

chocoMe Canada – TERMS OF USE

These terms (the “Terms”) govern your use of www.chocome.ca (the “Website”) and any order or purchase you make on the Website. By using the Website or proceeding to place an order, you agree to be bound by these terms. If you do not agree to these Terms, you must immediately cease using the Website and do not proceed with your order.

Please print and retain a copy of these terms for your records.

This Website is operated by chocoMe Canada.

This Website and the items offered for sale on and through this Website are applicable to all of our customers.

chocoMe Canada may modify these Terms from time to time. Any use of or access to the Website after such modification will indicate your agreement to the modified Terms. You should review this page frequently.

1. USE OF THE WEBSITE

You may not: post, upload, publish, reproduce, transmit, or otherwise distribute information or other material on or through the Website that:

- (a) constitutes or encourages conduct that would constitute a criminal offense or give rise to civil liability;
- (b) is protected by copyright, or other intellectual property right, or derivative works with respect thereto, without obtaining permission of the copyright owner or right holder; or
- (c) uses this site in a manner which is contrary to law, including posting or transmitting any information or software that contains a virus, cancelbot, trojan horse, worm or other harmful or disruptive component.

a. Copyright

All materials published or otherwise accessible through this Website including, but not limited to, news articles, text, photographs, images, illustrations, audio clips, video clips, software, and other information and materials (the "Content") are protected by copyright and other intellectual property rights, and are owned or controlled by ChocoMe Canada and any others who may own copyright or the party credited as the provider of the Content. You agree to abide by all copyright notices, information, and restrictions contained in the Content.

b. Trademarks

The trademarks, logos, and service marks, including but not limited to, "chocoMe", "chocoMe Canada" and other names, logos, and icons identifying the products and services (collectively the "Trademarks") displayed on the Website are registered and unregistered Trademarks of chocoMe and others. Nothing contained on the Website grants, by implication, estoppel, or otherwise, any license or right to use any Trademark displayed on the Website without the written permission of chocoMe Canada or such third party that may own the Trademark. Your use of any Trademarks or Content is strictly prohibited. You are also advised that ChocoMe Canada will aggressively enforce its intellectual property rights to the fullest extent of the law, including the seeking of criminal prosecution.

2. ORDERING PROCESS

chocoMe Canada reserves the right, at its sole discretion, to accept or reject any order prior to shipment of the order. You will receive online confirmation that your order has been received by chocoMe Canada after you place your order on the Website. This online confirmation that your order has been received by chocoMe Canada does not constitute acceptance of your order. Rather, shipment of each product in your order will constitute acceptance of your order of each of such product. Taxes and shipping costs will apply as of the date of shipping.

a. Rejection or Cancellation of Orders

chocoMe Canada reserves the right at any time after receipt of your order to reject or delay fulfillment of your order for any reason and chocoMe Canada will contact you at the e-mail address provided in the order form if it rejects or delays fulfillment of any products in your order. In the event that chocoMe Canada rejects any product in the order, chocoMe Canada will have no obligation to fulfill that product and you will have no obligation to pay chocoMe Canada for that product. If chocoMe Canada delays fulfillment of any product in your order, you have the right to cancel your order for that product, and chocoMe Canada has the right to reject your order for that product, at any time until the product is shipped. Some situations that may result in your order or any portion of your order being rejected or cancelled include:

1. Limitations on quantities available for purchase;
2. Inaccuracies or errors in product or pricing information;
3. A product recall on the item that you have purchased.

chocoMe Canada may also require additional verifications or information before accepting any order. chocoMe Canada will contact you if all or any portion of your order is rejected after your order has been placed but before it is shipped by chocoMe Canada or if additional information is required to accept your order.

b. Availability and Description of Products

The purchase of products on the Website is subject to availability. If at any time any products are no longer available, chocoMe Canada will have no obligation to fulfill your order for those products and you will have no obligation to pay chocoMe Canada for those unfulfilled products. chocoMe Canada will use reasonable efforts to notify you via your email address if any product ordered becomes unavailable. While the Website attempts to be accurate in its product descriptions, chocoMe Canada does not represent or warrant that product descriptions or other Content on this Website is accurate, complete, reliable, current, or error-free. If you find that a product you purchase is not as described, your sole remedy is to return it.

c. Price

By confirming your purchase at the end of the checkout process, you agree to pay chocoMe Canada the amount set out as the order total in the checkout process, subject to adjustment as described herein (the "Purchase Price"). The total amount is in Canadian dollars and includes shipping and handling fees, any applicable additional fees, and an estimate of all applicable taxes. The Purchase Price will be charged in Canadian dollars as applicable, to your selected payment method by chocoMe Canada. Please note that actual sales taxes are calculated on items as they ship, and therefore, due to mathematical rounding, there may be a slight adjustment to actual sales taxes owed and included in the Purchase Price from those estimated in your order total. In the event that a product is listed at an incorrect price due to an error in pricing, chocoMe Canada will have the right, at chocoMe Canada' sole discretion, to reject or cancel any orders placed for that product. In the event that a product is mispriced, chocoMe Canada may, at its discretion, either contact you for instructions or cancel your order and notify you of such cancellation.

