

## **TERMS AND CONDITIONS/USER AGREEMENT**

THIS FOLLOWING USER AGREEMENT DESCRIBES THE TERMS AND CONDITIONS ON WHICH CARMEL CAR AND LIMOUSINE SERVICE OFFERS YOU ACCESS TO THE CARMEL APPLICATION.

Welcome to the user agreement (the "Agreement" or "User Agreement" or "Terms of Service") for the Carmel Application (the "Application"), a web-based application owned and operated by Carmel Car and Limousine Service, a New York corporation, whose principal office is located at 2642 Broadway New York, NY 10025

This Agreement is a legally binding agreement made between you ("You," "Your," "Yourself", "User", or "Customer") and Carmel Car and Limousine Service ("Carmel", "Company", "We," "Us" or "Our"). Company is willing to license, not sell, the Application to You only upon the condition that You accept all the terms contained in this Agreement. By signing up with or by using the Application, You indicate that You understand this Agreement and accept all of its terms. If You do not accept all the terms of this Agreement, then Company is unwilling to license the Application to You. Company reserves all rights not expressly granted to You.

This Agreement is entered into between You and Company. Apple, Inc. or Google, Inc. (Collectively "Platform") are not a party to this Agreement and shall have no obligations with respect to the Application. Company, not Platform, is solely responsible for the Application and the content thereof as set forth hereunder. However, Platform and Platform's subsidiaries are third party beneficiaries of this Agreement. Upon Your acceptance of this Agreement, Platform shall have the right (and will be deemed to have accepted the right) to enforce this Agreement against You as a third party beneficiary thereof. This Agreement incorporates by reference the Licensed Application End User License Agreement and Terms of Service published by Platform (collectively "Platforms' Terms"), for purposes of which, You are "the end-user." In the event of a conflict in the terms of Platforms' Terms and this Agreement, the terms of this Agreement shall control.

The Carmel Application provides a means to enable persons who seek transportation to certain destinations ("Riders") to be matched with persons operating vehicles that are either affiliated with the Company or are affiliated with another licensed Dispatch Base ("Drivers"). For purposes of this Agreement these services shall collectively be defined as the "Services". This Agreement describes the terms and conditions that will govern Your use of the Application and the Services.

Please read this Agreement carefully before using the Services. By using any of the Services, You become a User of Services available on the Application ("Participant" or "User") and You agree to be bound by the terms and conditions of this Agreement with respect to such Services.

By using or receiving any services supplied to you by the Company, and downloading, installing or using any associated application supplied by the Company, the purpose of which is to enable you to use the Service, you hereby expressly acknowledge and agree to be bound by the terms and conditions and the end user license agreement of the Agreement, and any future amendments and additions to this Agreement as published from time to time at [www.carmellimo.com](http://www.carmellimo.com) or posted on the Application. All amended terms shall automatically be effective after they are posted on the Application or published at [www.carmellimo.com](http://www.carmellimo.com).

You are responsible for regularly reviewing this Agreement. The Company reserves the right to modify or supplement the Agreement at any time. Any such change will become effective on the date the change is posted. Continued use of the Services or Application after any such change is made shall constitute your acceptance of such changes. IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT, OR WITH ANY SUBSEQUENT CHANGES TO THE AGREEMENT, YOUR SOLE REMEDY IS TO NOT DOWNLOAD, USE OR OTHERWISE ACCESS THE APPLICATION OR REGISTER FOR THE SERVICES PROVIDED ON THE APPLICATION.

## **I. DEFINITIONS**

- 1.1 **“Basic Fare”** means the price for a trip, not including tolls and gratuities.
- 1.2 **“Content”** means audio, video, text, graphics, images, music, software (not including the Application), information or other materials.
- 1.3 **“Company Content”** means Content that Company makes available through the Service or Application, including any Content licensed from a third party, but excluding User Content.
- 1.4 **“Collective Content”** means, collectively, Company Content and User Content.
- 1.5 **“NYC”** means New York City, NY, U.S.A.
- 1.6 **“User”** means you, a customer, or any person who accesses or uses the Service or Application.
- 1.7 **“User Content”** means Content that a user publishes, submits, posts, uploads, transmits or is otherwise made available through the Application or Service.
- 1.8 **“Carmel Car Cash”** (or “Car Cash”) means credit point(s) that are the equivalent value of one dollar (\$1.00) for use only in connection with reservations made through the Application.

## **II. REPRESENTATIONS AND WARRANTIES**

- 2.1 By using the Application or Service, you expressly represent and warrant that you are legally entitled to enter this Agreement. The Services and Application is not available to children (persons under the age of 18). By using the Application or Service, you represent and warrant that you are at least 18 years old. By using the Application or the Service, you represent and warrant that you have the right, authority and capacity to enter into this

Agreement and to abide by the terms and conditions of this Agreement. Your participation in using the Services and/or Application is for your sole, personal use. **You may not authorize others to use your user account, and you may not assign or otherwise transfer your user account to any other person or entity.**

