



End User License Agreement

PLEASE READ THIS AGREEMENT CAREFULLY.

ZippyYum, LLC. ("ZippyYum") is willing to provide you access to and use of its Phone Ordering application and related services ("Service") subject to the condition that you accept all of the terms and conditions contained in this end-user license agreement ("Agreement").

You may accept this Agreement by registering and creating an account or by using the Service. Your use of the Service shall act as acceptance of the terms and conditions contained in this Agreement. Your acceptance of this agreement means that you have read this Agreement, understand it and agree to be legally bound by its terms and conditions. If you do not agree to any of the terms below, you should you should close the application or website and discontinue the use of the Service and uninstall the application from your electronic device if you have it installed. This Agreement is solely between You and ZippyYum and not any other third party, including Apple.

Service

- Service. The Service allows you to pre-order food and drinks and other menu items (each menu item, a "Product") from a participating restaurant in advance of your arrival by using the ZIPPYYUM proprietary application. Upon placing an order using the Service, you will have the option to create an account. By creating an account, you will be eligible for promotional discounts. Except as expressly provided in this Agreement, ZippyYum is solely responsible for the Service and all associated content.
- Use of Service. In order to access and use the Service, you must use a wireless communication device, such as an SMS enabled cell phone, a PDA, a Smartphone or other hand held devices ("Device") and be able to transmit data via a carrier ("Carrier"), to place orders for the purchase of Products. The communication standards for the Service include, but are not limited to SMS, GRPS, and web-based browser technology. Please remember that standard text message and data charges may apply. You acknowledge and understand that You must comply with the applicable terms of use of the Device and Carrier providers. Except as limited herein, ZippyYum will be responsible for the support of the Service and the Device and Carrier providers, including Apple, shall have no such responsibility for support.

- License. Subject to the terms and conditions of this Agreement, ZIPPYYUM grants you a non-transferable, revocable, non-exclusive, royalty-free license to access and use the Service for ordering and paying for Products from a participating restaurant. In connection with your access to and use of the Service, you will not: (a) violate any law, statute, ordinance, or regulation; (b) infringe ZIPPYYUM's or any third party's copyright, patent, trademark, trade secret or other intellectual property rights, or rights of publicity or privacy; (c) act in a manner that is defamatory, trade libelous, unlawfully threatening or unlawfully harassing; (d) provide false, inaccurate or misleading information; (e) refuse to cooperate in an investigation or provide confirmation of your identity or any information you provide to ZIPPYYUM; (f) take any action that imposes an unreasonable or disproportionately large load on the Service; (g) transmit or facilitate the transmission of any viruses, Trojan horses, robots, worms or other computer programming routines, or an automated system that may damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or Service; or (h) reverse engineer the ZIPPYYUM application or Service. If the Service is utilized in conjunction Mac Products, the use is subject to the Usage Rules set forth in the terms of service applicable to the Mac App Store.

- Availability of Service. You acknowledge and agree that: (i) the availability of SMS, mobile data networks, and the Internet may affect your ability to access or use the Service, (ii) the delivery of SMS messages and availability of web-based browsing is not guaranteed, (iii) the Service may differ depending on the Carrier you subscribe to and that Carrier's ability to support the Service, (iv) ZIPPYYUM is not responsible for the act or omission of any Carrier (including failure to deliver any communication in timely fashion), any limitations imposed by such Carrier, or such Carrier's ability or inability to support the Service, (v) ZIPPYYUM is not responsible for any limitations of the Internet, (vi) ZIPPYYUM is not responsible for any error made by you in using the Service, and (vii) ZIPPYYUM is not responsible and will not be liable for any inability to access or use the Service, or any errors, non-conformities, or other problems with the Service, arising from, related to, or caused in whole or in part by any event, circumstance, act or omission outside of ZIPPYYUM's control. You acknowledge that the Service may not be error free or always operate as intended.

- Modification of Service. ZIPPYYUM reserves the right, in its sole discretion, to modify the Service from time to time and without notice, including changing features or functions, or removing or adding participating restaurants. ZIPPYYUM shall have no liability to you for any modification or discontinuation of the Service. If you object to any such changes, your sole recourse shall be to cease using the Service.

- Unauthorized Use of Service. You acknowledge and agree that the Service is for your non-commercial, personal use only. You acknowledge and agree that you may not distribute, sell, resell, interfere with or exploit for any commercial purposes any portion of the Service. ZIPPYYUM is not liable for any claims, actions, damages, or other

liability incurred as a result of any unauthorized use of the Service. You shall not attempt, or support others' attempts, to circumvent, reverse engineer, decrypt, break (e.g. by inputting viruses or other harmful programming routines or data) or otherwise alter or interfere with the Service.

