

# Terms & Conditions

Effective Date: September 1st, 2021

## INTRODUCTION

Please read these Terms carefully before using our websites, any online services ("spicyanime.com" or the "Service"), software or apps provided by Spicy Anime ("SA", "we", or "us" or "our"). By accessing or otherwise using the Service in any manner, you agree to the then posted Terms and any applicable Additional Terms, to be bound by them, and that you have read and understood them. You also acknowledge, agree and consent to our data practices as described in our [Privacy Policy](#) and any Children's Privacy Policy posted on the applicable portion of the Service.

These Terms affect your legal rights, responsibilities and obligations and govern your use of the Service, are legally binding, limit Spicy Anime's liability to you and require you to indemnify us and to settle certain disputes through arbitration. If you do not wish to be bound by these Terms and any Additional Terms, do not use the Service and uninstall Service downloads and applications.

## ADDITIONAL TERMS

In some instances, additional or different terms, posted on the Service, apply to your use of certain parts of the Service (individually and collectively "Additional Terms"). To the extent there is a conflict between these Terms and any Additional Terms, these Terms will control unless the Additional Terms expressly state otherwise. Please see the [Terms of Sale](#) for information governing your commission of artwork to be created by Spicy Anime or your purchase of merchandise from Spicy Anime.

## UPDATES TO THESE TERMS AND ADDITIONAL TERMS

We may prospectively change these Terms and Additional Terms by posting new or changed terms on the Service as more fully explained [here](#).

## QUICK LINKS

We have summarized some (but not all) of the main topics of these Terms below. The complete provisions, and not the headings or summaries govern.

## GRANTS AND LIMITATIONS OF RIGHTS

We only grant you a limited revocable license to use the Service subject to rules and limitations. [More](#)

You grant us a broad license to the content you submit and to your profile. You retain ownership of and responsibility for your content.

We have the right to manage our Service to keep its content appropriate. [More](#)

# Terms & Conditions

Your use of our Service is subject to various restrictions designed to protect the Service and users.

[More](#)

## LIMITATIONS ON YOUR REMEDIES

We disclaim most warranties and provide the Service "As Is". [More](#)

Our liability is greatly limited. [More](#)

You waive equitable or injunctive relief. [More](#)

## DISPUTE RESOLUTION

As permitted by law, you agree to arbitrate disputes and waive class actions or class arbitrations or other class wide proceedings. [More](#)

## AVAILABILITY OF SERVICE

We may change or discontinue our Service, or your right to access it, in whole or in part. [More](#)

Our Service is intended for access from and use in the U.S.A. [More](#)

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## 1. OWNERSHIP AND YOUR RIGHTS TO USE THE SERVICE AND CONTENT.

**A. Ownership.** The Service and all of its content ("Content"), including all copyrights, patents, trademarks, service marks, trade names and all other intellectual property rights therein ("Intellectual Property"), are owned or controlled by Spicy Anime, our licensors, and certain other third parties. All right, title, and interest in and to the Content and Intellectual Property available via the Service is the property of Spicy Anime, our licensors or certain other third parties, and is protected by U.S. and international copyright, trademark, trade dress, patent and/or other intellectual property and unfair competition rights and laws to the fullest extent possible. Spicy Anime owns the copyright in the selection, compilation, assembly, arrangement, and enhancement of the Content on the Service.

### **B. Your Rights to Use the Service and Content.**

i. Your right to use the Service and content is subject to your strict compliance with these Terms and the Additional Terms. Your right to access and use the Service and the Intellectual Property shall automatically terminate upon any violations. These rights are non-exclusive, limited, and revocable by us at any time in our sole discretion without advance notice or liability. As your right to access and use the Service and the content is personal to you, you may not assign nor transfer your right; any attempt to do so is void. You may, for your personal, non-commercial, lawful use only (collectively, the following are the "Spicy Anime Licensed Elements"):

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1. Display, view, use, and play the content on a computer, mobile or other internet enabled or permitted device ("Device") and/or print one copy of the content (excluding source and object code in raw form or otherwise) as it is displayed to you;
2. Stream the content using any of the widgets and/or other digital streaming internet video players, if any, provided on the Service (any such widget or other digital streaming Internet video player referred to as a "Service Widget");
3. Cut and paste certain code expressly made available to you through the Service (whether such functionality is designated as "sharing" functionality or not) in order to embed, re-publish, maintain, and/or display the specific content to which such code relates on your own personal, customized social networking Web page(s), Web blog(s), or microblog(s) (collectively, your "Personal Social Media"), and/or, if the Service provides "widget grabbing and embedding" functionality, to "grab" a Service Widget and embed, re-publish, maintain, and/or display such Service Widget on your Personal Social Media;
4. Cut and paste certain code expressly made available to you through the Service, and/or if the Service provides "widget grabbing and embedding" functionality, to "grab" a Service Widget, to forward, as applicable, such code and/or Service Widget to your friends, so that they can view the Service content contained therein, and/or if, they so desire, so that they themselves may embed the forwarded piece of code or Service Widget on their own Personal Social Media or re-forward it to their own friends;
5. If the Service includes a "Send to Friend" or similar tool that allows you to initiate and send to one of your friends an email communication that includes content, and the tool is operational, use the tool to request that the Service's servers convey your message to your friend on your behalf;
6. If the Service includes a "Download" link next to a piece of content (including, without limitation, an image, an icon, a wallpaper, a music track, a video, a trailer, an RSS feed), you may only download a single copy of such content to a single Device;
7. Download, install and use one copy of any software, including apps, that we make available on or through the Service ("Software") on your Device in machine-executable object code form only and make one additional copy for back-up purposes; provided, however, that you understand and agree that (i) by allowing you to download the Software, Spicy Anime does not transfer title to the Software to you (i.e., you own the medium on which the Software is recorded, but the Software's owner (which may be Spicy Anime and/or its third party Software licensor) will retain full and complete title to such Software); (ii) you may not copy, modify, adapt, translate into any language, distribute, or create derivative works based on the Software without the prior written consent of Spicy Anime; (iii) you

