

Floe Terms of Service

Last Updated: 10/4/2023

PLEASE READ THESE TERMS OF SERVICE CAREFULLY BEFORE USING THIS WEBSITE OR OUR SERVICES.

The following Terms of Service (“**Terms of Service**” or “**Terms**”) constitute the agreement between you (“**you**,” the “**user**,” or the “**customer**”) and Floe Inc and its affiliates, subsidiaries or assigns (hereafter referred to as “**our**,” “**we**,” “**us**,” and/or “**Floe**”), with respect to your use of the Services described herein. By accessing or using our website, <https://floesafe.com/> (the “**Site**” or “**Website**”) using our products or services, or interacting with us otherwise (together, the “**Services**”) you signify that you have read, understand, and agree to be bound by these Terms. Please read these Terms carefully. You should print a copy of these Terms for your records. You should also revisit this page periodically to review any updates we may have made to these Terms.

ARBITRATION NOTICE: EXCEPT FOR CERTAIN TYPES OF DISPUTES DESCRIBED IN THE “ARBITRATION PROVISION AND CLASS ACTION WAIVER” SECTION BELOW, AND UNLESS YOU OPT-OUT AS SET FORTH IN THAT SAME SECTION, YOU AGREE THAT DISPUTES BETWEEN YOU AND FLOE OR OTHER PARTIES DESCRIBED HEREIN WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION AT THE ELECTION OF EITHER PARTY, AND YOU WAIVE YOUR RIGHT TO A JURY TRIAL AND YOUR RIGHT TO BRING OR RESOLVE ANY DISPUTE AS OR TO PARTICIPATE IN A CLASS, PRIVATE ATTORNEY GENERAL, REPRESENTATIVE, OR COLLECTIVE ACTION IN COURT OR IN ARBITRATION.

These Terms govern the relationship between you and Floe with respect to your use of this Website and its related Services. You agree that the agreement formed by these Terms are like any written agreement signed by you, and you agree to be bound by, and fully comply with, their terms. You represent and warrant that you have all necessary right, power and authority to enter into these Terms and Conditions and to perform and otherwise discharge all of your obligations hereunder.

We reserve the right at any time to change: (i) the terms and conditions of these Terms; (ii) this Website or the Services, including terminating, eliminating, supplementing, modifying, adding or discontinuing any content or feature or data or service on or available through this Website or the Services or the hours that they are available; (iii) any fees or charges, if any, related to the use of this Website or the Services; and (iv) the equipment, hardware or software required to use and access this Website or the Services.

Any changes we make to these Terms will be effective immediately upon posting on this Website. Be sure to return to this Website periodically to ensure you are familiar with the most current version of these Terms.

1. Your Information and Disclosure to Third Parties

Floe has made a commitment to protecting the privacy of those who use the Services. Please review our [Privacy Policy \(http://floesafe.com/privacy-policy/\)](http://floesafe.com/privacy-policy/). Our Privacy Policy is

incorporated by reference in these Terms. By using the Services, you are consenting to and agreeing to be bound by the Privacy Policy.

When you use the Services, you consent to receive communications from us electronically via the Services, email, or otherwise. You agree to provide accurate, current, and complete information about yourself when you use the Services and to update such information while you continue to use the Services.

2. Eligibility

You represent and warrant that you: (a) are above the legal age of majority in your jurisdiction of residence; (b) have not previously been suspended or removed from the Services; and (c) have full power and authority to enter into these Terms and in doing so will not violate any other agreement to which you are a party.

3. Termination

We may terminate or suspend your access to the Services, delete your account and any content or information or prohibit you from using or accessing the Services (or any portion, aspect or feature of the Services) if you violate these Terms, effective immediately, which may result in the forfeiture and destruction of all information associated with you and your activities in connection with the Services. If you wish to terminate your account, you may do so by following the instructions on the Services. We reserve the right to suspend or terminate your account without warning or without cause. In the event of termination, you will still be bound by your obligations under these Terms.

4. Services and Your Information

You represent and warrant that at all times you will: (i) provide accurate, current and complete information about yourself as prompted by our registration form or otherwise; and (ii) maintain and promptly update your information (including your e-mail address) to keep it accurate, current and complete. If you provide any information that is untrue, inaccurate, not current or incomplete, or if we have reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, we shall have the right to suspend or terminate your account and any or all privileges on this Website and to refuse any and all current or future use of this Website.

