

Terms & Conditions

These Terms & Conditions apply to the Whole Kids Foundation website and mobile applications (collectively the “WKF Website”). As used in these Terms & Conditions, “WKF”, “us”, or “we” refers to Whole Kids Foundation, a 501(c)(3) non-profit organization, and its subsidiaries and affiliates.

YOUR USE OF THIS APPLICATION IS GOVERNED BY THESE TERMS & CONDITIONS

BY ACCESSING OR OTHERWISE USING THE WKF WEBSITE YOU AGREE TO THESE TERMS & CONDITIONS IN THEIR ENTIRETY. Any person or entity who interacts with the WKF Website through the use of crawlers, robots, browsers, data mining or extraction tools, or other functionality, whether such functionality is installed or placed by such person or entity or a third party, is deemed to be using the WKF Website and bound by these Terms and Conditions. If at any time you do not accept all of these Terms & Conditions, you must immediately stop using the WKF Website. Certain areas within the WKF Website may be governed by additional terms (“Additional Terms”). By using those areas of the WKF Website, you agree to the Additional Terms. The Additional Terms are incorporated into these Terms & Conditions, and any reference to these Terms & Conditions includes the Additional Terms.

PROPRIETARY RIGHTS

All right, title and interest in the WKF Website, including all copyrights, patents, trade secrets, trade dress and other proprietary rights, and any derivative works thereof, shall belong solely and exclusively to WKF or its licensors. Nothing in these Terms and Conditions or otherwise will be deemed to grant to you an ownership interest in the WKF Website, in whole or in part.

CONTENT

All content included on the WKF Website, such as text, graphics, logos, images, button icons, audio clips, video, photographs, data, music, software, and other material (collectively “Content”) is owned or licensed property of WKF or its licensors and is protected by copyright, trademark, patent, trade secret or other proprietary rights and these rights are valid and protected in all forms, media and technologies existing now or hereinafter developed. All Content is copyrighted as individual works and as a collective work under the U.S. copyright laws (17 U.S.C. Section 101, et. seq.) and international treaty provisions, and WKF owns a copyright in the selection, coordination, arrangement and enhancement thereof.

LICENSE AND ACCESS

WKF grants you a limited license to access and make personal use of the WKF Website and the Content for NONCOMMERCIAL PURPOSES ONLY and only to the extent such use does not violate these Terms & Conditions including, without limitation, the prohibitions listed in the “UNLAWFUL OR PROHIBITED USES” section of these Terms & Conditions. You may download, print, and copy Content for personal, noncommercial purposes only, provided you do not modify or alter the Content in any way, delete or change any copyright or trademark notice, or violate these Terms & Conditions in any way. Accessing, downloading, printing, posting, storing, or otherwise using the WKF Website or any of the Content for any commercial purpose, whether on behalf of yourself or on behalf of any third party, constitutes a material breach of these Terms & Conditions.

TRADEMARKS

WHOLE KIDS FOUNDATION, AWESOME EATS and other related marks, design marks, product names, feature names and related logos used in the WKF Website are trademarks of WKF and may not be used, copied or imitated,

in whole or in part, without the express prior written permission of WKF. In addition, the look and feel of the WKF Website constitutes the service mark, trademark and/or trade dress of WKF and may not be copied imitated or used, in whole or in part, without the express prior written permission of WKF. WKF's trademarks and trade dress may not be used in connection with any product or service in any manner that is likely to cause confusion among customers, or in any manner that disparages WKF or suggests a sponsorship, affiliation or endorsement by WKF.

All other trademarks, service marks, logos, slogans, domain names and trade names are the properties of their respective owners.