- 2.2 When using the Application or Services you agree to comply with all applicable laws of the country, state and city in which you are present while using the Application or Services. You may only access the Services using authorized means. The Company reserves the right to terminate this Agreement should you be using the Services or Application with an incompatible device, unauthorized device or by unauthorized means.
- 2.3 For information on how the Company will use your personal data, please see our privacy policy. The terms of the privacy policy are incorporated into, and considered a part of this agreement. By using the Application or Service, you expressly agree to be bound by the terms of our privacy policy.
- 2.4 By using the Application or the Services, you agree, warrant and promise that you will comply with all applicable laws and regulations, and the Terms of Service stated herein, and you will only use the Services or Application for lawful purposes. By using the Application or the Services, you further agree, warrant and promise that you will not: (i) use the Services or Application to send or store any unlawful material or for fraudulent purposes; (ii) use the Services or Application to cause nuisance, annoyance or inconvenience; (iii) use the Services or Application for any unlawful purpose or in any way that interrupts, damages, impairs or renders the Services less efficient or inefficient; (iv) use the Services or Application to transfer files that contain viruses, Trojans, logic bombs, worms, corrupted data or other harmful programs or malicious software; (v) use the Services or Application to access or attempt to access the accounts of other users of the Services; (vi) use the Services or Application to impersonate any person or entity, or otherwise misrepresent your affiliation with a person or entity; (vii) use the Services or Application to penetrate or attempt to penetrate any security measures; use the Services or Application to conduct or promote any illegal activities; (viii) use the Services or Application to upload, distribute or print anything that may be harmful to minors; (ix) use the Services or Application to disseminate any content which is defamatory, false or inaccurate or becomes false or inaccurate at any time, obscene, indecent, seditious, offensive, pornographic, abusive, discriminatory, menacing, scandalous, inflammatory, in breach of confidence, in breach of privacy, or may have the effect of being harassing, threatening, or abusive to an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age or disability or otherwise; (x) use the Services or Application to post or transmit material for which you have not obtained all necessary licenses and/or approvals; (xi) use the Services or Application to misrepresent your identity in any way; (xii) use the Services or Application to post or transmit material which constitutes or encourages conduct that would be considered a criminal offense, gives rise to civil liability, or otherwise be contrary to the law or infringe the rights of any third party; (xiii) use the Services or Application to advertise or promote third party products or services or your own products or services; (xiv) use the Services or Application to generate spam, unsolicited e-mail advertisements, junk mail, chain letters, or otherwise duplicative messages; to stalk, harass, harm or threaten harm on another

individual; (xv) use the Services or Application to engage in any conduct that restricts or inhibits anyone's use or enjoyment of the Services; (xvi) license, sell, rent, lease, transfer, assign, distribute, host, outsource, disclose or otherwise commercially exploit the Services or Application or make the Services or Application available to any unauthorized third party; (xvii) modify, make derivative works of, disassemble, reverse compile or reverse engineer any part of the Services or Application; (xviii) or access the Services or Application in order to build a similar or competitive product or service.

- 2.5 You are responsible for ensuring that all persons who access the Application or Services through your Wi-Fi or internet connection are aware of these Terms of Service, and that they comply with them. In the event that someone accesses the Services or the Application using your account information, we will rely on that information and will assume that it is you or your representative who is accessing the Services or the Application. You are solely responsible for any and all use of your account information and all activities that arise in connection with the account. Without limiting any rights which we may otherwise have, we reserve the right to take any and all action, as deemed necessary or reasonable, to ensure the security of our Services and Application and your account, including without limitation, terminating your account, changing your password, or requesting additional information to authorize transactions on your account. You agree to be responsible for any act or omission of any users that access the Website or the Application under your account information that, if undertaken by you, would be deemed a violation of these Terms of Service. In no event and under no circumstances will the Company be held liable to you for any claims or damages resulting from or arising out of: (i) any action or inaction of Company under this provision; (ii) any compromise of the confidentiality of your account or password; and (iii) any unauthorized access to your account or use of your password. You may not use another's account at any time, without the permission of the account holder. Please contact us immediately if you suspect or become aware of any unauthorized use of your user name or password or any other breach of security.
- 2.6 All information and details provided by you to us (including in your registration) are true, accurate and up-to-date in all respects and at all times. You can update or correct your details using the Application.
- 2.7 You acknowledge the Internet is not a secure medium and privacy cannot be ensured. Internet data transmission, including, but not limited to, personal information and payment information, is vulnerable to interception and forging. We will not be responsible for any damages you or any third party may suffer as a result of the transmission of confidential information that you make available to us through the Internet, or that you expressly or implicitly authorize us to make, or for any errors or any changes made to any transmitted information.
- 2.8 Company grants you no rights with respect to Carmel's intellectual property rights, including, without limitation, copyright, trademarks, trade names, logos, graphics, photographs, animations, videos and text. Company grants you no rights in and to the Company software, applications, the Application and the Services or the intellectual property of our advertising partners, other than the non-transferable, personal right to use

and receive the Services in accordance with these Terms of Service. The Content on the Services, including the text, software, scripts, graphics, photos, sounds, music, videos, and interactive features and the trademarks, trade names, service marks and logos contained therein are owned by or licensed to Company, subject to copyright and other intellectual property rights under United States law and international conventions. Content on the Services is provided to you AS IS for your information and personal use only and may not be used, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed, or otherwise exploited for any other purposes whatsoever without prior written consent and/or payment of the applicable license fee to the owners. Company reserves all rights not expressly granted to you above. You agree not to engage in the use, copying, or distributing any content unless expressly permitted herein. You agree not to circumvent, disable or otherwise interfere with security related features of the Services or Application or features that prevent or restrict use or copying of any content or enforce limitations on use of the Services, Application or the Content therein.