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may not assign, rent, lease, or lend the Software to any person or entity and any attempt by you to sublicense, transfer, or assign the Software will be void and of no effect; and (iv) you may not decompile, disassemble, reverse engineer, or attempt to reconstruct, identify, or discover any source code, underlying ideas, underlying user interface techniques, or algorithms of the Software by any means whatsoever, except to the extent the foregoing restriction is prohibited by applicable law;

8. If made available to you, obtain a registered personal account (and/or related username and password) on the Service and interact with other Service users as part of Service-based chat rooms, message boards, social media networks, online multiplayer games and/or other activities or similar services offered on the Service;

9. Link to the Service from a website or other online service, so long as: (a) the links only incorporate text, and do not use any Intellectual Property, (b) the links and the content on your website do not suggest any affiliation with Spicy Anime or cause any other confusion, and (c) the links and the content on your website do not portray Spicy Anime or its products or services in a false, misleading, derogatory, or otherwise offensive manner, and do not contain content that is unlawful, offensive, obscene, lewd, lascivious, filthy, violent, threatening, harassing, or abusive, or that violate any right of any third party or are otherwise objectionable to Spicy Anime. Spicy Anime reserves the right to suspend or prohibit linking to the Service for any reason, in its sole discretion, without advance notice or any liability of any kind to you or any third party; and

10. Use any other functionality expressly provided by Spicy Anime on or through the Service for use by users, subject to these Terms (including, without limitation, functionality to create and/or User-Generated Content (as defined below)) and any applicable Additional Terms.

**C. Rights of Others.** In using the Service, you must respect the intellectual property and rights of others and Spicy Anime. Your unauthorized use of content may violate the rights of others and applicable laws, and may result in your civil and criminal liability. If you believe that your work has been infringed via the Service, see Section 5 below.

**D. Reservation of all Rights Not Granted as to Content and Service.** These Terms and any applicable Additional Terms include only narrow, limited grants of rights to use and access the Service and content. No right or license may be construed, under any legal theory, by implication, estoppel, industry custom, or otherwise. ALL RIGHTS NOT EXPRESSLY GRANTED TO YOU ARE RESERVED BY Spicy Anime AND ITS LICENSORS AND OTHER THIRD PARTIES. Any unauthorized use of any content or the Service for any purpose is prohibited.

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## 2. CONTENT YOU SUBMIT

### A. User-Generated Content.

**i. General.** Spicy Anime may now, or in the future, offer users of the Service the opportunity to create, build, post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available on or submit through the Service, or on or in response to our pages or posts on any third party platforms or in connection with any of our promotions by any media or manner, or otherwise submit to us (e.g., on our Facebook or other social media pages, in response to our tweets, through a sweepstakes or contest, or by mail) (collectively, "submit") messages, text, illustrations, files, images, graphics, photos, comments, responses, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, personally identifiable information, or other information or materials and the ideas contained therein (collectively, but excluding Spicy Anime Licensed Elements included therein, "User-Generated Content" or "UGC"). You may submit UGC through your profile, forums, blogs, message boards, social networking environments, content creation tools, gameplay, social communities, contact us tools, email, and other communications functionality. Except to the extent of the rights and license you grant in these Terms and, subject to any applicable Additional Terms, you are responsible for and retain whatever legally cognizable right, title, and interest that you have in your UGC.

**ii. Non-Confidentiality of Your User-Generated Content.** Except as otherwise described in the Service's posted [Privacy Policy](#), or any applicable Additional Terms, you agree that (a) your UGC will be treated as non-confidential and non-proprietary by us – regardless of whether you mark them "confidential," "proprietary," or the like – and will not be returned, and (b) to the maximum extent not prohibited by applicable law, Spicy Anime does not assume any obligation of any kind to you or any third party with respect to your UGC. Upon request, you will provide documentation necessary to authenticate rights to such content and verify your compliance with these Terms or any applicable Additional Terms. You acknowledge that the Internet and mobile communications may be insecure and subject to breaches of security; according, you acknowledge and agree that your UGC is submitted at your own risk.

In your communications with Spicy Anime, please keep in mind that we do not seek any unsolicited ideas or materials for products or services, or even suggested improvements to products or services, including, without limitation, ideas, concepts, inventions, or designs for music, websites, apps, books, scripts, screenplays, motion pictures, television shows, theatrical productions, software or otherwise (collectively, "Unsolicited Ideas and Materials"). Any Unsolicited Ideas and Materials you submit are deemed UGC and licensed to us as set forth below. In addition, Spicy Anime retains all of the rights held by members of the general public with regard to your Unsolicited Ideas and Materials. Spicy Anime's receipt of your Unsolicited Ideas and Materials is not an admission by Spicy Anime of their novelty, priority, or originality, and it does not impair Spicy Anime's right to contest existing or future intellectual property rights relating to your Unsolicited Ideas and Materials.