5. Use of Information and Materials (“Usage Rules”)

The information and materials contained in the Services, and these Terms, policies, and descriptions on the Services, are subject to change. You accept sole responsibility for all of your activities using the Services. Your use of the Services is limited to the intended function of the Services. Unauthorized use of the Services and systems, including but not limited to unauthorized entry into our systems or misuse of any information posted on the Services, is strictly prohibited. You may not use the Services in a manner that:

- (a) harasses, abuses, stalks, threatens, defames, or otherwise infringes or violates the rights of any party (including but not limited to rights of publicity or other proprietary rights);
- (b) is unlawful, fraudulent, or deceptive;
- (c) uses technology or other means to access or use content or systems of Floe in a manner that is not authorized by FLOE, including without limitation scraping content from the Website;
- (d) interferes with any other person's use of the Services, including, without limitation, by disrupting, spamming or otherwise using abusive tactics to deter others from using the Services or any of its features;
- (e) uses or launches any automated system, including, without limitation, "robots," "spiders," or "offline readers," to access content or systems of Floe;
- (f) attempts to introduce viruses or any other computer code, files, or programs that interrupt, destroy, or limit the functionality of any computer software, hardware, or telecommunications equipment;
- (g) encourages conduct that would constitute a criminal offense or that gives rise to civil liability;
- (h) involves posting or transmitting of any file to the Site or the Services or to any other user which contains viruses, worms, time bombs, Trojan horses or any other contaminating or destructive code;
- (i) violates these Terms or any other Floe policies;
- (j) attempts to damage, disable, overburden, or impair Floe servers or networks;
- (k) fails to comply with applicable third-party terms; or
- (l) constitutes any other inappropriate conduct, as determined by us in our sole discretion.

If you violate any of the Usage Rules above, Floe may, in its sole discretion, and without limiting any of its other remedies, terminate your ability to access and/or use the Site and/or the Services.

6. Security

We make no warranty whatsoever to you, express or implied, regarding the security of the Services, including with respect to the ability of unauthorized persons to intercept or access information transmitted by you through the Services. You acknowledge and agree that you are solely responsible for maintaining the security of your devices and passwords. We are not responsible for any losses resulting from the loss or theft of your device, the loss or theft of your information transmitted from or stored on your devices, or any losses arising from the use of your device by someone whom you have given access. You are required to notify us of any unauthorized use of the Services by using the contact information in the "**Contact Us**" section below.

7. Links to Other Websites and Services

The Services may contain links to outside services and resources, the availability and content of which we do not control. We are not responsible for examining or evaluating, and we do not warrant the offering of these services and resources or the content of these websites.

We do not assume any responsibility or liability for the actions, products, and content of these and any other websites. Any concerns regarding any such services or resources should be directed to the service or resource.

8. User Generated Content

You are solely responsible for the content and information (collectively referred to as “User Content”) that you post or upload on the Services. By submitting User Content to the Website or to us otherwise, you automatically grant us the royalty-free, perpetual, irrevocable, non-exclusive right and license, but not the obligation, to use, publish, reproduce, modify, adapt, edit, translate, create derivative works from, incorporate into other works, distribute, sub-license, and otherwise exploit such User Content (in whole or in part) worldwide in any form, media or technology now known or hereafter developed for the full term of any copyright that may exist in such User Content, without payment to you or to any third parties. With respect to any User Content that you post on this Website or otherwise submit to us, you agree that: (i) Floe and its affiliates have no obligation to you or anyone else concerning such User Content; (ii) such User Content is not confidential; (iii) Floe and its affiliates may use, disclose, distribute, or copy such User Content (including any ideas, concepts, or know-how contained in such User Content) for any purpose and without restriction or obligation to you or to anyone else during the term of the Terms and afterwards; and (iv) such User Content is truthful and do not violate the legal rights of others.

User Content uploaded or otherwise communicated on the Services shall comply with all applicable law and regulations, which you are responsible for knowing and understanding. You are prohibited from posting or otherwise communicating to us, or any other user of the Services any offensive, inaccurate, abusive, obscene, profane, threatening, intimidating, harassing, racially offensive, or illegal material, or any material that infringes or violates another person’s rights (including intellectual property rights, and rights of privacy and publicity).

