

# SnackCrate Terms of Use

## Overview:

Welcome to SnackCrate! We are a subscription service that provides our members with a monthly box of snacks, candy and drinks from around the world.

These Terms of Use govern your use of our service. As used in these Terms of Use, "SnackCrate service," "our service", "the website" or "the service" means the service provided by SnackCrate for discovering and enjoying international snack foods, including all features and functionalities, website, and user interfaces, as well as all content and software associated with our service.

If you are a resident of the United States (including its possessions and territories), you agree to the Arbitration Agreement and class action waiver described in Section 16 to resolve any disputes with SnackCrate (except for matters that may be taken to small claims court).

## 1. Acceptance of Terms of Use.

a. These Terms of Use, which include our Privacy Policy ([www.snackcrate.com/PrivacyPolicy](http://www.snackcrate.com/PrivacyPolicy)), and, to the extent you use the social features, our Social Terms ([www.snackcrate.com/SocialTerms](http://www.snackcrate.com/SocialTerms)), govern your use of the SnackCrate service. By using,

visiting, or browsing the SnackCrate website, you accept and agree to these Terms of Use. If you do not agree to these Terms of Use, do not use the SnackCrate service.

**b.** The SnackCrate service is provided by SnackCrate, Inc., or one of its affiliated companies. The SnackCrate company that is providing the service to you (referred to as "SnackCrate" in these Terms of Use) and with whom you are entering into this agreement, depends on the country from which you sign up for the SnackCrate service.

## **2. Changes to Terms of Use.**

SnackCrate may, from time to time, change these Terms of Use, including the Privacy Policy, and Social Terms. Such revisions shall be effective immediately; provided however, for existing members, such revisions shall, unless otherwise stated, be effective 30 days after posting. We will endeavor to post prior versions of the Terms of Use, if any, for the preceding 12-month period. You can see these prior versions by visiting our website ([www.snackcrate.com/priorterms](http://www.snackcrate.com/priorterms)).

## **3. Privacy.**

Personally identifying information is subject to our Privacy Policy ([www.snackcrate.com/PrivacyPolicy](http://www.snackcrate.com/PrivacyPolicy)), the terms of which are incorporated herein. Please review our Privacy Policy to understand our practices.

## **4. Communication Preferences**

By using the SnackCrate service, you consent to receiving electronic communications from SnackCrate relating to your account. These communications may involve sending emails to your email address provided during registration, or posting communications on the

SnackCrate service, or in the "My Account" page and will include notices about your account (e.g., payment authorizations, change in password or Payment Method, confirmation e-mails and other transactional information) and are part of your relationship with SnackCrate. You agree that any notices, agreements, disclosures or other communications that we send to you electronically will satisfy any legal communication requirements, including that such communications be in writing. You should maintain copies of electronic communications by printing a paper copy or saving an electronic copy. You also consent to receiving certain other communications from us, such as newsletters about new SnackCrate features and content, special offers, promotional announcements and customer surveys via email or other methods. Please review our Privacy Policy ([www.snackcrate.com/PrivacyPolicy](http://www.snackcrate.com/PrivacyPolicy)) for further detail on our marketing communications.

## **5. Membership, Free Trials, Billing and Cancellation**

### **a. Membership**

- . i **Ongoing Membership.** Your SnackCrate membership, which may start with a free trial, will continue month-to-month unless and until you cancel your membership or we terminate it. You must have Internet access and provide us with a current, valid, accepted method of payment (as such may be updated from time to time, "Payment Method") to use the SnackCrate service. We will bill the monthly membership fee to your Payment Method. You must cancel your membership before it renews each month in order to avoid billing of the next month's membership fees to your Payment Method.

ii **Differing Memberships.** We may offer a number of membership plans, including special promotional plans or memberships with differing conditions and limitations. Any materially different terms from those described in these Terms of Use will be disclosed at your sign-up or in other communications made available to you. You can find specific details regarding your membership with SnackCrate by visiting our website and clicking on the "Login" link. Some promotional memberships are offered by third parties in conjunction with the provision of their own products and services. We are not responsible for the products and services

provided by such third parties. We reserve the right to modify, terminate or otherwise amend our offered membership plans.