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**iii. License to Spicy Anime of Your UGC.** Except as otherwise described in any applicable Additional Terms (such as a promotion's official rules), which specifically govern the submission of your UGC, you hereby grant Spicy Anime, the non-exclusive, unrestricted, unconditional, unlimited, worldwide, irrevocable, perpetual, and cost-free right and license to use, copy, record, distribute, reproduce, disclose, sell, re-sell, sublicense (through multiple levels), display, publicly perform, transmit, publish, broadcast, translate, make derivative works of, and otherwise use and exploit in any manner whatsoever, all or any portion of your UGC (and derivative works thereof), for any purpose whatsoever in all formats, on or through any means or medium now known or hereafter developed, and with any technology or devices now known or hereafter developed, and to advertise, market, and promote the same. Without limitation, the granted rights include the right to: (a) configure, host, index, cache, archive, store, digitize, compress, optimize, modify, reformat, edit, adapt, publish in searchable format, and remove such UGC and combine same with other materials, and (b) use any ideas, concepts, know-how, or techniques contained in any UGC for any purposes whatsoever, including developing, producing, and marketing products and/or services. You understand that in exercising such rights metadata, notices and content may be removed or altered, including copyright management information, and you consent thereto and represent and warrant you have all necessary authority to do so. In order to further effect the rights and license that you grant to Spicy Anime to your UGC, you also hereby grant to Spicy Anime, and agree to grant to Spicy Anime, the unconditional, perpetual, irrevocable right to use and exploit your name, persona, and likeness in connection with any UGC, without any obligation or remuneration to you. Except as prohibited by law, you hereby waive, and you agree to waive, any moral rights (including attribution and integrity) that you may have in any UGC, even if it is altered or changed in a manner not agreeable to you. To the extent not waivable, you irrevocably agree not to exercise such rights (if any) in a manner that interferes with any exercise of the granted rights. You understand that you will not receive any fees, sums, consideration, or remuneration for any of the rights granted in this Section 2.A(iii).

**iv. Spicy Anime's Exclusive Right to Manage Our Service.** Spicy Anime may, but will not have any obligation to, review, monitor, display, post, store, maintain, accept, or otherwise make use of, any of your UGC, and Spicy Anime may, in its sole discretion, reject, delete, move, re-format, remove or refuse to post or otherwise make use of UGC without notice or any liability to you or any third party in connection with our operation of UGC venues in an appropriate manner. Without limitation, we may do so to address content that comes to our attention that we believe is offensive, obscene, lewd, lascivious, filthy, violent, harassing, threatening, abusive, illegal or otherwise objectionable or inappropriate, or to enforce the rights of third parties or these Terms or any applicable Additional Terms. Such UGC submitted by you or others need not be maintained on the Service by us for any period of time, and you will not have the right, once submitted, to access, archive, maintain, change, remove, or otherwise use such UGC on the Service or elsewhere, except that California minors have certain rights to have certain content about them that they have themselves posted on the Service prospectively removed from public display as provided for in the [Privacy Policy](#).

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**v. Representations and Warranties Related to Your UGC.** Each time you submit any UGC, you represent and warrant that you are at least the age of majority in the jurisdiction in which you reside and are the parent or legal guardian, or have all proper consents from the parent or legal guardian, of any minor who is depicted in or contributed to any UGC you submit, and that, as to that UGC, (a) you are the sole author and owner of the intellectual property and other rights to the UGC, or you have a lawful right to submit the UGC and grant Spicy Anime the rights to it that you are granting by these Terms and any applicable Additional Terms, all without any Spicy Anime obligation to obtain consent of any third party and without creating any obligation or liability of Spicy Anime; (b) the UGC is accurate; (c) the UGC does not and, as to Spicy Anime's permitted uses and exploitation set forth in these Terms, will not infringe any intellectual property or other right of any third party; and (d) the UGC will not violate these Terms or any applicable Additional Terms, or cause injury or harm to any person.

**vi. Enforcement.** Spicy Anime has no obligation to monitor or enforce your intellectual property rights to your UGC, but you grant us the right to protect and enforce our rights to your UGC, including initiating actions in your name and on your behalf (at Spicy Anime's cost and expense, to which you hereby consent and irrevocably appoint Spicy Anime as your attorney-in-fact, with the power of substitution and delegation, which appointment is coupled with an interest).

**B. Appropriate content and Alerting Us of Violations.** We expect UGC to be appropriate for a general audience, but do not undertake to monitor it, and you consent to potentially encountering content you find offensive or inappropriate. For alleged infringements of intellectual property rights, see [Section 5](#).

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## 3. RESTRICTIONS ON THE USE OF THE SERVICE AND CONTENT

**A. Service Use Restrictions.** You agree that you will not: (i) use the Service for any political or commercial purpose (including, without limitation, for purposes of advertising, soliciting funds, collecting product prices, and selling products); (ii) use any meta tags or any other "hidden text" utilizing any Intellectual Property; (iii) engage in any activities through or in connection with the Service that seek to attempt to or do harm any individuals or entities or are unlawful, offensive, obscene, lewd, lascivious, filthy, violent, threatening, harassing, or abusive, or that violate any right of any third party, or are otherwise objectionable to Spicy Anime; (iv) to the maximum extent not prohibited by applicable law, decompile, disassemble, reverse engineer, or attempt to reconstruct, identify, or discover any source code, underlying ideas, underlying user interface techniques, or algorithms of the Service by any means whatsoever or modify any Service source or object code or any Software or other products, services, or processes accessible through any portion of the Service; (v) engage in any activity that interferes with a user's access to the Service or the proper operation of the Service, or otherwise causes harm to the Service, Spicy Anime, or other users of the Service; (vi) interfere with or circumvent any security feature (including any digital rights management



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mechanism, device or other content protection or access control measure) of the Service or any feature that restricts or enforces limitations on use of or access to the Service, the content, or the UGC; (vii) harvest or otherwise collect or store any information (including personally identifiable information about other users of the Service, including email addresses, without the express consent of such users); (viii) attempt to gain unauthorized access to the Service, other computer systems or networks connected to the Service, through password mining or any other means; or (ix) otherwise violate these Terms or any applicable Additional Terms.

