

# Hyundai Rewards Online Mall Terms of Service

These Terms of Service govern the terms and conditions of the Online Shopping Mall ("Mall") powered by 89 Degrees, Inc. ("89 Degrees") on behalf of Hyundai Rewards. Any reference to "we", "our", "us" or the like in these Terms of Service ("Terms") refers collectively to 89 Degrees. "You", "your" or the like refers to you, the end user of this Mall. Any reference to HMA shall mean Hyundai Motor America.

These Terms also apply to your use of any technology of 89 Degrees or its licensors or suppliers that is enabled to work together with the Mall (collectively, the "Technology"). Accordingly, any reference to restrictions, limitations and conditions with respect to the use of the Mall shall also apply to the use of such Technology.

PLEASE READ THE FOLLOWING TERMS CAREFULLY, AS THEY AFFECT YOUR LEGAL RIGHTS AND OBLIGATIONS.

BY ACCESSING OR USING THE MALL AND ANY OTHER TECHNOLOGY, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND UNCONDITIONALLY AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS CONTAINED IN THESE TERMS. We encourage you to review these Terms periodically for any updates or changes. We reserve the right to change these Terms by posting a new version without notice to you. Use of the Mall or other Technology after such change constitutes your acceptance of such changes. If you do not accept these Terms, please do not use this Mall or any Technology.

## 1. Offer Program

This Mall and any awards of Points (as defined below) pursuant to your use of the Mall or any Technology is also subject to the terms and conditions of any applicable loyalty, virtual currency or other incentive program operated by or on behalf of 89 Degrees (each, a "Program"). The terms and conditions for any Program are generally made available on the Hyundai Rewards website. By using the Mall and the Technology, you agree that all Points shall be subject to the terms and conditions of the Program and that you will comply with such terms and conditions. The Program is void where prohibited by law. For the purposes of these Terms, the term "Points" means points or other loyalty or virtual currency, awards, incentives or benefits relating to the Program.

In general, Points will be awarded by 89 Degrees for your Qualifying Transactions from third party sellers of products and/or services in the Mall ("Merchants"), based on the awards or commissions promised by those Merchants for such Qualifying Transactions. Without limiting anything in these Terms, a "Qualifying Transaction" means a purchase, subscription or other transaction with or action (each, a "Transaction") with respect to a Merchant for which (i) a valid offer exists from a Merchant (each, an "Offer"), (ii) as determined by Merchant, in its sole discretion, all of the Merchant's offer terms, including any applicable waiting period, have been met in full and (iii) as determined by Hyundai Rewards, in our sole discretion, such Transaction is made in accordance with and subject to the limitations of these Terms. Point offers are only valid for Qualifying Transactions initiated through the Mall and are not valid toward Transactions placed directly with any Merchant. You may not use any automated means (such as a macro, bot or other similar software or application) or any other scheme or method, whether manual or automated, to conduct multiple Transactions on the Mall or with any other Technology to generate Points, and such use is a material violation of these Terms. Unless the terms of a particular Offer expressly state otherwise, any purchase or other Transaction that qualifies as a Qualifying Transaction shall be limited to one (1) Qualifying Transaction per customer/user. You acknowledge that 89 Degrees will have the sole right to determine, in its sole and absolute discretion, whether you have violated these Terms. If we discover, for example, that you have conducted (or attempted to conduct), alone or together in concert with other users, multiple Transactions that are proximate in time to each other via the Mall or other Technology with respect to one or more Merchants, and we believe that such Transactions and activities were made in an

effort to generate Points artificially (i.e. not consistent with the intended purpose of the Mall to enable members of the Program to benefit from bona fide Transactions completed with Merchants), we reserve the right to cancel your Transactions, terminate your account with us, report you for your conduct to the Merchant and, as applicable, to the authorities and other third parties. Any such determination will be made by 89 Degrees, in our sole and absolute discretion, and you agree that we will not have any liability to you or any other person from such actions. WITHOUT LIMITING ANYTHING IN THESE TERMS, YOU ACKNOWLEDGE AND AGREE THAT 89 DEGREES' RIGHTS AND CONDITIONS IN THIS PARAGRAPH FORM AN ESSENTIAL PART OF THE AGREEMENT BETWEEN YOU AND 89 DEGREES BY WHICH YOU ARE GIVEN THE RIGHT TO USE THE MALL AND OTHER TECHNOLOGY ON THE TERMS, AND THAT WITHOUT YOUR AGREEMENT TO SUCH RIGHTS AND CONDITIONS, YOU DO NOT HAVE THE RIGHT TO USE THE MALL AND SUCH TECHNOLOGY, AND THAT ANY ACTIVITIES OR TRANSACTIONS THAT YOU MAY CONDUCT ON THE MALL OR WITH ANY TECHNOLOGY ARE VOID BUT FOR SUCH AGREEMENT.