- 2.9 Other than personally identifiable information, which is covered under Company's Privacy Policy, any material you post, submit, publish, display or transmit concerning the Services shall be considered non-confidential and non-proprietary. You represent and warrant that such material complies with these Terms of Service, and you agree to defend, indemnify and hold harmless the Company and its affiliates and licensors for any breach of that representation and warranty. You acknowledge and understand that you are responsible for any such material, and you, not the Company, have full responsibility for such content, including its legality, reliability, accuracy and appropriateness. Company shall have no obligations with respect to such material. Company and its designees shall be free to copy, disseminate, disclose, distribute, publicly display, reproduce, use, sublicense, post, publish, incorporate and otherwise use such material and all data, images, sounds, text and other things embodied therein for any and all commercial or non-commercial purposes, without compensation to you. In the event that you provide us with any ideas, thoughts, criticisms, suggested improvements or other feedback ("Feedback"), you agree that we may use the Feedback to modify our Services and that you will not be due any compensation, including, without limitation, any royalty related to the product or service that incorporates your Feedback. You grant to us a worldwide, royalty-free, fully paid, perpetual, irrevocable license to use, reproduce, modify, translate, distribute, perform, display, import, sell, offer for sale, make, have made and otherwise exploit the feedback in any form, media or technology, whether now known or hereafter developed, and to allow others to do the same. This is true whether you provide the feedback on the Website, via the Application, or through other methods of communication with us, unless we have entered into a separate agreement with you that provides otherwise.
- 2.10 You agree that you will not impair the proper operation of the network and will not try to harm the Services or Application in any way. You will not copy, or distribute the Application or other related content without written permission from the Company. You will only use the Application and Services for your own use and will not resell it to a third party. You will refrain from doing anything that we reasonably believe to be disreputable or capable of damaging our reputation. You will keep secure and confidential your account password or any identification we provide to you that allows

access to the Service. You will provide us with whatever proof of identity we may reasonably request. You will only use Wi-Fi, an access point 3G data account or 4G data account that you are authorized to use.

- 2.11 We are not responsible for the behavior, actions or inactions of affiliated drivers who provide you with transportation services. The company disclaims any and all liability related to your interaction with and use of the transportation services provided by affiliated drivers. By using the Services or Application, you acknowledge that the Company is or may be subject to legal, statutory and/or regulatory requirements, as well as policies and directives issued by bodies and other persons mandated to regulate any sector of the transport-for-hire and/or payment industry, which are in effect at any time and from time to time (the “Industry Requirements”). Notwithstanding anything else in the Agreement, you hereby consent to and agree that the Company may perform any action regarding Users (including yourself) which is or are required, in the discretion of the Company, to enable its compliance with Industry Requirements (including, without limitation, any Industry Requirements that require or favor integration with, or data sharing with, third parties).

### **III. PAYMENT TERMS**

- 3.1 Payment for services requested by the user will be taken at the time the reservation is made by using the credit card, debit card or other account information you registered with and/or provided to the Company on the “Payment Options” screen. If applicable/available, Carmel Car Cash may be used for up to twenty percent (20%) of the price of the transportation. You agree that we may verify and authorize your card or account details when you first register or provide such to the Company as well as when you request and/or use the service of the Company.
- 3.2 By providing a credit card, debit card, corporate account or similar payment account information to Company and placing a reservation (booking the transportation service requested) by clicking the “Book” button on the “Select Car & Book” screen, you hereby authorize Company to charge your account for the full amount due for the transportation service requested. By entering the information for your credit card, debit card, corporate account or similar payment account, you hereby represent and confirm that you are an authorized user of the card or account and that the associated information entered (account holder name, account number, billing address, etc.) is true and accurate.
- 3.3 You may opt for payment via “Auto Charge” by checking the “Auto Charge” checkbox on the “Payment Details” screen. If you opt for payment via “Auto Charge”, you acknowledge, understand and agree that full payment for the transportation services requested will be automatically charged once you click the “Book” button on the “Select Car & Book” screen. You further acknowledge, understand and agree that by checking the “Auto Charge” checkbox on the “Payment Details” screen, the “Payment Options” screen will not be displayed and the Company is authorized by you to charge the account on file and associated with “Auto Charge” for the full amount due for the transportation service requested. Only by unchecking the “Auto Charge” checkbox will

you then be prompted to re-enter the payment method.

- 3.4 Once you have made a reservation and booked the transportation service by using the Application, full payment will be taken automatically and is non-refundable, unless you fully comply with the terms of the cancellation policy as follows:
  - 3.4.1 If user cancels a reservation within six (6) minutes from the time the reservation was made, there will be no charge to the customer for the reservation.
  - 3.4.2 For reservations with a pick up location within New York City (i) if the user cancels the reservation in less than six (6) minutes from the time the reservation was made or at least twenty one (21) minutes prior to the requested pick up time, there will be no charge for the reservation to the customer, (ii) if the user cancels the reservation at more than six (6) minutes from the time the reservation was made or at less than twenty one (21) minutes prior to the requested pick up time, there will be a charge of fifty (50) percent of the reservation's Basic Fare, to the customer.
  - 3.4.3 For reservations with a pick up location outside of New York City- (i) if the user cancels the reservation in less than six (6) minutes from the time the reservation was made or at least fifty one (51)minutes prior to the requested pick up time, there will be no charge for the reservation to the customer, (ii) if the user cancels the reservation at more than six (6) minutes from the time the reservation was made or at less than fifty one (51) minutes prior to the requested pick up time, there will be a charge of fifty (50) percent of the reservation's Basic Fare, to the customer.
  - 3.4.4 You cannot cancel a reservation five (5) minutes or less before the reservation requested pick-up time, unless it is within six (6) minutes from the time the reservation was made. Cancellation of a reservation five (5) minutes or less before the reservation requested pick-up time, that is not within six (6) minutes from the time the reservation was made, will be treated and charged as a No-Show
- 3.5 No-Show means either (i) cancelling a reservation five (5) minutes or less before the reservation requested pick-up time, that is not done within six (6) minutes from the time the reservation was made, or (ii) not showing to a reservation until ten (10) from the reservation requested pick-up time ("No-show").
  - 3.5.1 In a case of a No-show, you will be a charged one hundred (100) percent of the reservation's Basic Fare.
- 3.6 For each transaction, in addition to the charge you have authorized, your credit card issuer and network may assess their customary transaction or handling charge, if any. You, and not Company, are responsible for payment of any such charge.
- 3.7 If a charge is declined or reversed by the credit card issuer or network, you agree to pay us a service charge and to reimburse us for all reasonable costs of collection. Your credit card issuer may also assess its customary charge for such transactions.
- 3.8 If your credit card issuer or network does not honor a payment transaction, then we have

the right to charge the amount of any such transaction to you personally and to collect the amount from you.