**B. Content Use Restrictions.** You also agree that, in using the Service, you: (i) will not monitor, gather, copy, or distribute the content (except as may be a result of standard search engine activity or use of a standard browser) on the Service by using any robot, rover, “bot”, spider, scraper, crawler, spyware, engine, device, software, extraction tool, or any other automatic device, utility, or manual process of any kind; (ii) will not frame or utilize framing techniques to enclose any such content (including any images, text, or page layout); (iii) will keep intact all trademark, copyright, and other intellectual property notices contained in such content; (iv) will not use such content in a manner that suggests an unauthorized association with any of our or our licensors’ products, services, or brands; (v) will not make any modifications to such content (other than to the extent of your specifically permitted use of the Spicy Anime Licensed Elements, if applicable); (vi) will not copy, modify, reproduce, archive, sell, lease, rent, exchange, create derivative works from, publish by hard copy or electronic means, publicly perform, display, disseminate, distribute, broadcast, retransmit, circulate or transfer to any third party or on any third-party application or website, or otherwise use or exploit such content in any way for any purpose except as specifically permitted by these Terms or any applicable Additional Terms or with the prior written consent of an officer of Spicy Anime or, in the case of content from a licensor, the owner of the content; and (vii) will not insert any code or product to manipulate such content in any way that adversely affects any user experience.

**C. Availability of Service and Content.** Subject to the applicable provisions of any Additional Terms, Spicy Anime, in its sole discretion without advance notice or liability, may immediately suspend or terminate the availability of the Service and/or content (and any elements and features of them), in whole or in part, for any reason, in Spicy Anime’s sole discretion, and without advance notice or liability.

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## 4. CREATING AN ACCOUNT

If you register with us or create an account, you are solely responsible and liable for the security and confidentiality of your access credentials and for restricting access to your Device and for all activity under your account. Passwords must be personal, unique username (or email address) that does not violate the rights of any person or entity, or is offensive. We may reject the use of any password, username, or email address at any time for any reason in our sole discretion. You are solely responsible for your registration information and for updating and maintaining it. You will immediately notify us here of any unauthorized use of your



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account, password, or username, or any other breach of security. You will not sell, transfer, or assign your account or any account rights.

Accounts may only be set up by an authorized representative of the individual that is the subject of the account. We do not review accounts for authenticity, and are not responsible for any unauthorized accounts that may appear on the Service. For any dispute as to account creation or authenticity, we shall have the sole right, but are not obligated, to resolve such dispute as we determine appropriate, without notice. Spicy Anime may shut down any account Spicy Anime deems in its sole discretion to be unauthorized. In order to access certain features of the Service, and to post any content on the Service, you will have to create a Spicy Anime account and become a member. The Service is not intended to be used by children without involvement and approval of a parent or guardian. If you are under the age of 13, you are not permitted to subscribe to Spicy Anime or provide your personal information to the Service. If you are at least 13 and under 18 years of age, you may subscribe to the Service only if you have the consent of your parent or guardian. Member-only features include, but are not limited to, creating an account, posting in the forum (including replies and new posts), posting comments, posting reviews, watching subscriber-exclusive videos, watching videos with mature content (members must be at least 18 years of age to view mature content), communicating with other users via private messages, and adding shows to queue.

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## 5. PROCEDURE FOR ALLEGING COPYRIGHT INFRINGEMENT

A. If you believe that any user-generated content appearing in a Spicy Anime Service violates your copyrighted work or that your submitted content has been wrongfully removed from a Service, you may contact Spicy Anime for an infringement claim or counter-claim, respectively, in accordance with the Digital Millennium Copyright Act of 1998 ("DMCA").

In compliance with the DMCA your notification or counter notification, to be effective, must be in writing, sent to Spicy Anime's Designated Copyright Agent. Please reach out to us via email to get our Agent's contact information & address of where you need to mail your notice. Once you have the necessary information please make sure the document has:

your physical or electronic signature of the person authorized to act on behalf of the copyright owner;

identification of the material that has been infringed and the location where the material appears or, in the case of a counter notification, identification of the material that has been removed or to which access has been disabled and the location where the material previously appeared;

a statement under penalty of perjury that the use of the material is not authorized by the copyright owner, its agent, or at law or, in the case of a counter notification, that you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled; and

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your name, address, and telephone number and a statement that you consent to the jurisdiction of the Federal District Court in the district in which your address is located (or in the Western District of Texas, for addresses outside the USA) and, in the case of a counter notification, you agree to accept service of process from the person who submitted the original infringement notification that resulted in the materials being removed (or an agent of such person) in the event he or she elects to file suit.

By submitting an infringement notification or a counter notification, you acknowledge and agree that Spicy Anime may forward your notification and any related communications to the person who posted the material identified or submitted the original infringement notification that resulted in the removal of your user-generated content or to other third parties.

UNDER FEDERAL LAW, IF YOU KNOWINGLY MISREPRESENT THAT ONLINE MATERIAL IS INFRINGING, YOU MAY BE SUBJECT TO CRIMINAL PROSECUTION FOR PERJURY AND CIVIL PENALTIES, INCLUDING MONETARY DAMAGES, COURT COSTS, AND ATTORNEY'S FEES.

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## 6. Notices

A. You agree that we may give you notices or otherwise respond to you by mail or to your email (if we have it on file) or in any other manner reasonably elected by us. All legal notices to us must be sent to: Spicy Anime LLC (Attn: Legal Department – Notices).

