

# Terms

Spotter is a software application ("**App**") owned and distributed by Windfall Apps LLC ("**Company**"). The following are the terms ("**Terms**") which constitute the contract between the user ("**User**") and the Company.

## Agreement

By using the App, the User agrees to these Terms.

## Privacy Policy

The Company's privacy policy ("**Privacy Policy**") describes how user data is collected, stored, and used with regard to the App.

The User can find the Privacy Policy within the App or at the following URL:

[www.spotterdate.com/Legal/Spotter/PrivacyPolicy.pdf](http://www.spotterdate.com/Legal/Spotter/PrivacyPolicy.pdf)

By using the App, the User agrees to be bound by the Privacy Policy.

## Payments

### In-App Purchases

If the User decides to subscribe to an upgraded service ("**Subscription**") or make any other purchases from within the App ("**In-App Purchases**"), the User's payment will be handled by the Apple App Store and charged to the User's iTunes account.

By purchasing a Subscription or other In-App Purchase, the User is purchasing a non-exclusive license to enable additional content within the App for individual use only. This license does **not**:

- Have any monetary or transferrable value once purchased
- Constitute a transfer of ownership in the App or the Company

The User's license to their Subscription or In-App Purchases will end if any of the following occur:

- The Company decides to terminate the App
- The User deletes their Account voluntarily
- The Company deletes the User's Account at its discretion

THE COMPANY MAY CHANGE THE PRICE OF SUBSCRIPTIONS OR IN-APP PURCHASES AT ANY TIME. THE USER MAY NOT HOLD THE COMPANY LIABLE FOR DOING SO, REGARDLESS OF HOW A PRICE CHANGE MAY IMPACT THE PERCEIVED VALUE OF PREVIOUSLY PURCHASED SUBSCRIPTIONS OR IN-APP PURCHASES.

## Taxes

The Apple App Store may determine that sales tax and other taxes are due with the User's Subscription or other In-App Purchase at the time of purchase. The collection of any tax amount will also be handled by the Apple App Store and charged to the User's iTunes account.

## Recurring Billing

SUBSCRIPTIONS WILL AUTOMATICALLY RENEW FOR THE SAME LENGTH AND PRICE UNLESS CANCELED AT LEAST 24 HOURS PRIOR TO THE END OF THE CURRENT SUBSCRIPTION PERIOD.

The User can manage their Subscription and cancel or turn off auto-renewal in Settings (on iPhone). The Subscription will not be canceled if the User simply deletes the App from their phone or deletes their Account.

## Refund

PAYMENTS FOR SUBSCRIPTIONS AND IN-APP PURCHASES ARE NOT REFUNDABLE, EXCEPT FOR THE CASE IN WHICH THE USER RESIDES IN ANY OF THE FOLLOWING STATES WHICH ALLOW THE USER TO CANCEL THEIR SUBSCRIPTION BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THE PURCHASE:

- Arizona
- California
- Connecticut
- Illinois
- Iowa
- Minnesota
- New York
- North Carolina
- Ohio
- Rhode Island
- Wisconsin

If the User decides to request a refund for any payment made via the User's iTunes Account accidentally or otherwise, the User must do so through Apple support.

In the case where the User's Account is deleted (voluntarily or involuntarily), the User will not be refunded for any unused or remaining Subscriptions or In-App Purchases.

## User Requirements

The User must be a minimum of 18 years old to use the App.

The User may not input false or misleading information about themselves. This includes but is not limited to:

- Using a fake name
- Using fake photos

## Safety Risks

THE COMPANY MAKES NO REPRESENTATION AS TO THE QUALITY OR SAFETY OF INTERACTIONS WITH OTHER USERS, WHILE USING THE APP OR OFFLINE (IN PERSON). THE COMPANY DOES NOT CONDUCT BACKGROUND CHECKS ON ANY USERS.