d. Quantity Limits and Dealer Sales

chocoMe Canada reserves the right, at its sole discretion, to limit the quantity of items purchased per person, per household or per order. These restrictions may be applicable to orders placed by the same account, the same credit card, and also to orders that use the same billing and/or shipping address. We will provide notification to you should such limits be applied. chocoMe Canada also reserves the right, at its sole discretion, to prohibit sales to dealers or resellers. For purposes of these Terms, reselling is defined as purchasing or intending to purchase any product(s) from the Website for the purpose of engaging in a commercial sale of that same product(s) to a third party.

e. Method of Payment

You may pay for your purchase using any method identified in the checkout process on the Website and you authorize chocoMe Canada to charge the applicable payment method. You represent and warrant that you are the authorized owner of the applicable payment account. If your payment is rejected by the issuer of the payment method, your order will not be shipped and chocoMe Canada will have no obligation to fulfill your order. All billing and registration information provided by you to chocoMe Canada must be truthful and accurate. Providing any untruthful or inaccurate information constitutes a breach of these Terms.

f. Shipment

Your order will be shipped by chocoMe Canada's third party carrier. chocoMe Canada is not responsible for any loss of the products following delivery of the products to its third party carrier. The products you purchased may be shipped to you in separate packages even if purchased in a single order. If your products are shipped separately, the Purchase Price for your items, which includes the shipping and handling fees, will be charged to your selected payment method by chocoMe Canada in one or more charges, as each product is shipped.

g. Cancellation, Returns, Refunds and Exchanges

You may have certain legal rights to cancel your order under applicable consumer protection laws and chocoMe Canada will respect all such applicable laws.

3. PASSWORDS

You are responsible for the security of your account and password and may not share it with anyone else. If you believe your password or account credentials have been compromised, you must notify chocoMe Canada immediately. chocoMe Canada shall not be liable for any damages and expenses arising out of or relating to any unauthorized use of such account or password.

4. PRIVACY

chocoMe Canada's personal information practices on the Website, including the collection, use and/or disclosure of your personal information and/or financial information, are governed by chocoMe Canada's Privacy Policy. Please review this Privacy Policy and print a copy for your records.

5. LINKS TO THIRD PARTY SITES

The Website may offer access to third party websites through links on the Website (each, a "**Third Party Website**"). **Third Party Websites** are governed by their own terms of service and privacy policies. chocoMe Canada has no control over, and assumes no responsibility for, the content,

privacy policies or practices of any **Third Party Website**. You expressly release chocoMe Canada from any and all liability arising from your using any links provided on the Website and from your use of any **Third Party Website**.

6. CHANGES TO THE TERMS

The Terms applicable to your order are the Terms in effect on the date that you place your order, as made available to you when you complete the checkout process. chocoMe Canada may modify its Terms from time to time subject to applicable laws. Any such modification will apply to any order placed after the effective date of the modification. Therefore, each time you place an order with chocoMe Canada you represent that you have accessed, read and accepted the Terms applicable to and governing that order.

7. DISCLAIMER OF WARRANTIES

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, CHOCOME CANADA PROVIDES THIS WEBSITE AND ALL CONTENT, PRODUCTS, AND SERVICES "AS IS" AND "AS AVAILABLE" AND DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, (INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, QUALITY AND NON-INFRINGEMENT) RELATING TO THIS WEBSITE, ANY CONTENT, PRODUCTS, OR SERVICES ACCESSED, OFFERED, PURCHASED, OR SOLD THROUGH THIS WEBSITE, OR THE USE, SUITABILITY, OR AVAILABILITY OF ANY CONTENT, PRODUCTS, OR SERVICES, OR ANY TRANSACTION CONDUCTED ON THIS WEBSITE, WHETHER ARISING FROM STATUTE, COURSE OF DEALING, USAGE OF TRADE OR OTHERWISE. CHOCOME CANADA MAKES NO REPRESENTATIONS OR WARRANTIES THAT ANY ELECTRONIC COMMUNICATIONS SENT FROM CHOCOME CANADA ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

THIS SECTION DOES NOT LIMIT THE TERMS OF ANY PRODUCT WARRANTY OFFERED BY THE MANUFACTURER OF A PRODUCT THAT IS SOLD BY CHOCOME CANADA TO YOU THROUGH THE WEBSITE.

