some or all of the following information as part of registering with Sunbasket: (a) your full name; (b) your e-mail address; (c) your mailing and/or billing address; (d) your telephone number; (e) your Payment Method information; (f) information pertaining to your alternative receiver of product (in the event you elect to forward any Delivery prior to the applicable Cut Off Time); and (g) any other information requested by Sunbasket (collectively, "Account Information"). You agree and accept responsibility for keeping all your Account Information current, up to date and accurate in all respects. You can update your Account Information by logging into the Service and visiting your

Account page, or by contacting us at <https://sunbasket.com/help>.

Please refer to our Privacy Policy to understand how this information will be used.

**Please do not send credit card or other payment information via email.** When you provide Payment Method information during sign-up or through your Account page, that data is sent directly to our third-party payment processor(s). Sunbasket does not store your credit card number or the related expiration dates or cvc codes.

**In creating an account, we ask that you provide complete and accurate information about yourself to bolster your credibility as a contributor to the Sunbasket Offerings and to enable us to reach you. It is critical that we have accurate email and other contact information for our users.** In the unlikely event of a product recall or similar issue, we rely on email to reach our users, supplemented by text messages for those of our users who have signed up for text alerts and occasionally telephone outreach by our Customer Service team. To improve your customer experience, we may also use email, text and telephone to share other important information about your Sunbasket Deliveries, orders, payments, etc. You may opt out of receiving text messages from Sunbasket at any time by replying with the word “STOP” using the mobile device that is receiving the messages or by logging into the Service, visiting your Account page and changing your settings under “Notifications”.

You agree that you will not provide fraudulent Account Information, and that you are solely responsible for any Account Information that you provide to Sunbasket and accept responsibility for all activities that occur under your Account or password and for restricting access to your computer and mobile device(s), as applicable.

## **5. App**

If you desire to use our App, you shall be responsible, at all times, for ensuring that you have an applicable mobile device and/or other equipment and service necessary to access the App. Sunbasket does not guarantee the quality, speed or availability of the Internet connection associated with your mobile device. Sunbasket does not guarantee that the App can be accessed: (a) on all mobile devices; (b) through all wireless service plans; and/or (c) in all geographical areas. Standard messaging, data and wireless access fees may apply to your use of the App. You are fully responsible for all such charges and Sunbasket has no liability or responsibility to you, whatsoever, for any such charges billed by your wireless carrier.

(a) **Installation/ Download Venues.** Sunbasket believes in providing users with clear, concise and complete disclosure before users download and install the App, including a description of the primary functions of the App. The App requires User's consent prior to installation. Sunbasket does not believe that users should be deceived into downloading or installing the App. Users may be able to download the App by and through the iTunes Store®, Google Play® store and other applicable venues (collectively, the "Download Venues").

Google Play® is a registered trademark of Google. iTunes® is a registered trademark of Apple, Inc. ("Apple"). Please be advised that Sunbasket is not in any way affiliated with Apple or Google, and the Sunbasket Offerings are not endorsed, administered or sponsored by Apple or Google.

(b) **Uninstall.** The App can be completely uninstalled in a straightforward manner and without requiring undue effort or skill, in most cases by using the traditional "uninstall" app function contained within your mobile device. Please be advised that in some instances, you may be required to restart your mobile device before all remnants of the App are completely uninstalled and removed from your mobile device.

(c) **Export Restrictions.** You agree that the App may not be transferred or exported into any other country, or used in any manner prohibited by U.S. or other applicable export laws and regulations. The Sunbasket Offerings are subject to, and you agree that you shall comply with, all local, state, national and international laws, statutes, rules, regulations, ordinances and the like applicable to use of the Sunbasket Offerings.

(d) **Accessing and Downloading the Application from iTunes.** Because we make our App available through iTunes, we are required to include some related provisions in the Agreement. The following applies to any App Store Sourced Application accessed through or downloaded from the Apple App Store:

- (i) You acknowledge and agree that (a) the Agreement is between you and Sunbasket only, and not Apple, and (b) Sunbasket, not Apple, is solely responsible for the App Store Sourced Application and content thereof. Your use of the App Store Sourced Application must comply with the App Store Terms of Service.
- (ii) You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the App Store Sourced Application.
- (iii) In the event of any failure of the App Store Sourced Application to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price

- for the App Store Sourced Application to you and to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App Store Sourced Application. As between Sunbasket and Apple, any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be the sole responsibility of Sunbasket.
- (iv) You and Sunbasket acknowledge that, as between Sunbasket and Apple, Apple is not responsible for addressing any claims you have or any claims of any third party relating to the App Store Sourced Application or your possession and use of the App Store Sourced Application, including, but not limited to: (a) product liability claims; (b) any claim that the App Store Sourced Application fails to conform to any applicable legal or regulatory requirement; and (c) claims arising under consumer protection or similar legislation.
  - (v) You and Sunbasket acknowledge that, in the event of any third-party claim that the App Store Sourced Application or your possession and use of that App Store Sourced Application infringes that third party's intellectual property rights, as between Sunbasket and Apple, Sunbasket, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by the Agreement.
  - (vi) You and Sunbasket acknowledge and agree that Apple, and Apple's subsidiaries, are third-party beneficiaries of the Agreement as related to your license of the App Store Sourced Application, and that, upon your acceptance of the Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce the Agreement as related to your license of the App Store Sourced Application against you as a third-party beneficiary thereof.
  - (vii) Without limiting any other provision of the Agreement, you must comply with all applicable third-party terms of agreement when using the App Store Sourced Application.