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## 7. THIRD-PARTY SERVICES; ADVERTISEMENTS; DEALINGS WITH THIRD PARTIES

**A. Third-Party Content and Sites; Advertisements.** The Service may contain third party plug-ins, applications, ads, tools and/or other content, and/or links to third-party websites or other services that are not owned, controlled or operated by Spicy Anime, including services operated by advertisers, licensors, licensees, and certain other third parties who may have business relationships with Spicy Anime (collectively, "Third-Party Services"). We may also host our content, apps, and tools on Third-Party Services. Spicy Anime has no control over the content, operations, policies, terms, or other elements of Third-Party Services, and does not assume any obligation to review them. Spicy Anime does not necessarily review, endorse, approve, or sponsor any Third-Party Services, or any third-party content, advertising, information, materials, products, services, or other items. Furthermore, Spicy Anime is not responsible for the quality or delivery of the products or services offered, accessed, obtained by or advertised at such Third-Party Services. SPICY ANIME WILL UNDER NO CIRCUMSTANCES BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL OR SPECIAL LOSS, OR OTHER DAMAGE, WHETHER ARISING FROM NEGLIGENCE, BREACH OF CONTRACT, DEFAMATION, INFRINGEMENT OF COPYRIGHT, OR OTHER INTELLECTUAL PROPERTY RIGHTS, CAUSED BY THE EXHIBITION, DISTRIBUTION, OR

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EXPLOITATION OF ANY INFORMATION OR CONTENT CONTAINED WITHIN THESE THIRD-PARTY SERVICES. Any activities you engage in connection with Third-Party Services are subject to that Third-Party Services' privacy policy and terms of use which you should read before engaging in such activities.

**B. Apple and Other Platforms and Devices.** If you are accessing or using the Service through Apple, Android, or other third-party platforms or services, those Third-Party Services' own terms and policies apply to such access and usage. Without limitation, Additional Terms for Apple Users can be found [here](#) which are applicable to you and are incorporated into these Terms by this reference.

**C. Dealings with Third Parties.** Any interactions, correspondence, transactions, or dealings you have with any third parties found on or through the Service (including on or via Third-Party Services or advertisements) are solely between you and the third party (including issues related to the content of third-party advertisements, payments, delivery of goods, warranties (including product warranties), privacy and data security, and the like). Spicy Anime disclaims all liability in connection therewith.

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## 8. DISPUTES AND DISPUTE RESOLUTION

**A. Forum Selection/Jurisdiction.** Jurisdiction and venue for any controversy, allegation, or claim arising out of or relating to the Service, the content, your UGC, these Terms, or any applicable Additional Terms, whether before the Effective Date of these Terms or after arising (collectively, "Dispute") shall be in Dallas, Texas. Each party submits to personal jurisdiction and venue in Dallas, Texas for any and all purposes.

**B. Pre-Arbitration Notification.** Spicy Anime and you agree to discuss and hopefully resolve any Disputes before formal proceedings are initiated; provided, however, that Spicy Anime need not do so in circumstances where its claims of intellectual property rights are concerned ("IP Disputes," with all other disputes referred to as "General Disputes"). The party making a claim – whether you or Spicy Anime – shall send a letter to the other side briefly summarizing the claim and the request for relief. If Spicy Anime is making a claim, the letter shall be sent, via email, to the email address listed in your Spicy Anime account, if applicable. If no such information exists or if such information is not current, then we have no obligations under this Section 8.B. to notify or delay bringing a claim. If you are making a claim, the letter shall be sent to Spicy Anime (Attn: Legal Department – Notices). If the Dispute is not resolved within sixty (60) days after notification, the claimant may proceed to initiate arbitration proceedings as set forth in this Section 8. Either you or Spicy Anime, however, may seek provisional remedies (such as preliminary injunctive relief, subject to Section 8.D) before the expiration of this sixty (60)-day period.

**C. Arbitration of Claims.** The Federal Arbitration Act governs the arbitrability of all disputes because these Terms and use of our websites concern interstate commerce. All actions or proceedings arising in connection with, touching upon or relating to these Terms, the breach

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thereof and/or the scope of the provisions of this Section, including statutory claims or claims sounding in tort, shall be submitted to JAMS (“JAMS”) for binding arbitration under its Comprehensive Arbitration Rules and Procedures if the matter in dispute is over Two Hundred Fifty Thousand U.S. Dollars (US\$250,000) or under its Streamlined Arbitration Rules and Procedures if the matter in dispute is Two Hundred Fifty Thousand U.S. Dollars (US\$250,000) or less (as applicable, the “Rules”) to be held solely in Dallas Texas, in the English language in accordance with the provisions below.

i. Each arbitration shall be conducted by a single arbitrator (the “Arbitrator”) who shall be mutually agreed upon by the parties. If the parties are unable to agree on the Arbitrator, the Arbitrator shall be appointed by JAMS. As set forth in Section 8(F.), the claim of a party may not be joined as a class, consolidated, representative, collective, or private attorney general action with any claims of other parties.

ii. The Arbitrator’s fees shall be split equally between the parties and each party shall be responsible for the payment of its own costs, attorneys’ fees, expert fees and all of its other fees, costs and expenses in connection with any arbitration, unless the arbitrator finds that a party proceeded in bad faith, in which case the Arbitrator may award fees or costs in the exercise of discretion.

iii. The parties shall be entitled to conduct discovery as the Arbitrator authorizes as reasonable under all of the circumstances, based on findings that the material sought is relevant to the issues in dispute and that the nature and scope of such discovery is reasonable under all the circumstances. Such discovery ordered by the arbitrator shall be limited to depositions and production of documents.

iv. There shall be a record of the proceedings at the arbitration hearing and the Arbitrator shall issue a Statement of Decision setting forth its factual and legal basis. The Arbitrator’s decision shall be final and binding as to all matters of substance and procedure, and may be enforced by a petition filed in the district courts of the State of Texas in the City of Dallas and County of Dallas or any other court having jurisdiction over both parties, which may be made ex parte, for confirmation and enforcement of the award.

v. The Arbitrator shall have the power to enter temporary restraining orders and preliminary and permanent injunctions as proper under Texas law. Neither party is permitted to commence or maintain any action in a court of law with respect to dispute until such matter has been submitted to arbitration as provided here, and then only for the purpose of enforcing the Arbitrator’s award; provided, however, that prior to the appointment of the Arbitrator, either party, on a showing of irreparable harm and likelihood of success, and as limited by Section D below, may seek pre-arbitration relief in a court of competent jurisdiction in Dallas County, Texas or, if sought by Spicy Anime, such other court that may have jurisdiction over you. All arbitration proceedings shall be closed to the public and confidential and all records relating thereto shall be permanently sealed, except as necessary to obtain court confirmation of the arbitration award.