UNLAWFUL OR PROHIBITED USES

The WKF Website may only be used for lawful purposes in accordance with the terms of the license granted in these Terms & Conditions. As a condition of your use of this WKF Website, you warrant to WKF that you will not use the WKF Website for any purpose that is unlawful or prohibited by these Terms & Conditions. Whether on behalf of yourself or on behalf of any third party, unless you have the express prior written consent of WKF, YOU MAY NOT:

- (a) Make any commercial use of the WKF Website or its Content, including making any collection or use of any product listings, descriptions, prices, or images;
- (b) download, copy, or transmit any Content for the benefit of any other merchant;
- (c) use or attempt to use any engine, software, tool, agent, data, or other device or mechanism (including browsers, spiders, robots, avatars, or intelligent agents) to navigate or search the WKF Website;
- (d) frame, mirror, or use framing techniques on any part of the WKF Website;
- (e) make any use of data extraction, scraping, mining, or other data gathering tools, or create a database by systematically downloading or storing WKF Website content, or otherwise scrape, collect, store, or use any Content, product listings, descriptions, prices, or images, except pursuant to the limited license granted by these Terms & Conditions;
- (f) use any meta tags or any other hidden text utilizing WKF's name or trademarks;
- (g) misrepresent the identity of a user, impersonate any person or entity, falsely state or otherwise misrepresent your affiliation with any person or entity in connection with the WKF Website, or express or imply that we endorse any statement you make;
- (h) use a buying agent to conduct transactions on the WKF Website;
- (i) conduct fraudulent activities on the WKF Website;
- (j) violate or attempt to violate the security of the WKF Website, including, without limitation: (i) accessing data not intended for you or logging onto a server or an account that you are not authorized to access; (ii) trying to change the functionality of the WKF Website; (iii) attempting to probe, scan, or test the vulnerability of a system or network, or to breach security or authentication measures; (iv) attempting to interfere with service to any user, host, or network, including, without limitation, via means of submitting malware to the WKF Website, overloading, "flooding," "spamming," "mailbombing", or "crashing"; (v) forging any header or any part of the header information in any e-mail or posting; or (vi) forging communications on behalf of the WKF Website (impersonating the WKF Website) or to the WKF Website (impersonating another user);
- (k) send unsolicited or unauthorized email on behalf of WKF, including promotions and/or advertising of products or services;

(l) tamper with the WKF Website or use or attempt to use any device, software, routine, or data that interferes or attempts to interfere with the working or functionality of the WKF Website or any activity being conducted on the WKF Website;

(m) use the WKF Website to defame, abuse, harass, stalk, threaten, or otherwise violate the legal rights of others, including others' privacy rights or rights of publicity;

(n) harvest or collect personally identifiable information about other users of the WKF Website;

(o) restrict or inhibit any other person from using the WKF Website (including, without limitation, by hacking or defacing any portion of the WKF Website);

(p) use the WKF Website to advertise or offer to sell or buy (other than from WKF) any goods or services;

(q) reproduce, duplicate, copy, sell, resell, or otherwise exploit for any commercial purposes any portion of, use of, or access to the WKF Website;

(r) modify, adapt, translate, reverse engineer, decompile, or disassemble any portion of the WKF Website; or

(s) remove any copyright, trademark, or other proprietary rights notice from the WKF Website or materials originating from the WKF Website.

YOUR ACCOUNT

You may be required to register with WKF in order to access certain services or areas of the WKF Website. If you are required to register with WKF, we may not be able, or we may refuse, to provide you the user name you request. Your user name and password are for your personal use only. If you use the WKF Website, you are responsible for maintaining the confidentiality of your account and password and for restricting access to your computer, and you agree to accept responsibility for all activities that occur under your account or password. In addition to all other rights available to WKF including those set forth in these Terms & Conditions, WKF reserves the right, in its sole discretion, to terminate your account, refuse service to you, or cancel orders.

PUSH NOTIFICATIONS

If the WKF Website includes push notifications or other mobile communication capability, you hereby approve our delivery of electronic communications directly to your mobile device. These notifications, including badge, alert or pop-up messages, are delivered to your device even when it is running in the background. You have the ability, and it is your responsibility, to control the notifications you do, or do not, receive through your device.