## 6. Content

The Site and App contain Content which includes, but is not limited to, information pertaining to the Sunbasket Offerings. The Content is offered for informational purposes only and subject to the terms of the Agreement.

The Site and App may also contain links to third-party websites ("**Third-Party Websites**") and applications ("**Third-Party Applications**") and advertisements for third parties ("**Third-Party Ads**") which contain Content that did not originate from us. When you click on a link to a

Third-Party Website, Third-Party Application or Third-Party Ad, we will not warn you that you have left our Site or App and are subject to the terms and conditions (including privacy policies) of another website or destination. Such Third-Party Websites, Third-Party Applications and Third-Party Ads are not under the control of Sunbasket. Sunbasket is not responsible for any Third-Party Websites, Third-Party Applications or Third-Party Ads, or any of their content. Sunbasket provides these Third-Party Websites, Third-Party Applications and Third-Party Ads only as a convenience and does not review, approve, monitor, endorse, warrant, or make any representations with respect to Third-Party Websites, Third-Party Applications or Third-Party Ads, or their products, services, or content. You use all links in Third-Party Websites, Third-Party Applications and Third-Party Ads at your own risk. When you leave our Site or Services, this Agreement and our related policies no longer govern. You should review applicable terms and policies, including privacy and data gathering practices, of any Third-Party Websites or Third-Party Applications, and should make whatever investigation you feel necessary or appropriate before proceeding with any transaction with any third party.

## **7. User Content and Material.**

We hope you will be an active part of the Sunbasket community -- reviewing recipes, sharing photos and providing feedback. **Importantly, we do not claim ownership of User Content.** You retain ownership of any and all copyright and other rights you may have in the User Content, subject only to the licenses granted in this Agreement. "User Content," as the term is used in the Agreement, means any and all photographs, articles, images, graphics, videos, sounds, music, audio recordings, text, files, profiles, communications, comments, feedback, suggestions, ideas, concepts, questions, data or other content that you (i) submit or post on the Site, the Interactive Services (including any of our blogs or social media accounts) or through tools or applications we provide for posting or sharing such content with us, or (ii) have posted or uploaded to your social media accounts, including but not limited to Instagram, Twitter, Facebook, Snapchat, and Pinterest, which are tagged with any Sunbasket promoted hashtag. User Content is deemed non-confidential and nonproprietary.

By submitting or posting any User Content, you grant to Sunbasket and its affiliates a perpetual, irrevocable, royalty-free, worldwide, sublicensable and transferable license to copy, publish, translate, modify, reformat, create derivative works from, distribute, reproduce, sell, display, transmit, publish, broadcast, host, archive, store, cache, use or otherwise exploit all or any portion of the User Content, as well as your name, persona and likeness included in any User Content and your social media account handle, username, real name, profile picture and/or any

other information associated with the User Content, in any commercial or noncommercial manner whatsoever, in whole or in part, in any and all distribution channels, forms, media or technology, whether now known or hereafter developed, including but not limited to in stores, printed marketing materials, emails, web pages, social media accounts and for any other marketing, advertising, public relations, sales or promotional purposes with or without attribution and without further notice to you. Neither you, nor any other person or entity, will have the right to (i) receive any royalty or consideration of any kind for the use of the User Content pursuant to this Agreement or (ii) inspect or approve the editorial copy or other material that may be used in connection with the User Content. Sunbasket will be free to use any ideas, suggestions, concepts, know-how or techniques contained in such User Content for any purpose whatsoever, including but not limited to developing, manufacturing and marketing products that incorporate or otherwise rely upon such information. Sunbasket shall have no obligation to monitor User Content, use or display User Content, compensate you for submitting User Content or respond to any User Content. Sunbasket may, without prior notice to you, remove, revise or refuse to post any User Content for any reason or no reason.

