

TERMS OF USE

Thank you for selecting the Yapta travel technology services ("Yapta Services") made available through this website ("FareIQ/RoomIQ/Yapta Site") by Yapta, its successors, assigns, affiliated companies and/or licensors (collectively referred to as "Yapta," "we," "our," or "us").

AGREEMENT

This TOU and any Yapta online policies incorporated by this reference governs your use of all Yapta Services. We reserve the right to change or otherwise modify the TOU at any time, with or without prior notice to you. Please return to this page periodically to review the most current terms. Unless you cease using the Yapta Services within thirty (30) days of the publication date of a revised TOU, your continued use of Yapta Services signifies your acceptance of any modified terms.

Certain Yapta Services you select may be subject to the additional terms and conditions of a Yapta order form ("Order Form"). This TOU and any Order Form are referred to as our "Agreement." In the event any provisions of an Order Form conflict with the express language of this TOU (including any subsequent modifications to this TOU), the terms of the Order Form will supersede the conflicting language of the TOU and govern our Agreement.

1. SERVICES DESCRIPTION.

1.1 Yapta Offering. For purposes of this Agreement, "Yapta Offering" refers to Yapta's online travel products and services, including:

- The FareIQ/RoomIQ/Yapta Site (including any successor or replacement sites);
- TravelAI data, information, analysis, and consulting services;
- Content generated by Yapta and displayed within the Yapta Service and/or the FareIQ/RoomIQ/Yapta Site (collectively and individually "Yapta Content") such as:

- fare alerts, hotel alerts, and other Yapta communications;
 - text, images, graphics, artwork, photographs and audio/visual materials; and
 - Yapta trademarks, logos and other indicia of Yapta ownership;
- The specific Yapta Service selected online or otherwise identified in one or more Order Form(s); and
 - Yapta software, tools and technologies that enable users to access and interact with the Yapta Service.

1.2 Account Activation. Promptly after the Effective Date (defined below), Yapta will make a unique instance of the Yapta Service (“Account”) available to you via a password-protected website. Upon Account activation, you will be solely responsible for selecting and managing your users and providing each of them with the information necessary to properly access, use and upload data to the Yapta Offering.

1.3. Account Password/Security. After initial activation of your Account, you will choose a user name and password to securely access your Account. You are solely responsible for maintaining the confidentiality of your password and for any and all activities that occur under your Account. You agree to notify Yapta immediately of any unauthorized use of your password, your Account or any other breach of security. You, and not Yapta, will not be liable for any losses resulting from third party use of your password or Account, either with or without your knowledge or consent.

2. RIGHTS, LICENSES AND USE RESTRICTIONS.

2.1. Yapta Proprietary Rights. You acknowledge and agree that the Yapta Offering, collectively and each of its individual components, are proprietary to Yapta and protected under applicable intellectual property and related laws.

2.2. License to Yapta Offering. The Yapta Offering is licensed, not sold. Subject to your payment of applicable Fees and the terms of this Agreement, Yapta grants you a limited, non-exclusive, non-transferable, non-sublicensable right and license under its intellectual property rights in and to the Yapta Offering to access and use your Account until the expiration of the Term for your own, internal business purposes. Your rights to the Yapta Offering are limited to those expressly provided in the Agreement. All other rights are reserved.

2.3 License Conditions. You will ensure that your Account is used lawfully and in a manner that does not compromise the security, integrity or proper functionality of any Yapta Offering. Your rights to access and use your Account are expressly conditioned on your compliance with the use restrictions set forth below.

You may not directly or through a third party:

- copy, reproduce, modify, create derivative works from, transfer, sell or attempt to sell the Yapta Offering, or any individual component, including Yapta Content;
- frame, mirror, copy or otherwise enable third parties to use the Yapta Offering as a service bureau or other outsourced service;
- use the Yapta Offering in a manner that disrupts, overloads, interferes with or degrades the security or performance of any Yapta Service;
- introduce (manually or by any automated means) any virus, worm, trap door, back door, "spyware", "malware," or other software or executable into the Yapta Offering;
- use the Yapta Offering for the purpose of developing a product or service that competes directly or indirectly with any Yapta Service;
- access, or attempt to access, any data, service or systems in the Yapta Offering that are not offered by Yapta as part of the Yapta Service you originally selected;

- alter, remove or modify any proprietary marks, images or attribution of Yapta ownership;
- or
- use the Yapta Offering in any manner prohibited by law, regulation or treaty.