- 3.9 If your credit card issuer or network does not honor a payment transaction, we may terminate any or all Services, and we may cancel your right to use the service in the future.
- 3.10 By clicking “Book,” you are consenting to and authorizing Company to charge the account on file for the amount due and you are consenting to receive a one-time confirmation of this payment electronically to any email address you may have provided to us
- 3.11 The account holder is solely responsible for ensuring that he/she has sufficient credit limit and that his/her Card is in good standing at the time of the charge. The Company shall have the absolute discretion to decline, reject or cancel any request for transportation service without the obligation to notify the account holder on grounds that include, but are not limited to: insufficient credit limit, overdue balance, suspended or closed card/account or card/account is in past due status. In such cases, the Company shall not be liable for any damage that the cardholder may suffer, directly or indirectly, by reason of such rejection or cancellation.
- 3.12 You agree to cooperate with the company and in the event of a dispute over any transaction.

#### **IV. CARMEL CAR CASH PROGRAM**

- 4.1 “**Carmel Car Cash**” (or “Car Cash”) means credit point(s) that are the equivalent value of one dollar (\$1.00) for use only in connection with reservations made through the Application.
- 4.2 The use of Car Cash cannot be combined with any other benefit, offer, promotion, discount, credit, coupon, voucher, discounted rate, certificate or airline reward program. By selecting to use Carmel Car Cash as part of your payment method, you agree to not combine such use and/or payment with any other benefit, offer, promotion, discount, credit, coupon, voucher, discounted rate, certificate or airline reward program.
- 4.3 Carmel retains the absolute right to award Car Cash to an individual user at its sole discretion.
- 4.4 Carmel, at its sole and absolute discretion may, among other things, withdraw, limit, modify or cancel any Car Cash previously awarded; modify or regulate the availability or use of Car Cash for any and all users.
- 4.5 The available usages for each Car Cash awarded by Carmel will be listed and/or explained in the Car Cash folder of each user’s Application. Carmel Car Cash may be awarded for a general use, or have limited usage, including but not limited to, use during certain times of the day, certain days of the week, certain specific periods of time, certain cities, certain types of vehicles. Carmel retains the absolute right to limit and/or modify



the availability and/or usages of Car Cash at its sole discretion.

- 4.6 Car Cash does not constitute property of a user and has no value outside of the use of the Application. Car Cash are credits that Carmel may revoke, suspend, modify or limit at any time. Car Cash may not be exchanged for cash, assigned, sold, auctioned, bartered, or transferred.
- 4.7 Carmel may, for any reason, at its sole discretion, with or without actual notice to the user, among other things, withdraw or cancel the use of Car Cash Program
- 4.8 By using Carmel Car Cash, you agree to be bound by all the terms and conditions stated herein and that Carmel, its travel partners and/or affiliated third parties shall not be liable whatsoever for any claims arising out of and/or in connection with the use of Car Cash and any modification made to, or the discontinuance of the Car Cash Program.

## **V. TERMINATION AND ENFORCEMENT**

- 5.1 We reserve the right to terminate these Terms of Service and close any account you have with us at any time with or without notice. We may, in our sole discretion, immediately terminate your account and your access to the service and/or the Application without notice, for any or no reason, including if you breach any of your obligations under these Terms of Service, if bankruptcy proceedings are brought against you or if you do not pay for the services provided.
- 5.2 We reserve the right to suspend, restrict or terminate your access to the service and/or the Application at any time without notice if we have reasonable grounds to believe you have breached any of these Terms of Service. This shall not limit our right to take any other action against you that we consider appropriate to defend our rights or those of any other person.
- 5.3 You are under no obligation to use the Services and may choose to stop using it at any time. You may close your account by following the instructions on the Application.
- 5.4 The Company is not liable to you or any other party for any termination of your account or access to our service and/or the Application. Termination of your account will not modify, change or void any payment obligations you may have incurred through your use of the Services and/or the Application, whether such obligation is to us or a third party.
- 5.5 We may disclose your identity to any third party who claims that material posted by you violates their rights, including their intellectual property rights or their right to privacy. You consent to such disclosure of information without further notice to you.
- 5.6 We reserve the right (but assume no obligation under these Terms of Service) to investigate and/or take appropriate action, including legal action, in our sole discretion against you if you violate any Terms of Service, including suspending or terminating

your account and/or reporting you to law enforcement authorities.

- 5.7 We have the right to fully cooperate with any law enforcement authorities or court order requesting or directing us to disclose the identity of anyone posting any materials on or through the Services and/or the Application. You waive and hold harmless the Company from any claims resulting from any actions taken by the Company during or as a result of its investigations and from any actions taken as a consequence of investigations by either the Company or law enforcement authorities.