THE USER AGREES NOT TO HOLD THE COMPANY RESPONSIBLE FOR ANY CLAIMS OR DAMAGES CAUSED BY THE ACTIONS OF ANY USERS. THIS INCLUDES ANY AND ALL INTERACTIONS THEY MAY HAVE WHILE USING THE APP OR OFFLINE (IN PERSON).

THE USER AGREES TO USE THE APP AT THEIR OWN RISK.

## **California Law**

IF THE USER IS A CALIFORNIA RESIDENT, THE USER AGREES TO WAIVE CALIFORNIA CIVIL CODE SECTION 1542, WHICH STATES:

“A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her,

would have materially affected his or her settlement with the debtor or released party.”

## Abuse / Moderation

As described in the Company’s Privacy Policy, the App has tools in place to detect, block, and report inappropriate content and behavior. In addition, the Company will have manual processes in which representatives from the Company may review content inputted and uploaded by the User in order to resolve disputes with other Users.

### **Inappropriate Content**

The User may not upload or input any inappropriate content into the App, or conduct themselves in any way which may offend other users. The Company reserves the right to determine in its sole discretion what content, input, or conduct is inappropriate or offensive. This includes, but is not limited to:

- Nudity
- Fake accounts
- Hate speech
- Profanity
- Harassment
- Threats
- Solicitation

### **Child Safety**

The User may not engage in any behavior that sexually exploits, abuses, or endangers children. This includes, for example, grooming a child for sexual exploitation, sextorting a child, trafficking of a child for sex, or otherwise sexually exploiting a child.

## Suspension / Deletion / Ban

The Company reserves the right to suspend, delete, or ban any User Account at any time, in its sole discretion. The Company may decide in its sole discretion to contact the User (via provided email if any) regarding their suspended, deleted, or banned account.

THE COMPANY WILL NOT BE LIABLE TO THE USER OR ANY THIRD PARTY FOR ANY SUSPENSION, DELETION, OR BAN OF THE USER'S ACCOUNT.

IF THE USER'S ACCOUNT IS SUSPENDED OR DELETED DUE TO INAPPROPRIATE CONTENT OR CONDUCT (ONLINE OR OFFLINE), THE USER AGREES THAT THEY WILL NOT RECEIVE A REFUND FOR ANY SUBSCRIPTION OR OTHER PURCHASE.

## Harm / Threats

If the Company decides, in its sole discretion, that the User has acted in any way which harms or threatens other users or the Company, the Company will notify law enforcement authorities and cooperate with them fully. In doing so, the Company will also share all User data requested by law enforcement authorities.

## Communications

### Electronic Communications

The User consents to receive communications from the Company in electronic form, either in the App or through email.

### Notifications / Promotions

#### Push

The User may enable or disable push notifications from within the App.

## Email

The User agrees to the use of their email address for app notifications and promotions. This will be enabled by default, though the User may opt out from within the App.

## Copyright

The Company grants the User a non-exclusive license to use the App for individual purposes only. This license may not be transferred.

The User may not reproduce or redistribute the App or any of its content without written consent from the Company. This includes text, images, illustrations, and other intellectual property found within the App.

The Company reserves all other copyrights.

## Disclaimer

THE COMPANY IS PROVIDING ITS CONTENT, INCLUDING THE APP, WITHOUT ANY WARRANTY OF ANY KIND, EXPRESS OF IMPLIED.

WITHOUT LIMITING THE FOREGOING, THE COMPANY DOES NOT GUARANTEE THAT THE APP WILL BE FREE FROM DEFECTS OR ALWAYS OPERATIONAL.

THE COMPANY DOES NOT GUARANTEE THAT THE APP WILL BE 100% SECURE. THE COMPANY DOES NOT MAKE ANY WARRANTY WITH RESPECT TO DATA SECURITY BREACHES OR

UNAUTHORIZED USE OF USER DATA. THE COMPANY IS NOT RESPONSIBLE FOR ANY DAMAGE TO THE USER'S ELECTRONICS FROM ANY SECURITY BREACH OR VIRUS.

