

Terms of Service for Tim Hortons® Owners Convention Website: effective May 16, 2017

# Terms of Service

These Terms of Service (the “Terms”) govern your use when you visit the website of the Tim Hortons® Owners Convention (“the Convention”) at [2017timhortonsconvention.com](http://2017timhortonsconvention.com) website and/or [timhortonsvegas2017.com](http://timhortonsvegas2017.com) website (the “Convention Website”), or any mobile or tablet application, digital in-restaurant kiosk, or other online service or platform Tim Hortons® related to the Tim Hortons Owners Convention, or other online service or platform of Restaurant Brands International, Inc., or any of its companies, including without limitation the BURGER KING® and the TIM HORTONS® restaurant brands (collectively, “RBI”), that provides an authorized link to the Terms (collectively, the “Services”), regardless of who owns or operates the Services or the restaurant you ultimately visit, as well as our interactions with you on third party platforms.

## 1. Binding Agreement

The Terms are a binding legal contract between you and RBI. Please read the Terms carefully before using the Services. Your use of the Services means that you agree to be bound by the Terms. Do not use the Services if you do not accept the Terms. We may modify the Terms at any time. Your use of the Services after we post modifications to the Terms means that you accept the modified Terms. You must be 13 years or older to use the Services.

EXCEPT WHERE PROHIBITED BY APPLICABLE LAW, WHICH MAY INCLUDE THE PROVINCE OF QUEBEC, THESE TERMS CONTAIN DISCLAIMERS OF WARRANTIES (SECTION 12), DISCLAIMERS OF LIABILITY AND AN EXCLUSIVE REMEDY (SECTION 13), AND A BINDING ARBITRATION CLAUSE AND CLASS ACTION WAIVER (SECTION 18). PLEASE READ THEM CAREFULLY.

## 2. Privacy

By using the Services, you acknowledge that you have reviewed and understand our [Privacy Policy](#), and consent to the practices described in that policy.

## 3. Registration and Security

You may register for certain activities provided through the Services. When you register or provide any other information in connection with the Services, you agree to provide accurate, current, and complete information and to promptly update this information to maintain its accuracy. You are responsible for maintaining the confidentiality of any password and username that you are given or select, and you are responsible for all activities that occur under your password or account. RBI has the right to suspend or terminate any account or other registration if it suspects that such information is

inaccurate or incomplete. You agree to immediately notify RBI of any unauthorized use of your password or username or any other breach of security.

#### 4. Prohibited Content and Activities

You may not use the Services to take any action that could harm us or anyone else, interfere with the Services, or use the Services in a manner that violates any law. For example, you may not:

- Impersonate any person or entity, or misrepresent your credentials or any information you provide;
- Engage in unauthorized spidering, scraping, or harvesting of content, or use any other unauthorized means to compile information;
- Harvest or otherwise collect or store any information (including personal information) about other users, including e-mail addresses, without the express consent of such users;
- Solicit, collect, transmit, store, or otherwise make available private information or personal information of any third party;
- Use the Services to send commercial electronic messages or install a computer program on **another person's computer system**;
- Obtain or attempt to gain unauthorized access to other computer systems, materials, information, or any services available on or through the Services;
- Use any device, software, or program to interfere with the Services or attempt to probe, scan, test the vulnerability of, or breach the security of any system, device, or network;
- Circumvent, reverse engineer, decipher, decompile, disassemble, decrypt, or otherwise interfere with any software that is a part of the Services, or use any tools for compromising security (e.g., password-guessing programs, cracking tools, or network probing tools);
- Use another's information, account, or password, except as expressly permitted;
- Take any action that imposes an unreasonable load on our network or infrastructure;
- Upload or otherwise transmit any communication, software, or material that contains a virus or is otherwise harmful to our or our users' computers, devices, or systems;
- For the purpose of misleading others, create a false identity of the sender or the origin of a message, forge headers or otherwise manipulate identifiers in order to disguise the origin of any material transmitted through the Services; or
- Engage in any other conduct that restricts any person from using the Services, or that, in our sole judgment, exposes us, users, or any other third party to any liability, damages, or detriment of any type.

#### 5. Intellectual Property

All content, code, software, and any other materials that are part of the Services other than any content you may submit (collectively, the "RBI Content") is the property of RBI. You may use the Services and print copies of RBI Content only for noncommercial, informational, personal use, without modification, and only so long as you comply with these Terms.

