

# Terms of Service

## INTRODUCTION

The owner of this website, Mizkan America, Inc. or affiliate (referred to either as “**Website Owner**” or “**we**” or “**us**” or “**our**”), provides the content, information and materials contained on this website or any of the pages comprising the Website (“**Website**”) to users or visitors (referred to either as “**you**” or “**your**” hereinafter) solely for your convenience. We hope that you will enjoy your visit to this Website and will find its content to be informative and helpful.

## PRECONDITIONS TO USE

The use of this Website is subject to the terms and conditions set out in these Website terms and conditions as well as the Website Owner’s [privacy policy](#) and any other relevant terms and conditions, policies and notices which may be applicable to a specific section of this Website (collectively referred to as “**Terms of Use**”). You have no permission to use this Website if you do not agree to these Terms of Use. By using this Website, you agree to these Terms of Use and will, at all times during your use, abide by these Terms of Use. If this is not acceptable, you must immediately cease further use of this Website.

## OWNERSHIP OF WEBSITE MATERIALS

All right, title and interest in and to the content of this Website, including text, images, graphics, audio and video material, proprietary information, the selection, sequence and “look and feel” and arrangement of items, and all copyrightable or otherwise legally protectable elements of the Website (“**Website Materials**”), is the property of Website Owner, its successors and assigns or its licensors. The trademarks, names, brand names, logos and service marks (collectively “**Trademarks**”) displayed on this Website are the registered or unregistered trademarks of the Website Owner, its successors and assigns or its licensors. Nothing contained on this Website should be construed as granting any license or right to use any Trademark or Website Materials without the prior written permission of the Website Owner.

## **PRIVACY**

Please see our [Privacy Policy](#) for important information and disclosures relating to the collection and use of your personal information in connection with your use of the Website.

## **EXTERNAL LINKS**

The Website Owner may, from time to time, include on this Website one or more links to external websites which have no connection with this Website or the Website Owner. A link to a Linked Site is provided solely for your convenience. The inclusion of any Linked Site does not imply a referral by Website Owner to, or an approval, sponsorship or endorsement by Website Owner of, the Linked Site, its content or any products or services which may be offered at that Linked Site. Linked Sites are beyond the control of the Website Owner, and the Website Owner is not responsible for the contents of any Linked Site or any link contained in a Linked Site, or any changes or updates to such sites. The Website Owner shall not be liable for any damage that might result from your use of the information or products or services at a Linked Site. Use or reliance on any Linked Site and the content thereat is at your own risk. When visiting Linked Sites, you must refer to that Linked Site's terms and conditions of use. No hypertext links to this Website shall be created from any website controlled by you or otherwise without the express prior written permission of the Website Owner. Please contact us at [Bertolli.us@mizkan.com](mailto:Bertolli.us@mizkan.com) if you would like to link to this Website or would like to request a link to your website.

## **INFORMATION ON THE WEBSITE**

From time to time the Website Owner updates the content, information, promotions, commentary, notes, data or other materials on the Website (“**Information**”), including Information which may be provided on this Website by any third person or data or content provider authorized by the Website Owner (“**Third Person Provider**”). However, neither the Website Owner nor any Third Person Provider make any representations or warranties as to the sequence, accuracy, completeness, currency or reliability of the Information and shall not be bound in any manner by any Information contained on the Website. The Information is offered for general informational purposes only. No Information shall be construed as advice or recommendation. You (and your company if any) rely on the Information contained on this Website at your own risk. The Website Owner reserves the right at any time without prior notice to change or discontinue any Information on this Website. If you find an error or omission at this site, we would appreciate your letting us know.