THE DISCLAIMERS IN THIS SECTION CONSTITUTE AN ESSENTIAL PART OF THESE TERMS. YOU ACKNOWLEDGE THAT, TO THE FULLEST EXTENT PROVIDED BY APPLICABLE LAW, YOUR USE OF THE WEBSITE IS AT YOUR SOLE RISK. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU ASSUME FULL RESPONSIBILITY FOR YOUR USE OF THE WEBSITE AND AGREE THAT ANY INFORMATION YOU SEND OR RECEIVE DURING YOUR USE OF THE WEBSITE MAY NOT BE SECURE AND MAY BE INTERCEPTED OR OTHERWISE ACCESSED BY UNAUTHORIZED PARTIES. YOU AGREE THAT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, NO CHOCOME CANADA ENTITY IS RESPONSIBLE FOR ANY LOSS OR DAMAGE TO YOUR PROPERTY OR DATA THAT RESULTS FROM ANY CONTENT OR PRODUCTS YOU ACCESS, DOWNLOAD, OR RECEIVE FROM OR THROUGH THE WEBSITE.

SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION ON IMPLIED WARRANTIES AND CONDITIONS. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS MAY NOT APPLY TO YOU.

8. LIMITATIONS OF LIABILITY

IN NO EVENT SHALL CHOCOME CANADA BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY NATURE (INCLUDING LOSS OF USE, LOSS OF DATA, LOSS OF PROFIT AND LOSS OF SAVINGS) INCLUDING FOR DAMAGES ARISING IN CONNECTION WITH OR RELATING IN ANY MANNER WHATSOEVER TO: (A) THIS WEBSITE; (B) ANY CONTENT, INFORMATION OR

PRODUCTS ACCESSED, OFFERED, PURCHASED OR SOLD THROUGH THIS WEBSITE OR THEIR USE, SUITABILITY OR AVAILABILITY (INCLUDING THE INABILITY TO USE); (C) ANY TRANSACTION CONDUCTED ON THIS WEBSITE; AND (D) ANY UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR DATA.

THE ABOVE EXCLUSION AND LIMITATION OF LIABILITY SHALL APPLY WHETHER OR NOT A CLAIM IS IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND PRODUCT LIABILITY), STRICT LIABILITY, RESTITUTION, BREACH OF STATUTE OR ANY OTHER THEORY OF LAW AND EVEN IF CHOCOME CANADA HAD BEEN ADVISED OR HAD REASONS TO KNOW OF THE POSSIBILITY OF SUCH DAMAGES. IN THIS SECTION, REFERENCE TO "CHOCOME CANADA" MEANS CHOCOME CANADA CORPORATION AND ITS AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, MANDATORIES AND AGENTS. CERTAIN JURISDICTIONS DO NOT ALLOW THE EXCLUSIONS OF DAMAGES AS PROVIDED ABOVE. IF THESE LAWS APPLY TO YOU, SOME OF THE EXCLUSIONS REFERRED TO ABOVE MAY NOT APPLY TO YOU. THIS SECTION SHALL APPLY TO YOU TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS.

IF YOU ARE DISSATISFIED WITH THE WEBSITE, ANY CONTENT, OR THESE TERMS, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE WEBSITE. IF THE EXCLUSIONS OR LIMITATIONS SET FORTH IN THIS SECTION, OR ANY PORTION THEREOF, ARE FOUND TO BE INVALID OR UNENFORCEABLE FOR ANY REASON, THEN THE AGGREGATE LIABILITY OF CHOCOME CANADA FOR DAMAGES OF ANY NATURE SUFFERED BY YOU SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF YOUR TRANSACTION.

9. INDEMNITY

You agree to indemnify and hold harmless, and, at chocoMe Canada's request, defend chocoMe Canada, from any claims, damages, losses, liabilities, and all costs and expenses of defense, including but not limited to, lawyers' fees, resulting directly or indirectly from a claim (including without limitation, claims made by third parties for infringement of intellectual property rights) that arise in connection with (i) your use or misuse of the Website, any Content, Trademarks, or any products; (ii) your breach of these Terms; (iii) your violation of any law or the rights of a third party; or (iv) content you have uploaded to or entered on the Website. You agree to cooperate as fully as reasonably required in the defense of any claim. chocoMe Canada reserves the right to assume the exclusive defense and control of any matter subject to indemnification by you for which you will remain responsible for indemnifying and holding harmless the chocoMe Canada Parties.

10. DISPUTES

All claims, disputes or controversies arising out of or relating to these Terms, the Website, any Content, or the offer of, purchase of, sale of, or use of any product ("Claims") are subject to binding arbitration as set forth in this Section. This includes Claims based on contract, tort (including intentional tort), fraud, agency, your or our negligence, statutory or regulatory provisions, or any other sources of law; Claims made as counterclaims, cross-claims, third-party claims, interpleaders or otherwise; and Claims made independently or with other claims. As used in this Section, chocoMe Canada includes its affiliates, and their respective officers, directors, employees, successors, agents, partners, contractors, and vendors.

