

Omni User Agreement

Last Updated: May 17, 2022

This document contains the terms and conditions (the “**Terms**”) that apply regarding your use of the website at <https://www.moniflow.app>, MoniFlow mobile application (“**MoniFlow App**”) or user interfaces (the “**Application**”) and/or technology platform (collectively, the “**Omni Services**”) offered, operated or made available by OMNi US Inc. (“**Omni,**” “**us,**” “**we,**” or “**our**”).

First things first:

PLEASE READ THESE TERMS CAREFULLY. IF YOU DO NOT UNDERSTAND THESE TERMS, PLEASE CONTACT US AT HELP@MONIFLOW.APP BEFORE ELECTRONICALLY SIGNING IT. WE’VE TRIED TO MAKE THESE TERMS EASY TO UNDERSTAND, AND WE ARE HAPPY TO HELP ANSWER ANY QUESTIONS YOU MAY HAVE. WHEN YOU CLICK “I AGREE” TO ELECTRONICALLY SIGN THIS DOCUMENT, YOU ARE CONFIRMING THAT YOU HAVE READ, UNDERSTOOD, AND ACCEPT ALL OF THESE TERMS.

THESE TERMS CONTAIN A MANDATORY INDIVIDUAL ARBITRATION PROVISION, AND A JURY TRIAL AND CLASS ACTION WAIVER PROVISION, WHICH MEANS THAT YOU AGREE TO RESOLVE ANY DISPUTES OR CLAIMS BETWEEN US ABOUT THESE TERMS AND YOUR USE OF THE OMNI SERVICES BY ARBITRATION ON AN INDIVIDUAL BASIS, INSTEAD OF IN FRONT OF A JURY IN A COURT OF LAW. THIS ALSO MEANS YOU WILL NOT BE PERMITTED TO PARTICIPATE IN A CLASS ACTION LAWSUIT AGAINST US. YOU SHOULD READ SECTION 22 FOR MORE DETAILS ABOUT YOUR DISPUTE RIGHTS, INCLUDING YOUR RIGHT TO OPT OUT OF MANDATORY ARBITRATION.

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Terms of Use

1. Acceptance of Agreement

- a) By accessing and/or using the Omni Services, you acknowledge that you have read, understood, and agree to be bound by the following terms of conditions set forth in this Agreement. If you do not agree with these terms and conditions, you may not access or use the Omni Services.
- b) Bank services are provided through our banking software provider, Synapse. Synapse is our backend software provider, and partners with financial institutions to provide FDIC insurance. Synapse's API, and their relationship with financial institutions, enables us to offer banking services and products. By agreeing to this Agreement, you also agree to [Synapse Terms of Service](#).
 - [Consumer Cardholder Agreement](#)
 - [Consumer Interest Checking Account Agreement](#)
- c) To report a complaint relating to the bank services, email help@moniflow.app.

2. Privacy Policy

Please read the Omni Privacy Policy carefully for information relating to our collection, use, and disclosure of your personal data. By accessing or using the Omni Services you agree to the following privacy policies:

- a) [Omni Privacy Policy](#)
- b) [Synapse Privacy Policy](#)

3. Use of Omni Services

You may not use the Omni Services in any manner that may impair, overburden, damage, disable or otherwise compromise (i) Omni's Services; (ii) any other party's use and enjoyment of the Omni Services; or (iii) the services and products of any third parties including, without limitation, any device through which you access the Application. You agree to comply with all applicable laws and regulations governing the downloading, installation and/or use of the Application.

4. The Omni Services

The Omni Services include the following:

- a) **Omni Bank Account:** all account holders will be given an Omni USD bank account at Synapse Backend Software Provider ("**Omni Bank Account**"). Account holders may access their Omni Bank Account through the Application.
- b) **Debit Card:** Account holders can order a debit card at no extra cost. The debit card can be used anywhere where Mastercard is accepted and may be used to withdraw cash at ATMs.

5. Updates to MoniFlow App

From time to time, Omni may provide updates for the MoniFlow App ("**Updates**"). Updates may contain, without limitation, bug fixes, patches, enhanced functionality, plug-ins and new versions of the MoniFlow App. By installing the MoniFlow App, you agree to download and install Updates manually if necessary. Your use of the MoniFlow App and Updates will be governed by this Agreement (as amended by any terms and conditions that may be provided with Updates). Omni reserves the right to temporarily disable or permanently discontinue any and all functionality of the MoniFlow App at any time without notice and with no liability to you.

