

OREGON WINE BOARD
TERMS OF USE FOR SUBMITTING CONTENT ONLINE

This Agreement (“**Agreement**”) is entered into by and between you and the State of Oregon, by through the Oregon Wine Board (“**OWB**”), and contains the terms of service applicable to your submissions of wine tourism data (“**Content**”) to OWB by accessing and using any of OWB’s websites or social media (collectively, the “**Services**”). Content may include, but is not limited to, data regarding a winery tasting room, event, attraction, restaurant and/or lodging information that you seek to publish on the Services.

You may submit Content to OWB only in accordance with this Agreement. By submitting Content, you agree to be bound by this Agreement, which governs your access to and use of the Services. In addition, if you access or use the Services on behalf of a company, principal or other entity, you represent that you have authority to bind such entity and its affiliates to this Agreement and that it is fully binding upon them. In such case, the term "you" will refer both to you and to such entity and its affiliates. If you do not have authority, or if you do not agree with and accept all of these terms and conditions, you may not use the Services.

1. Acceptable Use. By uploading Content to or otherwise using the Services, you warrant, represent and agree that:

a. You either own all right, title and interest in and to the Content in its entirety OR you have all necessary permissions from the owner of the Content or any portion of it not owned by you authorizing your use of the Content, including uploading the Content to OWB, and use of the Content by OWB and its licensed users. You agree to provide to OWB upon request evidence of your ownership of the Content or written permission from the owner of any portion of the Content authorizing use of the owner’s Content in accordance with this Agreement;

b. Any and all Content (including but not limited to any content, materials or elements integrated into such Content) supplied by you will not infringe or violate the rights of any third parties, including but not limited to patent, copyright, trade secret, trademark, trade dress, mask work, utility design or other proprietary right of any third party or confidentiality obligations;

c. You will not upload or use any Content that is libelous, defamatory, abusive, vulgar, hateful, obscene, scandalous, inflammatory or otherwise objectionable or offensive, in OWB's sole discretion;

d. You will not upload Content that is not primarily wine tourism information. OWB may reject Content that OWB determines, in its sole discretion, is not primarily wine tourism information.

2. License, Release.

a. You hereby grant to OWB, its affiliates, agencies, licensees, designees, successors and assigns (“**Releasees**”) a perpetual, worldwide, irrevocable, royalty-free license to use, redact, publish, republish, copy, distribute, modify, and otherwise use your Content, including any and all intellectual property contained therein, alone or with other materials, in any medium now known or hereafter developed, without payment of compensation to you and without seeking any further approval from you or anyone else appearing in your Content. Notwithstanding the foregoing, Releasees may make nominative use of your trademarks to identify the source of your Content,

b. By submitting the Content to OWB, you grant Releasees permission to use the Content in any manner and in any media, throughout the world, in connection with advertising, marketing and promotional materials relating to OWB, its products and services, or for any other purpose.

3. Proprietary Rights. OWB is the owner or authorized licensor of the Services, including all copy, software, graphics, designs and all copyrights, trademarks and other intellectual property or proprietary rights contained therein. You agree not to use, copy, distribute, modify, transmit, perform or make derivative works of any Service materials without the prior written consent of the owner of such materials. All rights not granted under this Agreement are reserved.

4. NO WARRANTIES. THE SERVICES, INCLUDING ALL CONTENT MADE AVAILABLE ON OR ACCESSED THROUGH THE SERVICES, IS PROVIDED "AS IS" AND OWB MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER FOR THE CONTENT ON THE SERVICES. FURTHER, TO THE FULLEST EXTENT PERMISSIBLE BY LAW, OWB DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, NON-INFRINGEMENT, TITLE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. OWB DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SERVICES OR ANY MATERIALS OR CONTENT CONTAINED THEREIN WILL BE UNINTERRUPTED OR ERROR FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE SERVICES OR THE SERVER THAT MAKES IT AVAILABLE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

5. Changes. OWB reserves the right to modify or revise this Agreement at any time without prior notice. You should visit this website periodically to review the Agreement and check for updates. Your continued access of the Services after such changes will constitute your acceptance of and agreement to such changes. **IF YOU DO NOT WISH TO BE BOUND TO ANY NEW TERMS, YOU MUST TERMINATE THE AGREEMENT BY REQUESTING REMOVAL OF PREVIOUSLY SUBMITTED CONTENT AND IMMEDIATELY CEASING TO SUBMIT CONTENT TO OWB.**