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**D. Limitation on Injunctive Relief.** AS PERMITTED BY APPLICABLE LAW IF YOU CLAIM THAT YOU HAVE INCURRED ANY LOSS, DAMAGES, OR INJURIES IN CONNECTION WITH YOUR USE OF THE SERVICE, THEN THE LOSSES, DAMAGES, AND INJURIES WILL NOT BE DEEMED IRREPARABLE OR SUFFICIENT TO ENTITLE YOU TO AN INJUNCTION OR TO OTHER EQUITABLE RELIEF OF ANY KIND. THIS MEANS THAT, IN CONNECTION WITH YOUR CLAIM, YOU AGREE THAT YOU WILL NOT SEEK, AND THAT YOU WILL NOT BE PERMITTED TO OBTAIN, ANY COURT OR OTHER ACTION THAT MAY INTERFERE WITH OR PREVENT THE DEVELOPMENT OR EXPLOITATION OF ANY WEBSITE, APPLICATION, CONTENT, UGC, PRODUCT, SERVICE, OR INTELLECTUAL PROPERTY OWNED, LICENSED, USED, OR CONTROLLED BY ANY FUNIMATION PARTY (INCLUDING YOUR LICENSED UGC) OR A LICENSOR OF ANY FUNIMATION PARTY.

Without limiting the generality of the forgoing, you hereby irrevocably waive any right or remedy to seek and/or obtain injunctive or other equitable relief or any order with respect to, and/or to enjoin or restrain or otherwise impair in any manner, the production, distribution, exhibition, or other exploitation of any motion picture, production or project related to Spicy Anime, its subsidiaries, and affiliates, or the use, publication or dissemination of any advertising in connection with such motion picture, production, or project. If a court or arbitrator decides that any of this section's limitations cannot be enforced as to a particular claim for relief, then that claim (and only that claim) must be severed from the arbitration and may be brought in court subject to Section 8.A.

**E. Governing Law.** These Terms and any applicable Additional Terms, Dispute and IP Disputes, and any other claim brought by you against Spicy Anime or by Spicy Anime against you pursuant to this Section 8, or otherwise related to the Service, content, Spicy Anime, UGC or other Spicy Anime products or services, will be governed by, construed, and resolved in accordance with, the laws of the State of Texas, U.S.A., without regard to its conflicts of law provisions that might apply the laws of another jurisdiction. The arbitration shall be governed solely by the Federal Arbitration Act, 9 U.S.C. §1, et seq., not by the law of any other state, and is otherwise enforceable pursuant to its terms on a self-executing basis. You and Spicy Anime agree that we intend that this Section 8 satisfies the "writing" requirement of the Federal Arbitration Act. This Section 8 can only be amended by mutual agreement. Either party may seek enforcement of this Section 8 in any court of competent jurisdiction. The arbitrator shall determine any and all challenges to the arbitrability of a claim.

**F. Class Action Waiver.** Both you and Spicy Anime waive the right to bring any Dispute, including but not limited to actions under the any state privacy act, the Telephone Consumer Protection Act, the Video Privacy Protection Act, Children's Online Privacy Protection Act as a class, consolidated, representative, collective, or private attorney general action, or to participate in a class, consolidated, representative, collective, or private attorney general action regarding any Dispute brought by anyone else. Notwithstanding any provision in the JAMS Comprehensive Arbitration Rules and Procedures to the contrary, the arbitrator shall not have the authority or any jurisdiction to hear the arbitration as a class, consolidated, representative, or private attorney general action or to consolidate, join, or otherwise combine the Disputes of different persons into one proceeding. Notwithstanding the arbitration provision set forth above, if the provision regarding waiver of class, collective, representative,

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and private attorney general claims of this Section 8 is found to be void or otherwise unenforceable, any such class, collective, representative, or private attorney general claims must be heard and determined through an appropriate court proceeding subject to Section 8.A, and not in arbitration.

**G. Limited Time To File Claims.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IF YOU OR WE WANT TO ASSERT A GENERAL DISPUTE (BUT NOT AN IP DISPUTE) AGAINST THE OTHER, THEN YOU OR WE MUST COMMENCE IT (BY DELIVERY OF WRITTEN NOTICE AS SET FORTH IN SECTION 8.B) WITHIN TWO (2) YEARS AND ONE (1) DAY YEAR AFTER THE DISPUTE ARISES – OR IT WILL BE FOREVER BARRED.

**H. Small Claims Matters.** Notwithstanding the foregoing, either of us may bring a qualifying claim of General Dispute (but not IP Disputes) in small claims court, subject to Section 8.F.

**I.** This Section 8 shall remain in full force and effect notwithstanding any termination of your use of the Service or these Terms.