## **6. SnackCrate Service**

### **a. Billing**

i. **Recurring Billing.** By starting your SnackCrate membership and providing or designating a Payment Method, you authorize us to charge you a monthly membership fee at the then current rate, and any other charges you may incur in connection with your use of the SnackCrate service to your Payment Method. You acknowledge that the amount billed each month may vary from month to month for reasons that may include differing amounts due to promotional offers, including gift card redemption and promotional code redemption, and/or changing or adding a plan, and you authorize us to charge your Payment Method for such varying amounts, which may be billed monthly in one or more charges.

**ii. Price Changes.** We reserve the right to adjust pricing for our service or any components thereof in any manner and at any time as we may determine in our sole and absolute discretion. Except as otherwise expressly provided for in these Terms of Use, any price changes to your service will take effect following email notice to you. For members based in Brazil, the membership fees may be adjusted automatically annually, or more frequently as permitted by law, in accordance with the inflation index as established by General Price Index Market published by Fundação Getúlio Vargas ("IGP-M"), or such other index that may be applicable to the SnackCrate service.

**iii. Billing Cycle.** The membership fee for our service will be billed at the beginning of the paying portion of your membership and each month thereafter unless and until you cancel your membership. We automatically bill your Payment Method on the first day of each month. Membership fees are fully earned upon payment. We reserve the right to change the timing of our billing, in particular, as indicated below, if your Payment Method has not successfully settled. We may authorize your Payment Method in anticipation of membership or service-related charges. As used in these Terms of Use, "billing" shall indicate a charge, debit or other payment clearance, as applicable, against your Payment Method. Unless otherwise stated differently, month or monthly refers to your billing cycle.

**iv. No Refunds.** PAYMENTS ARE NONREFUNDABLE AND THERE ARE NO REFUNDS OR CREDITS FOR FAILING TO CANCEL BEFORE YOUR NEXT MEMBERSHIP RENEWAL. Following any cancellation, however, you will continue to have access to the service through the end of your current billing period. At any time, and for any reason, we may provide a refund, discount, or other consideration to some or all of our members ("credits"). The amount and form of such credits, and the decision to provide them, are at our sole and absolute discretion. The provision of credits in one instance does not entitle

you to credits in the future for similar instances, nor does it obligate us to provide credits in the future, under any circumstance.

**v. Payment Methods.** You may edit your Payment Method information by visiting our website and clicking on the "LOGIN" link, available at the top of the pages of the SnackCrate website. If a payment is not successfully settled, due to expiration, insufficient funds, or otherwise, and you do not edit your Payment Method information or cancel your account (see, "Cancellation" below), you remain responsible for any uncollected amounts and authorize us to continue billing the Payment Method, as it may be updated. This may result in a change to your payment billing dates. For certain Payment Methods, the issuer of your Payment Method may charge you a foreign transaction fee or other charges. Check with your Payment Method service provider for details.

**vi. Cancellation.** You may cancel your SnackCrate membership at any time. WE DO NOT PROVIDE REFUNDS OR CREDITS FOR FOR FAILING TO CANCEL BEFORE YOUR NEXT MEMBERSHIP RENEWAL. To cancel, go to the "My Account" page on our website and follow the instructions for cancellation. If you cancel your membership, your account will automatically close immediately. If you signed up for SnackCrate using your account with a third party as a Payment Method, and wish to cancel your SnackCrate membership at any time, including during your free trial, you may need to do so through such third party, including by visiting your account with the applicable third party and turning off auto-renew, or unsubscribing from, the SnackCrate service through that third party. You may also find billing information about your SnackCrate membership by visiting your account with the applicable third party.

vii. **Title and Risk of Loss.** All items purchased from SnackCrate are made pursuant to a shipment contract. The risk of loss and title for such items pass to you upon our delivery to the carrier.