## **WARRANTIES**

THIS WEBSITE IS MADE AVAILABLE ON AN “AS IS” AND “AS AVAILABLE” BASIS. The Website Owner makes no warranties, representations, statements or guarantees (whether express or implied in law, including implied warranties of merchantability or fitness for a particular purpose, title and non-infringement) regarding the Website, the Information contained on the Website or your or your company's personal information or material and information transmitted

over our system. Without limiting the generality of the foregoing, the Website Owner makes no warranty that (i) the operation of the Website will meet the your requirements; (ii) access to the Website will be uninterrupted or timely or free of defects or errors, (iii) access to the Website will be secure, free of malicious code, including viruses, worms, time bombs, cancelbots, malware, spyware, Trojan horses or other potentially harmful software programs, materials or information (collectively “**Malware**”), (iv) the results that you may obtain from your use of the Website will be accurate or reliable; or (v) defects or errors on the Website will be corrected. You (and not Website Owner) assume the entire cost of all servicing, repair, or correction that may be necessary to your computer equipment and software as a result of any Malware, errors or any other problems whatsoever you may have as a result of using this Website.

## **PUBLIC FORUMS AND USER SUBMISSIONS**

The Website Owner may, from time to time, create (as well as modify or terminate) sections or locations on this Website which allow the public to post or transmit materials, comments, messages or information, including bulletin boards, hosted pages, comment sections or chat rooms (“**Public Forums**”). The Website Owner is not responsible for any material submitted to or placed on a Public Forum. Any material on a Public Forum (whether submitted by you or any other user) is not endorsed, reviewed or approved by the Website Owner. The Website Owner may from time to time monitor or review postings, messages and other transmissions on a Public Forum. However, the Website Owner is under no obligation to do so and assumes no responsibility or liability arising from any failure to monitor or eliminate from the Website any postings, messages or transmissions that violate these Terms of Use.

## **PERMISSIBLE USE OF THE WEBSITE**

The Website is to be used solely for your personal and non-commercial use and for no other purposes. The following are strictly prohibited:

- the use of any Trademark or any modification of the Website Materials or use of the Website Materials for any other purpose other than as authorized in these Terms of Use (unless separately authorized by Website Owner in writing on each occasion thereof); and
- the use of any Trademark or Website Materials on any other website or computer network without Website Owner’s prior written consent; and
- the alteration, deletion or concealment of any copyright or other notices contained on the Website, including notices on any material you download, transmit, display, print or reproduce from the Website; and
- the reproduction, modification, creation of derivative works, display, performance, publication, distribution, dissemination, broadcasting or circulation to any third person (including on or via a third person website) or other use of any Website Materials without the express prior written consent of Website Owner or its owner if Website Owner is not the owner.

## PROHIBITED USE OF THE WEBSITE

The Website Owner grants no permission to use, and you shall not use, the Website or any Public Forum to do any of the following (“**Prohibited Use**”):

- defame, abuse, harass, stalk, threaten or otherwise violate the rights of other users or any third persons; or
- publish, post, distribute or disseminate any information, comments, statements or other material that is defamatory, obscene, vulgar, pornographic, indecent, threatening, inflammatory, sexually explicit or sexually suggestive, offensive, harmful, harassing, intimidating, threatening, hateful, objectionable, discriminatory or abusive to any person because of race, religion, national origin, ethnicity, gender or sexual orientation; or
- impersonate or appear to impersonate any other person; or
- post or upload files that contain Malware, corrupted files or any other similar software or programs that may damage the operation of the Website Owner’s or a third person’s computer system or network; or
- affect us adversely or reflect negatively on us, the Website, our goodwill, name or reputation or cause duress, distress or discomfort to us or anyone else or discourage any person from using all or any portion, features or functions of the Website, or from advertising, linking or becoming a supplier to us in connection with the Website; or
- send or result in the transmission of junk e-mail, chain letters, duplicative or unsolicited messages, or so-called “spamming” and “phishing” ; or
- transmit, distribute or upload programs or material that contain Malware; or
- forge any TCP/IP packet header or part of the header information in any email or newsgroup posting for any reason; or
- violate any copyright, trademark, other applicable laws or regulations or international treaties or intellectual property rights of the Website Owner or any third person; or
- submit content containing business, commercial, advertising, marketing or promotional material or information which is intended to solicit business or offer goods or services, whether through linking with any other website or web pages or otherwise; or
- gain or seek to gain access to the Website or location on the Website which is not authorized by these Terms of Use, including access to other users’ accounts, names, passwords, personally identifiable information and access to other computers, websites or pages, connected or linked to the Website; or
- modify, disrupt, impair, alter or interfere with the use, features, functions, appearance, “look and feel”, operation or maintenance of the Website or the rights or use and enjoyment of the Website by any other person; or
- collect, obtain, compile, gather, transmit, reproduce, delete, revise, view or display any material or information, whether personally identifiable or not, posted by or concerning any other person, in connection with that person’s or your use of the Website, unless you have obtained the express, prior permission of such other person to do so; or
- constitute or encourage conduct that would be considered a criminal offense, give rise to civil liability, or otherwise violate any law; or