To receive your Points from the Mall for Qualifying Transactions, you must:

Be logged into the Mall with your Program account number, use only valid links within the Mall Website to enter a participating Merchant's website, and complete the Qualifying Transaction within the session generated by clicking a valid link.

89 Degrees will not award Points for any Transactions made through a third party retailer or other merchant that may be independently linked from a participating Merchant's website. To verify you are in a valid session, re-enter the Mall and click on the Merchant logo or name and then click the "Shop Now" link for the Merchant with whom you want to transact. It is your responsibility to carefully read and understand the terms and conditions of any Merchant Offer, including any exclusion and waiting periods that may apply, and to follow the instructions so that the Transaction constitutes a Qualifying Transaction. Exclusions may include but are not limited to certain products or services excluded by the Merchant from the Offer, applicable taxes, shipping, handling, duties, credit card fees, personalization, gift-wrapping, Transactions paid for with gift cards, or shipments outside the United States. Points will not be awarded and/or will be rescinded for any orders or other customer commitments (such as new accounts being opened) being cancelled, returned or otherwise terminated by the customer or the Merchant (each, a "Return") or where a customer fails to pay for the products or services, due to a failed credit card authorization, chargeback, credit fraud or otherwise. Notwithstanding anything to the contrary in these Terms or in any Mall, you acknowledge the following: The listings of Offers for products and services and Merchants on any Mall are solely an advertisement and promotion placed by each such Merchant on the Mall. Any statement regarding any Points, discounts, pricing or otherwise on a Mall with respect to any Transaction with such Merchant is not, and shall not in any way be deemed to be, an offer that may be accepted to create any contract with, or impose any binding obligation upon, 89 Degrees or such Merchant. To the extent that any contract or course of dealing exists between 89 Degrees and any Merchant, directly or indirectly, you will not have any rights, and will not claim to have any rights, under such contract or course of dealing. The decision on whether or not a Qualifying Transaction took place (or a Return took place), and whether or not to pay a commission that results in any Points award, is made solely by the Merchant. It is possible that a Merchant may have exclusions for a Qualifying Transaction that are in addition to any that may be listed on our Mall. Accordingly, you agree that we are not responsible for any Points that you may have expected to receive from any Transaction if a Merchant decides not to treat such Transaction as a Qualifying Transaction, or otherwise fails for any reason to pay a commission to us in respect of such Transaction. You conduct all activity on our Malls and with any Technology at your own risk.

It is also possible that a mistake, inaccuracy or omission (collectively, "mistakes") on our Malls or Technology occurs from time to time, where the Offer is not completely or correctly described, or where the Technology incorrectly informs you that a Transaction is a Qualifying Transaction. We will use our reasonable efforts to correct a mistake as soon as practicable after we discover it or it is brought to our attention. We also reserve the right at any time to: (i) revoke any stated Offer; (ii) correct any mistake; (iii) make changes to prices, content, promotion offers, product descriptions or specifications, or other

information without obligation to issue any notice of such changes (including after a Transaction has already been processed, except as otherwise prohibited by applicable law) and (iv) not award you any Points (and to reverse any Points previously awarded) from any and all Transactions that you processed that otherwise may have been Qualifying Transactions, but for the mistake. We also reserve the right to limit quantities (including after a Transaction has been submitted and/or acknowledged) and to revise, suspend, or terminate an Offer at any time without notice. The inclusion of any Offer on our Malls does not guarantee that the Offer is still available from the Merchant. If the Offer is not available, your sole remedy is to return to the Merchant the products or services purchased from a Merchant, in accordance with the Merchant's return policy. We apologize in advance for any inconvenience that this may cause you.