## **VI. LIMITS ON OUR LIABILITY & WARRANTIES**

- 6.1 The Company makes no representation or warranty, either expressed or implied, or otherwise. Any statutory warranties are disclaimed to the maximum extent permitted by law and you hereby waive the benefit of any statutory warranties to the maximum extent permitted by law.
- 6.2 If you are not satisfied with any portion of the service and/or the Application, your sole and exclusive remedy is to discontinue use of the service and/or the Application. In no event shall the company be liable for damages of any kind, whether arising in contract (including breach of these terms), tort, negligence or under any other legal theory, arising out of or in connection with: (i) your use or inability to use or access the Services, (ii) your use or inability to use or access any websites linked to the service and/or the Application, (iii) any content of the Services or such other websites or any services obtained through the Services or other such websites including, without limitation, any direct, indirect, special, incidental, consequential, exemplary or punitive damages, including but not limited to, personal injury, pain and suffering, emotional distress, loss of revenue, loss of profit, cost of procurement of substitute goods or services, loss of business or anticipated savings, loss of use, loss of goodwill, loss of data, business interruptions, loss or inaccuracy of business information, lost opportunities and whether caused by tort (including negligence and strict liability), breach of contract or otherwise, even if foreseeable. The foregoing does not affect any liability which cannot be excluded or limited under applicable law.
- 6.3 We are not responsible and will not refund for: (i) losses not caused by our breach; (ii) the actions, inactions, errors, omissions, representations, warranties, breaches or negligence of any drivers or for any personal injuries, death, property damage, or other damages or expenses resulting therefrom; (iii) the actions, inactions, errors, omissions, representations, warranties, breaches or negligence of other Application or Services users or for any personal injuries, death, property damage, or other damages of expenses resulting therefrom; (iv) indirect losses, which means loss to you that is a side effect of the main loss or damage and where you and us could not have reasonably anticipated that type of loss arising at the time of entering into these Terms of Service; (v) failure to meet any of our obligations under these Terms of Service where such delay, cancellation or failure is due to events beyond our control (e.g., a network failure, internet delays, rerouting acts of any government or authority, acts of nature, telecommunication equipment failures, other equipment failures, electrical power failures, strikes, labor

disputes, riots, insurrections, civil disturbances, shortages of labor or materials, fires, floods, storms, explosions, acts of God, war, governmental actions, orders of domestic or foreign courts or tribunals, non-performance of third parties, weather, or road conditions and breakdowns); or (vi) if for any reason, all or any part of the service and/or the Application are unavailable at any time or for any period.

- 6.4 You may be exposed, through the service and/or the Application, to content that violates our policy or is otherwise offensive. You access the service and/or the Application at your own risk. We may, but are not obligated to, remove content from the Website for any reason, including if we determine or suspect that such content violates these Terms of Service. We take no responsibility for your exposure to content of the service and/or the Application whether or not it violates our content policies. We do not make any guarantees about the accuracy, currency, suitability, or quality of the information in such content, and we assume no responsibility for unintended, objectionable, inaccurate, misleading, or unlawful content made available by other users, advertisers, and other third parties.
- 6.5 You may be exposed to third party websites that you find offensive, indecent, or otherwise objectionable. Such third party websites are not under the Company's control. We make no warranty, representation, endorsement, or guarantee regarding, and accept no responsibility for the quality, content, nature or reliability of third party websites, products or services accessible by hyperlink or otherwise from the service and/or the Application. Any inclusion of links to such websites does not imply any endorsement of the materials, products or services on such third party websites or any association with their operators. The Website may contain links to websites that are operated by us but which operate under different terms of use. It is your responsibility to review the privacy policies and terms of use of any other website you visit. You agree that the Company is not responsible for websites, content, products, materials or practices of any third party.
- 6.6 We assume no responsibility for lost or damaged baggage, personal belongings, or any items left in a vehicle.
- 6.7 To the extent that we may not, as a matter of applicable law, disclaim any implied warranty or limit liabilities, the scope and duration of such warranty and the extent of our liability will be the minimum permitted under applicable law.

## **VII. LICENSE GRANT AND RESTRICTIONS**

### **7.1 Licenses Granted by Company to Company Content and User Content**

- 7.1.1 Subject to your compliance with the terms and conditions of this Agreement, Company grants you a limited, non-exclusive, non-transferable license: (i) to view, download and print any Company Content solely for your personal and non-commercial purposes; and (ii) to view any User Content to which you are permitted access solely for your

personal and non-commercial purposes. You have no right to sublicense the rights granted in this section.

- 7.1.2 You will not use, copy, adapt, modify, prepare derivative works based upon, distribute, license, sell, transfer, publicly display, publicly perform, transmit, stream, broadcast or otherwise exploit the Service, Application or Collective Content, except as expressly permitted in this Agreement. No licenses or rights are granted to you by implication or otherwise under any intellectual property rights owned or controlled by Company or its licensors, except for the licenses and rights expressly granted in this Agreement.

## **7.2 License Granted by User**

- 7.2.1 We may, in our sole discretion, permit Users to post, upload, publish, submit or transmit User Content. By making available any User Content on or through the Services or Application, you hereby grant to Company a worldwide, irrevocable, perpetual, non-exclusive, transferable, royalty-free license, with the right to sublicense, to use, view, copy, adapt, modify, distribute, license, sell, transfer, publicly display, publicly perform, transmit, stream, broadcast and otherwise exploit such User Content only on, through or by means of the Services or Application. Company does not claim any ownership rights in any User Content and nothing in this Agreement will be deemed to restrict any rights that you may have to use and exploit any User Content.