6. Eligibility

You must be at least eighteen (18) years old, either have a Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN), and be able to provide a U.S. government issued identification if you have an SSN, or passport if you have an ITIN to use the Omni Services. By agreeing to this Agreement, you represent and warrant to us: (i) that you are at least eighteen (18) years old; (ii) that you have not previously been suspended, removed or deactivated from the Omni Services; (iii) that you are a legal resident of the United States or have an ITIN; and (iv) that your

registration and your use of the Services is in compliance with any and all applicable laws and regulations.

7. Accounts

- a) **Account Creation.** In order to use the Services, you must create an account (an “Account”) with Omni and provide certain information (“Required Information”). You agree that the information you provide to Omni on registration and at all other times, will be true, accurate, current, and complete, and that you will keep this information accurate and up to date at all times. We also request that you create a password for your Account. You agree not to disclose your password to anyone else, and you also agree you will be solely responsible for any activities or actions taken under your Account, whether or not authorized by you. Please notify us immediately of any unauthorized use of your password or Account. We are not liable for any loss or damage from your failure to comply with these requirements.
- b) **Required Information.** Before your account can be created, you must provide us with an email address, phone number, legal name, U.S. address, and date of birth. User must either provide an SSN or an ITIN. Users who provide an SSN must subsequently upload a photo of a form of U.S. government issued ID (driver's license, passport, or state ID). Users who provide an ITIN must upload a photo of their passport. All users must do a "liveness check" whereby they upload a video of themselves speaking.
- c) **Identity Verification.** You hereby authorize Omni, directly or through third parties, to make any inquiries we consider necessary to validate your identity and/or authenticate your identity and Account information. This may include asking you for further information and/or documentation about your identity or requiring you to take steps to confirm ownership of your email address, wireless/cellular telephone number or financial instruments, and verifying your information against third party databases or through other sources.
- d) **Account Deletion.** While we certainly hope that you will find great value in the Omni Services, we won’t make it hard on you if you decide to move on. If you would like to close your account, you must contact Omni customer service help desk by emailing help@moniflow.app or calling (347) 687-4981.

8. Fees

You can find information about the Omni Fees and payment options by logging in to your Account. We accept payments for Omni Fees via Automated Clearing House (“ACH”) debit from your preferred bank account. By creating an Account and linking your bank account, you authorize us to charge your bank account to pay your Omni Fees.

By agreeing to this Agreement, you agree to pay the following fees where applicable:

Omni Fee Type	Fee
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Replacement Debit Card	\$8 per card
Account closure	\$5 per account

9) Limits on transactions:

You understand, agree, and accept that your account could be object of limitations and the amount of the transfers allowed in the Moniflow app. By accepting you also agree that OMNi reserves the right to cancel, suspend or terminate any transaction in accordance with the terms and internal procedures related to fraud or compliance. You also agree that any measures taken by us could occur without further notice and the parameters could vary in accordance to protect the compliance and security of the product and their users. In accordance with the terms and conditions of the service you accept, acknowledge, and understand that the chart is for orientation purposes only and could vary or changed. Moniflow reserves the right to change or modify without further notice and its responsibility of the User to check the current limitations of your account.

LIMITS				
Transaction Type	Daily	Monthly	Yearly	Notes
Internal Transfers	Unlimited	Unlimited	Unlimited	
ACH Pull	\$ 5,000.00	\$ 20,000.00	\$ 240,000.00	
Same-Day ACH Pull	\$ 5,000.00	\$ 20,000.00	\$ 240,000.00	
ACH Push	Unlimited	Unlimited	Unlimited	
Same-Day ACH Push	Unlimited	Unlimited	Unlimited	
Interchange Pull	\$ 5,000.00	\$ 20,000.00	\$ 240,000.00	
Card Subnet: Cash	\$ 5,000.00	\$ 5,000.00	\$ 60,000.00	**Daily platform limit applies to these flows in conjunction with one another
Card Number Subnet: Interchange	\$ 5,000.00	\$ 20,000.00	\$ 240,000.00	
Account Number Subnet: ACH Debit	\$ 5,000.00	\$ 20,000.00	\$ 240,000.00	
Incoming External Cash/ATM	\$ 500.00	\$ 5,000.00	\$ 60,000.00	
Incoming External ACH	\$ 8,000.00	\$ 24,000.00	\$ 24,000.00	

Definitions:

- ACH: automated clearing house, transfer is an electronic money transfer between banks that allows money to be pulled from an account or to be 'pushed' online to accounts at other banks.
- ACH debit transactions involve money getting “pulled” from an account. When you set up a recurring bill payment, for example, the company you’re paying can pull what it’s owed from your account each month.
- ACH credit transactions let you “push” money online to accounts at different banks, either accounts you own or friends’ and family members’ accounts.