MODIFICATION AND TERMINATION

WKF may at any time: (i) modify or discontinue any part of the WKF Website; or (ii) offer opportunities to some or all WKF Website users. WKF reserves the right to make changes to these Terms & Conditions at any time, and such changes will be effective immediately upon being posted on the WKF Website. Each time you use the WKF Website, you should review the current Terms & Conditions. You can determine when these Terms & Conditions were last revised by referring to the "LAST UPDATED" legend at the bottom of these Terms & Conditions. Your continued use of the WKF Website will indicate your acceptance of the current Terms & Conditions; however, any material change to these Terms & Conditions after your last usage of the WKF Website will not be applied retroactively. Except for such material changes, the Terms & Conditions that were in effect at the time any claim or dispute arose between you and us will be applied.

WKF reserves the right, without notice and in its sole discretion, to terminate your account or your use of the WKF

Website and to block or prevent future access to and use of the WKF Website (i) if you violate any of these Terms & Conditions, (ii) for any other reason, or (iii) for no reason. Upon any such termination, your right to use the WKF Website will immediately cease.

You agree that we shall not be liable to you or any third party for any termination of your access to the WKF Website. Upon termination, all provisions of these Terms & Conditions which are by their nature intended to survive termination, all representations and warranties, all limitations of liability, and all indemnities shall survive such termination.

USER REVIEWS, COMMENTS, AND SUBMISSIONS

If the WKF Website allows you to submit reviews, comments, and other communications, photos, videos, or any other content (“User Content”) through or to the WKF Website, WKF welcomes such User Content as long as the User Content submitted by you complies with these Terms & Conditions.

You agree that any User Content that you submit: (i) will be accurate; (ii) will not violate or facilitate the violation of any law or regulation; (iii) will not violate any right of a third party, including copyright, trademark, privacy, or publicity rights; (iv) will not cause injury to any person or entity; and (v) will not contain, or provide links to, obscene, profane, or threatening language, malware, political campaigning, commercial solicitation, chain letters, mass mailings, any form of “spam”, or any material that could be considered harmful, sexually explicit, indecent, lewd, violent, abusive, or degrading. You are solely responsible for the User Content you submit, and WKF assumes no liability for any User Content submitted by you. You acknowledge and agree that we reserve the right (but have no obligation) to do any or all of the following, in our sole discretion: (i) monitor User Content; (ii) alter, remove, or refuse to post or allow to be posted any User Content; and/or (iii) disclose any User Content, and the circumstances surrounding its transmission, to any third party.

For any User Content you submit, you grant to WKF a non-exclusive, sub-licensable, fully paid-up, perpetual, irrevocable, royalty-free, transferable right and license to use, display, perform, transmit, copy, modify, delete, adapt, publish, translate, create derivative works from, sell and distribute such User Content and to incorporate the User Content into any form, medium, or technology, now known or hereafter developed, throughout the world, all without compensation to you. For this reason, do not send us any User Content that you do not wish to license to us, including any confidential information or any original creative materials such as stories, product ideas, computer code or original artwork. In addition, you grant to WKF the right, without any obligation, to include the name provided along with the User Content submitted by you. We are not responsible for the use or disclosure of any personal information that you voluntarily disclose in connection with any User Content you submit. You represent and warrant that you have all rights necessary for you to grant the licenses granted in this section. You further irrevocably waive any “moral rights” or other rights with respect to attribution of authorship or integrity of materials regarding User Content that you may have under any applicable law under any legal theory.

Content is also provided by third party visitors to the WKF Website. Please note that visitors to the WKF Website may post content that is inaccurate, misleading, or deceptive. WKF neither endorses nor is responsible for any opinion, advice, information, or statements made by third parties. WKF will not be liable for any loss or damage caused by your reliance on such information or materials. The opinions expressed by third parties reflect solely the opinions of the parties who submitted such opinions and may not reflect the opinions of WKF.