By submitting or posting User Content on the Site, on your social media accounts or through any tools or applications we provide for posting or sharing your User Content with us, you represent and warrant that (i) you own or control any and all rights in and to the User Content, and the right to grant all of the rights and licenses in the Agreement, and if you are not the holder of such rights, the holder of such rights has completely and effectively waived all such rights and irrevocably granted you the right to grant the licenses stated above without the need for payment to you or any other person or entity; (ii) you have obtained permission from any individuals that appear in the User Content to use, and grant others the right to use, their name, image, voice and/or likeness without the need for payment to you or any other person or entity; (iii) you are 18 years of age or older; and (iv) the User Content does not (a) contain false or misleading information, (b) infringe on the intellectual property, privacy, publicity, statutory, contractual or other rights of any third party, (c) contain any libelous, defamatory, obscene, offensive, threatening or otherwise harassing or hateful content, (d) contain any addresses, email addresses, phone numbers or any contact information or (e) contain computer viruses, worms or other harmful files. If we so request, you will provide us with any documentation, substantiation or releases necessary to verify your compliance with this Agreement. Each user is solely responsible for his or her User Content.

Sunbasket does not guarantee the truthfulness, accuracy or reliability of any User Content or endorse any opinions expressed by you or anyone else. By submitting or posting the User

Content you fully and unconditionally release and forever discharge Sunbasket and its officers, directors, employees and agents from any and all claims, demands and damages (actual or consequential, direct or indirect), whether now known or unknown, of every kind and nature relating to, arising out of or in any way connected with: (i) disputes between you and one or more users or any other person or entity, or (ii) the use by Sunbasket or you of the User Content, including, without limitation, any and all claims that use of the User Content pursuant to this Agreement violates any of your intellectual property rights, copyrights, rights of publicity or privacy, “moral rights,” or rights of attribution and integrity. You acknowledge and agree that Sunbasket has no control over, and shall have no liability for any damages resulting from, the use (including, without limitation, re-publication) or misuse by you or any third party of any User Content. Sunbasket has no obligation to screen or monitor User Content. However, Sunbasket may, but is not required to, investigate any complaint about User Content and can decide whether to take action in accordance with the Agreement.

YOU AGREE THAT SUNBASKET MAY REMOVE AND/OR DELETE ANY USER CONTENT FROM THE SUNBASKET SERVICE THAT IT FINDS INAPPROPRIATE OR OTHERWISE OBJECTIONABLE. YOU WILL NOT SUE US OR OTHERWISE BRING ANY CLAIM RELATING TO SUCH REMOVAL AND/OR DELETION OF USER CONTENT. WE ARE NOT RESPONSIBLE FOR STORING CONTENT OR OTHER MATERIALS POSTED OR OTHERWISE SENT THROUGH THE SERVICE. YOU ARE RESPONSIBLE FOR MAKING COPIES OF ANY DATA, MATERIAL, CONTENT OR INFORMATION YOU POST OR SEND THROUGH THE SERVICE.

## **8. Interactive Services; Use of Sunbasket Offerings**

(a) **Content and Use Guidelines.** We value the Sunbasket community and request that you follow some basic rules in order to make Sunbasket a rewarding experience for all our users. Please use common sense and follow the following general guidelines:

- (i) **Inappropriate content:** Colorful language and imagery is fine, but you should refrain from submitting content that constitutes threats, harassment, lewdness, hate speech, or other displays of bigotry.
- (ii) **Relevance:** Please make sure your contributions are relevant and appropriate to the forum.
- (iii) **Privacy:** Don't publicize other people's private information. Please don't post close-

up photos of other people without their permission, and please don't post other people's full names unless you're referring to Service providers who are commonly identified by their full names.

- (iv) **Intellectual property**: Don't use content from other services or users or which doesn't otherwise belong to you. Please let us know about inappropriate content. If you find something that violates our content guidelines, please let us know by sending us a note through our help page at <https://sunbasket.com/help>.

- (b) **Use Restrictions**. We value our direct relationship with our consumers. Importantly, your account is for your personal, non-commercial use only (absent an explicit written agreement between you and Sunbasket). You agree not to use the Sunbasket Offerings: (a) for any commercial purposes; or (b) to conduct any business or activity or solicit the performance of any activity. Additionally, in connection with your use of the Interactive Services and other of the Sunbasket Offerings, you agree not to: (a) display any telephone numbers, street addresses, last names, URLs, e-mail addresses or any confidential information of any third party; (b) display any audio files, text, photographs, videos or other images containing confidential information; (c) display any audio files, text, photographs, videos or other images that may be deemed indecent or obscene in your community; (d) impersonate any person or entity; (e) "stalk" or otherwise harass any person; (f) engage in unauthorized advertising to, or commercial solicitation of, other users; (g) transmit any chain letters, spam or junk e-mail to other users; (h) express or imply that any statements that you make are endorsed by Sunbasket, without Sunbasket's specific prior written consent; (i) harvest or collect personal information of other users whether or not for commercial purposes, without their express consent; (j) use any robot, spider, search/retrieval application or other manual or automatic device or process to retrieve, index, "data mine" or in any way reproduce or circumvent the navigational structure or presentation of the App, Site and/or their respective content; (k) post, distribute or reproduce in any way any copyrighted material, trademarks or other proprietary information without obtaining the prior consent of the owner of such proprietary rights; (l) remove any copyright, trademark or other proprietary rights notices contained in the App and/or Site; (m) interfere with or disrupt the App, Site and/or the servers or networks connected to same; (n) post, offer for download, e-mail or otherwise transmit any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment; (o) post, offer for download, transmit, promote or otherwise make available any software, product or service that is illegal or that violates the rights of a third party including, but not limited to, spyware, adware, programs designed to send unsolicited advertisements