You understand and agree that we, without any obligation to do so, may monitor or review any User Content you post, upload or otherwise communicate through the Services or social media. We reserve the right to remove any such User Content, in whole or in part, at our sole discretion, that violates these Terms, is likely to harm our reputation, is deemed inappropriate or otherwise poses a risk of harm to any other person. We reserve the right to terminate Your Account or your access to or ability to participate in the Services at any time and for any reason.

You agree that we may access, preserve and disclose your account and any User Content posted, uploaded, received or otherwise communicated if required to do so by law or with the good faith belief that such access, preservation or disclosure is reasonably necessary to: (i) comply with an enforceable subpoena or other legal process; (ii) enforce these Terms; (iii) respond to claims that any information violates the rights of third parties; (iv) respond to your requests for customer service or allow you to use the Services in the future; or (v) protect the rights, property or personal safety of Floe or its members, employees, agents, affiliates, partners, communities or any other person. Floe is under no obligation to edit, delete or otherwise validate User Content once it has been submitted to us.

9. Intellectual Property

The Services, the content, any materials or information downloaded, and all intellectual property pertaining to or contained on the Services (including but not limited to copyrights, patents, database rights, graphics, designs, text, logos, trade dress, trademarks, and service marks) are owned by Floe or third parties; all rights, title, and interest will remain the property of Floe and/or such third-party owner, as applicable. All content is protected by trade dress, copyright, patent, and trademark laws, as well as various other intellectual property and unfair competition laws.

You are authorized to view and retain a copy of pages of the Services only for your own personal, non-commercial use. You may also view and make copies of relevant documents, pages, images, or other materials on the Services for the purpose of transacting business with us. You may not tokenize copies of the pages of the Services or any other content on the Services. You agree that you will not duplicate, publish, modify, create derivative works from, participate in the transfer of, or in any way distribute or exploit the Services, or any portion of the Services, for any public or commercial use, without our prior express written consent. Additionally, you agree that you: (a) will not remove or alter any author, trademark, other proprietary notice, or legend displayed on the Services (or printed pages produced from the Services), and (b) will not make any other modifications to any documents obtained from the Services other than in connection with completing information required to transact business with Floe.

The views and opinions contained in opinion pieces and other works on the Site (“**Content**”) represent the views and opinions of the authors and do not necessarily represent the views or opinions of Floe. The appearance of the Content on the Site does not constitute an endorsement by Floe of the Content.

10. Authorization to Record

By using the Services, you agree that Floe may capture still, video and sound recordings at and in connection with the Services (collectively, the “**Recordings**”). You grant to Floe and its affiliates, successors and assigns the perpetual, worldwide right to use, publish, exploit, display, distribute, edit, add to, modify and alter the Recordings in any manner and in any medium,

whether now known or hereafter developed, as Floe desires, without notification or compensation to, or approval by, you. You waive any and all rights, claims and/or interest, if any, which you now have or might later acquire with respect to the Recordings. All Recordings shall be the property of Floe and all right, title, interest and ownership, including but not limited to copyrights, trademarks, patents, trade secret rights, trade names, and know-how and the rights to secure any renewals, reissues, and extensions thereof, will vest in Floe.

11. Indemnification

You will defend, indemnify, and hold Floe, each third-party service provider, their respective affiliates, subsidiaries, and parent companies, and their respective officers, directors, employees, agents, information providers, and partners (collectively, the “**Protected Parties**”) harmless from and against any actual or threatened suit, actions, proceedings (at law or in equity), claims, damages, payments, deficiencies, fines, judgments, settlements, liabilities, losses, costs, and expenses (including reasonable attorneys’ fees, costs, penalties, interest, and disbursements) arising from or related to (a) your conduct with respect to the Services and/or (b) violation (or alleged violation) of these Terms by your or any other person accessing the Site or Services using your Account . Under no circumstance will Floe be liable for damages of any kind that result from your use of, or the inability to use, the Services.