Points for Qualifying Transactions will be posted to your Program account within eight (8) to ten (10) weeks from the product ship date or other applicable Transaction date. You agree that we will not be responsible for any delay in posting Points to your account. Pre-orders and backorders are not subject to award until a Merchant ships product and confirms the Qualifying Transaction. The Offers and Points received through Transactions on any Mall or other Technology are not valid on previous purchases and cannot be combined with any other offer or promotion unless specifically stated by the applicable Merchant.

As noted above, upon notification from a Merchant, we reserve the right to deny and/or to reverse any Points posted to your account for any valid reason including, without limitation: (i) your failure to fulfill the requirements of a Qualifying Transaction, including any failure to pay for the products or services covered by the Transaction; (ii) for any Return (even if the underlying Transaction was a Qualifying Transaction); or (iii) if you make a purchase from a Merchant with the intent to defraud or circumvent or abuse the qualification terms of an offer, attempt to earn Points through repeated and/or automated actions (such as macros, for example) or if you violate these Terms. You acknowledge that the Merchant controls whether or not to process any Return for any Transaction, and in the event of any Return, you will not be entitled to any Points. We will use reasonable efforts to respond to any inquiries made by you within 90 days. We are not responsible if a Merchant delays or fails to authorize any Qualifying Transaction or for any other delay in recording Points in your account. Furthermore, you acknowledge that any award of Points is contingent upon the acceptance of the underlying Transaction by the applicable Merchant as a Qualifying Transaction, and that if the Merchant for any reason refuses or fails to pay its commission for any Transaction, whether or not it would otherwise appear to be a Qualifying Transaction, or if the payment of the commission to us is reclaimed for any reason (including without limitation due to the bankruptcy, insolvency or liquidation of a Merchant), we reserve the right not to award you any Points in respect of such commission and to reverse your account for any Points that may have been previously awarded in respect of such commission.

YOU AGREE THAT ANY DISPUTE OR ACTION RELATING TO ANY TRANSACTION (INCLUDING WHETHER SUCH TRANSACTION IS A QUALIFYING TRANSACTION) MUST BE RESOLVED EXCLUSIVELY BETWEEN YOU AND THE MERCHANT. YOU AGREE TO INDEMNIFY AND HOLD HARMLESS (i) 89 DEGREES AND ITS PARENTS, SUBSIDIARIES OR AFFILIATES, (ii) HMA, AND ITS PARENTS, SUBSIDIARIES OR AFFILIATES, (iii) ANY MERCHANTS, SERVICE PROVIDERS, AFFILIATE NETWORKS AND OTHER THIRD PARTIES WORKING FOR OR WITH 89 DEGREES, AND THEIR RESPECTIVE PARENTS, SUBSIDIARIES AND AFFILIATES, AND (iv) THE DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS OF ANY OF THE FOREGOING PARTIES REFERRED TO IN CLAUSES (i) AND (iv) (COLLECTIVELY, THE "INDEMNIFIED PARTIES") FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS AND DAMAGES, INCLUDING THE PAYMENT OF REASONABLE ATTORNEY'S FEES, ARISING OUT OF OR RELATING TO (i) YOUR USE OF THE MALL AND/OR OTHER TECHNOLOGY, (ii) ANY CLAIMS THAT YOU MAY HAVE AGAINST, OR ANY DISPUTES THAT YOU MAY HAVE WITH, ANY INDEMNIFIED PARTY WITH RESPECT TO ANY HYUNDAI REWARDS AWARD, OR OTHERWISE, OR ANY TERMS OF ANY OFFER ON THE MALL, (iii) YOUR BREACH OF THESE TERMS; AND/OR (iv) YOUR VIOLATION OF LAW OR INTENTIONAL WRONGFUL CONDUCT OR NEGLIGENCE. AS A CONDITION OF 89 DEGREES' ASSISTANCE OR COOPERATION IN ANY DISPUTE THAT YOU MAY HAVE WITH ANY MERCHANT, YOU AGREE THAT ANY INFORMATION

SHARED BY 89 DEGREES REGARDING SUCH DISPUTE SHALL BE STRICTLY CONFIDENTIAL AND YOU AGREE NOT TO DISPARAGE 89 DEGREES.