2.4 Takedown Rights. You acknowledge that (in addition to any other available rights or remedies)

Yapta may suspend, modify, restrict or terminate access to any or all of your Account, with or without prior notice, in the event of any breach of this Section 2.

3. DATA; PRIVACY.

You retain all rights in and to any data submitted by you through the Yapta Services ("Customer Data").

Notwithstanding anything to the contrary in this Agreement or any other agreement between you and Yapta, you agree that Yapta may use and publish Customer Data in de-identified, aggregated form for purposes of enhancing and providing the Yapta Service . Please read our [privacy policy for information relating to our collection, use, storage and disclosure of your data and personal information](#).

4. THIRD PARTY PRODUCTS AND SERVICES

From time to time you may be offered products or services by third parties who are not affiliated with Yapta ("Third Party Products") and/or the Yapta Services may contain links to third party websites ("Third Party Pages"). If you decide to use any Third Party Products or access any Third Party Pages, you assume all associated risk and acknowledge that the third party provider, and not Yapta, is solely responsible for their respective products and services. Yapta is not affiliated with these Third Party Products or Third Party Pages. Promotion of such third party offerings by Yapta does not constitute an endorsement or imply any affiliation with any third party providers.

5. PAYMENT.

5.1 Fees. You agree to pay the fees for Yapta Services posted online or otherwise identified in an Order Form ("Fees"). Fees are denominated and payable in United States dollars. Fees paid are nonrefundable.

5.2 Payment Terms. All Fees are due and payable within thirty (30) days of invoice. Any amount not paid when due will be subject to finance charges equal to 1.5% of the unpaid balance per month or the highest rate permitted by applicable law.

5.3 Surcharges. Fees are exclusive of any applicable sales, use, excise, import or export taxes, duties, value-added taxes, tariffs or similar surcharges ("Surcharges"). In the event Yapta is required by law to withhold Surcharges on your behalf, Yapta may pay such Surcharges to the authorized taxing authority and, upon demand, you agree to reimburse Yapta for amounts paid.

5.4 Collection. You agree to reimburse Yapta for any costs or expenses (including, but not limited to, reasonable attorneys' fees) incurred to collect any Fees and/or Surcharges not paid when due.

5.5 Account Suspension; Reconnection. Fees payable to Yapta shall continue to accrue during any period of Account suspension. Amounts due must be paid in full as a condition precedent to Account reactivation, which reactivation will be in our sole discretion. If reactivated, Yapta reserves the right to charge an additional reconnection fee.

6. CONFIDENTIAL INFORMATION.

For purposes of this Agreement, "Confidential Information" means any non-public commercially sensitive information provided by a party under this Agreement to the other party and designated as "Confidential." Yapta Fees and payment terms are confidential information of Yapta. Unless expressly authorized in writing by the other party, neither party shall disclose to any third party any Confidential Information of the other party, nor use such Confidential Information in any manner other than to perform its obligations under this Agreement. The foregoing restrictions do not apply to any

information that (a) is publicly disclosed through no fault of the receiving party, (b) is already lawfully in the receiving party's possession and not subject to a confidentiality obligation to the disclosing party, (c) becomes known to the receiving party from a third party having an apparent bona fide right to disclose the information, or (d) is Confidential Information that the receiving party is obligated to produce pursuant to an order of a court of competent jurisdiction or a valid administrative subpoena, provided receiving party supplies disclosing party with timely notice of such court order or subpoena.

7. FORCE MAJEURE.

Neither party will be responsible for any delay, interruption or other failure to perform under this Agreement due to acts beyond its reasonable control, but only for so long as such conditions persist.