(i.e. “spamware”), services that send unsolicited advertisements, programs designed to initiate “denial of service” attacks, mail bomb programs and programs designed to gain unauthorized access to mobile networks; (p) “frame” or “mirror” any part of the App and/or Site without Sunbasket’s prior written authorization; (q) use metatags or code or other devices containing any reference to any Sunbasket Offerings in order to direct any person to any other mobile application or website for any purpose; and/or (r) modify, adapt, sublicense, translate, sell, reverse engineer, decipher, decompile or otherwise disassemble any portion of the Sunbasket Offerings or any software used in or in connection with Sunbasket Offerings.

Engaging in any of the aforementioned prohibited practices shall be deemed a breach of the Agreement and may result in the immediate termination of your access to the App and/or Site without notice, in the sole discretion of Sunbasket. Because of the potential damage such conduct can cause, Sunbasket reserves the right to pursue any and all legal remedies against end users that engage in the aforementioned prohibited conduct.

(c) **Limitation of Liability; Compliance with Laws.** Subject to the restrictions set forth herein, the Interactive Services allow users to participate in comment sections and other interactive areas of the Site and/or App. Each user agrees to use the Interactive Services in compliance with all applicable laws and regulations. Each user is solely responsible for her/his comments, opinions, statements, feedback and other content (collectively, “Feedback”) posted by and through the Interactive Services. You understand and agree that Sunbasket shall not be liable to you, any other user or any third party for any claim in connection with your use of, or inability to use, the Interactive Services. The Interactive Services contain Feedback that is provided directly by users. You agree that Sunbasket shall have no obligation and incur no liability to you in connection with any Feedback appearing in or through the Interactive Services. Sunbasket does not represent or warrant that the Feedback posted through the Interactive Services is accurate, complete or appropriate. Sunbasket reserves the right to remove any Feedback from the Site and/or App at any time and for any reason. You agree to use the Interactive Services in a manner consistent with any and all applicable laws and regulations.

## **9. Copyright Policy/DMCA Compliance**

Sunbasket respects the intellectual property rights of others and attempts to comply with all relevant laws. We will review all claims of copyright infringement in accordance with the Digital Millennium Copyright Act.

Our designated agent under the Digital Millennium Copyright Act (the “DMCA”) for the receipt of any Notification of Claimed Infringement which may be given under the DMCA is as follows:

**Sunbasket Inc.**  
Attn: DMCA Agent  
5215 Hellyer Ave. Ste 250  
San Jose, CA 95138

[DMCA.Agent@sunbasket.com](mailto:DMCA.Agent@sunbasket.com).

If any user or other third party believes that a copyrighted work has been copied and/or posted via the Sunbasket Offerings in a way that constitutes copyright infringement, that party should provide Sunbasket with the following information: (a) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyrighted work; (b) an identification and location of the copyrighted work that such party claims has been infringed upon; (c) a written statement by such party that it has a good faith belief that the disputed use is not authorized by the owner, its agent or the law; (d) such party’s name and contact information, such as telephone number or e-mail address; and (e) a statement by such party that the above information in such party’s notice is accurate and, under penalty of perjury, that such party is the copyright owner or authorized to act on the copyright owner’s behalf.

Sunbasket reserves the right to terminate any user’s access to the Sunbasket Offerings where that user infringes upon third-party copyrights.

## **10. License and Proprietary Rights**

**(a) Copyright and Ownership.** The Site, App, and all associated Content, design, text, graphics, and interfaces; as well the collection, selection, and arrangement thereof; and all associated software (collectively, the “Sunbasket Materials”), are the sole and exclusive property of, or duly licensed to, Sunbasket. Consent is granted to view, electronically copy, and print in hard copy portions of the App and Site for the sole purpose of using the Sunbasket Service. Any other use of the Sunbasket Materials, including modification, distribution, or reproduction for purposes other than those noted above, without the prior written permission of Sunbasket is strictly prohibited. You acknowledge that Sunbasket and/or third-party content providers remain the owners of such Sunbasket Materials and that you do not acquire any of those ownership rights by downloading copyrighted material. Sunbasket reserves the right to revoke this authorization at any time, and any use shall be discontinued immediately on written notice from Sunbasket.

**(b) Trademarks.** “Sunbasket®,” all other Sunbasket marks and logos, and all titles, characters, names, graphics, and button icons are service marks, trademarks, and/or trade dress of Sunbasket, Inc. or otherwise proprietary to Sun Basket, Inc., and may not be used by you for any reason other than as expressly permitted by the Agreement. All other trademarks, service marks, product names, and company names or logos appearing by and through the Sunbasket Offerings are the property of their respective owners and you do not acquire any ownership rights in or to such marks, logos, or names by using and/or accessing the Sunbasket Offerings.