12. WAIVER, RELEASE AND LIMITATION OF LIABILITY

While our Services are designed to reduce the occurrence, risk, and damage of ice dams, you acknowledge that no solution is guaranteed and that risks may still persist. You acknowledge that such risks may include snow and ice accumulating on roofs, snow and ice falling from roofs, snow and ice melt dripping and forming ice on surfaces below the roof, snow and ice dam build up under certain circumstances, and other unpredictable risks. In consideration for the Services being offered at the price you pay, you hereby release and hold harmless the Protected Parties with respect to any and all injury, disability, death, or loss or damage to person or property, whether caused by negligence or otherwise, and whether caused by Floe, the Services, or third parties.

YOU AGREE THAT NONE OF THE PROTECTED PARTIES SHALL HAVE ANY LIABILITY TO YOU UNDER ANY THEORY OF LIABILITY OR INDEMNITY IN CONNECTION WITH YOUR USE OF THE SITE AND/OR SERVICE. YOU HEREBY RELEASE AND FOREVER WAIVE ANY AND ALL CLAIMS YOU MAY HAVE AGAINST THE PROTECTED PARTIES (INCLUDING BUT NOT LIMITED TO CLAIMS BASED UPON THE NEGLIGENCE OF ANY OF THE PROTECTED PARTIES) FOR LOSSES OR DAMAGES YOU SUSTAIN IN CONNECTION WITH YOUR USE OF THE SITE AND/OR SERVICE.

NOTWITHSTANDING THE FOREGOING PARAGRAPH AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE TOTAL LIABILITY OF THE PROTECTED PARTIES, FOR ANY CLAIM, COST, DAMAGE, OR LOSS ARISING OUT OF OR RELATING TO THE SERVICES, INCLUDING FOR ANY WARRANTIES THAT MAY

NOT BE EXCLUDED, SHALL NOT EXCEED THE LESSER OF THE AMOUNT YOU PAID TO US DURING THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO THE LIABILITY OR \$10.00 (TEN DOLLARS) (USD) (THE “**LIABILITY CAP**”). FLOE AND YOU AGREE THAT THE LIABILITY CAP SHALL INCLUDE ALL FORMS OF DAMAGES.

Some jurisdictions do not allow the exclusion or limitation of liability for certain types of damages. In such jurisdictions, our liability is limited to the greatest extent permitted by law.

13. Disclaimers

THE SERVICES ARE PROVIDED TO YOU ON AN “AS-IS” AND “AS-AVAILABLE” BASIS WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. FLOE MAKES NO WARRANTY THAT (A) THE SERVICES WILL MEET YOUR REQUIREMENTS, (B) THAT OPERATION OF THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, OR (C) THE CONTENT THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE. FLOE UNDERTAKES NO OBLIGATION TO UPDATE THE SERVICES. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US, OR THROUGH THE SERVICES SHALL CREATE ANY WARRANTY REGARDING THE SERVICES NOT EXPRESSLY STATED IN THESE TERMS. YOU UNDERSTAND AND ACKNOWLEDGE THAT ADDITIONAL DISCLAIMERS, LIMITATIONS, AND NOTICES REGARDING THE SERVICES AND ITS CONTENT AND DATA MAY BE PROVIDED BY FLOE FROM TIME TO TIME WITHIN THE SERVICES.

WE DO NOT WARRANT THAT THE SERVICES WILL OPERATE ERROR-FREE OR THAT THE SERVICES AND ITS SERVERS ARE FREE OF COMPUTER VIRUSES OR OTHER HARMFUL CONTENT. IF YOUR USE OF THE SERVICES, THE MATERIAL, OR THE SOFTWARE RESULTS IN THE NEED FOR SERVICING OR REPLACING EQUIPMENT OR DATA, WE ARE NOT RESPONSIBLE FOR THOSE COSTS.

NOTHING IN THE SERVICES SHALL BE CONSTRUED AS LEGAL, FINANCIAL, OR OTHER ADVICE, AND YOU ARE SOLELY RESPONSIBLE FOR MAKING ALL DECISIONS TO COMPLY WITH ALL APPLICABLE LAWS, REGULATIONS, CODES, OR STANDARDS.