- **Copyright and Other Intellectual Property Rights.** RBI Content is protected under the copyright laws of the United States, Canada and other countries. You acknowledge that all copyrights and other intellectual property rights related to the Services are owned by RBI or its third-party licensors to the full extent permitted under the United States Copyright Act, international

copyright laws, and all other applicable laws. Unless expressly permitted by an authorized person in writing or as permitted by applicable law, you may not copy, reproduce, distribute, publish, enter into a database, display, perform, modify, create derivative works from, transmit, or in any way use or exploit any part of the RBI Content.

- **Trade and Service Marks.** You acknowledge and agree that all RBI logos and marks as well as other proprietary materials depicted in connection with the Services and the RBI Content are the property of RBI and may not be used commercially without the prior written consent of RBI.
- **Notice of Infringement.** If you believe in good faith that content you own has been reproduced on the Services in a way that constitutes copyright infringement, please provide our designated agent with the following information in writing:
  - An electronic or physical signature of the person authorized to act on behalf of the owner of the exclusive right that is allegedly infringed;
  - Identification of the copyrighted work or a representative list of the works claimed to have been infringed;
  - Identification of the allegedly infringing material and information reasonably sufficient to permit us to locate the material;
  - Your name, address, telephone number, and email address, so that we may contact you if necessary;
  - A statement that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and
  - A statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf.

**RBI's designated agent for notice of claims of copyright is:**

Deidre Richardson  
RBI US Services, LLC  
Attn: Legal (DMCA Copyright Infringement)  
5505 Blue Lagoon Drive  
Miami, Florida 33126  
Email: [copyrightdmca@whopper.com](mailto:copyrightdmca@whopper.com)

- **Embedding Content.** The Services may allow you to embed RBI Content into other web pages. All use of embedded RBI Content must be for non-commercial purposes only, and may be disabled by RBI at any time and for any reason.

## 6. Social Media Integration

The Services may offer opportunities for you to transmit content via third-party social networking websites and products. Any use of third party social networking features is subject to the terms of use of the applicable third-party website or product and not these Terms, unless you are notified otherwise, in which case the terms and conditions set forth in such notification will apply.

## 7. User Submissions

Certain areas of the Services may enable you to publicly post comments, send emails, or otherwise submit information to us. You remain fully responsible for the content that you provide in connection with the Services, including information, audio recordings, **videos, photographs, documents, or any other materials ("User Content")**. In addition to complying with Section 4, you agree not to provide User Content that:

- Infringes or violates the copyright, trademark, patent, or other intellectual property right of any person or entity;
- Is false, misleading, defamatory, obscene, abusive, hateful, threatening, harassing, or sexually explicit;

- Violates **any person or entity's right to privacy or publicity**;
- Contains advertising or a solicitation of any kind;
- Personally attacks or impersonates any person or entity, or falsely states or otherwise misrepresents an affiliation with a person or entity;
- Degrades others on the basis of gender, race, class, ethnicity, national origin, religion, sexual preference, orientation or identity, disability, or other classification;
- Transmits, stores, or otherwise makes available a virus, Trojan horse, worm, spyware, bot, or other harmful programming routine;
- Makes available material of a commercial nature or sends, causes or permits to be sent commercial electronic messages, including but not limited to advertising, promotions, junk mail, spam, pyramid schemes, chain letters, or solicitations of any kind;
- Violates any applicable law, or advocates illegal activity.

Subject to applicable law, we also have the right to disclose your identity to any third party who is claiming that any User Content you provide us or others in connection with the Services constitutes a violation of the third party's intellectual property rights, of the third party's right to privacy, or of any other applicable local, provincial, state, national, or international law.

If the Services permit you to submit User Content, you may only provide User Content that is original and that you have the right to provide. By providing us User Content, you grant us a royalty-free, irrevocable, perpetual, non-exclusive, worldwide, fully sub-licensable, transferable, license to publish, reproduce, distribute, transmit, display, perform, edit, adapt, modify, translate, create derivative works of, sell, offer for sale, export, and otherwise use and exploit your User Content in any way that we want and in any form, media, or technology now known or later developed. You hereby waive any moral rights you may have in your User Content. You represent that you have obtained all necessary permissions from any person or entity identified in or implicated by your submission (including those shown in photographic or video content), and, in the case of minors, also from their parents or legal guardians, as appropriate.