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## 9. DISCLAIMER OF REPRESENTATIONS AND WARRANTIES

**A.** AS PERMITTED BY APPLICABLE LAW, YOUR ACCESS TO AND USE OF THE SERVICE IS AT YOUR SOLE RISK AND THE SERVICE IS PROVIDED ON AN "AS IS", "AS AVAILABLE", AND "WITH ALL FAULTS" BASIS. To the fullest extent permissible by law, Spicy Anime and their direct and indirect subsidiaries, affiliates, and each of their respective employees, directors, members, managers, shareholders, agents, vendors, licensors, licensees, contractors, customers, successors, and assigns (collectively, "Spicy Anime Parties") hereby disclaim and make no representations, warranties, endorsements, or promises, express or implied, in connection with, or otherwise directly or indirectly related to, without limitation, the Service, content, Spicy Anime, UGC or other Spicy Anime products or services, except as set forth in subsection C, below.

**B.** EXCEPT FOR ANY SPECIFIC WARRANTIES PROVIDED HEREIN, OR IN APPLICABLE ADDITIONAL TERMS, OR AS OTHERWISE REQUIRED BY APPLICABLE LAW, SPICY ANIME PARTIES HEREBY FURTHER DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES, TITLE, CUSTOM, TRADE, QUIET ENJOYMENT, SYSTEM INTEGRATION, AND FREEDOM FROM COMPUTER VIRUS.

**C.** FOR PURPOSES OF CLARITY, THIS SECTION DOES NOT EXPAND OR LIMIT ANY EXPRESS, WRITTEN PRODUCT WARRANTY OR RELATED DISCLAIMERS THAT ARE PROVIDED BY SPICY ANIME OR A MANUFACTURER WITH REGARD TO A PHYSICAL

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PRODUCT SOLD BY US, OR ANY WARRANTY ON A PHYSICAL PRODUCT TO THE EXTENT REQUIRED BY APPLICABLE LAW.

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## 10. LIMITATIONS OF OUR LIABILITY

**A.** AS PERMITTED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL ANY SPICY ANIME PARTIES BE RESPONSIBLE OR LIABLE FOR ANY LOSS OR DAMAGES OF ANY KIND, including personal injury or death or for any direct, indirect, economic, exemplary, special, punitive, incidental, or consequential losses or damages of any kind, including without limitation loss of profits, in connection with, or otherwise directly or indirectly related to, without limitation, the Service, content, Spicy Anime, UGC or other Spicy Anime products or services, except for direct damages for personal injury caused by a physical product manufactured, sold or provided by Spicy Anime.

**B.** The foregoing limitations of liability will apply even if any of the events or circumstances were foreseeable and even if Spicy Anime Parties were advised of or should have known of the possibility of such losses or damages, regardless of whether you bring an action based in contract, negligence, strict liability, or tort (including whether caused, in whole or in part, by negligence, acts of god, telecommunications failure, or destruction of the Service).

**C.** AS PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL SPICY ANIME PARTIES' TOTAL LIABILITY TO YOU, FOR ALL POSSIBLE DAMAGES, LOSSES, AND CAUSES OF ACTION IN CONNECTION WITH YOUR ACCESS TO AND USE OF THE SERVICE AND YOUR RIGHTS UNDER THESE TERMS, EXCEED AN AMOUNT EQUAL TO THE AMOUNT YOU HAVE PAID FUNIMATION IN CONNECTION WITH THE TRANSACTION(S) THAT UNDERLIE THE CLAIM(S). FOR PURPOSES OF CLARITY, THIS SECTION DOES NOT EXPAND OR LIMIT ANY EXPRESS, WRITTEN PRODUCT TERMS THAT ARE PROVIDED BY SPICY ANIME OR A MANUFACTURER WITH REGARD TO A PHYSICAL PRODUCT SOLD BY US OR LIABILITY FOR DIRECT DAMAGES FOR PERSONAL INJURY CAUSED BY A PHYSICAL PRODUCT MANUFACTURES, SOLD OR PROVIDED BY SPICY ANIME.

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## 11. UPDATES TO TERMS

**A.** It is your responsibility to review the posted Terms and any applicable Additional Terms each time you use the Service (at least prior to each transaction or submission). EACH TIME YOU SIGN IN TO OR OTHERWISE USE THE SERVICE YOU ARE ENTERING INTO A NEW AGREEMENT WITH US ON THE THEN APPLICABLE TERMS AND CONDITIONS AND YOU AGREE THAT WE MAY NOTIFY YOU OF NEW TERMS BY POSTING THEM ON THE SERVICE (OR IN ANY OTHER REASONABLE MANNER OF NOTICE WHICH WE ELECT), AND THAT YOUR USE OF THE SERVICE AFTER SUCH NOTICE CONSTITUTES YOUR GOING FORWARD AGREEMENT TO THE NEW TERMS FOR YOUR NEW USE AND TRANSACTIONS. Any new Terms or Additional Terms will be effective for any new use and



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transactions as of the time that we post them, or such later date as may be specified in them or in other notice to you. However, any changes to the dispute resolution provisions set out in Section 8 (Disputes and Dispute Resolution) will not apply to any Disputes for which the parties have actual notice on or before the date the change is posted on the website. In the event any notice to you of new, revised, or additional terms is determined by a tribunal to be insufficient, the prior agreement shall continue until sufficient notice to establish a new agreement occurs. You can reject any new, revised or additional terms by discontinuing use of the Service.

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## 12. GENERAL PROVISIONS

**A. Spicy Anime's Consent or Approval.** As to any provision in these Terms or any applicable Additional Terms that grants Spicy Anime a right of consent or approval, or permits Spicy Anime to exercise a right in its "sole discretion," Spicy Anime may exercise that right in its sole and absolute discretion. No Spicy Anime consent or approval may be deemed to have been granted by Spicy Anime without being in writing and signed by an officer of Spicy Anime.