- Affirmation. If you are under 18, you may only use the Service with the involvement of a parent or guardian. By using the Service, you are affirming that you are 18 years old or older.
- Merchants; Product Pricing. Available restaurants are subject to change, and are not guaranteed to be available at all times. ZIPPYYUM does not assume responsibility or liability for the actions, omissions, Products, locations or content of any participating restaurant. You acknowledge and agree that ZIPPYYUM is not responsible for the pricing of the Products, and the participating restaurants are solely responsible for setting the prices for Products, and pricing may change at any time without notice. You further acknowledge that ZIPPYYUM is not responsible for the Products, the preparation of the Products or the delivery of the Products at the restaurant. The information provided by the Service as to calorie content of each Product is an estimate based on standard serving size and would vary based on actual serving size of each Product. You acknowledge that the purpose of the Service is to facilitate the pre-ordering of Products.
- Images of Product. The Service includes images depicting certain Products. These images are for illustrative purposes only and are not meant to be an exact replication of the Product. ZIPPYYUM does not and cannot guaranty that any Product ordered using the Service will be duplicative of the image of such Product. All images of the Products are protected as copyrights, trade dress and/or other intellectual properties owned, licensed, or used by SUBWAY® Group or ZIPPYYUM . Such images may not be copies, distributed, modified, republished, uploaded or posted, or transmitted in any way.
- Contact. ZIPPYYUM reserves the right to contact you via the email address you provide to ZIPPYYUM to request your comments and feedback regarding the Service or to provide you notice of promotions and offer discounts.
- Account. If you create an Account, you must provide complete and accurate information. You agree that you are solely responsible for all activity that occurs under your account and agree to maintain the security of the account.

Payment

- You acknowledge and agree that for each order you place through the Service, the full cost of Products you order (for which prices are subject to change without notice) will be paid by you to the restaurant upon receipt of the Products you ordered. The Service allows you the option of paying for the Products ordered prior to pick-up through the

Service. If you select this payment option, ZIPPYYUM will then pay the restaurant the applicable charges for the products.

- In addition to the cost of the Products, you are responsible for paying all fees charged by your Carrier in connection with your use of your Device or the Service. You acknowledge and agree that these rates depend on the applicable Carrier and your personal subscription package with that Carrier.

Privacy

As part of creating an account or ordering Products, you will be asked to provide certain personal information to ZIPPYYUM, such as your name, email address, phone number, and credit card information (depending on payment option). ZIPPYYUM will use this information to process your order. When you use the Service, only your name and telephone number will be sent to the participating restaurant with your order.

If you access or use the Service, you are accepting the terms and conditions of our Privacy Policy. The Privacy Policy is located at www.ZippyYum.com. If you do not agree with the Privacy Policy, you must discontinue use of the Service.

Termination

ZIPPYYUM may suspend your ability to use the Service or may terminate this Agreement effective immediately and without notice to you if: (a) ZIPPYYUM receives repeated faulty or unfulfilled orders for Products, including but not limited to the use of erroneous or spoof SMS orders or duplicate requests for Products; (b) you fail to make timely payment of any amounts when due; or (c) ZIPPYYUM reasonably believes you have violated this Agreement. YOU AGREE THAT ZIPPYYUM SHALL NOT BE LIABLE TO YOU FOR ANY TERMINATION OF THIS AGREEMENT OR OF YOUR ACCESS TO THE SERVICE. You may terminate this Agreement and discontinue your participation in and access to the Service at any time by ceasing use of the Service or delivering notice to ZIPPYYUM at support@ZippyYum.com. Upon termination of this Agreement for any reason, your right to use the Service shall immediately cease, and you shall stop all use of the Service, and all amounts owed by you to ZIPPYYUM as of the effective date of termination will become immediately due and payable. Sections 2, 3, 4, 5, 6, 7, 8, 10, and 11 shall survive termination or expiration of this Agreement for any reason. Please keep in mind that all fees paid to ZIPPYYUM are nonrefundable.

Disclaimer of Warranties

THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT WARRANTY OF ANY KIND. ZIPPYYUM EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, TITLE, OR NON-INFRINGEMENT. ZIPPYYUM MAKES NO WARRANTY THAT THE SERVICE WILL MEET YOUR

REQUIREMENTS, OR THAT THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE. ZIPPYYUM MAKES NO WARRANTY REGARDING ANY DEALINGS WITH OR TRANSACTIONS ENTERED INTO WITH ANY OTHER PARTIES THROUGH THE SERVICE, INCLUDING THE RESTAURANTS.

In the event the Service fails to confirm to any warranty provided, if any, You may notify Apple of such failure and Apple will refund the purchase price for the Service, if any was paid.