If you are under the age of 13, you may not provide any User Content to us. If you are under the age of majority in your jurisdiction of residence but at least 13 years of age, subject to any applicable sweepstakes, contest, or other supplemental terms, you may provide User Content but only with the permission of, and under the supervision of, a parent or legal guardian. If you are a parent or legal guardian agreeing to these Terms for the benefit of an individual between the ages of 13 and the age of majority in your jurisdiction of residence, please be advised that you are fully responsible for his or her User Content and any legal liability that he or she may incur.

## **8. Links and Third Party Content**

The Services may contain links to other websites or online services that are not under the control of RBI. Such links do not constitute an endorsement by RBI of those other websites or online services, the content they display, or people associated with them. The Terms do not apply to such other websites and online services, and such websites

and online services are not part of the Services. We encourage you to review the privacy policies and terms of use of these other websites or services.

We may incorporate third party services, software, technology, data, and/or other content, either independently or in connection with various programs, features, or functions available through the Services. Your use of third-party materials may be subject to terms of use other than these Terms and as may be set forth by third party providers, as applicable. You agree that RBI assumes no liability with respect to your use of such third-party materials, whether you are aware of their use or not and whether or not the use of such materials is recommended by RBI.

You may link to our Services provided that you do so in a way that is fair and legal and does not damage our reputation or take advantage of it. You must not establish a link in such a way as to suggest or imply any form of association, approval, or endorsement on our part where none exists. We reserve the right to withdraw linking permission without notice.

#### **9. Digital BK® Crown Card/ Digital TimCard®**

RBI may allow you to purchase a stored value card, including without limitation, a digital TimCard® or a digital BK® **Crown Card (each, a “Digital Giftcard”)** through the Services. Please refer to the BK® Crown Card [Terms & Conditions](#) and the TimCard® [Terms & Conditions](#), as applicable, for more information about the terms, conditions and policies that apply to your registration, purchase and use of a Digital Giftcard.

#### **10. Mobile Payment and Mobile Ordering**

You may be permitted to participate in certain functionalities of the Services which allow you to use a device to order and pay for certain products from any RBI brand **restaurant at or prior to arrival at the participating restaurant location (“Mobile Ordering”)** in the same manner as is possible with a Digital Giftcard (“**Mobile Payment**”). **Mobile Payment is subject to the applicable Digital Giftcard Terms & Conditions**, as listed above, and is accepted at select participating restaurants. RBI reserves the right at any time to discontinue Mobile Ordering or Mobile Payment, or to change the location of restaurants or markets offering or participating in Mobile Ordering or accepting Mobile Payment at any time.

#### **11. Termination**

In our sole discretion, we may restrict, suspend, or terminate your access to and use of the Services, with or without prior notice. RBI is not responsible for any error in copy or images relating to the Services or any other products offered via the Services. Errors will be corrected when discovered and RBI reserves the right to revoke any stated offer and to correct any error, inaccuracy, or omission (including after an order has been submitted).

Otherwise applicable sections of these Terms shall survive termination. RBI also reserves the right to seek all remedies available at law and in equity for violations of these Terms. Upon termination, you must cease all use of the Services, including any of the RBI Content.

## 12. Governing Law, Arbitration, and Class Action Waiver

Except where prohibited by applicable law, which may include the Province of Quebec, the following terms apply to all legal disputes between you and RBI. These Terms are governed by the laws of the United States and the State of Florida, without giving effect to their principles of conflicts of law. Except where prohibited by applicable law, which may include the Province of Quebec, by using the Services, you waive any claims that may arise under the laws of other states, provinces, countries, territories, or jurisdictions.

Except where prohibited by applicable law, which may include the Province of Quebec, with respect to any and all disputes arising out of or relating to the Services or these Terms (including without limitation the Privacy Policy), RBI and you agree to negotiate in good faith to achieve a mutually satisfactory resolution. If you and RBI do not resolve any dispute by informal negotiation, any other effort to resolve the dispute will be conducted exclusively by binding arbitration as described in this section. You are giving up the right to litigate (or participate in as a party or class member) all disputes in court before a judge or jury. Instead, all disputes will be resolved before a neutral arbitrator, whose decision will be final except for a limited right of appeal under the Federal Arbitration Act. Any court with jurisdiction over the parties may enforce the arbitrator's award.