DMCA NOTICE - NOTICE AND PROCEDURE FOR MAKING CLAIMS OF COPYRIGHT INFRINGEMENT

WKF’s policy is to respond to notices of alleged infringement that comply with the Digital Millennium Copyright Act (“DMCA”). Copyright-infringing materials found on the WKF Website can be identified and removed using the process listed below, and you agree to comply with such process in the event you are involved in any claim of copyright infringement to which the DMCA may be applicable.

If you believe in good faith that your work has been copied in a way that constitutes copyright infringement, please

provide WKF's copyright agent the written information specified below. Please note that this procedure is exclusively for notifying WKF that your copyrighted material has been infringed. WKF does not and will not make any legal decisions about the validity of your claim of infringement or the possible defenses to a claim. When a clear and valid notice is received pursuant to the guidelines set forth below, WKF will respond by either taking down the allegedly infringing content or blocking access to it. WKF may contact the notice provider to request additional information. Under the DMCA, WKF is required to take reasonable steps to notify the user who posted the allegedly infringing content ("Alleged Infringer"). The Alleged Infringer is allowed under the law to send WKF a counter-notification. Notices and counter-notices are legal notices distinct from regular WKF Website activities or communications. We may publish or share them with third parties in our sole discretion (in addition to producing them pursuant to a subpoena or other legal discovery request). Anyone making a false or fraudulent notice or counter-notice may be liable for damages under the DMCA, including costs and attorneys' fees. Any person who is unsure of whether certain material infringes a copyright held by such person or a third party should contact an attorney.

To file a DMCA notice, the copyright owner must send in a written letter by fax, regular mail, or email only. We reserve the right to ignore a notice that is not in compliance with the DMCA, and we may, but are not obligated to, respond to a non-compliant notice.

A DMCA notice must:

1. Identify specifically the copyrighted work(s) believed to have been infringed (for example, "My copyrighted work is the picture that appears at [list location where material is located].");
2. Identify the Content that a copyright owner claims is infringing upon copyrighted work. The copyright owner must provide information reasonably sufficient to enable us to locate the item on the WKF Website. The copyright owner should provide clear screenshots of the allegedly infringing materials for identification purposes only. The information provided should be as detailed as possible;
3. Provide information sufficient to permit us to contact the copyright owner directly: name, street address, telephone number, and email (if available);
4. If available, provide information sufficient to permit us to notify the Alleged Infringer (email address preferred);
5. Include the following statement: "I have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law";
6. Include the following statement: "I swear, under penalty of perjury, that the information in the notification is accurate and that I am the copyright owner or am authorized to act on behalf of the owner of an exclusive right that is allegedly infringed";
7. Be signed; and
8. Be sent to our DMCA designated agent at the following address:

DMCA Designated Agent:
Legal Department
Whole Kids Foundation
550 Bowie Street
Austin, TX 78703

LINKS TO THIRD PARTIES

The WKF Website may contain links and interactive functionality interacting with third parties, including social media applications and product manufacturers' applications. WKF is not responsible for and has no liability for the functionality, actions, inactions, privacy settings, privacy policies, terms, or content of any such application. Before enabling any sharing functions of the WKF Website to communicate with any such application or otherwise visiting any such application, WKF strongly recommends that you review and understand the terms and conditions, privacy policies, settings, and information-sharing functions of each such third party application. The links and interactive functionality for third party applications on the WKF Website do not constitute an endorsement by WKF of such third party application. Other applications may link to the WKF Website with or without our authorization, and we may block any links to or from the applications, in our sole discretion. YOUR USE OF THIRD PARTY APPLICATIONS AND RESOURCES IS AT YOUR OWN RISK.

DATA PROTECTION

WKF collects, uses and shares personal information in accordance with its Privacy Policy located at www.wholekidsfoundation.org/privacy-policy/

DISCLAIMERS OF WARRANTIES

WKF cannot and does not represent or warrant that the WKF Website or its server will be error-free, uninterrupted, free from unauthorized access (including third party hackers or denial of service attacks), or otherwise meet your requirements.