14. Changes

You are responsible for reviewing these Terms regularly. Floe reserves the right, at any time, without notice to you, and in its sole discretion, to modify or discontinue the Services, these Terms, or any Floe policies related to use of the Services. Revisions to these Terms or our policies may be provided through the Services, including by posting the revisions on the Services and updating the “Last Updated” date. Such revisions will go into immediate effect once posted to the Services. Continued use of the Services following such modifications to the Services, these Terms, additional terms and conditions for any service, or other Floe policies will constitute your acceptance of such modifications and revisions.

15. System Outages, Slowdowns, and Capacity Limitations

At times you may experience difficulty accessing the Services or communicating with Floe through the Internet, or other electronic wireless services, as a result of high Internet traffic, transmission problems, systems capacity limitations, or other problems. Any computer system or other electronic device, whether it is yours, ours, or an Internet service provider’s, can experience unanticipated outages or slowdowns or have capacity limitations. Floe is not responsible for failure or delay of performance caused by such problems.

16. Severability/No Waiver

If any provision of these Terms shall be deemed unlawful, void, or unenforceable for any reason, then such provision shall be deemed severable from these Terms and shall not affect the validity and enforceability of any remaining provisions.

Our failure to enforce the strict performance of any provision of these Terms or the additional terms and conditions for any product or service will not constitute a waiver of our right to subsequently enforce such provision or any other provisions of these Terms or the additional terms and conditions.

17. Arbitration Provision and Class Action Waiver

THIS ARBITRATION PROVISION AFFECTS YOUR RIGHTS; PLEASE READ CAREFULLY BEFORE AGREEING TO THESE TERMS OF SERVICE.

Agreement to Arbitrate. Except as otherwise explicitly provided in this Arbitration Provision, Floe, together with its parent companies, wholly or majority-owned subsidiaries, affiliates, commonly-owned companies, successors, assigns, and any of these entities’ employees, officers, directors, and agents and their successors, assigns, affiliates, and service providers (collectively, the “Transaction Parties”) and you can elect to resolve any past, present, or future dispute or claim (“Dispute”) arising from or relating in any way to (i) the use of the Services, (ii) these Terms of Service, or (iii) the relationship between you and any Transaction Party in connection with any of the foregoing that cannot be resolved directly between you and a Transaction Party, by binding arbitration under the Consumer Arbitration Rules (“the Consumer Rules”) of the American Arbitration Association (“AAA”), rather than in court. (Solely for purposes of this Arbitration Provision, the term Transaction Parties also includes any third party providing any goods and/or services in connection with the use of the Website or any of the foregoing on behalf

of a Transaction Party, if that third party is named as a defendant along with a Transaction Party in the same proceeding or a related proceeding.)

“Dispute” Defined. Except as otherwise explicitly provided in this Arbitration Provision, “Dispute” broadly includes, without limitation: any claims based in contract, statute, constitution, ordinance, tort, fraud, consumer rights, misrepresentation, equity, or any other legal theory; initial claims, counterclaims, cross-claims, and third-party claims; federal, state, and local claims; and claims which arose before the date of your use of the Services, including, but not limited to, any dispute or claim arising before the date you accessed the Website or agreed to these Terms of Service and any dispute or claim relating to (by way of example and not limitation): (i) the use, denial, or termination of the Services and/or the events leading up thereto; (ii) any disclosure, advertisement, application, solicitation, promotion, or oral or written statement, warranty, or representation made by or on behalf of a Transaction Party; (iii) any product or service provided by or through a Transaction Party or third parties in connection with the use of the Services or the relationship between you and a Transaction Party and any associated fees; (iv) a Transaction Party’s use or failure to protect any personal information you give a Transaction Party in connection with the use of the Services or your relationship with the Transaction Party; (v) enforcement of any and all of the obligations a party may have to another party in connection with the use of the Services or agreement governing the same; or (viii) compliance with applicable laws and/or regulations.