This Agreement shall be construed and governed in accordance with the laws of the Province of Ontario, and the federal laws of Canada applicable therein, regardless of the place or places of its physical execution and performance, and the parties hereto hereby attorn to the Courts of the Province of Ontario in respect of any dispute arising hereunder.

REGARDLESS OF ANY STATUTE OR LAW TO THE CONTRARY, ANY CLAIM BY YOU MUST BE FILED WITHIN ONE (1) YEAR AFTER SUCH CLAIM AROSE OR BE FOREVER BARRED. YOU AND CHOCOME CANADA ALSO AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER IN ARBITRATION ONLY IN YOUR OR CHOCOME CANADA' INDIVIDUAL CAPACITY AND IN SO DOING YOU AND CHOCOME CANADA HEREBY WAIVE THE RIGHT TO A TRIAL BY JURY, TO ASSERT OR PARTICIPATE IN A CLASS ACTION LAWSUIT OR CLASS ACTION ARBITRATION, TO ASSERT OR PARTICIPATE IN A PRIVATE ATTORNEY GENERAL LAWSUIT OR PRIVATE ATTORNEY GENERAL ARBITRATION, AND TO ASSERT OR PARTICIPATE IN ANY JOINT OR CONSOLIDATED LAWSUIT OR JOINT OR CONSOLIDATED ARBITRATION OF ANY KIND. HOWEVER, CHOCOME CANADA WILL NOT INVOKE ITS RIGHT TO ARBITRATE ANY INDIVIDUAL CLAIM THAT YOU BRING IN SMALL CLAIMS COURT, AS LONG AS IT IS BROUGHT AND MAINTAINED AS AN INDIVIDUAL CLAIM. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION ON PARTICIPATION IN CLASS ACTION LAWSUITS. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS MAY NOT APPLY TO YOU.

Notwithstanding the arbitration provision above, chocoMe Canada may avail itself of the full range of remedies available, either individually or together, in connection with any violation of its intellectual property rights, including, but not limited to, temporary and permanent injunctive relief, and actions for damages in either state or federal courts, as applicable. If such judicial proceedings are instituted, the parties agree that such proceedings will not be stayed or delayed pending the outcome of any arbitration proceeding under these Terms. In such judicial proceedings, the prevailing party shall be entitled to an award of attorneys' fees and litigation costs, including those at the trial court and all appellate court levels, against the losing party.

11. APPLICABLE LAW

Any legal issues arising in connection with the Website, including any Claims under Section 10 above, shall be governed by and construed in accordance with the laws of the Province of Ontario, without giving effect to any principles of conflicts of law of that or any other jurisdiction. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

ChocoMe Canada does not represent or warrant that the Website or any part thereof is appropriate or available for use in any particular jurisdiction other than Canada. In choosing to access the Website, you do so on your own initiative and at your own risk, and you are responsible for complying with all local laws, rules and regulations. chocoMe Canada may limit the Website's availability, in whole or in part, to any person, geographic area or jurisdiction we choose, at any time and in our sole discretion.

14. NOTICES

You may contact ChocoMe Canada at: chocome@chocome.ca

You consent to receive notices and other communications relating to these Terms by chocoMe Canada posting notices on the Website, sending you an email at the email address provided when you make a purchase or listed in your profile in your account, or mailing a notice to you at your billing address. You agree that a printed version of these Terms and/or any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to these Terms to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

15. GENERAL

These Terms constitute the entire agreement between you and chocoMe Canada with respect to your use of this Website and any purchase made by you on the Website and supersede all previous and contemporaneous agreements, understandings and representations relating thereto. If any provision of these Terms is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable and the other terms of these Terms shall remain in full force and effect. The delay or failure of chocoMe Canada to act with respect to a breach of these Terms by you or others does not constitute a waiver and shall not limit chocoMe Canada' rights with respect to such breach or any subsequent breaches. ChocoMe Canada shall not be liable for any delay or failure to perform any of its obligations under these Terms if such delay or failure is due to causes beyond its control including, without limitation, weather-related and other uncontrollable shipping delays. You may not assign these Terms to any third party without the prior written consent of chocoMe Canada.

These Terms will be binding upon and will enure to the benefit of (i) you and your heir, executor, administrator and other legal representatives; and (ii) chocoMe Canada and its successors and assigns. It is the express wish of the parties that these Terms and all related documents be drawn up in English and only the English version shall be binding on you and chocoMe Canada.

Les parties conviennent expressément que ces Conditions ainsi que tous les documents connexes soient rédigés en anglais et que seule la version anglaise lie les parties.