THE WKF WEBSITE AND ALL INFORMATION, CONTENT, MATERIALS, PRODUCTS, SERVICES, AND USER CONTENT INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH THE WKF WEBSITE (COLLECTIVELY, THE "WKF WEBSITE CONTENTS") ARE PROVIDED BY WKF ON AN "AS IS," "AS AVAILABLE" BASIS, WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND. WKF MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION OF THE WKF WEBSITE, THE ACCURACY OR COMPLETENESS OF THE WKF WEBSITE CONTENTS, OR THAT EMAILS SENT FROM WKF ARE FREE OF MALWARE OR OTHER HARMFUL COMPONENTS. YOU EXPRESSLY AGREE THAT YOUR USE OF THE WKF WEBSITE IS AT YOUR SOLE RISK. WKF WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND ARISING FROM THE USE OF THE WKF WEBSITE OR THE WKF WEBSITE CONTENTS INCLUDING, WITHOUT LIMITATION, DIRECT, INDIRECT, CONSEQUENTIAL, PUNITIVE, AND CONSEQUENTIAL DAMAGES, UNLESS OTHERWISE AGREED BY WKF IN WRITING. TO THE FULL EXTENT PERMITTED BY LAW, WKF DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE WKF WEBSITE AND THE WKF WEBSITE CONTENTS, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF TITLE, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE OR USE.

IF PRODUCTS PROVIDED BY THIRD PARTIES THROUGH THE WKF WEBSITE, THOSE THIRD PARTIES MAY SEPARATELY PROVIDE LIMITED REPRESENTATIONS AND/OR WARRANTIES REGARDING THEIR PRODUCTS. THIS DISCLAIMER DOES NOT APPLY TO SUCH PRODUCT REPRESENTATIONS OR WARRANTIES, BUT ANY SUCH REPRESENTATIONS OR WARRANTIES ARE PROVIDED SOLELY BY SUCH PROVIDER AND NOT BY WKF.

IF NUTRITION, INGREDIENT, ALLERGEN, AND OTHER PRODUCT INFORMATION IS PROVIDED THROUGH THE WKF WEBSITE, WKF DOES NOT REPRESENT OR WARRANT THAT SUCH INFORMATION IS ACCURATE OR COMPLETE. ON OCCASION MANUFACTURERS MAY MODIFY THEIR PRODUCTS AND UPDATE THEIR LABELS. WE RECOMMEND THAT YOU DO NOT RELY SOLELY ON THE INFORMATION PRESENTED ON OUR WKF WEBSITE AND THAT YOU CONSULT THE PRODUCT'S LABEL OR CONTACT THE MANUFACTURER DIRECTLY IF YOU HAVE A SPECIFIC DIETARY CONCERN OR QUESTION ABOUT A PRODUCT.

Third party names, marks, products, advertisements, or services or pop-up texts or links to third party applications may appear on the WKF Website. IN NO EVENT WILL WKF BE LIABLE, DIRECTLY OR INDIRECTLY, TO ANYONE FOR ANY DAMAGE OR LOSS ARISING FROM OR RELATING TO ANY USE, CONTINUED USE, OR RELIANCE ON ANY ADVERTISEMENT DISPLAYED ON THE WKF WEBSITE, ANY PRODUCTS, SERVICES, OR OTHER MATERIALS RELATING TO ANY SUCH ADVERTISEMENT, ANY LINKED THIRD PARTY APPLICATION, OR ANY LINK CONTAINED IN A LINKED APPLICATION. If you decide to link to any such third party application, you do so entirely at your own risk.

JURISDICTIONAL ISSUES

The WKF Website is controlled and operated by WKF from the United States, and is not intended to subject WKF to the laws or jurisdiction of any state, country or territory other than that of the United States. WKF does not represent or warrant that the WKF Website or any part thereof is appropriate or available for use in any particular jurisdiction other than the United States. In choosing to access the WKF 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. We may limit the WKF 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.

