

78x36 Productions, LLC Terms of Use

Last Updated on October 23, 2013.

These terms and conditions (the "Terms") govern your access to and use of 78x36 Productions, LLC ("78x36 Productions") websites and mobile applications that link to or reference these Terms ("Site") and the services, features, content, application or widgets offered by 78x36 Productions (collectively with the site, the "Service"). By accessing or using the Services, you are agreeing to these Terms, which also incorporate 78x36 Productions' [Privacy Policy](#) and concluding a legally binding contract with 78x36 Productions, a California limited liability company headquartered in Moraga, California. Do not access or use the Services if you are unwilling or unable to be bound by the Terms.

Definitions

Parties. "You" and "your" refer to you, as a user of the Service. A "user" is someone who accesses, browses, crawls, scrapes, or in any way uses the Service. "We," "us," "our," and "78x36 Productions" refer to 78x36 Productions.

Content. "Content" means text, images, photos, audio, video, location data, and all other forms of data or communication. "Your Content" means Content that you submit or transmit to, through, or in connection with the Service, such as comments, photos, check-ins, real-time location information, favorites, tags, bookmarks, and information that you publicly display or is displayed in your account profile. "User Content" means Content that users submit or transmit to, through, or in connection with the Service. "78x36 Productions Content" means Content that we create and make available in connection with the Service. "Third Party Content" means Content that originates from parties other than 78x36 Productions or its users, which is made available in connection with the Services. "Service Content" means all of the Content that is made available in connection with the Service, including Your Content, User Content, Third Party Content, and 78x36 Productions Content.

Changes to the Terms

We may modify the Terms from time to time. You understand and agree that your access to or use of the Service is governed by the Terms effective at the time of your access to or use of the Service. If we make material changes to these Terms, we will notify you by email or by posting a notice on the Service prior to the effective date of the changes. We will also indicate at the top of this page the date that revisions were last made. You should revisit these Terms on a regular basis as revised versions will be binding on you. Any such modification will be effective upon our posting of new Terms. You understand and agree that your continued access to or use of the Service after the effective date of modifications to the Terms indicates your acceptance of the modifications.

Using the Service

Access. To access or use the Service, you must be 18 years or older and have the requisite power and authority to enter into these Terms. You may not access or use the Service if you are a competitor of ours or if we have previously banned you from the Service or closed your account.

Permission to Use the Service. We grant you permission to use the Service subject to the restrictions in these Terms. Your use of the Service is at your own risk, including the risk that you might be exposed to Content that is offensive, indecent, inaccurate, objectionable, or otherwise inappropriate.

Service Availability. The Service may be modified, updated, interrupted, suspended or discontinued at any time without notice or liability.

Registration. You must create an account and provide certain information about yourself in order to use some of the features that are offered through the Service. You are responsible for maintaining the confidentiality of your account password. You are also responsible for all activities that occur in connection with your account. You agree to notify us immediately of any unauthorized use of your account. We reserve the right to close your account at any time for any or no reason.

Your account is for your personal, non-commercial use only. In creating it, we ask that you provide complete and accurate information about yourself. You may not impersonate someone else, create or use an account for anyone other than yourself, provide an email address other than your own, create a user name that is otherwise offensive, vulgar obscene, or otherwise unlawful, or create multiple accounts. If you use a pseudonym, take care to note that others may still be able to identify you. Please read our [Privacy Policy](#) for more information.

Communications. By creating an account, you agree to receive certain communications in connection with the Service. You can opt-out of non-essential communications [here](#).

Content

Responsibility for Your Content. You understand that all information publicly posted or privately transmitted through the Service is the sole responsibility of the person from which such Content originated. 78x36 Productions will not be liable for any errors or omissions in any Content; and we cannot guarantee the identity of any other users with whom you may interact in the course of using the Service.

You may expose yourself to liability if, for example, Your Content contains material that is false, intentionally misleading, or defamatory; violates any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; contains material that is unlawful, including illegal hate speech or pornography; exploits or otherwise harms minors; or violates or advocates the violation of any law or regulation.

Per our [Privacy Policy](#) when you delete Your Content, it will be removed from the Service. However, you understand Your Content may persist in backup copies for a reasonable period of time (but following removal will not be shared with others) or may remain with users who have previously accessed or downloaded Your Content.

Our Right to Use Your Content. We may use Your Content in a number of different ways, including publicly displaying it, reformatting it, incorporating it into advertisements and other works, creating derivative works from it, promoting it, distributing it, and allowing others to do the same in connection with their own websites and media platforms ("Third Party Media"). As such, you hereby irrevocably grant us world-wide, perpetual, non-exclusive, royalty-free, assignable, sublicensable, transferable rights to use Your Content for any purpose. Please note that you also irrevocably grant the users of the Service and any Third Party Media the right to access Your Content in connection with their use of the Service and any Third Party Media. Finally, you irrevocably waive, and cause to be waived, against 78x36 Productions and its users any claims and assertions of moral rights or attribution with respect to Your Content. By "use" we mean use, copy, publicly perform and display, reproduce, distribute, modify, translate, remove, analyze, commercialize, and prepare derivative works of Your Content.