- Incoming external cash refers to a deposit from ATM, or greendot, or merchant refunds.
- Card subnet cash is withdrawing refers to cash from your card.
- Card subnet interchange is spending limit at merchants.
- Account number subnet debit is drafting money from account via ACH.
- Interchange Pull refers to drafting money from cards.

10) **Your liability and actions against you.**

By accepting this agreement, you agree and accept the responsibility for all the liabilities regarding unauthorized EFTs and error resolution procedures. The procedures may include the use of the information regarding the account and will be use even if you are not using the product. Also, you agree to cooperate with all the representatives to complete all procedures.

a. Your liability.

ALTHOUGH OMNi MAKES EFFORTS TO PROVIDE AN ACCURATE SITE AND APPLICATION, THE SITE AND APPLICATION AND ALL RESPECTIVE PARTS THEREOF ARE PROVIDED "AS IS", "WITH ALL FAULTS", AND "AS AVAILABLE". OMNi AND ITS AFFILIATES AND THEIR RESPECTIVE MANAGING MEMBERS, OFFICERS, DIRECTORS, EMPLOYEES AND THIRD PARTY SUPPLIERS DISCLAIM ANY AND ALL REPRESENTATIONS, WARRANTIES OR GUARANTEES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION (1) AS TO TITLE, MERCHANTABILITY, FITNESS FOR ORDINARY PURPOSES AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, (2) THE QUALITY, ACCURACY, TIMELINESS OR COMPLETENESS OF THE SITE, THE APPLICATION AND THEIR RESPECTIVE CONTENT, (3) THOSE ARISING THROUGH COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE, (4) THE SITE AND APPLICATION AND THEIR RESPECTIVE CONTENT CONFORMING TO ANY FUNCTION, DEMONSTRATION OR PROMISE BY ANY COMPANY PARTY AND (5) THAT ACCESS TO OR USE OF THE SITE, THE APPLICATION OR THEIR RESPECTIVE CONTENT WILL BE UNINTERRUPTED, ERROR-FREE OR COMPLETELY SECURE. ANY RELIANCE UPON THE SITE, THE APPLICATION AND THEIR RESPECTIVE CONTENT IS AT YOUR OWN RISK AND

OMNi MAKES NO WARRANTIES. OMNi RESERVES THE RIGHT TO RESTRICT OR TERMINATE YOUR ACCESS TO THE SITE, THE APPLICATION AND THEIR RESPECTIVE CONTENT OR ANY FEATURE OR PART THEREOF AT ANY TIME. IF YOU DOWNLOAD THE APPLICATION OR ANY CONTENT FROM THIS SITE, YOU DO SO AT YOUR OWN DISCRETION AND RISK. YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR MOBILE DEVICE OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH CONTENT.

You, and only you, are responsible for all Reversal Liability like, but no limited to, claims, fees, fines, penalties, and other liabilities incurred by us, or third parties arising from your breach of these Terms or your use of our services. You agree to reimburse us, or third parties for any and all such liability. You agree and understand to the measures that can and will take place in case a breach is produced in the terms established below.

b. Actions we may take.

If we determine, in our sole discretion, that you may have breached these Terms, that you or your account activity presents risk or security concerns, or if we are unable to verify your identity, we may take actions to protect us and our users, or other third parties from Reversal Liability, claims, fines, penalties, and any other liability. These actions may include, but are not limited to, the following:

- 1) Suspending your access to your Account or other Moniflow related services.
- 2) Suspending your access to your funds, held in your Account, or otherwise held with Bank or Moniflow for your benefit for up to 90 days.
- 3) Closing your Account held by Bank or Moniflow for your benefit.
- 4) Contacting our users or third parties who have purchased goods or services from you, contacting the financial institution associated with your Bank Account(s), and/or warning other Moniflow users, law enforcement, or other impacted third parties of your actions.
- 5) Refusing to provide our services to you in the future; and taking legal action against you.

c. Notice of limit or suspension.

We will provide you with notice if we take any of the above actions against your Account or other accounts held by Bank or Moniflow for your benefit. If we limit or suspend such accounts, we will provide you with notice of our action.

d. Your Liability for Unauthorized Transfers.

