

End User Terms of Service
Last Updated: September 1st, 2024

Welcome to Kalder! Please read these Terms of Service (the “**Terms**”) and our Privacy Notice (<https://kalder-shopify-public.kalder.app/Kalder%20Privacy%20Notice.pdf>) (“**Privacy Notice**”) carefully because they govern your use of the services offered by Kalder, Inc. (“**Kalder**”) (as further described below, the “**Services**”).

Our Services enable you to associate your debit and/or credit card (each, a “**Card**”) with your account(s) with loyalty programs (“**Loyalty Programs**”) offered and managed by merchants that are customers of Kalder (each, a “**Merchant**”) and are designed to make it easier for you to participate in such Loyalty Programs. These Terms does not apply to services that Kalder provides to Merchants, which are governed by separate agreements between Kalder and Merchants.

KALDER DOES NOT MANAGE OR CONTROL, AND IS NOT RESPONSIBLE FOR, THE LOYALTY PROGRAMS OFFERED BY ANY MERCHANTS. YOUR PARTICIPATION IN THE LOYALTY PROGRAMS IS GOVERNED BY THE TERMS AND CONDITIONS AND/OR OTHER AGREEMENTS ENTERED INTO BY YOU AND THE APPLICABLE MERCHANT(S) AND KALDER IS NOT A PARTY TO ANY SUCH AGREEMENTS.

IMPORTANT NOTICE REGARDING ARBITRATION FOR U.S. CUSTOMERS: WHEN YOU AGREE TO THESE TERMS YOU ARE AGREEING (WITH LIMITED EXCEPTION) TO RESOLVE ANY DISPUTE BETWEEN YOU AND KALDER THROUGH BINDING, INDIVIDUAL ARBITRATION RATHER THAN IN COURT. PLEASE REVIEW CAREFULLY SECTION 17 “DISPUTE RESOLUTION” BELOW FOR DETAILS REGARDING ARBITRATION.

1. **Agreement to Terms.** By using our Services, you agree to be bound by these Terms. If you don’t agree to be bound by these Terms, do not use the Services.
2. **Privacy Notice.** Please review our Privacy Notice, which also governs your use of the Services, for information on how we collect, use and share your information.
3. **Changes to these Terms or the Services.** We may update the Terms from time to time in our sole discretion. It’s important that you review the Terms whenever you use the Services. If you continue to use the Services after we have posted updated Terms it means that you accept and agree to the changes. If you don’t agree to be bound by the changes, you may not use the Services anymore. Because our Services are evolving over time we may change or discontinue all or any part of the Services, at any time and without notice, at our sole discretion.
4. **Who May Use the Services.** You may use the Services only if you are 18 years or older and capable of forming a binding contract with Kalder and not otherwise barred from

using the Services under applicable law. Use of certain features of the Services may require you to create an account with, or provide additional information to, Kalder's third-party service providers (such as Plaid). Your use of any third-party services may be subject to such third party's terms, conditions and policies, which are solely between you and such third party.

5. **Feedback.** We appreciate feedback, comments, ideas, proposals and suggestions for improvements to the Services ("**Feedback**"). If you choose to submit Feedback, you agree that we are free to use it without any restriction or compensation to you.
6. **Intellectual Property.** We may make available through the Services content that is subject to intellectual property rights. We retain all rights to that content.
7. **Your Representations.** You represent and warrant that: (a) you have the legal right to use your Cards in connection with the Services and applicable Loyalty Programs; and (b) you will comply with all laws and regulations applicable to your use of the Services.
8. **General Prohibitions and Kalder's Enforcement Rights.** You agree not to do any of the following:
 - (a) Use, display, mirror or frame the Services or any individual element within the Services, Kalder's name, any Kalder trademark, logo or other proprietary information, or the layout and design of any page or form contained on a page, without Kalder's express written consent;
 - (b) Access, tamper with, or use non-public areas of the Services, Kalder's computer systems, or the technical delivery systems of Kalder's providers;
 - (c) Attempt to probe, scan or test the vulnerability of any Kalder system or network or breach any security or authentication measures;
 - (d) Avoid, bypass, remove, deactivate, impair, descramble or otherwise circumvent any technological measure implemented by Kalder or any of Kalder's providers or any other third party (including another user) to protect the Services;
 - (e) Attempt to access or search the Services or download content from the Services using any engine, software, tool, agent, device or mechanism (including spiders, robots, crawlers, data mining tools or the like) other than the software and/or search agents provided by Kalder or other generally available third-party web browsers;
 - (f) Use any meta tags or other hidden text or metadata utilizing a Kalder trademark, logo URL or product name without Kalder's express written consent;
 - (g) Use the Services, or any portion thereof, for any commercial purpose or for the benefit of any third party or in any manner not permitted by these Terms;

- (h) Attempt to decipher, decompile, disassemble or reverse engineer any of the software used to provide the Services;
- (i) Interfere with, or attempt to interfere with, the access of any user, host or network, including, without limitation, sending a virus, overloading, flooding, spamming, or mail-bombing the Services;
- (j) Impersonate or misrepresent your affiliation with any person or entity; or
- (k) Encourage or enable any other individual to do any of the foregoing.