## **7. SnackCrate Service**

- . a You must be 18 years of age, or the age of majority in your province, territory or country, to become a member of the SnackCrate service. Individuals under the age of 18, or applicable age of majority, may utilize the service only with the involvement of a parent or legal guardian, under such person's account and otherwise subject to these Terms of Use.
- . b The SnackCrate service, and any content viewed or ordered through our service, are for your personal and non-commercial use only.
- . d We continually update the SnackCrate service, including the snacks we send in our boxes. In addition, we continually test various aspects of our service, including our website, user interfaces, service levels, plans, promotional features, availability of countries and snacks, delivery and pricing. We reserve the right to, and by using our service you agree that we may, include you in or exclude you from these tests without notice. We reserve the right in our sole and absolute discretion to make changes from time to time and without notice in how we offer and operate our service.
- . e You agree to use the SnackCrate service, including all features and functionalities associated therewith, in accordance with all applicable laws, rules and regulations, or

other restrictions on use of the service or content therein. You agree not to archive, download (other than through caching necessary for personal use), reproduce, distribute, modify, display, perform, publish, license, create derivative works from, offer for sale, or use (except as explicitly authorized in these Terms of Use) content and information contained on or obtained from or through the SnackCrate service without express written permission from SnackCrate and its licensors. You also agree not to: circumvent, remove, alter, deactivate, degrade or thwart any of the content protections in the SnackCrate service; use any robot, spider, scraper or other automated means to access the SnackCrate service; decompile, reverse engineer or disassemble any software or other products or processes accessible through the SnackCrate service; insert any code or product or manipulate the content of the SnackCrate service in any way; or, use any data mining, data gathering or extraction method. In addition, you agree not to upload, post, e-mail or otherwise send or transmit any material designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment associated with the SnackCrate service, including any software viruses or any other computer code, files or programs.

f The availability of snacks and number of countries will vary over time, and from country to country. The variety of the candy can be affected by many factors, such as your location, and the rules and regulation of your country or territory. Not all countries can participate in the SnackCrate service. You are responsible for all Internet access charges. Please check with your Internet provider for information on possible Internet data usage charges. The time it takes to receive a SnackCrate will vary based on a number of factors, including your location, holidays, the plan you have selected and

the rules and regulations of your country and province.

- . g SnackCrate internet software is developed by, or for, SnackCrate and is designed to enable ordering of content from SnackCrate through the internet. This software may vary by device and medium, and functionalities may also differ between devices. BY USING OUR SERVICE, YOU ACKNOWLEDGE AND AGREE TO THE TERMS OF SERVICE AND TO RECEIVE, WITHOUT FURTHER NOTICE OR PROMPTING, UPDATED VERSIONS OF THE SnackCrate AND RELATED THIRD-PARTY SOFTWARE. IF YOU DO NOT ACCEPT THE FOREGOING TERMS, DO NOT USE OUR SERVICE. WE DO NOT TAKE RESPONSIBILITY OR OTHERWISE WARRANT THE PERFORMANCE OF THESE DEVICES, INCLUDING THE CONTINUING COMPATIBILITY OF THE DEVICE WITH OUR SERVICE. By using our service, you agree to look solely to the entity that manufactured and/or sold you the device for any issues related to the device and its compatibility with the SnackCrate service.
  
- . h We may terminate or restrict your use of our service, without compensation or notice if you are, or if we suspect that you are (i) in violation of any of these Terms of Use or (ii) engaged in illegal or improper use of the service.

## **8. Passwords & Account Access**

- . a The member who created the SnackCrate account and whose Payment Method is charged is referred to here as the Account Owner. The Account Owner has access and control over the SnackCrate account. The Account Owner's control is exercised through use of the Account Owner's password and therefore to maintain exclusive

control, the Account Owner should not reveal the password to anyone. In addition, if the Account Owner wishes to prohibit others from contacting SnackCrate Customer Service and potentially altering the Account Owner's control, the Account Owner should not reveal the Payment Method details (e.g., last four digits of their credit or debit card, or their email address if they use PayPal) associated with their account. You are responsible for updating and maintaining the truth and accuracy of the information you provide to us relating to your account.

b In order to provide you with ease of access to your account and to help administer the SnackCrate service, SnackCrate implements technology that

enables us to recognize you as the Account Owner and provide you with direct access to your account without requiring you to retype any password or other user identification when you revisit the SnackCrate service, which includes accessing via SnackCrate ready devices or website.

c You should be mindful of any communication requesting that you submit credit card or other account information. Providing your information in response to these types of communications can result in identity theft. Always access your sensitive account information by going directly to the SnackCrate website and not through a hyperlink in an email or any other electronic communication, even if it looks official. SnackCrate reserves the right to place any account on hold anytime with or without notification to the member in order to protect itself and its partners from what it believes to be fraudulent activity. SnackCrate is not obligated to credit or discount a membership for holds placed on the

account by either a representative of SnackCrate or by the automated processes of SnackCrate.