You must contact Moniflow, by calling at +(929) 458-3600 or emailing help@moniflow.app if you believe your Account number was stolen or if you believe someone has transferred or may transfer money from your Account without permission. If your account number was stolen or if you believe someone has transferred or may transfer money from your Account without permission contact us immediately through Moniflow, at the number specified above.

d.1 If you notify us within two (2) business days after you learn of any unauthorized transaction, your liability would be established in no more than \$50.00 if someone used your Account without your permission. If you do not notify us within two (2) business days after you learn of the loss or theft of your Account number and we can prove that we could have stopped someone from using your Account without your permission if you had promptly notified us, you could lose as much as \$500.00

d.2 If you become aware of and/or your statement shows transactions that you did not make, notify us at once following the procedures stated in the section below "Errors and Disputes." If you do not notify us within sixty (60) days after (i) you become aware of the transaction(s) and/or (ii) the statement was made available to you, you may not get back any of the value you lost after the sixty (60) days if we can prove that we could have stopped someone from taking value if you had notified us in time. If a good reason (such as a long trip or a hospital stay) kept you from telling us, we will extend the time periods. After receiving notice from you of such an event, we will close Account to keep losses down and issue you a new Account number.

d.3 If your Account number changes, you must immediately notify your employer or any other payors or merchants. You must provide them with your new Account number to ensure that your direct deposit and/or payments activity continues uninterrupted.

d.4 If you furnish your access device and grant actual authority to make transfers to someone who then exceeds that authority, you will be liable for the transfers the person makes unless we have been notified those transfers by that person are no longer authorized. If you claim a credit or refund because of a forgery, alteration, or any other unauthorized withdrawal, you agree to cooperate with us in the investigation of the loss, including giving us an affidavit containing whatever reasonable information we require concerning your Account, the transaction, and the circumstances surrounding the loss. You will notify law enforcement authorities of any criminal act related to the claim of lost, missing, or stolen checks or unauthorized withdrawals. We will have a reasonable period of time to investigate the facts and circumstances surrounding any claim of loss. Unless we have acted in bad faith, we will not be liable for any special or consequential damages, including loss of profits or opportunity, or for attorneys' fees incurred by you. You agree that you will not waive any rights you have to recover your loss against anyone who is obligated to repay, insure, or otherwise reimburse you for your loss. You will pursue your rights or, at our option, assign them to us so that we may pursue them. Our liability will be reduced by the amount you recover or are entitled to recover from these other sources. Concerning each item you deposit with us, or which we cash for you or give other consideration, you make the following warranties to us whether Bank is the payor bank or depository bank: all necessary signatures and

endorsements have been placed on the time and are genuine, the item has not been materially altered and you have good title to it, and no defense of any party to the item is good against you. If any such warranty is breached, we may deduct the amount of the item from any of your accounts or otherwise collect from you this amount plus expenses.

e. Errors and Disputes.

If you think your statement is wrong or if you need more information about a transaction listed on it, please contact Moniflow, at ++(929) 458-3600 or email at help@moniflow.app. You must report any errors within sixty (60) days from the earlier of (i) the date the statement was made available to you on the Platform Website and/or the Mobile App or (ii) the date you access your Account and would have been able to see the error. You must provide the appropriate information for us to investigate the error or unauthorized transaction, including at least the date of the transaction and its amount. If you call us, we may request that you send your complaint or question in writing within ten (10) business days.

e.1 We will determine whether an error occurred within ten (10) business days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to forty-five (45) days to investigate your complaint or question. If we decide to use this additional time, we will credit your Account for the amount you think is in error within ten (10) business days, so that you will have use of the money during the time it takes to complete the investigation.

e.2 If your Account was opened less than thirty (30) days before the date of the suspected error, we may extend the ten (10) business day period to twenty (20) business days before crediting your Account.

e.3 If your Account was opened less than thirty (30) days before the date of the suspected error, the error resulted from a point-of-sale debit card transaction or was initiated in a foreign country, we may extend the ten (10) business day period to ninety (90) days before crediting your Account.

e.4 If we ask you to put your complaint or question in writing and you do not provide it within ten (10) business days, we will not credit your Account.

e.5 You will be informed of the result of the investigation within three (3) business days after our completion of the investigation. If we determine that there was no error, we will send you an explanation by email or by making it available via the Platform Website or the Mobile App. Copies of the investigation documentation can be obtained by calling us at ++(929) 458-3600 or emailing at help@moniflow.app

- f. **Applicable Law.** This terms and conditions will be complemented and regulated with Electronic Code of Federal Regulations (e-CFR) in terms of liability when its applicable.