## **11. Representations and Warranties**

Each user hereby represents and warrants to Sunbasket as follows: (a) the Agreement constitutes such user’s legal, valid and binding obligation which is fully enforceable against such user in accordance with its terms; (b) such user understands and agrees that such user has independently evaluated the desirability of utilizing the Sunbasket Offerings and that such user has not relied on any representation and/or warranty other than those set forth in the Agreement; (c) such user’s performance under the Agreement, such user’s use of the Sunbasket Offerings and her/his Feedback (if applicable) will not: (i) invade the right of privacy or publicity of any third person; (ii) involve any libelous, obscene, indecent or otherwise unlawful material; (iii) violate any applicable law; and/or (iv) otherwise infringe upon the rights of any third parties including, without limitation, those of copyright, patent, trademark, trade secret or other intellectual property right, false advertising, unfair competition, defamation, invasion of rights of publicity, invasion of rights of celebrity, violation of any anti-discriminatory law or regulation, or any other right of any person or entity; and (d) if applicable, such user will be solely responsible for her/his Feedback.

## **12. Indemnification.**

To the maximum extent allowable by applicable laws, you agree to indemnify, defend and hold Sunbasket and the Sunbasket Parties (as defined below) harmless from and against any and all liabilities, claims, actions, suits, proceedings, judgments, fines, damages, costs, losses and expenses (including reasonable attorneys’ fees, court costs and/or settlement costs) arising from or related to: (a) your Content and Feedback; (b) any dispute between you and any other user or third party; (c) your breach of the Agreement, including any representation or warranty contained herein; (d) any allegation that you (or your Feedback or Content) has infringed upon the trademark, trade name, service mark, copyright, license, intellectual property or other proprietary right of any third party; and (e) any claim that your use of the Sunbasket Offerings has violated

any applicable law.

### **13. Warranty and Warranty Limitations**

Sunbasket meals are backed by a 100% money back guarantee. If you are dissatisfied with a meal for any reason, please send us a note through our help page at <https://sunbasket.com/help> within seven (7) days after Delivery, and we will either credit your Account or refund you the purchase price for that meal - whichever one you prefer!

OTHER THAN AS EXPRESSLY SET FORTH ABOVE, THE SUNBASKET OFFERINGS AND/OR ANY OTHER CONTENT, INFORMATION, PRODUCTS AND/OR SERVICES OFFERED BY AND THROUGH SAME ARE PROVIDED TO YOU ON AN “AS IS” AND “AS AVAILABLE” BASIS AND ALL WARRANTIES, EXPRESS AND IMPLIED, ARE DISCLAIMED TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW (INCLUDING, BUT NOT LIMITED TO, THE DISCLAIMER OF ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OF INTELLECTUAL PROPERTY AND/OR FITNESS FOR A PARTICULAR PURPOSE). IN PARTICULAR, BUT NOT AS A LIMITATION THEREOF, SUNBASKET MAKES NO WARRANTY THAT THE SUNBASKET OFFERINGS AND/OR ANY OTHER CONTENT, INFORMATION, PRODUCTS AND/OR SERVICES OFFERED BY AND THROUGH SAME: (A) WILL MEET YOUR REQUIREMENTS; (B) WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE OR THAT DEFECTS WILL BE CORRECTED; (C) WILL BE FREE OF HARMFUL COMPONENTS; (D) WILL RESULT IN ANY SPECIFIC DIETARY BENEFIT, WEIGHT LOSS OR OTHER HEALTH-RELATED OUTCOME; AND/OR (E) WILL BE ACCURATE OR RELIABLE.

THE SUNBASKET OFFERINGS AND/OR ANY OTHER CONTENT, INFORMATION, PRODUCTS AND/OR SERVICES OFFERED BY AND THROUGH SAME MAY CONTAIN BUGS, ERRORS, PROBLEMS OR OTHER LIMITATIONS. SUNBASKET WILL NOT BE LIABLE FOR THE AVAILABILITY OF THE UNDERLYING INTERNET AND/OR MOBILE NETWORK CONNECTION ASSOCIATED WITH THE SUNBASKET OFFERINGS. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM SUNBASKET OR OTHERWISE THROUGH OR FROM THE SUNBASKET OFFERINGS SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE AGREEMENT. WITHOUT LIMITING THE FOREGOING, SUNBASKET DOES NOT ENDORSE USER CONTENT OR FEEDBACK AND SPECIFICALLY DISCLAIMS ANY RESPONSIBILITY OR LIABILITY TO ANY PERSON OR ENTITY FOR ANY LOSS,

DAMAGE (WHETHER ACTUAL, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURY, CLAIM, LIABILITY OR OTHER CAUSE OF ANY KIND OR CHARACTER BASED UPON OR RESULTING FROM ANY FEEDBACK.