## **2. Participating Merchants**

Merchants participating in the Malls are subject to change without prior notice. We are not responsible for setting or maintaining the amount of Points offered by any Merchant or for requirements of any Merchant's program, offer or Qualifying Transaction. From time to time Merchants may present special offers and discounts on the Mall, or special promotions for which Hyundai Rewards would issue incremental bonus Points. Please review the details for each Merchant to view all promotion dates and the terms of the applicable Program on such matters. The amount of Points rewarded, as well as the terms and conditions of any Qualifying Transaction may change for any offer at any time. Your continued use of the applicable Mall and Technology thereafter will constitute acceptance of such terms and conditions. Accordingly, please also refer to each Merchant's website for all terms and conditions relating to the Transaction with such Merchant, including but not limited to, guarantees, warranties, payment terms, shipping, delivery, taxes, return policies and processing of returns. We make no warranties and disclaim all responsibility for fulfillment of the Transaction between you and any Merchant.

## **3. Cookies Systems**

In order for us to track your Qualifying Transactions with Merchants and for you to receive Points for those Transactions, you must use an internet browser for those Transactions with the option to accept cookies turned on. This tracking function is performed using cookies both from our affiliate networks and from many of the Merchants. If your browser blocks cookies, we may not be able to award points or Points for your Qualifying Transactions. You may not receive notification that your browser is blocking cookies. Also, if the Merchant fails to report to us any Transaction that you believe to be a Qualifying Transaction, we will not award you any Points, and you will not be entitled to any such Points unless and until the Merchant reports such Transaction, authorizes the Transaction as a Qualifying Transaction and pays its commission for such Qualifying Transaction.

Due to specific mobile device configurations and/or Merchant website tracking limitations, purchases made online through a Merchant link may not be tracked to earn Points. Cookie blocking, private browsing, use of non-supported browsers, and other actions may prevent you from earning Points.

We periodically schedule system downtime for maintenance and other purposes. Unplanned system outages also may occur. We have no liability whatsoever for the resulting unavailability of any Mall or Technology or for any loss of data or Transactions caused by planned or unplanned system outages or any delay, misdelivery or nondelivery of information, or any third party acts or any other outages of web hosting providers or the internet infrastructure and network external to any Mall.

## **4. Privacy**

By using the Malls and other Technology and conducting Transactions, you agree that we and/or HMA and/or our respective agents and service providers may collect and use certain information and data relating to your use, as more fully described in each such party's respective privacy policy. We retain and reserve all rights in such data. Each such party reserves the right to amend its privacy policies from time to time. The policies, as they may be amended, are integrated and incorporated by reference into these Terms.

Without limiting the foregoing, you acknowledge we and/or HMA and/or our respective agents and service providers may collect information about you, your activities on the Malls, and your use of the Technology and activity on the internet with that Technology, and your activities and Transactions with Merchants. You hereby authorize Merchants and their respective agents to disclose to us and/or HMA and/or our respective agents and service providers information regarding purchases made, products ordered, order

number, the time and date the purchase occurred, and the email entered for the purchase. You agree to hold the Indemnified Parties harmless for any information so disclosed to us and/or HMA and/or our respective agents and service providers. You authorize us, HMA and our respective agents and service providers to use any such information and to disclose such information to our agents and service providers as reasonably required to operate the Malls and other Technology and otherwise in accordance with our Privacy Policy.

We make no claims that information on the Mall is appropriate or may be downloaded outside of the United States. Access to the Mall may not be legal in certain countries or for certain persons. If you access any Mall from outside of the United States, you do so at your own risk and are responsible for compliance with the laws of your jurisdiction regarding online conduct and acceptable content. In such case, you also acknowledge and agree that we may collect and use your information and disclose it to other entities outside your resident jurisdiction. In addition, such information may be stored on servers located outside your resident jurisdiction. United States law may not provide the degree of protection for information that is available in other countries. By providing us with your information, you acknowledge that you consent to the transfer of such information outside your resident jurisdiction as detailed in our privacy policy. If you do not consent to such transfer, you may not use the Malls or other Technology.

Please also take note that Merchants participating in the Mall operate their websites with different privacy practices. Accordingly, you should review the privacy policy of each Merchant's website, as we have no control over information that is submitted by you to these third parties. Merchants may also collect additional information to ensure Points are tracked and reported including the use of cookies. We have no access or controls over the usage of these cookies or the collection and dissemination of additional information they may collect.