11. Push Notifications

By agreeing to this Agreement, you agree to receive push notifications from us. You can opt out of receiving push notifications through your device settings. Please note that opting out of receiving push notifications may impact your use of the Services.

12. Third-Party Websites

The Omni Services, including our websites, may contain links to third-party websites. The linked sites are not under our control, and we are not responsible for the contents of any linked site. We provide these links as a convenience only, and a link does not imply our endorsement of, sponsorship of, or affiliation with the linked site. You should make whatever investigation you feel necessary or appropriate before proceeding with any transaction with any of these third parties' services or websites.

13. Feedback

If you choose to provide input and suggestions regarding problems with or proposed modifications or improvements to the Services ("**Feedback**"), then you hereby grant Omni an unrestricted, perpetual, irrevocable, non-exclusive, fully paid, royalty free right to exploit the Feedback in any manner and for any purpose, including to improve the Services and create other products and services.

14. Prohibited Conduct

BY USING THE SERVICES, YOU AGREE NOT TO:

- a) breach this Agreement or any other agreement between you and Omni or violate any Omni policy;
- b) access or use any part of the Omni Services for any non-personal, commercial purpose;
- c) access or use the Omni Services for any illegal purpose or violate any law, statute, ordinance, or regulation;
- d) attempt to gain unauthorized access to any other user's Account;
- e) modify or attempt to modify or in any way tamper with, circumvent, disable, damage or otherwise interfere with the Omni Services;
- f) access or use the Omni Services in a way that may infringe upon the intellectual property or other rights of any third party, including, without limitation, trademark, copyright, privacy, or publicity rights; or
- g) provide false, inaccurate or misleading information;

- h) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the Services or any part thereof (including any Application), except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation;
- i) modify, adapt, translate or create derivative works based upon the Omni Services or any part thereof, except and only to the extent the foregoing restriction is expressly prohibited by applicable law; or
- j) copy, distribute, transfer, sell or license all or part of the Omni Services;
- k) intentionally interfere with or damage operation of the Omni Services or any user's enjoyment of it, by any means, including uploading or otherwise disseminating viruses, adware, spyware, worms, or other malicious code.
- l) take any action to circumvent, compromise or defeat any security measures implemented in the Omni Services;
- m) use the Omni Services to access, copy, transfer, retransmit or transcode information, Omni logos, marks, names or designs or any other content in violation of any law or third party rights; or
- n) remove, obscure, or alter Omni's (or any third party's) copyright notices, trademarks, or other proprietary rights notices affixed to or contained within or accessed through the Services.

15. Modification of Agreement

Omni reserves the right, in its sole discretion, at any time to modify, augment, limit, suspend, discontinue or terminate any or all of the Omni Services without advance notice. All modifications and additions to the Omni Services shall be governed by this Agreement, unless otherwise expressly stated by Omni in writing. Omni may, from time to time, modify the Agreement. Please check this Agreement periodically for changes. Your continued use of the Omni Services after the changes become effective constitutes your binding acceptance of such changes. In the event that a change to this Agreement materially modifies your rights or obligations, we will make an effort to notify you of the change, such as by sending you an email to the address we have on file for you, or presenting a pop-up window or other notification to you through the Omni Services when you log in, and we may require that you accept the modified Agreement in order to continue to use the Omni Services. Immaterial modifications are effective upon publication, and material changes will be effective upon the earlier of (a) continued use of the Omni Services with actual knowledge of the modification, or (b) thirty (30) days following the change. For the avoidance of doubt, disputes arising hereunder will be resolved in accordance with the Agreement in effect at the time the dispute arose. You can determine when this Agreement was last revised by referring to the "LAST UPDATED" legend at the top of then-current version of this Agreement.

16. Term

This Agreement is effective beginning when you accept the Agreement or first download, install, access, or use the Services, and ending when terminated as described in Section 15.