THE COMPANY DOES NOT GUARANTEE ANY EXPECTATION OR RESULT FROM USING THE APP OR ANY OTHER CONTENT, INCLUDING SUBSCRIPTIONS AND OTHER IN-APP PURCHASES. FEATURES OF THE APP MAY BE ADDED, REMOVED, OR ALTERED AT ANY TIME.

THE COMPANY DOES NOT GUARANTEE THAT ANY CONTENT WITHIN THE APP (INCLUDING CONTENT CREATED BY OTHER USERS) IS CORRECT, AND THE USER SHOULD NOT RELY ON SUCH CONTENT.

IF, UNDER APPLICABLE LAW, THE ABOVE EXCLUSIONS OF WARRANTY ARE NOT PERMITTED, THE COMPANY WILL GRANT ONLY THE MINIMUM WARRANTY REQUIRED BY APPLICABLE LAW.

NO COMMUNICATIONS FROM THE COMPANY (INCLUDING BUT NOT LIMITED TO PROMOTIONAL MATERIAL AND TEXT WITHIN THE APP) WILL CREATE ANY WARRANTY WHICH IS NOT DESCRIBED IN THESE TERMS.

THE USER AGREES TO USE THE APP AT THEIR OWN RISK.

### Limitation of Liability

THE USER AGREES NOT TO HOLD THE COMPANY OR ANY OWNERS ("**OWNERS**" or "**Owners**") OF THE COMPANY LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM ACCESS TO OR USAGE OF THE APP, ITS CONTENT, CONTENT UPLOADED OR INPUTTED BY OTHER USERS, OR ANY OF THE COMPANY'S WEBSITES. THIS INCLUDES BUT IS NOT LIMITED TO CLAIMS OR

DAMAGES BASED ON TORT, NEGLIGENCE, PROPRIETARY RIGHTS INFRINGEMENT, OR BREACH OF CONTRACT.

THE USER AGREES NOT TO HOLD THE COMPANY OR ANY OWNERS LIABLE FOR ANY CLAIMS OR DAMAGES EVEN IF THE COMPANY OR ANY OWNERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IF THE USER IS DISSATISFIED WITH THE APP, ITS CONTENT, OR ANY OF THE COMPANY'S WEBSITES, THEN THE USER'S REMEDY IS TO IMMEDIATELY STOP USING THE APP, ITS CONTENT, AND ALL OF THE COMPANY'S WEBSITES.

THE USER HEREBY WAIVES ANY AND ALL CLAIMS ARISING FROM THE USE OF THE APP, ITS CONTENT, OR ANY OF THE COMPANY'S WEBSITES. IF THE USER LIVES IN A JURISDICTION WHICH PROHIBITS THIS TYPE OF DISCLAIMER, THIS DOES NOT APPLY.

IN THE EVENT THAT THIS LIMITATION OF LIABILITY IS NOT ENFORCEABLE OR APPLICABLE, THE AGGREGATE LIABILITY OF THE COMPANY SHALL NOT EXCEED ONE HUNDRED US DOLLARS (\$100.00).

THE FOREGOING IS NOT APPLICABLE TO CLAIMS OR DAMAGE CAUSED BY FRAUD OR MISREPRESENTATION.

### Third Party Content

THE APP MAY INCLUDE OR LINK TO CONTENT PROVIDED BY THIRD PARTIES. THIS INCLUDES, BUT IS NOT LIMITED TO, ADVERTISEMENTS. THE USER AGREES NOT TO HOLD THE COMPANY OR ANY OWNERS LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM ACCESS TO OR USAGE OF THIRD PARTY CONTENT.

## Indemnity

The User is responsible for all data they share within the App and all interactions they have with other users, while using the App or offline (in person).