Kalder is not obligated to monitor access to or use of the Services or to review or edit any content. However, we have the right to do so for the purpose of operating the Services, to ensure compliance with these Terms and to comply with applicable law or other legal requirements. We reserve the right, but are not obligated, to remove or disable access to any content at any time and without notice, including, but not limited to, if we, at our sole discretion, consider it objectionable or in violation of these Terms. We have the right to investigate violations of these Terms or conduct that affects the Services. We may also consult and cooperate with law enforcement authorities to prosecute users who violate the law.

9. **Links to Third Party Websites or Resources.** The Services may allow you to access third-party websites or other resources. We provide access only as a convenience and are not responsible for the content, products or services on or available from those resources or links displayed on such websites. You acknowledge sole responsibility for and assume all risk arising from, your use of any third-party resources.
10. **Termination.** We may suspend or terminate your access to and use of the Services, at our sole discretion, at any time and without notice to you. You may terminate your use of the Services at any time. Upon any termination, discontinuation or cancellation of the Services or your account, the following Sections will survive: 6, 7, 9, 10, 11, 12, 13, 14 and 15.
11. **Warranty Disclaimers.** THE SERVICES ARE PROVIDED “AS IS,” WITHOUT WARRANTY OF ANY KIND. WITHOUT LIMITING THE FOREGOING, WE EXPLICITLY DISCLAIM ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. We make no warranty that the Services will meet your requirements or be available on an uninterrupted, secure, or error-free basis. We make no warranty regarding the quality, accuracy, timeliness, truthfulness, completeness or reliability of any information or content on the Services.
12. **Indemnity.** You will indemnify and hold Kalder and its officers, directors, employees and agents, harmless from and against any claims, disputes, demands, liabilities, damages,

losses, and costs and expenses, including, without limitation, reasonable legal and accounting fees arising out of or in any way connected with (a) your access to or use of the Services, or (b) your violation of these Terms.

13. Limitation of Liability.

(a) TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER KALDER NOR ITS SERVICE PROVIDERS INVOLVED IN CREATING, PRODUCING, OR DELIVERING THE SERVICES WILL BE LIABLE FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOST PROFITS, LOST REVENUES, LOST SAVINGS, LOST BUSINESS OPPORTUNITY, LOSS OF DATA OR GOODWILL, SERVICE INTERRUPTION, COMPUTER DAMAGE OR SYSTEM FAILURE OR THE COST OF SUBSTITUTE SERVICES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR FROM THE USE OF OR INABILITY TO USE THE SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT KALDER OR ITS SERVICE PROVIDERS HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

(b) TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL KALDER'S TOTAL CUMULATIVE LIABILITY TO YOU ARISING FROM ALL CLAIMS UNDER OR RELATED TO THESE TERMS OR FROM THE USE OF OR INABILITY TO USE THE SERVICES EXCEED THE AMOUNTS ACTUAL PAID BY YOU OR ARE PAYABLE BY YOU TO KALDER FOR USE OF THE SERVICES, PROVIDED THAT IN NO EVENT WILL KALDER'S TOTAL CUMULATIVE LIABILITY FOR ALL CLAIMS MADE UNDER OR RELATED TO THIS AGREEMENT EXCEED ONE HUNDRED DOLLARS \$100.00.

(c) THE EXCLUSIONS AND LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN KALDER AND YOU.

14. Governing Law and Forum Choice. These Terms and any action related thereto will be governed by the Federal Arbitration Act, federal arbitration law, and the laws of the State of [Delaware], without regard to its conflict of laws provisions. Except as otherwise expressly set forth in Section 15 "Dispute Resolution," the exclusive jurisdiction for all Disputes (defined below) that you and Kalder are not required to arbitrate will be the state and federal courts located in the [State of Delaware], and you and Kalder each waive any objection to jurisdiction and venue in such courts.

15. Dispute Resolution.

(a) Mandatory Arbitration of Disputes. We each agree that any dispute, claim or controversy arising out of or relating to these Terms or the breach, termination, enforcement, interpretation or validity thereof or the use of the Services (collectively, “**Disputes**”) will be resolved **solely by binding, individual arbitration and not in a class, representative or consolidated action or proceeding**. You and Kalder agree that the U.S. Federal Arbitration Act governs the interpretation and enforcement of these Terms, and that you and Kalder are each waiving the right to a trial by jury or to participate in a class action. This arbitration provision shall survive termination of these Terms.