## **9. Disclaimers of Warranties and Limitations on Liability**

- . a THE SNACKCRATE SERVICE AND ALL CONTENT AND SOFTWARE ASSOCIATED THEREWITH, OR ANY OTHER FEATURES OR FUNCTIONALITIES ASSOCIATED WITH THE SNACKCRATE SERVICE, ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND. SNACKCRATE DOES NOT GUARANTEE, REPRESENT, OR WARRANT THAT YOUR USE OF THE SNACKCRATE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE. SNACKCRATE SPECIFICALLY DISCLAIMS LIABILITY FOR THE PURCHASE OF OUR PRODUCT FROM THIRD PARTIES, AND SNACKCRATE SOFTWARE (INCLUDING THEIR CONTINUING COMPATIBILITY WITH OUR SERVICE).
  
- . b TO THE EXTENT PERMISSIBLE UNDER APPLICABLE LAWS, IN NO EVENT SHALL SNACKCRATE, OR ITS SUBSIDIARIES OR ANY OF THEIR SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES OR LICENSORS BE LIABLE (JOINTLY OR SEVERALLY) TO YOU FOR PERSONAL INJURY OR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, OR ANY DAMAGES WHATSOEVER.
  
- . c SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR CERTAIN

TYPES OF DAMAGES. THEREFORE, SOME OF THE ABOVE LIMITATIONS IN THIS SECTION MAY NOT APPLY TO YOU.

d NOTHING IN THESE TERMS OF USE SHALL AFFECT ANY NON-WAIVABLE STATUTORY RIGHTS THAT APPLY TO YOU. If any provision or provisions of these Terms of Use shall be held to be invalid, illegal, or unenforceable, the

validity, legality and enforceability of the remaining provisions shall remain in full force and effect.

**10. Gifts & Promotions.** In certain jurisdictions, gift cards for the SnackCrate service may be available for purchase at third-party retail outlets and websites, which can be redeemed on our website at [www.snackcrate.com/gift](http://www.snackcrate.com/gift). From time to time, other types of promotional codes may be available, including those provided as part of a third party promotion. Promotional codes may be redeemed as described in the specifics of the promotion. Gift cards, Gift certificates and promotional codes can only be used once, cannot be redeemed for cash, and may not be combined with other offers, including a free trial, subject to certain restrictions as determined by SnackCrate in its sole discretion. If you received a promotional code through an offer by a third party, additional conditions may apply.

## **11. Intellectual Property**

- a **Copyright.** The SnackCrate service, including all content provided on the SnackCrate service, is protected by copyright, trade secret or other intellectual property laws and treaties.

- . **b Trademarks.** SnackCrate is a registered trademark of SnackCrate, Inc.
- . **c Patents.** SnackCrate may have patents that apply to our service. These patents are protected by law.

## 12. Governing Law

- . a If you are a resident of Brazil, these Terms of Use shall be governed by and construed in accordance with the laws of Brazil.
- . b For all other SnackCrate members, these Terms of Use shall be governed by and construed in accordance with the laws of the state of Florida, U.S.A. without regard to conflict of laws provisions.
- . c You may also be entitled to certain consumer protection rights under the laws of your local jurisdiction.

**13. Applications.** You may encounter third-party applications (including, without limitation, websites, widgets, software, or other software utilities) ("Application(s)") that interact with the SnackCrate service. These Applications may import data related to your SnackCrate account and activity and otherwise gather data from you. These Applications are provided solely as a convenience to you, and SnackCrate is not responsible for such Applications. SUCH APPLICATIONS ARE OWNED OR OPERATED BY THIRD PARTIES THAT ARE

NOT RELATED TO WITH OR SPONSORED BY SNACKCRATE AND MAY NOT BE AUTHORIZED FOR USE WITH

OUR SERVICE IN ALL COUNTRIES. USE OF AN APPLICATION IS AT YOUR OWN OPTION AND RISK.