## **5. User Responsibilities**

Without limiting anything otherwise provided in these Terms, you agree that:

You are a person of at least eighteen (18) years old or the legal age in the state in which you live (whichever is higher); You will not use the Malls or any other Technology in any manner that adversely affects the availability of our resources to or enjoyment by other users or in any manner that could damage, disable, overburden, or impair our servers or networks, or otherwise in any automated manner to generate Points inconsistent with ordinary and bona fide shopping behavior in the Malls or with our Technology; and You are entirely responsible for maintaining the security and confidentiality of your account and password and you are responsible for all activities, Transactions and conduct by you or anyone else that are conducted through your account. You agree to provide true, accurate, current and complete information about yourself as prompted by any program registration form and to maintain and promptly update your personal data to keep it true, accurate, current and complete at all times. 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 have the right to suspend or terminate your account. You agree to notify us immediately of any unauthorized use of your account or any other breach of security. We will not be liable for any loss or damages of any kind that may arise as a result of someone else using your password or account, either with or without your knowledge. You may not impersonate any other person, including but not limited to, any other registered user of our Mall or other technology or an employee of 89 Degrees, or let any other person impersonate you. While we employ reasonable security measures to protect the personal information you submit to us, we cannot be responsible for the acts of those who gain unauthorized access, and we make no warranty, express, implied, or otherwise, that we will prevent unauthorized access to your private information.

## **6. CERTAIN DISCLAIMERS**

YOU ACKNOWLEDGE AND AGREE THAT THE MALL, THE TECHNOLOGY, AND ALL PROMOTIONS ARE PROVIDED TO YOU ON AN "AS IS" AND "IF AVAILABLE" BASIS. WE MAKE NO

REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WITH RESPECT TO THE DESIGN, ADEQUACY, ACCURACY OR RELIABILITY OF ANY MALL, OUR TECHNOLOGY, ANY OFFER THEREON OR WITH RESPECT TO ANY PROGRAM. WE EXPRESSLY DISCLAIM RESPONSIBILITY FOR TYPOGRAPHIC OR OTHER CONTENT ERRORS OR OMISSIONS, SOFTWARE DEFECTS, DATA OR TRANSMISSION ERRORS OR DELAYS OR COMPUTER VIRUSES OR FOR YOUR INABILITY TO CONNECT TO THE INTERNET, ACCESS THE MALL OR ACCESS A MERCHANT'S WEBSITE. YOU ACKNOWLEDGE AND AGREE THAT WE ARE NOT RESPONSIBLE FOR AND HAVE NO CONTROL OVER THE CONTENT OF, OR CLAIMS MADE BY ANY MERCHANT OR OTHER PERSON, WITH RESPECT TO ANY QUALIFYING TRANSACTION OFFER OR OTHERWISE, ON THE MALL, ANY MERCHANT WEBSITES OR OTHER WEBSITE THAT IS LINKED FROM THE MALL. THE TERMS, CONDITIONS, WARRANTIES AND REPRESENTATIONS ASSOCIATED WITH ANY TRANSACTIONS BETWEEN YOU AND A MERCHANT ARE SOLELY BETWEEN YOU AND SUCH MERCHANT. WE MAKE NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR INTENDED USE REGARDING THE SERVICES, MATERIALS OR PRODUCTS, ADVERTISED, PROMOTED, SOLD OR OTHERWISE MADE AVAILABLE THROUGH A PARTICIPATING MERCHANT. YOU ACKNOWLEDGE AND AGREE THAT WE ARE NOT RESPONSIBLE FOR THE AVAILABILITY OF SUCH EXTERNAL SITES OR RESOURCES, AND DO NOT ENDORSE AND ARE NOT RESPONSIBLE OR LIABLE FOR ANY CONTENT, ADVERTISING, PRODUCTS, OR OTHER MATERIALS ON OR AVAILABLE FROM SUCH SITES OR RESOURCES. WE WILL NOT BE RESPONSIBLE OR LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY ACTUAL OR ALLEGED DAMAGE OR LOSS CAUSED BY OR IN CONNECTION WITH USE OF OR RELIANCE ON ANY SUCH CONTENT, OFFERS, PRODUCTS OR SERVICES AVAILABLE ON OR THROUGH THE MALL OR OTHER TECHNOLOGY OR ANY SUCH OTHER WEBSITE OR RESOURCE.