SUNBASKET HAS MADE EVERY EFFORT TO DISPLAY THE MEALS, THE PRODUCTS, COLORS, AND OTHER THINGS YOU SEE ON THE SITE AND APP AS ACCURATELY AS POSSIBLE. HOWEVER, THE FINAL MEALS AND PRODUCTS DELIVERED MAY VARY FROM THE IMAGES VIEWED ON THE SITE OR APP DUE TO A NUMBER OF FACTORS, INCLUDING, WITHOUT LIMITATION, SYSTEM CAPABILITIES AND CONSTRAINTS OF YOUR COMPUTER, MANUFACTURING PROCESS ISSUES, AND THE AVAILABILITY AND VARIABILITY OF PRODUCT AND RAW MATERIALS. ALTHOUGH WE WILL EXERCISE COMMERCIALY REASONABLE EFFORTS TO HELP ENSURE THAT THE MEALS AND PRODUCTS CONFORM TO YOUR EXPECTATIONS, VARIATIONS SOMETIMES OCCUR. ALL MEAL AND PRODUCT PRICING, SPECIFICATIONS, AND OFFERINGS ARE SUBJECT TO CHANGE WITHOUT NOTICE, EXCEPT AS SET FORTH IN THIS AGREEMENT. THE SITE OR APP MAY CONTAIN INFORMATION ON MEALS, SERVICES, AND PRODUCTS THAT ARE NOT AVAILABLE IN EVERY LOCATION. A REFERENCE TO A MEAL, SERVICE OR PRODUCT ON THE SITE OR APP DOES NOT IMPLY THAT IT IS OR WILL BE AVAILABLE IN YOUR LOCATION. THE SITE OR APP MAY CONTAIN TECHNICAL INACCURACIES OR TYPOGRAPHICAL ERRORS OR OMISSIONS. WE ARE NOT RESPONSIBLE FOR ANY SUCH TYPOGRAPHICAL, TECHNICAL OR PRICING ERRORS.

## **14. Limitation of Liability**

**YOU EXPRESSLY UNDERSTAND AND AGREE THAT NEITHER SUNBASKET, NOR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES, SHAREHOLDERS, AFFILIATES, AGENTS, REPRESENTATIVES, THIRD-PARTY INFORMATION PROVIDERS, PARTNERS, MERCHANTS, OR LICENSORS (COLLECTIVELY, "SUNBASKET PARTIES"), SHALL BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL AND/OR EXEMPLARY DAMAGES INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF SUNBASKET OR THE APPLICABLE SUNBASKET PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), TO THE FULLEST EXTENT PERMISSIBLE BY LAW FOR: (A) THE USE OR THE INABILITY TO USE THE**

SUNBASKET OFFERINGS AND/OR ANY OTHER CONTENT, INFORMATION, PRODUCTS AND/OR SERVICES OFFERED BY AND THROUGH SAME; (B) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION, CONTENT AND/OR ANY OTHER PRODUCTS PURCHASED OR OBTAINED FROM OR THROUGH THE SUNBASKET OFFERINGS; (C) THE UNAUTHORIZED ACCESS TO, OR ALTERATION OF, YOUR ACCOUNT INFORMATION; (D) THE FAILURE TO REALIZE ANY SPECIFIC DIETARY BENEFIT, WEIGHT LOSS OR OTHER HEALTH-RELATED OUTCOME; AND/OR (E) ANY OTHER MATTER RELATING TO THE SUNBASKET OFFERINGS AND/OR ANY OTHER CONTENT, INFORMATION, PRODUCTS AND/OR SERVICES OFFERED BY AND/OR THROUGH SAME. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION, IN THE AGGREGATE INCLUDING, BUT NOT LIMITED TO, BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION AND ANY AND ALL OTHER TORTS. YOU HEREBY RELEASE SUNBASKET AND THE SUNBASKET PARTIES FROM ANY AND ALL OBLIGATIONS, LIABILITIES AND CLAIMS IN EXCESS OF THE LIMITATIONS STATED HEREIN.

IN ALL CASES, OUR MAXIMUM LIABILITY TO YOU (AND ANYONE CLAIMING RIGHTS THROUGH YOU) SHALL NOT EXCEED THE AMOUNTS PAID BY YOU FOR THE SERVICES IN THE ONE (1) MONTH PERIOD PRECEDING THE DATE ON WHICH YOUR CLAIM AROSE. NO ACTION, REGARDLESS OF FORM, ARISING OUT OF YOUR USE OF THE SUNBASKET OFFERINGS AND/OR ANY OTHER PRODUCTS AND/OR SERVICES OFFERED BY AND/OR THROUGH SAME, MAY BE BROUGHT BY YOU OR SUNBASKET MORE THAN ONE (1) YEAR FOLLOWING THE EVENT WHICH GAVE RISE TO THE SUBJECT CAUSE OF ACTION. THE NEGATION OF DAMAGES SET FORTH ABOVE IS A FUNDAMENTAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN YOU AND SUNBASKET. ACCESS TO THE SUNBASKET OFFERINGS AND/OR ANY OTHER CONTENT, INFORMATION, PRODUCTS AND/OR SERVICES OFFERED BY AND/OR THROUGH SAME WOULD NOT BE PROVIDED TO YOU WITHOUT SUCH LIMITATIONS. SOME JURISDICTIONS DO NOT ALLOW CERTAIN LIMITATIONS ON LIABILITY AND IN SUCH JURISDICTIONS THE LIABILITY OF SUNBASKET SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