- 7.2.2 You acknowledge and agree that you are solely responsible for all User Content that you make available through the Services or Application. Accordingly, you represent and warrant that: (i) you either are the sole and exclusive owner of all User Content that you make available through the Services or Application or you have all rights, licenses, consents and releases that are necessary to grant to Company and to the rights in such User Content, as contemplated under this Agreement; and (ii) neither the User Content nor your posting, uploading, publication, submission or transmittal of the User Content or Company's use of the User Content (or any portion thereof) on, through or by means of the Services or Application will infringe, misappropriate or violate a third party's patent, copyright, trademark, trade secret, moral rights or other intellectual property rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation.

## **7.3 Application License**

- 7.3.1 Subject to your compliance with this Agreement, Company grants you a limited non-exclusive, non-transferable license to download and install a copy of the Application on a single mobile device or computer that you own or control and to run such copy of the Application solely for your own personal use. Furthermore, with respect to any Application accessed through or downloaded from the Apple App Store, iTunes, and Google Android Store, Google Play (collectively, "App Store Sourced Application"), you will use the App Store Sourced Application only: (i) on a Platform approved product that runs the Platform's proprietary operating system software; and (ii) as permitted by the "Usage Rules" set forth in the Platform Store Terms of Service. Company reserves all rights in and to the Application not expressly granted to you

under this Agreement.

#### **7.4 Accessing and Downloading the Application from Platform's store**

7.4.1 The following applies to any App Store Sourced Application:

7.4.1.1 You acknowledge and agree that (i) this Agreement is concluded between you and Company only, and not Platform, and (ii) Company, not Platform, is solely responsible for the App Store Sourced Application and content thereof. Your use of the App Store Sourced Application must comply with the Platform Store Terms of Service.

7.4.1.2 You acknowledge that Platform has no obligation whatsoever to furnish any maintenance and support services with respect to the App Store Sourced Application.

7.4.1.3 In the event of any failure of the App Store Sourced Application to conform to any applicable warranty, you may notify Platform, and Platform will refund the purchase price for the App Store Sourced Application to you and to the maximum extent permitted by applicable law, Platform will have no other warranty obligation whatsoever with respect to the App Store Sourced Application. As between Company and Platform, any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be the sole responsibility of Company.

7.4.1.4 You and Company acknowledge that, as between Company and Platform, Platform 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: (i) product liability claims; (ii) any claim that the App Store Sourced Application fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.

7.4.1.5 You and Company 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 Company and Platform, Company, not Platform, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by this Agreement.

7.4.1.6 You and Company acknowledge and agree that Platform, and Platform's subsidiaries, are third party beneficiaries of this Agreement as related to your license of the App Store Sourced Application, and that, upon your acceptance of the terms and conditions of this Agreement, Platform will have the right (and will be deemed to have accepted the right) to enforce this Agreement as related to your license of the App Store Sourced Application against you as a third party beneficiary thereof.

7.4.1.7 Without limiting any other terms of this Agreement, you must comply with all

applicable third party terms of agreement when using the App Store Sourced Application.

- 7.4.1.8 You shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Services or the Application in any way; (ii) modify or make derivative works based upon the Services or the Application; (iii) create Internet "links" to the Service or "frame" or "mirror" any aspect of the Application on any other server or wireless or Internet-based device; (iv) reverse engineer or access the Application in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Services or Application, or (c) copy any ideas, features, functions or graphics of the Services or Application, or (v) launch an automated program or script, including, but not limited to, web spiders, web crawlers, web robots, web ants, web indexers, bots, viruses or worms, or any program which may make multiple server requests per second, or unduly burdens or hinders the operation and/or performance of the Services or Application.
- 7.4.1.9 You shall not: (i) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (ii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or that violates third party privacy rights; (iii) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (iv) interfere with or disrupt the integrity or performance of the Application or Services or the data contained therein; or (v) attempt to gain unauthorized access to the Application or Services or its related systems or networks.
- 7.5 Company will have the right to investigate and prosecute violations of any of the above to the fullest extent of the law. Company may involve and cooperate with law enforcement authorities in prosecuting users who violate this Agreement. You acknowledge that Company has no obligation to monitor your access to or use of the Services, Application or Collective Content or to review or edit any Collective Content, but has the right to do so for the purpose of operating the Services and Application, to ensure your compliance with this Agreement, or to comply with applicable law or the order or requirement of a court, administrative agency or other governmental body. Company reserves the right, at any time and without prior notice, to remove or disable access to any Collective Content that Company, at its sole discretion, considers to be in violation of this Agreement or otherwise harmful to the Services or Application.
- 7.6 You represent and warrant that you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) he/she is not listed on any U.S. Government list of prohibited or restricted parties.
- 7.7 Any end-user questions, complaints or claims with respect to the Licensed Application should be directed to Carmel at [admin@carmellimo.com](mailto:admin@carmellimo.com) or by calling 212-663-3333.

## **VIII. SMS MESSAGING (TEXT MESSAGES)**

- 8.1 In engaging our Services you may be sent text messages that provide you with important and useful information regarding our Services. You may be charged your mobile telephone network provider's standard rate for receiving these SMS. Company will not charge you for SMS. Your mobile telephone network provider may impose message or charge limitations which are beyond our control and for which you will be solely responsible.
- 8.2 By engaging with our Services, including registering, you agree to receive text messages relating to our Services.
- 8.3 You agree and confirm that you are the owner of the mobile telephone to which you have requested the SMS be sent, that you have full authority to authorize any charges and will be solely responsible for charges, if any, to be incurred by the relevant mobile telephone network provider.
- 8.4 The Company is not liable for any delays or failures in your receipt of any SMS message(s).
- 8.5 Without notice to you, the Company reserves the right to suspend or terminate any SMS text message that the Company may send.