**14. Use of Information Submitted.** SnackCrate is free to use any comments, information, ideas, concepts, reviews, or techniques or any other material contained in any communication you may send to us ("Feedback"), including responses to questionnaires or through postings to the SnackCrate service, including the SnackCrate website and user interfaces, worldwide and in perpetuity without further compensation, acknowledgement or payment to you for any purpose whatsoever including, but not limited to, developing, manufacturing and marketing products and creating, modifying or improving the SnackCrate service. In addition, you agree not to enforce any "moral rights" in and to the Feedback, to the extent permitted by applicable law. Please note SnackCrate does not accept unsolicited materials or ideas for snacks and candy, and is not responsible for the similarity of any of its content or products in any media to materials or ideas transmitted to SnackCrate. Should you send any unsolicited materials or ideas, you do so with the understanding that no additional consideration of any sort will be provided to you, and you are waiving any claim against SnackCrate and its affiliates regarding the use of such materials and ideas, even if material or an idea is used that is substantially similar to the material or idea you sent.

**15. Customer Support.** To find more information about our service and its features, or if you need assistance with your account, please email the SnackCrate Help Center "help@snackcrate.com". In certain instances, Customer Service may best be able to assist you by using a remote access support tool through which we have full access to your

computer. If you do not want us to have this access, you should not consent to support through the remote access tool, and we will assist you through other means. In the event of any conflict between these Terms of Use and information provided by Customer Support or other portions of our website, these Terms of Use will control.

## **16. Arbitration Agreement**

a If you are a SnackCrate member in the United States (including its possessions and territories), you and SnackCrate agree that any dispute, claim or controversy arising out of or relating in any way to the SnackCrate service, these Terms of Use and this Arbitration Agreement, shall be determined by binding arbitration or in small claims court. Arbitration is more informal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, allows for more limited discovery than in court, and is subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. You agree that, by agreeing to these Terms of Use, the U.S. Federal Arbitration Act governs the interpretation and enforcement of this provision, and that you and SnackCrate are each waiving the right to a trial by jury or to participate in a class action. This arbitration provision shall survive termination of this Agreement and the termination of your SnackCrate membership.

- . b If you elect to seek arbitration or file a small claim court action, you must first send to SnackCrate, by certified mail, a written Notice of your claim ("Notice"). The Notice to SnackCrate must be addressed to: General Counsel, SnackCrate, Inc., 700 North Guillemard St., Pensacola, Florida 32501 ("Notice Address"). If SnackCrate initiates arbitration, it will send a written Notice to the email address used for your membership account. A Notice, whether sent by you or by SnackCrate, must (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought

("Demand"). If SnackCrate and you do not reach an agreement to resolve the claim within 30 days after the Notice is received, you or SnackCrate may commence an arbitration proceeding or file a claim in small claims court.

c You may download or copy a form Notice and a form to initiate arbitration at [www.adr.org](http://www.adr.org). If you are required to pay a filing fee, after SnackCrate receives notice at the Notice Address that you have commenced arbitration, SnackCrate will promptly reimburse you for your payment of the filing fee, unless your claim is for greater than US\$10,000, in which event you will be responsible for filing fees.

d The arbitration will be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by this Agreement, and will be administered by the AAA. The AAA Rules and Forms are available online at [www.adr.org](http://www.adr.org), by calling the AAA at 1-800-778-7879, or by writing to the Notice Address. The arbitrator is bound by the terms of this Agreement. All issues are for the arbitrator to decide, including issues relating to the scope and enforceability of this arbitration agreement. Unless SnackCrate and you agree otherwise, any arbitration hearings will take place in the county (or parish) of your residence.

e If your claim is for US\$10,000 or less, we agree that you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing as established by the AAA Rules. If your claim exceeds US\$10,000, the right to a hearing will be

determined by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. If the arbitrator issues you an award that is greater than the value of SnackCrate's last written settlement offer made before an arbitrator was selected (or if SnackCrate did not make a settlement offer before an arbitrator was selected), then SnackCrate will pay you the amount of the award or US\$1,000, whichever is greater. Except as expressly set forth herein, the payment of all filing, administration and arbitrator fees will be governed by the AAA Rules.

f YOU AND SNACKCRATE AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR

REPRESENTATIVE PROCEEDING. Further, unless both you and SnackCrate agree otherwise, the arbitrator may not consolidate more than one person's claims with your claims, and may not otherwise preside over any form of a representative or class proceeding. If this specific provision is found to be unenforceable, then the entirety of this arbitration provision shall be null and void. The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim.

**17. Survival.** If any provision or provisions of these Terms of Use shall be held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full force and effect.

Last updated: October 18, 2015