17. Termination

- a) **Termination by Omni.** Without limiting other remedies, Omni may immediately terminate or suspend your access to and/or use of the Omni Services and remove, subject to any regulatory retention requirements, any material from the Omni Services or our servers, in the event that you breach this Agreement. Notwithstanding the foregoing, we also reserve the right to terminate, limit or suspend your access to or use of the Omni Services at any time and for any reason or no reason, including: (i) where we determine in our sole discretion that such action is reasonable in order to comply with legal requirements or to protect the rights or interests of Omni or any third party; or (ii) in connection with any general discontinuation of the Omni Services. We also reserve the right to modify the Omni Services at any time without notice to you. We will have no liability whatsoever on account of any change to the Omni Services or any suspension or revocation of your access to or use of the Omni Services.
- b) **Termination by You.** You may terminate acceptance of this Agreement at any time by permanently deleting the Application in its entirety from your mobile device, whereupon (and without notice from Omni) any rights granted to you herein will automatically terminate. If you fail to comply with any provision of this Agreement, any rights granted to you herein will automatically terminate. In the event of such termination, you must immediately delete the Application from your mobile device.

18. Effect of Termination

Upon termination of this Agreement: you understand and acknowledge that we will have no further obligation to provide or allow access to your Account or the Omni Services. Upon termination, all licenses and other rights granted to you by this Agreement will immediately cease. Omni is not liable to you or any third party for termination of the Omni Services or termination of your use of the Omni Services. UPON ANY TERMINATION OR SUSPENSION, ANY INFORMATION THAT YOU HAVE SUBMITTED, UPLOADED OR OTHERWISE MADE AVAILABLE ON, TO OR THROUGH THE OMNI SERVICES OR THAT WHICH IS RELATED TO YOUR ACCOUNT MAY NO LONGER BE ACCESSED BY YOU. Furthermore, except as may be required by applicable law or as provided in our Privacy Policy, Omni will have no obligation to store or maintain (or delete or destroy) any information stored in our database or to forward any information to you or any third party.

19. Intellectual Property Rights

You hereby acknowledge that Omni owns all rights, title and interest in and to the Omni Services and to any and all proprietary and confidential information contained therein ("**Omni Information**"). The Omni Services and Omni Information, including visual interfaces, graphics, design, compilation,

information, computer code (including source code or object code), products, software, services, look-and-feel, and all other elements of the Omni Services, are protected by applicable intellectual property and other laws, including patent law, copyright law, trade secret law, trademark law, unfair competition law, and any and all other proprietary rights, and any and all applications, renewals, extensions and restorations thereof, now or hereafter in force and effect worldwide.

20. Apple Store Terms and Conditions

If you downloaded the MoniFlow App from the Apple App Store, the following terms also apply to you:

- a) **Acknowledgement:** You acknowledge that these Terms are between you and Omni only, and not with Apple; and Omni, not Apple, is solely responsible for the MoniFlow App and the content thereof.
- b) **Scope of License:** The license granted to you for the MoniFlow App is a limited, non-transferable license to use the MoniFlow App on a Mac product that you own or control and as permitted by the Usage Rules set forth in the terms of service applicable to the Mac App Store.
- c) **Maintenance and Support:** Omni and not Apple is solely responsible for providing any maintenance and support services, for which additional fees may apply, with respect to the MoniFlow App. You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the MoniFlow App.
- d) **Warranty:** Omni is solely responsible for any product warranties, whether express or implied by law, to the extent not effectively disclaimed. In the event of any failure of the MoniFlow App to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the software to you. To the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the MoniFlow App, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be Omni's sole responsibility.
- e) **Product Claims:** Omni, not Apple, is responsible for addressing any user or third-party claims relating to the MoniFlow App or the user's possession and/or use of the software, including, but not limited to: (i) product liability claims; (ii) any claim that the MoniFlow App fail to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.
- f) **Intellectual Property Rights:** You acknowledge that, in the event of any third-party claim that the MoniFlow App or your possession and use of the MoniFlow App infringes that third party's intellectual property rights, Omni, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim.
- g) **Legal Compliance:** You represent and warrant that (i) 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) you are not listed on any U.S. Government list of prohibited or restricted parties.

- h) **Developer Contact Info:** Direct any questions, complaints or claims to: OMNi US Inc. at help@moniflow.app.
- i) **Third-Party Terms of Agreement:** You must comply with any applicable third-party terms of agreement when using the MoniFlow App.
- j) **Third Party Beneficiary:** You acknowledge and agree that Apple and Apple's subsidiaries are third party beneficiaries of these Terms, and that, upon your acceptance of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third-party beneficiary.