Force majeure events include, but are not limited to: natural disasters (e.g., lightning, earthquakes, hurricanes, floods); wars, riots, terrorist activities, and civil commotions; activities of local exchange carriers, telephone carriers, wireless carriers, Internet service providers, and other third parties; explosions and fires; embargoes, strikes, and labor disputes; governmental decrees; and any other cause beyond the reasonable control of a party.

8. TERM AND TERMINATION.

8.1 Term. This Agreement will begin on the earlier of (a) the date you accept this TOU or (2) the date indicated on an Order Form (the "Effective Date"). Unless earlier terminated as described below or otherwise noted in the Order Form, this Agreement will end two years after the Effective Date (the "Initial Term"). Upon expiration of the Initial Term, this Agreement will automatically renew for successive one (1) year periods, but may be terminated by either party for any reason upon thirty (30) days prior, written notice.

8.2 Material Breach. During the Initial Term and thereafter, either party may terminate this Agreement for the other party's material breach (a) immediately upon written notice in the event of a breach of Section 6 (Confidentiality) or (b) upon thirty (30) days prior written notice and a failure to cure within the notice period.

8.3 Post-termination Obligations. Upon expiration or termination of this Agreement for any reason, you will no longer have access to your Account. Yapta will have no obligation to retain, return or otherwise deliver to you any of Your Data submitted to your Account at any time during the Term. For clarity, you and not Yapta, will be solely responsible for making all backup and archival copies of any of Your Data or other content, data and information used in connection with your Account.

9. NO WARRANTY.

9.1 Acknowledgement. You acknowledge and agree that your Account and the Yapta Offerings (including Yapta Services and all Yapta Content) are provided on an "as is" and "as available" basis.

9.2 Disclaimer. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, ERROR-FREE PERFORMANCE, FITNESS FOR A PARTICULAR PURPOSE, TITLE, SATISFACTORY RESULTS, SECURITY, ACCURACY OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY YAPTA, ITS SUPPLIERS AND ITS LICENSORS.

9.3 Assumption of Risk. ACCESS TO AND/OR USE OF YOUR ACCOUNT, THE YAPTA OFFERING, ANY SPECIFIC YAPTA SERVICE OR ANY THIRD PARTY OFFERING IS AT YOUR SOLE RISK. WITHOUT LIMITATION, YOU ACKNOWLEDGE AND AGREE THAT:

- Yapta Offerings may not meet your requirements or business objectives;

- Yapta Offerings require connection to the Internet. Access may be interrupted, delayed or subject to security breaches.
- Yapta is not responsible for any disruptions or other failures of any Yapta Service that are beyond its reasonable control.
- Yapta Services use travel related information supplied by third parties, including global distribution systems (“GDS”), including fare and ticketing information for PNRs (“Third Party Data”). Yapta does not, and cannot, make any warranty or representation that any Third Party Data is timely, secure, error-free, complete, comprehensive or accurate. Yapta will not be responsible for, and you agree to hold Yapta harmless from, any errors, inaccuracies or damages resulting from Yapta’s use of Third Party Data.
- The carriers, travel management companies, global distribution services and other suppliers of travel related products and services are independent contractors and not agents or employees of Yapta. Yapta will not be liable for any damages resulting from the booking or re-booking of itineraries, any travel delays, cancellations or any other losses resulting from the use of third party services, including the purchase of any travel products from such third parties.
- Yapta does not guarantee that the Yapta Offering is appropriate and/or available for use in any particular location. You are responsible for compliance with any applicable local laws and regulation, as well as any U.S. import/export regulations.
- Yapta reserves the right to modify any of the Yapta Offering for any reason, without notice and without liability to you, including any individual user.