Please refer to each Merchant's website and your Merchant contract for all conditions relating to your Transaction with a Merchant, including but not limited to, payment terms, shipping, delivery, taxes, return policies, guarantees and warranties, and processing of returns. Even though we make no warranties and disclaim responsibility for fulfillment of any Transaction, we will use reasonable efforts to respond to any inquiries made within ninety (90) days. You understand and acknowledge that we may audit all of your Transactions for which Points are claimed, to verify that the Transactions were completed and have not been canceled or otherwise terminated, and that no Return has taken place. You understand and acknowledge that if we suspect fraud or other misuse, we may investigate and report any evidence, including any and all personal information gathered during your use of the Malls or other Technology to law enforcement, and other judicial authorities in the course of seeking remedies in law. We, in our sole discretion, may deny you access to the links to Merchants with or without cause at any time.

IN NO EVENT SHALL ANY INDEMNIFIED PARTY (AS DEFINED ABOVE) BE LIABLE FOR ANY DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, INCIDENTAL, CONSEQUENTIAL, DIRECT OR INDIRECT DAMAGES, EXPECTATION DAMAGES, PUNITIVE DAMAGES, LOST PROFITS, OR OTHER SIMILAR DAMAGES) RESULTING OUT OF, OR IN ANY WAY CONNECTED WITH YOUR USE OF THE MALL, OUR TECHNOLOGY OR ANY TRANSACTION CONDUCTED WITH ANY MERCHANT, OR ANY UNAUTHORIZED ACCESS BY A THIRD PARTY OF YOUR PERSONAL INFORMATION, WHETHER SUCH CLAIMS MAY BE BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT WE ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WITHOUT LIMITING THE FOREGOING, IF WE ARE FOUND TO BE LIABLE TO YOU FOR LOSSES ARISING OUT OF YOUR TRANSACTIONS WITH A MERCHANT, OR OTHERWISE RELATING TO ANY OFFER FOR POINTS OR USE OF THE MALL OR OTHER TECHNOLOGY, OUR AGGREGATE LIABILITY TO YOU OR TO ANY THIRD PARTY IS LIMITED TO \$50.00 IN TOTAL, REGARDLESS OF THE NUMBER OF TRANSACTIONS, OCCURRENCES OR CLAIMS. FURTHERMORE, YOU AGREE THAT ANY CAUSE OF ACTION THAT YOU MAY BRING ARISING OUT OF OR RELATING TO MALL, THE PROGRAM, THE TECHNOLOGY OR ANY TRANSACTIONS CONDUCTED THEREWITH MUST BE COMMENCED NOT LATER THAN SIX (6) MONTHS FROM THE DATE THAT SUCH CAUSE OF ACTION AROSE, AND THE FAILURE TO COMMENCE AN ACTION WITHIN SUCH PERIOD WILL MEAN THAT THE ACTION SHALL BE PERMANENTLY BARRED. To the

extent that jurisdiction applicable to you does not permit the disclaimer of warranties, exclusion of damages and other limitations in this paragraph, and the foregoing disclaimers, exclusions and limitations may not apply to you to such extent.

## **7. Intellectual Property**

All referenced trademarks are owned and/or licensed by the respective parties. All contents of the Malls, including, without limitation, the look and feel of the Malls, and the names, logos, trademarks, images, and text, are the property of 89 Degrees and HMA relating to such Malls, respectively, and, as applicable the Merchants and advertisers participating in the Malls. These contents are protected by copyrights, trademarks, and other intellectual property rights owned and controlled by us or such other third parties that have licensed or otherwise provided their material to us. The content on the Mall and any Technology may not be copied, distributed, or transmitted in any way.

## **8. Other**

These Terms and your use of the Mall and other Technology are governed by the laws of the Commonwealth of Massachusetts. If for any reason any provision of these Terms or portion thereof is found to be invalid or unenforceable, in whole or in part, that provision shall be enforced to the maximum extent permissible so as to effect the intent of the parties, and the remainder of these Terms shall continue in full force and effect. Any and all remedies that we may have under these Terms or pursuant any other agreement or applicable law shall be cumulative and the exercise of any such rights or remedies shall not limit our right to exercise any other remedy available to us.