Limitation of Liability

YOU EXPRESSLY AGREE THAT USE OF THE SERVICE IS AT YOUR OWN RISK. ZIPPYYUM WILL NOT BE LIABLE FOR ANY PRODUCTS YOU OBTAIN OR FAIL TO OBTAIN THROUGH USE OF THE SERVICE. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL ZIPPYYUM OR ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, ARISING OUT OF OR RELATED TO YOUR USE OF THE SERVICE OR WEBSITE, REGARDLESS OF WHETHER SUCH DAMAGES ARE BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), WARRANTY, STATUTE OR OTHERWISE. THE AGGREGATE LIABILITY OF ZIPPYYUM TO YOU FOR ALL CLAIMS ARISING FROM OR RELATED TO THE WEB SITE OR THE SERVICE IS LIMITED TO ONE HUNDRED DOLLARS (\$100). Some jurisdictions do not allow the exclusion of certain warranties or the limitation or exclusion of liability for incidental or consequential damages. Accordingly, some of the above limitations and disclaimers may not apply to you. To the extent that we may not, as a matter of applicable law, disclaim any implied warranty or limit its liabilities, the scope and duration of such warranty and the extent of our liability shall be the minimum permitted under such applicable law.

Indemnification

You agree to indemnify, defend and hold harmless ZIPPYYUM, its agents, employees, representatives, licensors, affiliates, officers, directors, and partners, from and against any and all claims, liabilities, damages, losses, costs, expenses, fees (including reasonable attorneys' fees and court costs) resulting or arising from any third-party claim in connection with (a) any information you submit or transmit through the Service (or anyone using your Device), (b) your use of or access to the Service, (c) your violation of this Agreement, or (d) your violation of any rights of any third party.

Intellectual Property

The Service and the website contain or comprise intellectual property that is owned by ZIPPYYUM and/or third parties, including without limitation the trademark "Subway" and related logos, content, and images. All such material is protected by relevant intellectual property laws, including trademark, copyright and/or trade secret laws. Without limiting

anything herein, the material may not be used, copied, modified, reproduced, republished, posted, transmitted, sold, offered for sale, publicly performed, publicly displayed, or redistributed in any way without the prior written permission of ZIPPYYUM or the applicable third-party entity. You must abide by all intellectual property notices, information or restrictions contained in this Agreement, the ZIPPYYUM website or attached to any communication between you and ZIPPYYUM. ZIPPYYUM acknowledges that, except as provided herein, it is solely responsible for any third party claim that the Service or Your use of the Service infringes the rights of any third party. In such event, ZIPPYYUM will be solely responsible for the investigation, defense, settlement and discharge of any such claim.

Modification of Agreement

This Agreement may be amended from time to time. If ZIPPYYUM amends, supplements, or modifies this Agreement, such change will only apply prospectively. If you object to any such changes, your sole recourse shall be to cease using the Service and terminate this Agreement within 30 days after the earlier to occur of: (i) delivery of the notice email to your email address, (ii) posting of any such changes to the website, or (iii) having you agree to the changes on the website. Your continued use after that date shall indicate your acknowledgment of such changes and agreement to be bound by the revised Agreement, inclusive of such changes. This version of the Agreement will be effective immediately for any user who registers for the Service on or after that date. The term "Agreement" will include all subsequent amendments.

Force Majeure

Neither party is in breach of this Agreement for any cessation, interruption, or delay in the performance of its obligations hereunder (other than payment obligations) due to causes beyond its reasonable control including, without limitation: earthquake, flood, fire, storm, or other natural disaster, act of God, labor controversy or threat thereof, civil disturbance or commotion, acts or threats of terrorism, disruption of the public markets, war, or armed conflict.

Legal Compliance

You represent and warrant that You are not located in a county that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" county and that You are not listed on any U.S. Government list of prohibited or restricted parties.

Miscellaneous

This Agreement and the relationship between you and ZIPPYYUM shall be governed by the laws of the State of California, without giving effect to any choice of laws or principles that would require the application of the laws of a different country or state. Any legal action, suit, or proceeding arising out of or relating to this Agreement, or your use of the Service, must be instituted exclusively in the federal or state courts located in Orange County, California and in no

other jurisdiction. You further consent to personal jurisdiction and venue in, and agree to service of process issued or authorized by, any such court. ZIPPYYUM may provide you with notices by email or by posting changes on the ZIPPYYUM website. ZIPPYYUM's failure to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and that the other provisions of this Agreement remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or this Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred. The Agreement constitutes the entire, exclusive and final statement of the agreement between you and ZIPPYYUM with respect to the subject matter herein, superseding any prior agreements or negotiations between you and ZIPPYYUM with respect to the Service. You may not transfer or assign any rights or obligations you have under this Agreement without ZIPPYYUM's prior written consent. ZIPPYYUM reserves the right to transfer or assign this Agreement or any right or obligation under this Agreement at any time. You also agree that Apple and its subsidiaries are third party beneficiaries of this Agreement and that Apple will have the right to enforce this Agreement against You as a third party beneficiary. You agree that ZIPPYYUM may provide notice to you by posting it on its website or emailing it. Such notice shall be considered to be received by you within 24 hours of the time it is posted to the website or emailed to you unless we receive notice that the email was not delivered.

Contact Information

Any questions, problems, complaints or claims with respect to the ZIPPYYUM Licensed application can be directed to support@zippyum.com or can be reported at www.zippyum.com/support