Exceptions to “Dispute.” Notwithstanding any of the foregoing: (i) disputes or controversies about the validity, enforceability, coverage, or scope of this Arbitration Provision or any part thereof are for a court and not an arbitrator to decide; however, disputes or controversies about these Terms of Service or your agreements governing the use of the Services or with Transaction Parties as a whole are for an arbitrator and not a court to decide; (ii) any Disputes seeking to enforce or protect, or concerning the validity of intellectual property rights, will not be subject to binding arbitration under this Arbitration Provision; and (iii) any party may proceed with their individual claims in small claims court (or an equivalent court) if that option is available in the applicable jurisdiction and the amount in controversy falls within the small claims court’s (or the equivalent court’s) jurisdictional limits; but if that action is transferred, removed, or appealed to a different court, arbitration can be elected. Moreover, this Arbitration Provision will not apply to any Dispute that was already pending in court before this Arbitration Provision took effect.

Governing Law. The Federal Arbitration Act (“FAA”), 9 U.S.C. 1 et seq., and federal arbitration law apply to this Arbitration Provision. There is no judge or jury in arbitration and court review of an arbitration award is limited, but an arbitrator can award an individual the same damages and relief as a court in an individual case and must apply and follow applicable substantive law, consistent with the FAA, and the terms of these Terms of Service and any agreement governing the use of the Website. The arbitrator shall apply applicable statutes of limitations and honor privilege rules. Any judgment on the award rendered by the arbitrator will be final, subject to any appeal rights under the FAA, and may be entered in any court of competent jurisdiction. No arbitration award involving the parties will have any preclusive effect as to issues or claims in any dispute involving anyone who is not a party to the arbitration, nor will an arbitration award in prior disputes involving other parties have preclusive effect in an arbitration between the parties to this Arbitration Provision.

JURY TRIAL WAIVER. YOU UNDERSTAND THAT ABSENT YOUR CONSENT TO ARBITRATION, YOU WOULD HAVE THE RIGHT TO SUE IN COURT AND HAVE A TRIAL BY JURY.

Arbitration Procedures. Either you or a Transaction Party can initiate arbitration through the AAA or by filing a motion to compel arbitration of claims filed in court. Regardless of who elected arbitration or how arbitration was elected, the party asserting the claim (i.e., the party seeking money damages or other relief from a court or an arbitrator) is responsible for starting the arbitration proceeding. If the AAA cannot serve and we cannot agree on a substitute, a court with jurisdiction shall select the arbitrator, who will apply the AAA rules and the procedures specified in this Arbitration Provision. Any arbitrator must be a practicing attorney with ten or more years of experience practicing law or a retired judge. Any arbitration will be governed by the then-current Consumer Rules, and its Procedures for the Resolution of Disputes through Document Submission (“Document Submission Procedures”). For more information about the AAA and its rules, you may contact the AAA at American Arbitration Association, 120 Broadway, Floor 21, New York, N.Y. 10271, 1-800-778-7879, www.adr.org. The Document Submission Procedures are included in the Consumer Rules. The parties shall pay filing, administrative and arbitrator fees in accordance with the Consumer Rules. If you cannot afford to pay your share of the fees and cannot obtain a waiver from the AAA, you can make a written good faith request for a Transaction Party to pay or advance such fees. Each party will bear the expense of its own attorneys, experts and witnesses, regardless of which party prevails, unless applicable law, these Terms of Service or an applicable agreement gives a party the right to recover such expenses from the other party. If the arbitrator determines that any party’s claim or defense is frivolous or wrongfully intended to oppress or harass the other party, the arbitrator may award sanctions in the form of fees and expenses reasonably incurred by the other party if such sanctions could be imposed under Rule 11 of the Federal Rules of Civil Procedure. The arbitration will be conducted by a single arbitrator solely based on written submissions and will not require any personal appearance by the parties or witnesses unless the arbitrator determines that a telephonic or in-person conference or hearing is necessary based on the request of one or more of the parties. If an in-person hearing is necessary, it will be held in the federal judicial district in which you reside or at another location that is reasonably convenient to all parties.

CLASS ACTION WAIVER. You and the Transaction Parties each agree that if arbitration of a Dispute is elected, the Dispute will be resolved in arbitration (not in court) only on an individual basis and not as a class, collective or other representative action. To the fullest extent permitted under the FAA: (a) no arbitration will be joined or consolidated with any other unless all parties otherwise agree in writing; (b) there is no right or authority for any Dispute to be arbitrated on a class-action, collective action or private attorney general basis or to utilize class action procedures; and (c) there is no right or authority for any Dispute to be brought in a purported representative capacity on behalf of the general public or any other persons. No arbitrator shall have the authority to issue any relief that applies to any person or entity other than Transaction Parties and/or you individually.