21. Indemnification

To the fullest extent permitted by law, you agree to indemnify, defend and hold Omni and all of its successors, parents, subsidiaries, affiliates, officers, directors, stockholders, investors, employees, agents, representatives and attorneys and their respective heirs, successors and assigns (collectively, the "**Indemnified Parties**"), harmless from and against any and all claims, liabilities, losses, damages, costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by the Indemnified Parties arising out of or relating to (i) your access to, use of or alleged use of the Omni Services; (ii) your violation of this Agreement or any representation, warranty, or agreements referenced herein, or any applicable law or regulation; (iii) your violation of any third party right, including without limitation any intellectual property right, publicity, confidentiality, property or privacy right; or (iv) any disputes or issues between you and any third party. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, and in such case, you agree to cooperate with our defense of such claim. You shall cooperate as fully as reasonably required in the defense of any such claim. Omni reserves the right, at its own expense, to assume the exclusive defense and control of any matter subject to indemnification by you. You agree not to settle any matter without the prior written consent of Omni.

22. Disclaimers; No Warranties

THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE". EXCEPT AS REQUIRED BY LAW, OMNI DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS REGARDING THE SERVICES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, ACCURACY, QUIET ENJOYMENT, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, FREEDOM FROM VIRUSES OR OTHER HARMFUL CODE, FITNESS FOR ANY PARTICULAR PURPOSE, OR ANY WARRANTY ARISING OUT OF COURSE OF DEALING, USAGE OR TRADE. SPECIFICALLY, BUT WITHOUT LIMITATION, OMNI DOES NOT WARRANT THAT: (1) THE INFORMATION PROVIDED IN, OR THAT MAY BE OBTAINED FROM USE OF, THE SERVICES WILL MEET YOUR REQUIREMENTS OR BE CORRECT, ACCURATE, UP-TO-DATE, OR RELIABLE; (2) THE SERVICES BE UNINTERRUPTED OR ERROR-FREE; (3) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION OR OTHER MATERIAL PURCHASED BY OR OBTAINED BY YOU THROUGH THE SERVICES WILL MEET

YOUR EXPECTATIONS; OR (4) ANY ERRORS IN THE TECHNOLOGY WILL BE CORRECTED. YOU ASSUME ALL RISK FOR ALL DAMAGES, INCLUDING DAMAGE TO YOUR COMPUTER SYSTEM, MOBILE DEVICE OR LOSS OF DATA THAT MAY RESULT FROM YOUR USE OF OR ACCESS TO THE SERVICE. YOU HEREBY ACKNOWLEDGE THAT USE OF THE SERVICES IS AT YOUR SOLE RISK. IF YOU ARE A CALIFORNIA RESIDENT, YOU HEREBY WAIVE CALIFORNIA CIVIL CODE SECTION 1542 WHICH PROVIDES: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

23. Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER THE INDEMNIFIED PARTIES NOR ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING, OPERATING OR DELIVERING THE OMNI SERVICES WILL BE LIABLE FOR ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE OR ANY OTHER LEGAL THEORY, WHETHER OR NOT THE INDEMNIFIED PARTIES HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE WHERE SUCH DAMAGES RESULT FROM: (i) YOUR ACCESS TO OR USE OF, OR INABILITY TO ACCESS OR USE, THE OMNI SERVICES, OR (ii) ANY PURCHASE OF A THIRD PARTY PRODUCT OR SERVICE BASED ON INFORMATION CONTAINED IN THE OMNI SERVICES, INCLUDING THE AVAILABILITY OF A COUPON. YOU SPECIFICALLY ACKNOWLEDGE THAT THE INDEMNIFIED PARTIES ARE NOT LIABLE FOR THE DEFAMATORY, OFFENSIVE OR ILLEGAL CONDUCT OF OTHER USERS OR THIRD PARTIES AND THAT THE RISK OF INJURY FROM THE FOREGOING RESTS ENTIRELY WITH YOU. FURTHER, THE INDEMNIFIED PARTIES WILL HAVE NO LIABILITY TO YOU OR TO ANY THIRD PARTY FOR ANY THIRD-PARTY CONTENT UPLOADED ONTO OR DOWNLOADED FROM THE SITE OR THROUGH THE OMNI SERVICE.

SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY IN CERTAIN CIRCUMSTANCES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED TO AND DOES ALLOCATE THE RISKS BETWEEN THE PARTIES UNDER THIS AGREEMENT. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT. THE LIMITATIONS IN THIS SECTION 21 WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

24. Dispute Resolution

PLEASE READ THE FOLLOWING SECTION CAREFULLY BECAUSE IT REQUIRES YOU TO ARBITRATE CERTAIN DISPUTES AND CLAIMS WITH US AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM US.