## **IX. INTELLECTUAL PROPERTY OWNERSHIP**

- 9.1 The Company alone (and its licensors, where applicable) shall own all right, title and interest, including all related intellectual property rights, in and to the Application and the Services and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by you or any other party relating to the Application or the Service. This Agreement is not a sale and does not convey to you any rights of ownership in or related to the Application or the Services, or any intellectual property rights owned by the Company. The Company name, the Company logo, and the product names associated with the Application and Services are trademarks of the Company or third parties, and no right or license is granted to use them.

## **X. INDEMNIFICATION**

- 10.1 By entering into this Agreement and using the Application or Services, you agree that you shall defend, indemnify and hold the Company, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, Users, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (a) your violation or breach of any term of this Agreement or any

applicable law or regulation, whether or not referenced herein; (b) your violation of any rights of any third party, including providers of transportation services arranged via the Services or Application; (c) your use or misuse of the Application or Services or (iii) otherwise as a result of your negligence or willful misconduct.

## **XI. DISCLAIMER OF WARRANTIES**

11.1 YOU UNDERSTAND THAT WE CANNOT AND DO NOT GUARANTEE OR WARRANT THAT FILES AVAILABLE FOR DOWNLOADING FROM THE INTERNET, THE WEBSITE OR THE CARMEL APPLICATION WILL BE FREE OF VIRUSES OR OTHER DESTRUCTIVE CODE. YOU ARE RESPONSIBLE FOR IMPLEMENTING SUFFICIENT PROCEDURES AND CHECKPOINTS TO SATISFY YOUR PARTICULAR REQUIREMENTS FOR ANTI-VIRUS PROTECTION AND ACCURACY OF DATA INPUT AND OUTPUT, AND FOR MAINTAINING A MEANS EXTERNAL TO OUR SITE FOR ANY RECONSTRUCTION OF ANY LOST DATA. THE COMPANY MAKES NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICE OR APPLICATION. THE COMPANY DOES NOT REPRESENT OR WARRANT THAT (A) THE USE OF THE SERVICE OR APPLICATION WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, APPLICATION, SYSTEM OR DATA, (B) THE SERVICE OR APPLICATION WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (C) ANY STORED DATA WILL BE ACCURATE OR RELIABLE, (D) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (E) ERRORS OR DEFECTS IN THE SERVICE OR APPLICATION WILL BE CORRECTED, OR (F) THE SERVICE OR THE SERVER(S) THAT MAKE THE SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE SERVICE AND APPLICATION IS PROVIDED TO YOU STRICTLY ON AN "AS IS" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY THE COMPANY. THE COMPANY MAKES NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, SAFETY, TIMELINESS, QUALITY, SUITABILITY OR AVAILABILITY OF ANY SERVICES, PRODUCTS OR GOODS OBTAINED BY THIRD PARTIES THROUGH THE USE OF THE SERVICE OR APPLICATION. YOU ACKNOWLEDGE AND AGREE THAT THE ENTIRE RISK ARISING OUT OF YOUR USE OF THE APPLICATION AND SERVICE, AND ANY THIRD PARTY SERVICES OR PRODUCTS REMAINS SOLELY WITH YOU, TO THE MAXIMUM



EXTENT PERMITTED BY LAW.

## **XII. RELEASE**

12.1 To the maximum extent allowed under applicable laws, you hereby release the Company, its officers, employees, agents, successors, and assigns from claims, demands, any and all losses, damages, rights, claims, and actions of any kind including, without limitation, personal injuries, death, and property damage, that is either directly or indirectly related to or arises from any interactions with the Company or the conduct of any other users or third parties.

## **XIII. INTERNET DELAYS**

13.1 THE COMPANY'S SERVICES AND APPLICATION MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. THE COMPANY IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

## **XIV. LIMITATION OF LIABILITY**

14.1 IN NO EVENT SHALL THE COMPANY'S AGGREGATE LIABILITY EXCEED THE AMOUNTS ACTUALLY PAID BY AND/OR DUE FROM YOU RELATIVE TO THE INDIVIDUAL RESERVATION MADE. IN NO EVENT SHALL THE COMPANY AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING PERSONAL INJURY, LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE). THE COMPANY AND/OR ITS LICENSORS SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE OR INJURY WHICH MAY BE INCURRED BY YOU, INCLUDING BUT NOT LIMITED TO LOSS, DAMAGE OR INJURY ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICES OR APPLICATION, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICES OR APPLICATION, ANY RELIANCE PLACED BY YOU ON THE COMPLETENESS, ACCURACY OR EXISTENCE OF ANY ADVERTISING, OR AS A RESULT OF ANY RELATIONSHIP OR TRANSACTION BETWEEN YOU AND ANY THIRD PARTY SERVICE PROVIDER, ADVERTISER OR SPONSOR WHOSE ADVERTISING APPEARS ON THE WEBSITE OR IS REFERRED BY THE SERVICE OR APPLICATION, EVEN IF THE COMPANY AND/OR ITS LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

14.2 THE COMPANY IS A LICENSED BASE STATION THAT SENDS DISPATCHES TO LICENSED OPERATORS WHO ARE NOT EMPLOYEES OF THE COMPANY. THE LICENSED DRIVER THAT PROVIDES TRANSPORTATION TO YOU IS AN