HEALTHCARE INFORMATION

IF THE WKF WEBSITE MAY INCLUDE HEALTHCARE OR NUTRITIONAL INFORMATION, THAT INFORMATION IS INTENDED FOR EDUCATIONAL PURPOSES ONLY. IT IS NOT INTENDED AS MEDICAL ADVICE FOR INDIVIDUAL CONDITIONS OR TREATMENT, IT IS NOT A SUBSTITUTE FOR A MEDICAL EXAM, AND IT DOES NOT REPLACE THE NEED FOR SERVICES PROVIDED BY MEDICAL PROFESSIONALS.

RELEASE

We provide information through the WKF Website for your information and enjoyment. Your use of the WKF Website is strictly voluntary. Because some of the information in the WKF Website may relate to modifications to your diet, you agree to use your good judgment and reasonable care prior to making any changes to your lifestyle. By using the WKF Website, you assume the risks associated with the activities in which you will be participating. Such risks may include, but are not limited to, the risk of physical injury or other harm. You, and you alone, are solely responsible for taking proper care to limit your risk.

You knowingly, and voluntarily do hereby indemnify, release, acquit, waive, forever discharge, and covenant not to sue WKF, its employees, agents, any related affiliate and/or subsidiary entities from and against any and all liabilities, costs and expenses (including without limitations, any reasonable fees and expenses of its attorneys and consultants) relating to or arising out of any claims, demands or causes of action of every kind and character (including, without limitation, personal injury and property damage claims) as a result of the information and materials offered by WKF through the WKF Website.

LIMITATION OF LIABILITY

UNDER NO CIRCUMSTANCES SHALL WKF OR ITS EMPLOYEES, DIRECTORS, OFFICERS, OR AGENTS BE LIABLE FOR ANY DIRECT OR INDIRECT LOSSES OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH YOUR USE OF OR INABILITY TO USE THE WKF WEBSITE. THIS IS A COMPREHENSIVE LIMITATION OF LIABILITY THAT APPLIES TO ALL LOSSES AND DAMAGES OF ANY KIND (WHETHER GENERAL, SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, LOSS OF DATA, INCOME OR PROFITS), WHETHER IN CONTRACT OR TORT, EVEN IF WKF HAS BEEN ADVISED OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. EACH PROVISION OF THESE TERMS & CONDITIONS THAT

PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS UNDER THE AGREEMENT BETWEEN YOU AND WKF. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN YOU AND WKF. THE LIMITATIONS IN THIS SECTION WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE(S). IF YOU ARE DISSATISFIED WITH THE WKF WEBSITE, ANY CONTENT ON THE WKF WEBSITE, OR THESE TERMS & CONDITIONS, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE WKF WEBSITE. YOU ACKNOWLEDGE, BY YOUR USE OF THE WKF WEBSITE, THAT YOUR USE OF THE WKF WEBSITE IS AT YOUR SOLE RISK. APPLICABLE LAW MAY NOT ALLOW THE LIMITATION OF LIABILITY SET FORTH ABOVE, SO THIS LIMITATION OF LIABILITY MAY NOT APPLY TO YOU, AND YOU MAY HAVE RIGHTS ADDITIONAL TO THOSE CONTAINED HEREIN.

INDEMNIFICATION AND DEFENSE

As a condition of the use of the WKF Website, you agree to defend, indemnify, and hold harmless WKF and its respective employees, directors, officers, agents, vendors, and suppliers from and against any liabilities, losses, investigations, inquiries, claims, suits, damages, costs, and expenses (including, without limitation, reasonable attorneys' fees and expenses) (each, a "Claim") arising out of or otherwise relating to your use of the WKF Website, including without limitation any User Content submitted by you and Claims alleging facts that if true would constitute a breach by you of these Terms & Conditions.