You agree that any dispute between you and Omni arising out of or relating to this Agreement or the Services (collectively, "**Disputes**") will be governed by the arbitration procedure outlined below.

- a) **Governing Law.** Except as otherwise required by applicable law, the Agreement and the resolution of any Disputes shall be governed by and construed in accordance with the laws of the State of Delaware without regard to its conflict of laws principles. These laws will apply no matter where in the world you live, but if you live outside of the United States, you may be entitled to the protection of the mandatory consumer protection provisions of your local consumer protection law.
- b) **Informal Dispute Resolution.** We want to address your concerns without needing a formal legal case. Before filing a claim against Omni, you agree to try to resolve the Dispute informally by contacting help@moniflow.app. We will try to resolve the Dispute informally by contacting you through email. If a dispute is not resolved within 15 days after submission, you or Omni may bring a formal proceeding.
- c) **We Both Agree To Arbitrate.** You and Omni agree to resolve any Disputes through final and binding arbitration, except as set forth under Exceptions to Agreement to Arbitrate below.
- d) **Opt-out of Agreement to Arbitrate.** You may opt out of resolving disputes by arbitration by writing to us at 524 Broadway, 11th Floor, New York, NY 10012 within 30 days of first accepting these Terms and telling us you would like to opt out of mandatory arbitration. You must include your first and last name in the letter.
- e) **Arbitration Procedures.** The American Arbitration Association (AAA) will administer the arbitration under its Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes then in effect. Arbitration will be handled by a sole arbitrator in accordance with those rules. The arbitration will be held in the United States county where you live or work, San Francisco, California, or any other location we agree to.
- f) **Arbitration Fees.** The AAA rules will govern payment of all arbitration fees. If the value of your claim does not exceed \$10,000, Omni will pay for the reasonable filing, administrative, and arbitrator fees associated with the arbitration, unless the arbitrator finds that either the substance of your claim or the relief sought was frivolous or brought for an improper purpose.
- g) **Exceptions to Agreement to Arbitrate.** Either you or Omni may assert claims, if they qualify, in small claims court in Wilmington, Delaware, or any United States county where you live or work. Either party may bring a lawsuit solely for injunctive relief to stop unauthorized use or abuse of the Omni Services, or infringement of intellectual property rights (for example, trademark, trade secret, copyright or patent rights) without first engaging in arbitration or the informal dispute-resolution process described above.
- h) **No Class Actions.** You may only resolve Disputes with Omni on an individual basis, and may not bring a claim as a plaintiff or a class member in a class, consolidated, or representative action. Class arbitrations, class actions, private attorney general actions, and consolidation with other arbitrations are not allowed under our agreement.

- i) **Judicial Forum for Disputes.** Except as otherwise required by applicable law, in the event that the agreement to arbitrate is found not to apply to you or your claim, you and Omni agree that any judicial proceeding (other than small claims actions) will be brought in the federal or state courts of New Castle County, Delaware. Both you and Omni consent to venue and personal jurisdiction there. We both agree to waive our right to a jury trial.
- j) **Limitation on Claims.** Regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to this Agreement or the Omni Services must be filed within one (1) year after such claim or cause of action arose, or else that claim or cause of action will be barred forever.

25. General

This Agreement, together with the Privacy Policy and any other agreements expressly incorporated by reference herein, constitute the entire and exclusive understanding and agreement between you and Omni regarding your use of and access to the Omni Services, and except as expressly permitted above may only be amended by a written agreement signed by authorized representatives of the parties. You may not assign or transfer this Agreement or your rights hereunder, in whole or in part, by operation of law or otherwise, without our prior written consent. We may assign this Agreement or any of our rights or obligations under this Agreement at any time without notice. The failure to require performance of any provision shall not affect our right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself. Use of paragraph headers in this Agreement is for convenience only and shall not have any impact on the interpretation of particular provisions. In the event that any part of this Agreement is held to be invalid or unenforceable, the unenforceable part shall be given effect to the greatest extent possible and the remaining parts will remain in full force and effect.

26. Survival

In the event of termination of this Agreement or the Omni Services, the terms in this Agreement that by their nature are continuing shall survive such termination, including but not limited to the indemnification and hold harmless obligations, disclaimers, and limitations of liabilities.

27. Contact Information

If you have any questions regarding Omni, the Omni Services, or this Agreement please email us at help@moniflow.app.