EXCEPT WHERE PROHIBITED BY APPLICABLE LAW, WHICH MAY INCLUDE THE PROVINCE OF QUEBEC, ANY PROCEEDINGS TO RESOLVE OR LITIGATE ANY DISPUTE WILL BE CONDUCTED SOLELY ON AN INDIVIDUAL BASIS. NEITHER YOU NOR RBI WILL SEEK TO HAVE ANY DISPUTE HEARD AS A CLASS ACTION OR IN ANY OTHER PROCEEDING IN WHICH EITHER PARTY ACTS OR PROPOSES TO ACT IN A REPRESENTATIVE CAPACITY. No arbitration or proceeding will be combined with another without the prior written consent of all parties to all affected arbitrations or proceedings.

Except where prohibited by applicable law, which may include the Province of Quebec, all disputes arising under these Terms that cannot be settled through informal negotiation will be settled exclusively through confidential binding arbitration in accordance with the Consumer Arbitration Rules of the American Arbitration Association. **The arbitrator's award shall be binding and may be entered as a judgment** in a court of competent jurisdiction. You agree that RBI may seek any interim or preliminary relief from a court of competent jurisdiction in New York, necessary to protect its rights or property pending the completion of arbitration.

To the maximum extent permitted by applicable law, you permanently and irrevocably waive the right to bring any Claim in any forum unless you provide RBI with written notice of the event or facts giving rise to the Claim within one (1) year of their occurrence.

### **13. Disclaimer of Warranties**

THE LAWS OF SOME JURISDICTIONS, INCLUDING THE PROVINCE OF QUEBEC, MAY NOT ALLOW THE EXCLUSION OR LIMITATION OF REPRESENTATIONS, WARRANTIES OR CONDITIONS, SO SOME OF THE BELOW EXCLUSIONS MAY NOT APPLY TO YOU. IN SUCH CASE, EXCLUSIONS WILL APPLY TO THE GREATEST EXTENT CONSISTENT WITH APPLICABLE LAW. YOUR USE OF THE SERVICES IS ENTIRELY AT YOUR OWN RISK. WE MAKE NO REPRESENTATIONS, WARRANTIES OR CONDITIONS ABOUT THE SERVICES, INCLUDING, WITHOUT LIMITATION, THE OPERATION OF THE SERVICES OR THE INFORMATION, MATERIALS, GOODS, OR SERVICES APPEARING OR OFFERED ON THE SERVICES OR WITH RESPECT TO ANY WEBSITES OR SERVICES LINKED FROM THE SERVICES. THE SERVICES ARE PROVIDED "AS IS", "WITH ALL FAULTS," AND "AS AVAILABLE." WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, WE DISCLAIM ALL WARRANTIES AND CONDITIONS, EXPRESS, STATUTORY, OR IMPLIED, INCLUDING BUT NOT LIMITED TO (I) THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, WORKMANLIKE EFFORT, TITLE, QUIET ENJOYMENT, NO LIENS, AND NO ENCUMBRANCES; (II) THE WARRANTIES AGAINST INFRINGEMENT, MISAPPROPRIATION, OR VIOLATION OF ANY INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS OF ANY PERSON OR ENTITY; (III) WARRANTIES ARISING THROUGH COURSE OF DEALING OR USAGE IN TRADE; AND (IV) THE WARRANTIES RELATING TO THE ACCURACY, RELIABILITY, CORRECTNESS, OR COMPLETENESS OF DATA OR CONTENT MADE AVAILABLE ON THE SERVICES OR OTHERWISE BY RBI. FURTHER, THERE IS NO WARRANTY THAT THE SERVICES WILL MEET YOUR NEEDS OR REQUIREMENTS OR THE NEEDS OR REQUIREMENTS OF ANY OTHER PERSON OR ENTITY OR THE NEEDS OR REQUIREMENTS SET FORTH IN ANY DOCUMENTATION. WE MAKE NO WARRANTIES OR CONDITIONS, EXPRESS, STATUTORY, OR IMPLIED, THAT THE SERVICES, INCLUDING, WITHOUT LIMITATION, THE CONTENT, FUNCTIONS, OR MATERIALS CONTAINED IN THE SERVICES, WILL BE TIMELY, SECURE, ACCURATE, ERROR-FREE, COMPLETE, UP-TO-DATE, FREE OF VIRUSES, OR UNINTERRUPTED. RBI EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES, CONDITIONS, AND LIABILITIES IN CONNECTION WITH ANY USER CONTENT OR RBI CONTENT. NO INFORMATION MADE AVAILABLE BY OR ON BEHALF OF RBI SHALL CREATE ANY WARRANTY OR CONDITION.