You represent and warrant that you have all rights to grant such license to us without infringement or violation of any third party rights, including without limitation, any privacy rights, publicity rights, copyrights, contract rights, or any other intellectual property or proprietary rights.

Ownership. As between you and 78x36 Productions, you own Your Content. We own the 78x36 Productions Content, including but not limited to visual interfaces, interactive features, graphics, design, compilation, including, but not limited to, our compilation of User Content and other Services Content, computer code, products, software, aggregate user data, and all other elements and components of the Service excluding Your Content, User Content and Third Party Content. We also own the copyrights, trademarks, service marks, trade names, and other intellectual and proprietary rights throughout the world ("IP Rights") associated with the 78x36 Productions Content and the Service, which are protected by copyright, trade dress, patent, trademark laws and all other applicable intellectual and proprietary rights and laws. As such, you may not modify, reproduce, distribute, create derivative works or adaptations of, publicly display or in any way exploit any of the 78x36 Productions Content in whole or in part except as expressly authorized by us. Except as expressly and unambiguously provided herein, we do not grant you any express or implied rights, and all rights in and to the Service and the 78x36 Productions Content are retained by us.

Advertising. 78x36 Productions and its licensees may publicly display advertisements and other information adjacent to or included with Your Content. You are not entitled to any compensation for such advertisements. The manner, mode and extent of such advertising are subject to change without specific notice to you.

Removal of User Content. User Content does not necessarily reflect the opinion of 78x36 Productions. We reserve the right to remove, screen, edit, or reinstate User Content from time to time at our sole discretion for any reason or no reason, and without notice to you. We have no obligation to retain or provide you with copies of Your Content, nor do we guarantee any confidentiality with respect to Your Content.

Rules and Conduct

We are under no obligation to enforce the Terms on your behalf against another user. While we encourage you to let us know if you believe another user has violated the Terms, we reserve the right to investigate and take appropriate action at our sole discretion.

By way of example, and not as a limitation, you shall not (and shall not permit any third part to either take any action or upload, download, post, submit, or otherwise distribute User Content that:

- Infringes any third party's rights, including any breach of confidence, copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right;
- You know to be false, misleading, untruthful or inaccurate;
- Threatens, stalks, harms, or harasses others, or promotes bigotry or discrimination;
- Involves commercial activities, except as expressly permitted by 78x36 Productions;
- Constitutes unauthorized or unsolicited advertising, junk or bulk email;
- Solicits personal information from minors, or to submit or transmit pornography; or
- Violates any applicable law.

You also agree not to, and will not assist, encourage, or enable others to:

- Violate the Terms;
- Modify, adapt, appropriate, reproduce, distribute, translate, create derivative works or adaptations of, publicly display, sell, trade, or in any way exploit the Services or Services Content (other than Your Content), except as expressly authorized by 78x36 Productions;
- Reverse engineer any portion of the Service;
- Remove or modify any copyright, trademark or other proprietary rights notice that appears on any portion of the Service or on any materials printed or copied from the Service;
- Record, process, or mine information about other users;

- Reformat or frame any portion of the Service;
- Take any action that imposes, or may impose, in our sole discretion, an unreasonable or disproportionately large load on 78x36 Productions' technology infrastructure;
- Attempt to gain unauthorized access to the Service, user accounts, computer systems or networks connected to the Service through hacking, password mining or any other means;
- Use the Service or any Service Content to transmit any computer viruses, worms, defects, Trojan horses or other items of a destructive nature (collectively, "Viruses");
- Use any device, software or routine that interferes with the proper working of the Service, or otherwise attempt to interfere with the proper working of the Service;
- Use the Service to violate the security of any computer network, crack passwords or security encryption codes; disrupt or interfere with the security of, or otherwise cause harm to, the Service or Service Content; or
- Remove, circumvent, disable, damage or otherwise interfere with any security-related features of the Service, features that prevent or restrict the use or copying of Service Content, or features that enforce limitations on the use of the Service.

The restrictions above only apply to the extent permissible under applicable law. Nevertheless, you agree not to act contrary to them (even if permissible under applicable law) without providing 30 days' prior written notice to us, together with any information that we may reasonably require to give us an opportunity to provide alternative remedies or otherwise accommodate you at our sole discretion.