- violate any laws, regulations, judicial or governmental order, any treaties or violate or infringe upon any intellectual property rights, rights of publicity or privacy, or any other rights of ours or of any other person or use the Website in any manner which violates or is inconsistent with these Terms of Use.

The Website Owner reserves the right to remove any material or information constituting a Prohibited Use submitted or posted by you in the Public Forum or elsewhere on the Website without notice to you, if the Website Owner becomes aware and determines, in its sole and absolute discretion that you have posted such prohibited materials or are likely to do so.

## **INDEMNITY FOR PROHIBITED USE OF THE WEBSITE**

You hereby agree to indemnify the Website Owner against any and all losses (whether direct, indirect or consequential), liabilities, obligations, damages, personal injuries, judgments, payments in settlement, awards, interest, penalties, fines, costs, expenses and expert witness and attorneys' fees (collectively "**Losses**") which the Website Owner or any third person incurs in connection with any claim, demand, complaint, cause of action, action, suit, arbitration, judgment, settlement, grievance, proceeding, ruling, order, charge or investigation of any kind or nature (collectively "**Claim**") which is directly or indirectly caused by or attributable to any Prohibited Use of the Website by you. You should be aware that it is the general policy of the Website Owner to cooperate with law enforcement authorities, court orders or other legal process requesting or directing Website Owner to disclose the identity of anyone making a Prohibited Use of the Website and also to disclose such identity proactively if the Website Owner has a good faith belief that such disclosure is reasonably necessary to protect the rights, property, or personal safety of Website Owner, its employees, its vendors, its customers or the public.

## **DISCLAIMER OF LIABILITY**

The Website Owner shall not be responsible for and disclaims all liability for any Losses or Claims incurred you or any third person (including your company if any) which is directly or indirectly caused by or attributable to your access and use of the Website or the content, Website Materials or Information contained on the Website or your or your company's personal information or material and information transmitted over our system. Without limiting the generality of the foregoing, neither the Website Owner nor any Third Person Provider shall be liable in any way to you or to any other person (including your company if any) for any Loss or Claim arising from any inaccuracy, error or omission, interruption, termination, defect, failure of performance, delay in operation or transmission, line failure or Malware on the Website, or for any actions taken in reliance thereon or occasioned thereby. Applicable law may not allow the exclusion of certain warranties or the limitation or exclusion of liability for incidental or consequential damages, so some of the above limitations or exclusions may not apply to you. However, in no event shall Website Owner's total liability to you for any Loss or in connection with any Claim exceed the amount paid by you, if any, for accessing this site.

## **ALTERATION OF TERMS**

The Website Owner may, in its sole discretion and at any time without prior notice, modify or discontinue this Website or specific portions of it. You acknowledge that by visiting the Website, you become bound to the current version of these Terms of Use (the “**Current Version**”) and, unless stated in the Current Version, all previous versions shall be superseded by the Current Version. You shall be responsible for reviewing the then Current Version each time you visit the Website. You should check back frequently and review these Terms of Use regularly so you are aware of the most current rights and obligations that apply to you and the permissions and Terms of Use of your use of this Website.