10. LIABILITY LIMITATION; EXCLUSIVE REMEDY.

10.1 No Indirect Damages. IN NO EVENT SHALL YAPTA, ITS SUPPLIERS OR SERVICE PROVIDERS BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, ACCESS TO YOUR ACCOUNT OR USE OF YAPTA OFFERINGS, WHETHER BASED ON A THEORY OF NEGLIGENCE, CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10.2 Exclusive Remedy; Damage limitation. YOUR EXCLUSIVE REMEDY AND OUR TOTAL AGGREGATE LIABILITY RELATING TO, ARISING OUT OF, IN CONNECTION WITH, OR INCIDENTAL TO THIS AGREEMENT, WHETHER FOR BREACH OF CONTRACT, BREACH OF WARRANTY OR ANY OTHER CLAIM SHALL BE LIMITED TO THE ACTUAL DIRECT DAMAGES INCURRED BY YOU, UP THE GREATER OF (A) FIFTY U.S. DOLLARS (\$50.00) OR (B) ONE HUNDRED PERCENT (100%) OF AMOUNTS PAID BY YOU AND RECEIVED BY YAPTA HEREUNDER. THE EXISTENCE OF MULTIPLE CLAIMS OR SUITS UNDER OR RELATED TO THIS AGREEMENT WILL NOT ENLARGE OR EXTEND THIS LIMITATION OF DAMAGES. YOU HEREBY RELEASE YAPTA ITS SUPPLIERS AND LICENSORS FROM ALL OBLIGATIONS, LIABILITY, CLAIMS OR DEMANDS IN EXCESS OF THIS LIMITATION. THE PROVISIONS OF THIS SECTION DO NOT WAIVE OR LIMIT YAPTA'S ABILITY TO OBTAIN INJUNCTIVE OR OTHER EQUITABLE RELIEF FOR BREACH OF THIS AGREEMENT.

10.3 Risk Allocation. You agree that the limitations of liability in this Section 10 reflect a fair allocation of risk between us. The limitations specified in this section will survive and apply even if any limited remedy specified in these terms is found to have failed its essential purpose.

11. INDEMNIFICATION.

You agree to defend and indemnify Yapta and/or their respective suppliers and any of their officers, directors, employees and agents from and against any claims, causes of action, demands, recoveries, losses, damages, fines, penalties or other costs or expenses of any kind or nature including but not

limited to reasonable legal and accounting fees, brought by third parties as a result of (a) your breach of this Agreement (b) Your Data or (c) your violation of any law or the rights of a third party.

12. GENERAL.

12.1 Governing Law. This Agreement will be construed according to the substantive law, but not the choice of law rules, of the State of Washington and of applicable federal law of the United States. In the event of any dispute arising under this Agreement, you hereby consent to the exclusive jurisdiction and venue of courts in King County, Washington, USA.

12.2 Relationship of Parties. You agree that no joint venture, partnership, franchise, agency or employment relationship exists between you and us as a result of this Agreement or your use of the Yapta Offerings.

12.3 Time Limitation for Claims. You agree that you will bring any claim or cause of action arising from or relating to your access or use of Yapta Offerings within one (1) year from the date on which such claim or action arose or accrued or such claim or cause of action will be irrevocably waived.

12.4 Construction. If any part of this Agreement is determined to be invalid or unenforceable pursuant to applicable law (including, but not limited to, any Order Form or the warranty disclaimers and liability limitations set forth in Section 10 above), then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and this Agreement shall continue in effect.

12.5 Assignment. You cannot assign or transfer this Agreement to anyone without the prior written approval of Yapta, which approval will not be unreasonably withheld or delayed. Yapta may assign or transfer this Agreement, or delegate its duties hereunder, upon written notice to you.

12.6 No Waiver. The failure of Yapta to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision, or of any other right or remedy that may be available under applicable law.

12.7 Entire Agreement. This Agreement (including any any Order Form(s)) constitutes the entire agreement between you and Yapta with respect to your Account and the Yapta Offering and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written, between you and us with respect to the Yapta Offering.

12.8 Survival. Sections 3(Data; Privacy), 6 (Confidential Information), 9 (No Warranty), 10 (Liability Limitation; Exclusive Remedy),and 11 (Indemnification) shall survive expiration or termination of this Agreement, as well as the provisions of this Section 12.