6. Termination.

a. TERMINATION BY OWB: OWB reserves the right, in its sole discretion (for any reason or for no reason) and at any time, to change, suspend or discontinue this Agreement. No notice of change, suspension, discontinuation or termination by OWB will be provided or published.

b. TERMINATION BY YOU: You reserve the right, at your sole discretion (for any reason or for no reason) and at any time, to termination of this Agreement. To terminate this agreement, you will promptly cease to submit Content to OWB and provide written request to OWB for removal of any Content that you previously submitted and wish to have removed. OWB will only remove previously submitted content that you identify in written request for removal.

7. Indemnity.

a. General Indemnity. You shall defend, save, hold harmless, and indemnify the OWB, the State of Oregon, and their agencies, subdivisions, officers, directors, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to your submission and licensing of Content or use of the Services in any manner that breaches this Agreement or results from the negligent

acts or omissions or the intentional misconduct of you or your officers, employees, or agents. Your obligation under this Section (a) shall not extend to any indemnifiable loss to the extent caused by the negligence or willful misconduct of OWB, the State of Oregon or their agents, officials or employees.

b. Indemnity for Infringement Claims. Without limiting the generality of section 7.a, you expressly agree to defend, indemnify, and hold OWB, the State of Oregon, and their agencies, subdivisions, officers, directors, agents, and employees harmless from any and all claims, suits, actions, losses, liabilities, costs, expenses, including attorney fees, and damages arising out of or related to (I) your submission and licensing of Content or use of the Services in any way that infringes any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other proprietary right of any third party; provided, that OWB shall provide you with prompt written notice of any infringement claim, or (II) OWB's modification of the Content without proper approval from the Content owners.

c. Control of Defense and Settlement. You shall have control of the defense and settlement of any claim that is subject to sections 7.a or 7.b; however, neither you nor any attorney engaged by you shall defend the claim in the name of the State of Oregon or OWB, nor purport to act as legal representative of the State of Oregon or OWB, without first receiving from OWB and the Oregon Attorney General, in a form and manner determined appropriate by the Attorney General and the Commission or its representatives, authority to act as legal counsel for the State of Oregon or OWB, nor shall you settle any claim on behalf of the State of Oregon or OWB without the approval of the Attorney General. The State of Oregon or OWB may elect to assume its own defense with an attorney of its own choice and at its own expense at any time the State of Oregon or OWB determines important governmental interests are at stake. The State of Oregon and OWB agree to promptly provide you with notice of any claim that may result in an indemnification obligation hereunder.

8. Limitation of Liability. OWB SHALL NOT BE LIABLE FOR THE USE OF THE SERVICES OR SUBMISSION OF CONTENT, INCLUDING ANY ERRORS CONTAINED THEREIN PROVIDED BY THIRD PARTIES. IN NO EVENT WILL OWB BE LIABLE UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR OTHER CONSEQUENTIAL DAMAGES, LOST PROFITS, LOST DATA, LOST OPPORTUNITIES, COSTS OF COVER, EXEMPLARY, PUNITIVE, PERSONAL INJURY/WRONGFUL DEATH, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES REGARDLESS OF WHETHER OR NOT EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING THE FOREGOING, OWB's MAXIMUM LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT OF FIVE DOLLARS (US \$5.00).

9. Severability. If any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable for any reason, the remaining terms and provisions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

10. Governing Law, Consent to Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between you and OWB (or any other agency or department of the State of Oregon) that arises from or relates to this

Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. RECIPIENT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THE CIRCUIT COURT OF MARION COUNTY.

11. Compliance with Law. You shall comply with all federal, state and local laws, regulations, executive orders and ordinances and third-party rights applicable to this Agreement.

12. Public records. You acknowledge and agree that all records of the OWB, including Content on OWB, may be subject to disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478.

13. Non-exclusive. This Agreement is a non-exclusive agreement.

14. Integration and Waiver. This Agreement constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The failure of either party to enforce any provision of this Agreement shall not constitute a waiver by that party of that or any other provision.

Questions: Should you have any questions regarding these terms and conditions you may contact us at (503) 228-8336 or info@oregonwine.org