THE USER AGREES TO INDEMNIFY THE COMPANY AND ALL OWNERS AND HOLD THE COMPANY AND ALL OWNERS HARMLESS FROM ANY THIRD PARTY CLAIMS OR DAMAGES WHICH OCCUR AS A RESULT OF THE USER'S USAGE OF THE APP OR AS A RESULT OF THE USER BREACHING THESE TERMS. THIS INCLUDES ANY DATA THE USER CHOOSES TO SHARE, AND ANY INTERACTIONS THE USER MAY HAVE WITH OTHER USERS, WHILE USING THE APP OR OFFLINE (IN PERSON).

The User agrees to cooperate entirely in the case that the Company requires the User in the Company's defense of any claim relating to the User.

The Company reserves the right to settle any and all claims without the User's consent.

The foregoing is not applicable to claims or damage caused by fraud or misrepresentation.

## Arbitration

These Terms require that the User arbitrate any dispute or claim with the Company.

## **Agreement**

By using the App and agreeing to these Terms, the User agrees to be bound by arbitration, rather than any court of law, with the

exception of small claims court if the claim amount allows. The arbitrator will have the authority to enforce these Terms and resolve any dispute or claim related to the User's use of the App or the User's relationship with the Company.

## **Request**

If the User wishes to arbitrate, the User must mail an arbitration request to the Company address, as listed in these Terms.

## **Firm**

The arbitration will be conducted by Alternative Resolution Centers. If Alternative Resolution Centers is unable to arbitrate, the Company will select another arbitration firm. The arbitration may be done virtually.

## **Class Action**

The User must bring forth their dispute or claim on an individual basis and not with any other users. The User may not participate in any class action.

## **Jurisdiction**

These Terms are governed and interpreted by the laws of the State of California except in the case that laws and regulation would result in the application of the laws of a jurisdiction other than the State of California.

Any dispute between the User and the Company that cannot be arbitrated or which challenges the enforceability of the arbitration section of these Terms will be litigated in Redding, California.

By using the App, the User:

- Consents to the exclusive jurisdiction of the courts of the United States and the State of California.
- Agrees that such courts shall have in personam jurisdiction and venue.
- Agrees to waive any objection based on inconvenient forum.
- Agrees not to file or participate in a class action against the Company.

In the event there is a discrepancy between this English version and any translated copy of these Terms, the English version shall prevail.

## Termination

If the User wishes to terminate these Terms, they may do so by notifying the Company (via mail or email) and deleting their Account.

If the User's Subscription is managed by a third party marketplace such as the Apple App Store, iTunes, or the Google Play Store, then the User may need to take additional action within any or all of these marketplaces to ensure that they are not billed for any additional Subscription period. The User will not be entitled to any refund except as described above under "Payments".

The Company may also choose to terminate these Terms and delete the User's Account if the Company decides, in its sole discretion, to do so.

Termination of these Terms includes the deletion of the User's Account.

All provisions within these Terms, which should survive, shall survive termination as described under "Survival".

## Entire Agreement

These Terms constitute the final and entire agreement between the User and the Company. The Company may revise these Terms as described under “Terms Updates”. These Terms supersede all prior agreements and understandings, whether oral or written, with the exception of the Company’s Privacy Policy.

The User agrees that all electronic communications, including these Terms and the Privacy Policy, shall suffice and that the User may not demand written versions.

## Severability

Should any section, paragraph, clause or provision of these Terms, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of these Terms.

## Survival

The User agrees to be bound by these Terms even after the User has stopped using the App or ended their relationship with the Company.

## Assignment

The User may not transfer or assign their rights or obligations under these agreed Terms. The Company reserves the right to assign these Terms.

## Terms Updates

The Company reserves the right to revise these Terms. The User will be notified (as a notification within the App) of changes to these Terms, and the latest Terms can be found within the App or at the following URL:

[www.spotterdate.com/Legal/Spotter/Terms.pdf](http://www.spotterdate.com/Legal/Spotter/Terms.pdf)

By using the App, the User agrees to be bound by the latest Terms.

## Contact

Contact information for Windfall Apps LLC is listed below.

### **Address**

1401 21st Street Suite R  
Sacramento, CA 95811

### **Email**

[spotter@windfallapps.com](mailto:spotter@windfallapps.com)