## **15. Dispute Resolution Provisions**

Please read this Section (“Arbitration Agreement”) carefully. It is part of your contract with us and affects your rights. We believe in the case of disputes that arbitration is the least expensive and fairest way for our Company and you to handle any potential disputes. As such, by agreeing to this Terms of Service, you agree to MANDATORY BINDING ARBITRATION AND A CLASS ACTION WAIVER.

**(a) Applicability of Arbitration Agreement.** All claims, causes of action and disputes between us that cannot be resolved in small claims court shall be resolved by binding arbitration on an individual basis under the terms of this Arbitration Agreement. This Arbitration Agreement applies to you and Sunbasket and to any of our licensors, suppliers, dealers or third-party vendors, subsidiaries, affiliates, partners, agents, employees, predecessors in interest, successors, and assigns, as well as all authorized or unauthorized users or beneficiaries of services or goods provided under the Agreement.

IF YOU AGREE TO ARBITRATION WITH SUNBASKET, YOU ARE AGREEING IN ADVANCE THAT YOU WILL NOT PARTICIPATE IN OR SEEK TO RECOVER MONETARY OR OTHER RELIEF IN ANY LAWSUIT FILED AGAINST SUNBASKET ALLEGING CLASS, COLLECTIVE, AND/OR REPRESENTATIVE CLAIMS ON YOUR BEHALF. INSTEAD, BY AGREEING TO ARBITRATION, YOU MAY BRING YOUR CLAIMS AGAINST SUNBASKET IN AN INDIVIDUAL ARBITRATION PROCEEDING. IF SUCCESSFUL ON SUCH CLAIMS, YOU COULD BE AWARDED MONEY OR OTHER RELIEF BY AN ARBITRATOR. YOU ACKNOWLEDGE THAT YOU HAVE BEEN ADVISED THAT YOU MAY CONSULT WITH AN ATTORNEY IN DECIDING WHETHER TO ACCEPT THIS AGREEMENT, INCLUDING THIS ARBITRATION AGREEMENT.

**(b) Arbitration Rules.** The Federal Arbitration Act governs the interpretation and enforcement of this dispute resolution provision. Arbitration shall be initiated through JAMS, an established alternative dispute resolution provider (“ADR Provider”) that offers arbitration as set forth in this section. If JAMS is not available to arbitrate, the parties shall agree to select an alternative ADR Provider. The rules of the ADR Provider shall govern all aspects of this arbitration, including but not limited to the method of initiating and/or demanding arbitration, except to the extent such rules are in conflict with the Terms (“Arbitration Rules”). The JAMS rules governing the arbitration are available online at [www.jamsadr.com](http://www.jamsadr.com) or by calling JAMS at 800-352-5267. Any hearing will be held in a location within one hundred (100) miles of your residence, unless the parties agree otherwise. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

(c) **Authority of Arbitrator.** The arbitrator, and not any federal, state, or local court or agency shall have exclusive authority to resolve any dispute relating to the interpretation, applicability, scope, enforceability or formation of this Agreement, including, but not limited to any claim that all or any part of this Agreement is void or voidable. The arbitrator will decide the rights and liabilities, if any, of you and us, and the dispute will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator shall have the authority to grant motions dispositive of all or part of any claim. The arbitrator shall have the authority to award monetary damages and to grant any non-monetary remedy or relief available to an individual under applicable law, the Arbitration Rules, and the Agreement. The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon you and us.

(d) **Waiver of Jury Trial.** THE PARTIES HEREBY WAIVE THEIR CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A TRIAL IN FRONT OF A JUDGE

OR A JURY, instead electing that all claims and disputes shall be resolved by arbitration under this Arbitration Agreement. Arbitration procedures are typically more limited, more efficient and less costly than rules applicable in court and are subject to very limited review by a court. In the event any litigation should arise between you and us in any state or federal court in a suit to vacate or enforce an arbitration award, YOU AND SUNBASKET WAIVE ALL RIGHTS TO A JURY TRIAL, instead electing that the dispute be resolved by a judge. In the event that you are able to demonstrate that the costs of arbitration will be prohibitive as compared to costs of litigation, Sunbasket will pay as much of your filing and hearing fees in connection with the arbitration as the arbitrator deems necessary to prevent the arbitration from being cost-prohibitive as compared to the cost of litigation.