## **COOKIES AND ACCESS LOG**

The technologies used on the Website to collect usage information, including device identifiers, include cookies (namely, data files placed on a computer, tablet or other electronic device used to visit the Website (“**Device**”)). We may place cookies or similar files on your Device for security purposes when you visit this Website. Also, we keep access logs of people accessing our site. None of these will contain information that identifies individuals. Access log is used for statistical analysis and nothing else.

## **HOW TO CONTACT US**

Should you have other questions or concerns about these Terms of Use, please contact us at [Bertolli.us@mizkan.com](mailto:Bertolli.us@mizkan.com).

## **MISCELLANEOUS LEGAL TERMS**

Entire Agreement, Amendment: These Terms of Use together with any additional terms, rules, our [privacy policy](#) and any other regulations, procedures and policies which we publish or refer to and which are hereby incorporated by reference in these Terms of Use, constitute the entire and final agreement between you and the Website Owner and supersede any and all prior or inconsistent understandings relating to the Website and your use of the Website. These Terms of Use may not be amended, modified or supplemented except in a writing which expressly references these Terms of Use and is signed by the Website Owner. Waivers: No failure by Website Owner to enforce these Terms of Use in whole or in part shall constitute a waiver of any of Website Owner’s rights under these Terms of Use, whether for past or future actions by any person. Only a written waiver signed by an authorized representative of Website Owner shall have any legal effect whatsoever. Governing Law: These Terms of Use and your use of the Website is governed by, construed and enforced in accordance with the laws of the State of Illinois (excluding its laws regarding choice

of law). Location of Court for Disputes: You hereby irrevocably and unconditionally consent and submit to the exclusive jurisdiction of the State or Federal courts located in the County of Cook, Illinois (“**Illinois Court**”) for any litigation or other legal or equitable action arising out of or relating to your use of the Website or these Terms of Use, and you hereby waive any objection to such jurisdiction or the laying of venue of any such litigation or action in any Illinois Court and agree not to plead or claim in any Illinois Court that such litigation brought therein lacks personal jurisdiction or has been brought in an inconvenient forum . No Jury Trial: IN ANY ACTION OR PROCEEDING COMMENCED TO ENFORCE ANY RIGHT OR OBLIGATION OF THE PARTIES UNDER THESE TERMS OF USE OR WITH RESPECT TO YOUR USE OF THE WEBSITE OR THE SUBJECT MATTER THESE TERMS OF USE, YOU HEREBY WAIVE ANY RIGHT YOU MAY NOW HAVE OR HEREAFTER POSSESS TO A TRIAL BY JURY TO THE FULL EXTENT PERMITTED BY LAW. Statute of Limitations: Any legal action, arbitration or other proceeding against the Website Owner related to the use of this Website or these Terms of Use shall be barred and forever waived unless commenced by the filing of an action in a court of competent jurisdiction or commencement of an arbitration or other proceeding within one (1) year after the date when the cause of action first arises (or if multiple causes, from the date the first such cause arose). Survival: All obligations of the parties of a continuing nature shall survive the termination or expiration of these Terms of Use. Severability: If any provision of these Terms of Use shall be found to be unenforceable by a court or other competent body, these Terms of Use shall be interpreted as though that provision, to the extent that it is found to be unenforceable, were not contained herein. Definitions: The word “*person*” shall include a corporation, limited liability company, partnership, company, firm, trust or other form of association or entity or governmental agency, department or court as well as a natural person. The term “*including*” means “including without limitation”. Interpretation: Unless otherwise indicated by the context in which it appears, the singular shall include the plural and vice versa; and each word of gender shall include each other word of gender as the context may require. The word “*or*” is inclusive and includes “and” except where the context in which “*or*” appears indicates a disjunctive meaning. The titles of the Sections used in these Terms of Use are used for convenience only and are not to be considered in construing or interpreting these Terms of Use.

[The Current Version of these Terms of Use is effective as from December 2014 until otherwise modified as provided herein.]