Privacy Policy

You represent that you have read and understood our [Privacy Policy](#). Note that we may disclose information about you to third parties if we have a good faith belief that such a disclosure is reasonably necessary to (i) take action regarding suspected illegal activities; (ii) enforce or apply our Terms and Privacy Policy; (iii) comply with legal process or other government inquiry, such as a search warrant, subpoena, statute, judicial proceeding, or other legal process served on us; or (iv) protect our rights, reputation, and property, or that of our users, affiliates, or the public. If you use the Service outside of the United States, you consent to having your personal data transferred to and processed in the United States.

Suggestions and Improvements

By sending us any ideas, suggestions, documents or proposals ("Feedback"), you agree that (i) your Feedback does not contain the confidential or proprietary information of third parties, (ii) we are under no obligation of confidentiality, express or implied, with respect to the Feedback, (iii) we may have something similar to the Feedback already under consideration or in development, and (iv) you grant us an irrevocable, non-exclusive, royalty-free, perpetual, worldwide license to use, modify, prepare derivative works, publish,

distribute and sublicense the Feedback, and you irrevocably waive, and cause to be waived, against 78x36 Productions and its users any claims and assertions of any moral rights contained in such Feedback.

Third Party Sites and Services

The Services may include links to other websites or applications (each, a "Third Party Service"). We do not control or endorse any Third Party Service. You agree that we are not responsible for the availability or contents of such Third Party Services. Your use of Third Party Services is at your own risk.

In order to provide the Services, we use Google Maps API(s), as such by using the Services you agree to be bound by [Google's Terms of Service](#).

In order to provide the Services, we use Placed API(s), as such by using the Services you agree to be bound by [Placed Inc.'s Terms of Service](#).

In order to provide the Services, we use Twitter API(s), as such by using the Services you agree to be bound by [Twitter's Terms of Service](#).

Some of the services made available through the Service may be subject to additional third party or open source licensing terms and disclosures.

Indemnity

You agree to indemnify, defend, and hold 78x36 Productions, its affiliates, any related companies, suppliers, licensors and partners, and the officers, directors, employees, agents and representatives of each of them (collectively, the "78x36 Production Entities") harmless, including costs, liabilities and legal fees, from any claim or demand made by any third party arising out of or relating to (i) your access to or use of the Service, (ii) your violation of the Terms, (iii) any products or services purchased or obtained by you in connection with the Service, or (iv) the infringement by you, or any third party using your account, of any intellectual property or other right of any person or entity. 78x36 Productions reserves the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us and you agree to cooperate with our defense of these claims. You agree not to settle any such matter without the prior written consent of 78x36 Productions. 78x36 Productions will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it.

Disclaimers and Limitations of Liability

PLEASE READ THIS SECTION CAREFULLY SINCE IT LIMITS THE LIABILITY OF 78X36 PRODUCTIONS TO YOU. EACH OF THE SUBSECTIONS BELOW ONLY APPLIES UP TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW. NOTHING HEREIN IS INTENDED TO LIMIT ANY RIGHTS YOU MAY HAVE WHICH MAY NOT BE LAWFULLY LIMITED. IF YOU ARE UNSURE ABOUT THIS OR ANY OTHER SECTION OF THESE TERMS, PLEASE CONSULT WITH A LEGAL PROFESSIONAL PRIOR TO ACCESSING OR USING THE

SERVICE. BY ACCESSING OR USING THE SERVICE, YOU REPRESENT THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO THESE TERMS, INCLUDING THIS SECTION. YOU ARE GIVING UP SUBSTANTIAL LEGAL RIGHTS BY AGREEING TO THESE TERMS.

THE SERVICE IS MADE AVAILABLE TO YOU ON AN "AS IS", "WITH ALL FAULTS" AND "AS AVAILABLE" BASIS, WITH THE EXPRESS UNDERSTANDING THAT 78X36 PRODUCTIONS MAY NOT MONITOR, CONTROL, OR VET USER CONTENT. AS SUCH, YOUR USE OF THE SERVICE IS AT YOUR OWN DISCRETION AND RISK. 78X36 PRODUCTIONS MAKE NO CLAIMS OR PROMISES ABOUT THE QUALITY, ACCURACY, OR RELIABILITY OF THE SERVICE, ITS SAFETY OR SECURITY, OR THE SERVICE CONTENT. ACCORDINGLY, 78X36 PRODUCTIONS IS NOT LIABLE TO YOU FOR ANY LOSS OR DAMAGE THAT MIGHT ARISE, FOR EXAMPLE, FROM THE SERVICE'S INOPERABILITY, UNAVAILABILITY OR SECURITY VULNERABILITIES OR FROM YOUR RELIANCE ON THE QUALITY, ACCURACY, OR RELIABILITY OF SERVICE CONTENT FOUND ON, USED ON, OR MADE AVAILABLE THROUGH THE SERVICE.