**B. Indemnity.** You agree to, and you hereby, defend (if requested by Spicy Anime), indemnify, and hold Spicy Anime Parties harmless from and against any and all claims, damages, losses, costs, investigations, liabilities, judgments, fines, penalties, settlements, interest, and expenses (including attorneys' fees) that directly or indirectly arise from or are related to any claim, suit, action, demand, or proceeding made or brought against any Spicy Anime Party, or on account of the investigation, defense, or settlement thereof, arising out of or in connection with, whether occurring heretofore or hereafter: (i) your UGC; (ii) your use of the Service and your activities in connection with the Service; (iii) your breach or alleged breach of these Terms or any applicable Additional Terms; (iv) your violation or alleged violation of any laws, rules, regulations, codes, statutes, ordinances, or orders of any governmental or quasi-governmental authorities in connection with your use of the Service or your activities in connection with the Service; (v) information or material transmitted through your Device, even if not submitted by you, that infringes, violates, or misappropriates any copyright, trademark, trade secret, trade dress, patent, publicity, privacy, or other right of any person or entity; (vi) any misrepresentation made by you; and (vii) Spicy Anime Parties' use of the information that you submit to us (including your UGC) (all of the foregoing, "Claims and Losses"). You will cooperate as fully required by Spicy Anime Parties in the defense of any Claim and Losses. Notwithstanding the foregoing, Spicy Anime Parties retain the exclusive right to settle, compromise, and pay any and all Claims and Losses. Spicy Anime Parties reserve the right to assume the exclusive defense and control of any Claims and Losses. You will not settle any Claims and Losses without, in each instance, the prior written consent of an officer of a Spicy Anime Party.

**C. Operation of Service; Availability of Products and Services; International Issues.** Spicy Anime controls and operates the Service from the U.S.A., and makes no representation that the Service is appropriate or available for use beyond the U.S.A. If you use the Service from other locations, you are doing so on your own initiative and responsible for compliance with

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applicable local laws regarding your online conduct and acceptable content, if and to the extent local laws apply.

**D. Export Controls.** You are responsible for complying with all applicable trade regulations and laws both foreign and domestic. Except as authorized by U.S. law, you agree and warrant not to export or re-export the software to any country, or to any person, entity, or end-user subject to U.S. export controls or sanctions.

**E. Severability; Interpretation.** If any provision of these Terms, or any applicable Additional Terms, is for any reason deemed invalid, unlawful, void, or unenforceable by a court or arbitrator of competent jurisdiction, then that provision will be deemed severable from these Terms or the applicable Additional Terms, and the invalidity of the provision will not affect the validity or enforceability of the remainder of these Terms or the applicable Additional Terms. To the extent permitted by applicable law, you agree to waive and will waive, any applicable statutory and common law that may permit a contract to be construed against its drafter.

**F. Investigations; Cooperation with Law Enforcement; Termination; Survival.** Spicy Anime reserves the right, without any limitation, to: (i) investigate any suspected breaches of its Service security or its information technology or other systems or networks, (ii) investigate any suspected breaches of these Terms and any applicable Additional Terms, (iii) investigate any information obtained by Spicy Anime in accordance with its [Privacy Policy](#) in connection with reviewing law enforcement databases or complying with criminal laws, (iv) involve and cooperate with law enforcement authorities in investigating any of the foregoing matters, (v) prosecute violators of these Terms and any applicable Additional Terms, and (vi) discontinue the Service, in whole or in part, or, suspend or terminate your access to it, in whole or in part, including any user accounts or registrations, at any time, without notice, for any reason and without any obligation to you or any third party. Any suspension or termination will not affect your obligations to Spicy Anime under these Terms or any applicable Additional Terms. Upon suspension or termination of your access to the Service, or upon notice from Spicy Anime, all rights granted to you under these Terms or any applicable Additional Terms will cease immediately, and you agree that you will immediately discontinue use of the Service. The provisions of these Terms and any applicable Additional Terms, which by their nature should survive your suspension or termination will survive, including the rights and licenses you grant to Spicy Anime in these Terms, as well as the indemnities, releases, disclaimers, and limitations on liability and the provisions regarding jurisdiction, choice of law, no class action, and mandatory arbitration.

**G. Assignment.** Spicy Anime may assign its rights and obligations under these Terms and any applicable Additional Terms, in whole or in part, to any party at any time without any notice. These Terms and any applicable Additional Terms may not be assigned by you, and you may not delegate your duties under them, without the prior written consent of an officer of Spicy Anime.

**H. Complete Agreement; No Waiver.** These Terms, and any applicable Additional Terms, reflect our complete agreement regarding the Service and supersede any prior agreements, representations, warranties, assurances or discussion related to the Service for your use of

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the service from the effective date of these Terms. Any prior Terms and Any applicable Additional Terms remain applicable to uses during the period those Terms and any applicable Additional Terms were in effect as specified in Section 11 above. Except as expressly set forth in these Terms or any applicable Additional Terms, (i) no failure or delay by you or Spicy Anime in exercising any rights, powers, or remedies hereunder will operate as a waiver of that or any other right, power, or remedy, and (ii) no waiver or modification of any term of these Terms or any applicable Additional Terms will be effective unless in writing and signed or accepted by the party against whom the waiver or modification is sought to be enforced.

**I. California Consumer Rights and Notices.** Residents of California are entitled to the following specific consumer rights information: you may contact the Complaint Assistance Unit of the Division of Consumer Services of the Department of Consumer Affairs by mail at: 1625 North Market Blvd., Suite N-112, Sacramento, California 95834, or by telephone at 800.952.5210 or (916) 445-1254. Their website is located at: <http://www.dca.ca.gov>. California residents can obtain information on our privacy practices, including how we comply with the California Online Privacy Protection Act and the California Shine the Light Act in our [Privacy Policy](#).

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