INDEPENDENT CONTRACTOR AND NOT UNDER THE SUPERVISION, DIRECTION AND/OR CONTROL OF THE COMPANY. YOU EXPRESSLY WAIVE AND RELEASE THE COMPANY FROM ANY AND ALL LIABILITY, CLAIMS OR DAMAGES ARISING FROM OR IN ANY WAY RELATED TO THE PROVISION OF TRANSPORTATION BY THE DRIVER. THE COMPANY WILL NOT BE A PARTY TO DISPUTES OR NEGOTIATIONS OF DISPUTES BETWEEN YOU AND THE DRIVER WHO PROVIDES TRANSPORTATION. THE RESPONSIBILITY FOR THE DECISIONS YOU MAKE REGARDING ACCEPTING THE PROVISION OF TRANSPORTATION SERVICES BY THE DRIVER VIA THE APPLICATION OR SERVICE (WITH ALL ITS IMPLICATIONS) RESTS SOLELY WITH YOU. WE DO NOT ASSESS THE SUITABILITY, LEGALITY OR ABILITY OF ANY SUCH DRIVER BEYOND CONFIRMING THE DRIVER'S STATUS AS BEING LICENSED BY THE NEW YORK CITY TAXI AND LIMOUSINE COMMISSION, AND YOU EXPRESSLY WAIVE AND RELEASE THE COMPANY FROM ANY AND ALL LIABILITY, CLAIMS, CAUSES OF ACTION, OR DAMAGES ARISING FROM YOUR USE OF THE APPLICATION OR SERVICE, OR IN ANY WAY RELATED TO THE TRANSPORTATION SERVICE PROVIDED TO YOU BY THE LICENSED DRIVER VIA THE APPLICATION OR SERVICE.

- 14.3 THE QUALITY OF THE TRANSPORTATION SERVICES PROVIDED BY THE DRIVER RESERVED THROUGH THE USE OF THE SERVICES OR APPLICATION IS ENTIRELY THE RESPONSIBILITY OF THE DRIVER WHO ULTIMATELY PROVIDES SUCH TRANSPORTATION SERVICES TO YOU. YOU UNDERSTAND, THEREFORE, THAT BY USING THE APPLICATION AND THE SERVICES, YOU MAY BE EXPOSED TO TRANSPORTATION THAT IS POTENTIALLY DANGEROUS, OFFENSIVE, HARMFUL, UNSAFE OR OTHERWISE OBJECTIONABLE, AND THAT YOU USE THE APPLICATION AND THE SERVICES AT YOUR OWN RISK.

## **XV. NOTICE**

- 15.1 The Company may give notice by means of a general notice on the Services, electronic mail to your email address on record in the Company's account information, or by written communication sent by first class mail or pre-paid post to your address on record in the Company's account information. Such notice shall be deemed to have been given upon posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email). You may give notice to the Company (such notice shall be deemed given when received by the Company) at any time by any of the following: letter delivered by nationally recognized overnight delivery service or certified mail to the company at the following address: Carmel Car and Limousine Service, 2642 Broadway New York, NY 10025.

## **XVI. NO ASSIGNMENT**

16.1 This Agreement may not be assigned by you without the prior written approval of the Company but may be assigned without your consent by the Company.

## **XVII. GOVERNING LAW**

17.1 This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to choice or conflicts of law rules. Any claim under this Agreement must be brought within one (1) year after the cause of action arises, or such claim or cause of action is barred. In the event of any controversy or dispute between Carmel and you arising out of or in connection with your use of the Application or Services, the parties shall attempt, promptly and in good faith, to resolve any such dispute. If we are unable to resolve any such dispute within a reasonable time (not to exceed thirty (30) days), then either party may submit a request to resolve the dispute through arbitration in accordance with the then-current rules of the American Arbitration Association. The location of the arbitration will be in New York City, New York (USA). The decision of the arbitrator will be binding on the parties and enforceable in a court of law.

## **XVIII. GENERAL**

18.1 We may wish to transfer our rights or obligations or sub-contract our obligations under these Terms of Service to another legal entity. You agree that we may do so provided that this will not adversely affect the service you receive under these Terms of Service. As set out herein, you may terminate your agreement with us at any time. These Terms of Service are personal to you. You may not transfer your rights or obligations under these Terms to anyone else.

18.2 If you breach these Terms of Service and Company takes no action against you, Company remains entitled to exercise all rights and remedies in any instance in which you breach these Terms of Service. Any failure of the Company to enforce, or delay in enforcing, any right or provision in these Terms of Service shall not constitute a waiver of such right or provision.

18.3 You acknowledge that we have the right hereunder to seek an injunction, if necessary, to stop or prevent a breach of your obligations hereunder.


18.4 If any part of these Terms of Service is disallowed or found to be ineffective, invalid or unenforceable, such provision shall be struck and the remaining provisions shall continue to apply.

18.5 The headings contained in these Terms of Service are for reference purposes only and are not intended to describe, interpret, define or limit the scope, extent or intent of this Agreement.

18.6 Unless otherwise stated herein, these Terms of Service are not intended to give rights to anyone except you and Company.

- 18.7 Company may, in its sole discretion, amend or modify these Terms of Service from time to time. It is your responsibility to check these Terms of Service, as they are binding on you. Your continued use of the Website and/or the Carmel Application following the posting of changes to these Terms of Service constitutes acceptance of any changes.
- 18.8 No joint venture, partnership, employment or agency relationship exists between you, the Company or any third-party provider as a result of this Agreement or use of the Services or Application.
- 18.9 These Terms of Service constitute the entire agreement between you and the Company and supersede all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein.

## **XIX. CARMEL PERKS PROGRAM**

- 19.1 **Carmel Perks'** Terms and Conditions can be found in the Application under "Menu" → "Carmel Perks" →  → Terms & Conditions