WE WILL MAKE EVERY REASONABLE EFFORT TO RESOLVE ANY DISAGREEMENTS THAT YOU HAVE WITH US. IF THOSE EFFORTS FAIL, AS A CONDITION TO USING THE MALL AND THE TECHNOLOGY, YOU AGREE THAT ANY CLAIM, DISPUTE, OR CONTROVERSY YOU MAY HAVE AGAINST THE INDEMNIFIED PARTIES (AS DEFINED ABOVE), AND ANY CAUSE OF ACTION THAT YOU MAY BRING IN CONNECTION WITH SUCH CLAIM, DISPUTE OR CONTROVERSY, ARISING OUT OF, RELATING TO, OR CONNECTED IN ANY WAY WITH THESE TERMS, THE MALL OR THE TECHNOLOGY, SHALL BE RESOLVED EXCLUSIVELY BY FINAL AND BINDING ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION ("AAA") AND CONDUCTED BEFORE A SINGLE ARBITRATOR PURSUANT TO THE APPLICABLE RULES AND PROCEDURES ESTABLISHED BY AAA ("RULES AND PROCEDURES"). YOU AGREE FURTHER THAT: (A) THE ARBITRATION SHALL BE HELD AT A LOCATION DETERMINED BY AAA PURSUANT TO THE RULES AND PROCEDURES (PROVIDED THAT SUCH LOCATION IS REASONABLY CONVENIENT FOR YOU), OR AT SUCH OTHER LOCATION AS MAY BE MUTUALLY AGREED UPON BY YOU AND 89 DEGREES OR, IF REQUESTED BY EITHER PARTY, TO THE EXTENT PERMITTED UNDER THE RULES AND PROCEDURES, BY TELEPHONE OR VIDEOCONFERENCE; (B) THE ARBITRATOR SHALL APPLY MASSACHUSETTS LAW CONSISTENT WITH THE FEDERAL ARBITRATION ACT AND APPLICABLE STATUTES OF LIMITATIONS, AND SHALL HONOR CLAIMS OF PRIVILEGE RECOGNIZED AT LAW; (C) THERE SHALL BE NO AUTHORITY FOR ANY CLAIMS TO BE ARBITRATED ON A CLASS OR REPRESENTATIVE BASIS; ARBITRATION CAN DECIDE ONLY YOUR AND/OR 89 DEGREES' INDIVIDUAL CLAIMS; AND THE ARBITRATOR MAY NOT CONSOLIDATE OR JOIN THE CLAIMS OF OTHER PERSONS OR PARTIES WHO MAY BE SIMILARLY SITUATED; (D) IN THE EVENT THAT YOU ARE ABLE TO DEMONSTRATE THAT THE COSTS OF ARBITRATION WILL BE PROHIBITIVE AS COMPARED TO THE COSTS OF LITIGATION, 89 DEGREES WILL AGREE TO PAY AS MUCH OF YOUR FILING AND HEARING FEES IN CONNECTION WITH THE ARBITRATION AS THE ARBITRATOR DEEMS NECESSARY TO PREVENT THE ARBITRATION FROM BEING COST-PROHIBITIVE; AND (E) WITH THE EXCEPTION OF SUBPART (C) ABOVE, IF ANY PART OF THIS ARBITRATION PROVISION IS DEEMED TO BE INVALID, UNENFORCEABLE OR ILLEGAL, OR OTHERWISE CONFLICTS WITH THE RULES AND PROCEDURES ESTABLISHED BY AAA, THEN THE BALANCE OF THIS ARBITRATION PROVISION SHALL REMAIN IN EFFECT AND SHALL BE CONSTRUED IN ACCORDANCE WITH ITS TERMS AS IF THE INVALID, UNENFORCEABLE, ILLEGAL OR CONFLICTING PROVISION WERE NOT CONTAINED HEREIN. IF, HOWEVER, SUBPART (C) IS

FOUND TO BE INVALID, UNENFORCEABLE OR ILLEGAL, THEN THE ENTIRETY OF THIS ARBITRATION PROVISION SHALL BE NULL AND VOID, AND NEITHER YOU NOR 89 DEGREES SHALL BE ENTITLED TO ARBITRATE THEIR DISPUTE AND 89 DEGREES SHALL NOT BE OBLIGATED FOR ANY COSTS DESCRIBED IN SUBPART (D).

Effective Date: December 30, 2015.