NOTICES AND ELECTRONIC COMMUNICATIONS

In the case of notices WKF sends to you, you consent to receive notices and other communications by WKF posting notices on the WKF Website, sending you an email at the email address listed in your profile in your account, or mailing a notice to you at your billing address listed in your profile in your account. You agree that all agreements, notices, disclosures, and other communications that WKF provides to you in accordance with the prior sentence satisfy any legal requirement that such communications be in writing. Notice shall be deemed given (i) 24 hours after the notice is posted on the WKF Website or an electronic message is sent, unless the sending party is notified that the message did not reach the recipient, or (ii) in the case of mailing, three days after the date of mailing. You agree that a printed version of these Terms & Conditions and/or any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to these Terms & Conditions to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

NOTICE FOR CALIFORNIA RESIDENTS

Under California Civil Code Section 1789.3, California users are entitled to the following consumer rights notice: If you have a question or complaint regarding the WKF Website, please send an email to Jane.Johnson@WholeFoods.com. You may also contact us by writing to 550 Bowie St, Austin, TX 78703, or by calling us at (512) 542-3152. California residents may reach the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by mail at 1625 North Market Blvd., Sacramento, CA 95834, or by telephone at (916) 445-1254 or (800) 952-5210.

APPLICABLE LAW; DISPUTES

YOU AGREE THAT ALL MATTERS RELATING TO YOUR ACCESS TO OR USE OF THE WKF WEBSITE AND ALL MATTERS ARISING OUT OF OR RELATED TO THESE TERMS & CONDITIONS, INCLUDING ALL DISPUTES, WILL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS, UNITED STATES OF AMERICA, WITHOUT REGARD TO TEXAS' CHOICE OF LAW PRINCIPLES. YOU FURTHERMORE AGREE THAT THE FORUM AND VENUE FOR ANY LEGAL ACTION ARISING OUT OF OR RELATED TO THESE TERMS & CONDITIONS SHALL BE THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS, AND YOU SUBMIT TO THE PERSONAL JURISDICTION OF THAT

COURT. IF SUBJECT MATTER JURISDICTION (INCLUDING DIVERSITY JURISDICTION) DOES NOT EXIST IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS, THEN THE EXCLUSIVE FORUM AND VENUE FOR ANY SUCH ACTION SHALL BE THE COURTS OF THE STATE OF TEXAS LOCATED IN TRAVIS COUNTY, AND YOU SUBMIT TO THE PERSONAL JURISDICTION OF THAT COURT. THE MAKING OF CLAIMS OR RESOLUTION OF DISPUTES PURSUANT TO THIS AGREEMENT SHALL BE IN YOUR INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. YOU AGREE THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW: (1) ANY AND ALL DISPUTES, CLAIMS, AND CAUSES OF ACTION ARISING OUT OF OR CONNECTED WITH THE WKF WEBSITE AND/OR THESE TERMS & CONDITIONS WILL BE RESOLVED INDIVIDUALLY IN THE FORUM DESIGNATED IN THIS SECTION, WITHOUT RESORT TO ANY FORM OF CLASS ACTION; AND (2) ANY AND ALL CLAIMS, JUDGMENTS, AND AWARDS WILL BE LIMITED TO ACTUAL THIRD-PARTY, OUT-OF-POCKET COSTS INCURRED (IF ANY), BUT IN NO EVENT WILL ATTORNEYS' FEES BE AWARDED OR RECOVERABLE.

MISCELLANEOUS

These Terms & Conditions, including policies and information linked from or incorporated herein, constitute the entire agreement between you and WKF with respect to the WKF Website and supersede all prior or contemporaneous communications, agreements, and proposals with respect to the WKF Website. No provision of these Terms & Conditions shall be waived except pursuant to a writing executed by the party against whom the waiver is sought. No failure to exercise, partial exercise of, or delay in exercising any right or remedy under these Terms & Conditions shall operate as a waiver or estoppel of any right, remedy, or condition. If any provision of these Terms & Conditions is held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not be affected or impaired. You may not assign, transfer, or sublicense any of your rights or obligations under these Terms & Conditions without our express prior written consent. We will not be responsible for failure to fulfill any obligation due to causes beyond our control.

CONTACT US

If you have any concerns about WKF or your use of the WKF Website, please contact us at Jane.Johnson@WholeFoods.com with a detailed description, and we will try to resolve it.

Last Updated: September, 2013