Miscellaneous; Conflicts. Even if all parties have opted to litigate a Dispute in court, a party may elect arbitration with respect to any claim made by a new party or any claim later asserted by a party in that or any related or unrelated lawsuit (including a claim initially asserted on an individual basis but modified to be asserted on a class, representative, or multi-party basis).

Nothing in that litigation shall constitute a waiver of any rights under this Arbitration Provision. If any portion of this Arbitration Provision is inconsistent with the Consumer Rules, with these Terms of Service, or your agreements governing the use of the Services, or with an arbitration provision in any agreement with a Transaction Party, this Arbitration Provision shall govern.

Survival; Severance. This Arbitration Provision shall survive termination of the Website or these Terms of Service or of any agreement into which you enter with a Transaction Party; and, further, you understand and agree that this Arbitration Provision applies not only to these Terms of Service but also to any subsequent agreement (including without limitation any agreement governing the use of Website or Services) into which you enter with a Transaction Party. If any portion of this Arbitration Provision is deemed invalid or unenforceable, it shall not invalidate the remaining portions of this Arbitration Provision, except that: (a) if the Class Action Waiver is limited, voided or found unenforceable with respect to a Dispute that does not seek public injunctive relief and that determination becomes final after all appeals have been exhausted, then this Arbitration Provision (except for this sentence) shall be null and void with respect to such proceeding. The parties acknowledge and agree that under no circumstances will a class action be arbitrated; and (b) if a claim is brought seeking public injunctive relief and a court determines that the restrictions in the Class Action Waiver or elsewhere in this Arbitration Provision prohibiting the arbitrator from awarding relief on behalf of third parties are unenforceable with respect to such claim and that determination becomes final after all appeals have been exhausted, the claim for public injunctive relief will be determined in court and any individual claims seeking monetary relief will be arbitrated. In such a case the parties will request that the court stay the claim for public injunctive relief until the arbitration award pertaining to individual relief has been entered in court. In no event will a claim for public injunctive relief be arbitrated.

RIGHT TO OPT OUT: If you do not want this Arbitration Provision to apply, you must send us a signed notice within thirty (30) calendar days of the date on which you electronically submit an application for a product or service offered by a Transaction Party through the Website or Services. You must send the notice in writing (and not electronically) to info@floesafe.com. You must provide your name, address, telephone number, and state that you “opt out” of the Arbitration Provision. Opting out will not affect the other provisions of these Terms of Service or any other agreement governing Website or with a Transaction Party. If you do not opt out, you will be bound by this Arbitration Provision in these Terms of Service and any other agreement governing a Service or with a Transaction Party. Please note that if you enter an agreement with a Transaction Party that contains a different arbitration provision with a right to opt out, opting out of this Arbitration Provision is not a rejection of the arbitration provision in the other agreement. You will need to separately opt out of the arbitration provision in the other agreement if you do not want it to apply.

18. Miscellaneous

These Terms constitute the entire agreement of the parties with respect to the subject matter hereof and supersede all previous written or oral agreements between the parties with respect to such subject matter.

No waiver by either party of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default.

The section headings used herein are for convenience only and shall not be given any legal import.

Anything not covered by the Arbitration Provision shall be governed by and construed in accordance with the laws of the State of Delaware (without regard to provisions relating to conflicts of law), except as to copyright and trademark matters, which are covered by American federal laws. You agree that any legal action or proceeding between Floe and you for any purpose concerning these Terms or the parties' obligations hereunder shall be resolved individually, without resort to any form of class action, exclusively in the United States District Court for the District of Delaware, or, if there is not subject matter jurisdiction, in the courts of the State of Delaware, and you agree to submit to the jurisdiction of these courts. You waive any venue, personal jurisdiction, and inconvenient forum objections or defenses to such courts.

Floe may assign its rights and duties under these Terms to any party at any time without notice to you.

If any provision of these Terms is held to be invalid or unenforceable, the remaining provisions will continue in full force.

19. Contact Us

If you have any questions regarding the Services or these Terms, please feel free to send us an email at info@floesafe.com.