IF APPLICABLE LAW DOES NOT ALLOW THE EXCLUSION OF SOME OR ALL OF THE ABOVE IMPLIED OR STATUTORY WARRANTIES TO APPLY TO YOU, THE ABOVE

EXCLUSIONS WILL APPLY TO YOU TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

#### 14. Exclusive Remedy and Limitation of Liability

THAT THE LAWS OF SOME JURISDICTIONS, INCLUDING THE PROVINCE OF QUEBEC, MAY NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES, LOSSES OR LIABILITY, SO SOME OF THE BELOW EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU. IN SUCH CASE, EXCLUSIONS AND LIMITATIONS WILL APPLY TO THE GREATEST EXTENT CONSISTENT WITH APPLICABLE LAW.

UNDER NO CIRCUMSTANCES, INCLUDING WITHOUT LIMITATION NEGLIGENCE, WILL RBI, ITS AFFILIATES, OR ANY PARTY INVOLVED IN OPERATING, CREATING, PRODUCING, OR DELIVERING THE SERVICES BE LIABLE FOR DAMAGES OR LOSSES INCLUDING WITHOUT LIMITATION DIRECT, INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES OR LOST PROFITS ARISING OUT OF THE TERMS OR YOUR ACCESS, USE, MISUSE, OR INABILITY TO USE THE SERVICES, INCLUDING WITHOUT LIMITATION ANY RBI CONTENT OR USER CONTENT, OR ANY SITES LINKED FROM THE SERVICES, HOWEVER CAUSED, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE, EVEN IF RBI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR IN CONNECTION WITH ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUS, LINE OR SYSTEM FAILURE, OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR DEVICE, DATA, OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF OUR SERVICES OR TO YOUR DOWNLOADING OF ANY CONTENT ON IT OR ON ANY WEBSITE LINKED TO IT.

BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, **RBI'S LIABILITY IN SUCH JURISDICTIONS FOR SUCH DAMAGES SHALL BE LIMITED TO THE EXTENT PERMITTED BY LAW. ANY CLAIM AGAINST US SHALL BE LIMITED TO THE AMOUNT YOU PAID, IF ANY, FOR USE OF THE SERVICES.**

#### 15. Indemnification

You agree to indemnify, hold harmless, and defend RBI, its affiliates and licensors, any party involved in operating, creating, producing, or delivering the Services, and each of their respective officers, owners, directors, shareholders, contractors, agents, employees, general and limited partners, successors, and assigns from and against any and all demands, claims, damages, liabilities, judgments, fines, interest, penalties, **losses, costs, expenses, and harms, including without limitation reasonable attorneys' fees and fees of other professional advisers, arising out of or in connection with (i) your use of the Services, (ii) your online conduct in connection with the Services, (iii) your**



(or anyone acting under your password or username) violation or breach of these Terms, (iv) your failure to comply with any applicable laws or regulations in connection with the Services, (v) your negligence, willful misconduct, or violations of the intellectual property or other rights of any person in connection with the Services, or (vi) any of your dealings or transactions with other persons, persons or third party platforms resulting from use of the Services. You shall not settle any such claim without the prior written consent of RBI. These obligations will survive any termination of these Terms.

#### **16. Integration, Severability and Waiver**

These Terms and all other legal notices, statements or terms and conditions posted or made available to you on the Services constitute the entire agreement between RBI and you. In the event any provision of these Terms is held unenforceable, it will not affect the enforceability of the remaining provisions and will be replaced by an enforceable provision that comes closest to the intention underlying the unenforceable provision. Our failure to enforce any provisions of the Terms or respond to a breach by you or other parties shall not in any way waive our right to enforce subsequently any terms or conditions of the Terms or to act with respect to similar breaches.

#### **17. Notice for California Consumers**

Under California Civil Code Section 1789.3, California users of the Services are entitled to the following specific consumer rights notice: The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 1625 North Market Blvd., Suite N 112, Sacramento CA 95834, or by telephone at (916) 445-1254 or (800) 952-5210.

#### **18. Contact Information**

Please direct any questions, complaints, or comments related to the Services to [privacy@rbi.com](mailto:privacy@rbi.com).