(b) Exceptions. As limited exceptions to Section 15(a) above: (i) we both may seek to resolve a Dispute in small claims court if it qualifies; and (ii) we each retain the right to seek injunctive or other equitable relief from a court to prevent (or enjoin) the infringement or misappropriation of our intellectual property rights.

(c) Conducting Arbitration and Arbitration Rules. The arbitration will be conducted by the American Arbitration Association (“**AAA**”) under its Consumer Arbitration Rules (the “**AAA Rules**”) then in effect, except as modified by these Terms. The AAA Rules are available at www.adr.org or by calling 1-800-778-7879. A party who wishes to start arbitration must submit a written Demand for Arbitration to AAA and give notice to the other party as specified in the AAA Rules. The AAA provides a form Demand for Arbitration at www.adr.org.

Any arbitration hearings will take place in the county (or parish) where you live, unless we both agree to a different location. The parties agree that the arbitrator shall have exclusive authority to decide all issues relating to the interpretation, applicability, enforceability and scope of this arbitration agreement.

(d) Arbitration Costs. Payment of all filing, administration and arbitrator fees will be governed by the AAA Rules, and we won’t seek to recover the administration and arbitrator fees we are responsible for paying, unless the arbitrator finds your Dispute frivolous. If we prevail in arbitration we’ll pay all of our attorneys’ fees and costs and won’t seek to recover them from you. If you prevail in arbitration you will be entitled to an award of attorneys’ fees and expenses to the extent provided under applicable law.

(e) Injunctive and Declaratory Relief. Except as provided in Section 15(b) above, the arbitrator shall determine all issues of liability on the merits of any claim asserted by either party and may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party’s individual claim. To the extent that you or we prevail on a claim and seek public injunctive relief (that is, injunctive relief that has the primary purpose and effect of prohibiting unlawful acts that threaten future injury to the public), the entitlement to and extent of such relief must be litigated in a civil court of competent jurisdiction and not in

arbitration. The parties agree that litigation of any issues of public injunctive relief shall be stayed pending the outcome of the merits of any individual claims in arbitration.

(f) Class Action Waiver. **YOU AND KALDER AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.** Further, if the parties' Dispute is resolved through arbitration, the arbitrator may not consolidate another person's claims with your claims, and may not otherwise preside over any form of a representative or class proceeding. If this specific provision is found to be unenforceable, then the entirety of this Dispute Resolution section shall be null and void.

(g) Severability. With the exception of any of the provisions in Section 15(f) of these Terms ("**Class Action Waiver**"), if an arbitrator or court of competent jurisdiction decides that any part of these Terms is invalid or unenforceable, the other parts of these Terms will still apply.

16. **General Terms.**

(a) Reservation of Rights. Kalder and its licensors exclusively own all right, title and interest in and to the Services, including all associated intellectual property rights. You acknowledge that the Services are protected by copyright, trademark, and other laws of the United States and foreign countries. You agree not to remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying the Services.

(b) Entire Agreement. These Terms constitute the entire and exclusive understanding and agreement between Kalder and you regarding the Services, and these Terms supersede and replace all prior oral or written understandings or agreements between Kalder and you regarding the Services. If any provision of these Terms is held invalid or unenforceable by an arbitrator or a court of competent jurisdiction, that provision will be enforced to the maximum extent permissible and the other provisions of these Terms will remain in full force and effect. Except where provided by applicable law in your jurisdiction, you may not assign or transfer these Terms, by operation of law or otherwise, without Kalder's prior written consent. Any attempt by you to assign or transfer these Terms absent our consent or your statutory right, without such consent, will be null. Kalder may freely assign or transfer these Terms without restriction. Subject to the foregoing, these Terms will bind and inure to the benefit of the parties, their successors and permitted assigns.

(c) Notices. Any notices or other communications provided by Kalder under these Terms will be given: (i) via email; or (ii) by posting to the Services. For notices made by email, the date of receipt will be deemed the date on which such notice is transmitted.

(d) Waiver of Rights. Kalder's failure to enforce any right or provision of these Terms will not be considered a waiver of such right or provision. The waiver of any such right or provision will be effective only if in writing and signed by a duly authorized representative of Kalder. Except as expressly set forth in these Terms, the exercise by either party of any of its remedies under these Terms will be without prejudice to its other remedies under these Terms or otherwise.

17. **Contact Information.** If you have any questions about these Terms or the Services, please contact Kalder at gokce@kalder.xyz.