78X36 PRODUCTIONS MAKE NO CLAIMS OR PROMISES WITH RESPECT TO ANY THIRD PARTY, SUCH AS THE BUSINESSES OR ADVERTISERS LISTED ON THE SERVICE OR THE SERVICE'S USERS. ACCORDINGLY, 78X36 PRODUCTIONS IS NOT LIABLE TO YOU FOR ANY LOSS OR DAMAGE THAT MIGHT ARISE FROM THEIR ACTIONS OR OMISSIONS, INCLUDING, FOR EXAMPLE, IF ANOTHER USER OR BUSINESS MISUSES YOUR CONTENT, IDENTITY OR PERSONAL INFORMATION, OR IF YOU HAVE A NEGATIVE EXPERIENCE WITH ONE OF THE BUSINESSES OR ADVERTISERS LISTED OR FEATURED ON THE SERVICE. YOUR PURCHASE AND USE OF PRODUCTS OR SERVICES OFFERED BY THIRD PARTIES THROUGH THE SERVICE IS AT YOUR OWN DISCRETION AND RISK.

78X36 PRODUCTIONS EXPRESSLY DISCLAIM ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES AS TO THE PRODUCTS OR SERVICES OFFERED BY BUSINESSES LISTED ON THE SERVICE, AND IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. NO ORAL OR WRITTEN INFORMATION OR ADVICE PROVIDED TO YOU BY A REPRESENTATIVE OF 78X36 PRODUCTIONS SHALL CREATE A REPRESENTATION OR WARRANTY.

YOUR SOLE AND EXCLUSIVE RIGHT AND REMEDY IN CASE OF DISSATISFACTION WITH THE SERVICE, RELATED SERVICES, OR ANY OTHER GRIEVANCE SHALL BE YOUR TERMINATION AND DISCONTINUATION OF ACCESS TO, OR USE OF THE SERVICE.

78X36 PRODUCTIONS' MAXIMUM AGGREGATE LIABILITY TO YOU FOR LOSSES OR DAMAGES THAT YOU SUFFER IN CONNECTION WITH THE SERVICE OR THESE TERMS IS LIMITED TO ONE HUNDRED US DOLLARS (\$100).

78X36 PRODUCTIONS DISCLAIM LIABILITY FOR ANY (i) INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, RELIANCE, OR CONSEQUENTIAL DAMAGES, (ii) LOSS OF PROFITS, (iii) BUSINESS INTERRUPTION, (iv) REPUTATIONAL HARM, OR (v) LOSS OF INFORMATION OR DATA.

Choice of Law and Venue

California law will govern these Terms, as well as any claim, cause of action or dispute that might arise between you and 78x36 Productions (a "Claim"), without regard to conflict of law provisions. FOR ANY CLAIM BROUGHT BY EITHER PARTY, YOU AGREE TO SUBMIT AND CONSENT TO THE PERSONAL AND EXCLUSIVE JURISDICTION IN, AND THE EXCLUSIVE VENUE OF, THE STATE AND FEDERAL COURTS LOCATED WITHIN SAN FRANCISCO COUNTY, CALIFORNIA.

Termination

You may terminate the Terms at any time by closing your account and discontinuing your use of the Service. Please review our [Privacy Policy](#) for information about what we do with your account when terminated.

We may close your account, suspend your ability to use certain portions of the Service, and/or ban you altogether from the Service for any or no reason, and without notice or liability of any kind. Any such action could prevent you from accessing your account, the Service, Your Content, Service Content, or any other related information.

In the event of any termination of these Terms, whether by you or us, all provisions of these Terms, which by their nature should survive termination, shall survive termination, including without limitation, restrictions, indemnity, disclaimers, and limitations of liability.

General Terms

We reserve the right to modify, update, or discontinue the Service at our sole discretion, at any time, for any or no reason, and without notice or liability.

We may provide you with notices, including those regarding changes to the Terms by email, regular mail or communications through the Service.

Except as otherwise stated in these Terms, nothing herein is intended, nor will be deemed, to confer rights or remedies upon any third party.

The Terms contain the entire agreement between you and us regarding the use of the Services, and supersede any prior agreement between you and us on such subject matter. The parties acknowledge that no reliance is placed on any representation made but not expressly contained in these Terms.

Any failure on 78x36 Production's part to exercise or enforce any right or provision of the Terms does not constitute a waiver of such right or provision. The failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder.

If any provision of the Terms is found to be unenforceable or invalid, then only that provision shall be modified to reflect the parties' intention or eliminated to the minimum extent necessary so that the Terms shall otherwise remain in full force and effect and enforceable.

The Terms, and any rights or obligations hereunder, are not assignable, transferable or sublicensable by you except with 78x36 Production's prior written consent, but may be assigned or transferred by us without restriction. Any attempted assignment by you shall violate these Terms and be void.

The section titles in the Terms are for convenience only and have no legal or contractual effect.

You may contact 78x36 Productions at the following address: team@mindthequeue.com.