(e) **Waiver of Class or Consolidated Actions.** ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS, AND CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. In the event that this subparagraph is deemed invalid or unenforceable neither you nor we are entitled to arbitration and instead claims and disputes shall be resolved in a court located in San Francisco County, California.

- (f) **Severability**. If any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable by a court of competent jurisdiction, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Arbitration Agreement shall continue in full force and effect.
- (g) **Survival of Agreement**. This Arbitration Agreement will survive the termination of your relationship with Sunbasket.
- (h) **Modification**. Notwithstanding any provision in these terms to the contrary, we agree that if Sunbasket makes any future material change to this Arbitration Agreement, it will not apply to any individual claim(s) that you had already provided notice of to Sunbasket.
- (i) **Small Claims Court**. Notwithstanding the foregoing, either you or Sunbasket may bring an individual action in small claims court.
- (j) **Courts**. In any circumstances where the foregoing Arbitration Agreement permits the parties to litigate in court, the parties hereby agree to submit to the personal jurisdiction of the courts located in San Francisco County, California for such purpose.
- (k) **Choice of Law**. California law, subject to the Federal Arbitration Act, will govern this Agreement, as well as any claim, cause of action or dispute that might arise between you and Sunbasket (a “Claim”), without regard to conflict of law provisions.

## 16. Miscellaneous

- (a) **Termination**. The Agreement is effective upon your acceptance as set forth herein and shall continue in full force and effect until terminated. Either party may suspend or terminate the Agreement or any Sunbasket Offerings at any time for any reason or no reason. Sunbasket can also remove or disable access to all or any portion of the Sunbasket Offerings for any or no reason. You may terminate your Sunbasket Service account at any time for any reason or for no reason by delivering notice to us at [terminate.agreement@sunbasket.com](mailto:terminate.agreement@sunbasket.com), which termination will be effective seven days after the day notice is received or such later date specified in the notice. Upon such termination, you may no longer use any of the Sunbasket Offerings and your Plan. Sunbasket reserves the right to collect fees and charges incurred before you cancel your Sunbasket Service account. In addition, you are responsible for any charges incurred to third-party vendors prior to your cancellation. Notwithstanding any other provision to the contrary, the terms of the Agreement will apply to any Delivery even if received after the termination of the Agreement.

(b) **Notices.** Sunbasket may give notice to you of any change or any other communication related to the Agreement through a general posting on the Site and in the App, by email, or by conventional mail to your address contained in the data provided by you in your account. You may give notice to Sunbasket by through our help page (<https://sunbasket.com/help>) or by conventional mail to:

**Sunbasket Inc.**  
Attn: Head of Customer Service  
5215 Hellyer Ave. Ste 250  
San Jose, CA 95138

(c) **Entire Agreement; Severability; Waiver; Relationship of the Parties; Headings; Assignment.** The Agreement represents your entire agreement with Sunbasket regarding your use of the Sunbasket Offerings. To the extent that anything in or associated with the Sunbasket Offerings is in conflict or inconsistent with the Agreement, the Agreement shall take precedence provided, however, that with respect to the: (a) Promotions, to the extent that anything in these Terms and Conditions is inconsistent with the applicable Promotion Rules, those Promotion Rules, as applicable, shall take precedence; and (b) Gift Cards and Rewards, to the extent that anything in these Terms and Conditions is inconsistent with the Sunbasket Gift Card and Reward Terms and Conditions, those Terms and Conditions shall take precedence. If any portion of the Agreement is held invalid or unenforceable, that portion shall be construed, in accordance with applicable law, as nearly as possible to reflect the original intention of the parties, and the remainder of the Agreement shall remain in full force and effect. The failure of either party to insist upon strict performance of any provision of the Agreement shall not be construed as a waiver of any provision or right. The parties do not intend that any agency or partnership relationship be created through operation of the Agreement. Sunbasket may, with or without notice to you and in its sole discretion, assign the Agreement and/or any of its rights or delegate its duties under the Agreement to any third party for any purpose. The Agreement, may not however, be assigned by you, and you may not delegate your duties under it. Headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section.

(d) **Third-Party Beneficiaries.** You agree that the Agreement is not intended to confer and does not confer any rights or remedies upon any person other than you, Sunbasket, and Sunbasket Parties; provided, however, that the provisions of the Agreement are for the benefit of the Sunbasket Parties, and each shall have the right to assert and enforce the provisions directly on its own behalf. The Agreement and all obligations and restrictions placed upon you or your

permitted users by the Agreement shall survive termination of the Agreement and your Sunbasket Service account.

(e) **Promotional Emails**. As a user of the Sunbasket Offerings, you agree to receive promotional emails from Sunbasket from time-to-time. These promotional emails may include, but are not limited to: promotional offers, information about Sunbasket products and/or services or information about third party products and/or services that we think may be of interest to you. While you can opt out of these promotional emails, we reserve the right to, and may continue to, send you administrative emails, including emails related to weekly menus, gifts, forwarded or donated boxes, customer service inquiries, billing issues, orders, purchases and Deliveries.