

# PRIVACY & TERMS

Benny Casanova's ("we", "our", or "us") respects and is committed to protecting your privacy. That is why we have adopted this Privacy Notice.

This Privacy Notice lets you know how and for what purposes we are collecting, processing, and using your Personal Information (as defined herein). We pledge that we will take reasonable steps to ensure that your Personal Information will only be used in ways that are in compliance with this Privacy Notice.

This Privacy Notice is in effect for any web page, mobile application, third-party social media site, email list, onsite electronic data collection, generic information, and Personal Information collected and/or owned by us, including but not limited to the Benny Casanova's website located at [www.bennycasanovas.com](http://www.bennycasanovas.com) and the VIP Privilege Program App (the "App"), no matter the method of collection (e.g., mail, facsimile, sign-up/sign-in page, survey, promotion), including collection through this website, the VIP Privilege Program, and any online features, services, and/or programs we offer (collectively, the "Web Properties"). Notwithstanding the foregoing, this Privacy Notice is not applicable to any other web page, mobile application, social media site, generic information, or Personal Information collected and/or owned by any entity other than Benny Casanova's or one of its parents, affiliates and/or subsidiaries. Users of the foregoing resources of entities other than Benny Casanova's should refer to the privacy policy in effect for the applicable owner.

This Privacy Notice also applies to information collected by or for us through a means other than the Web Properties. If the same information is collected through the Web Properties and through a means other than the Web Properties, the terms of this Privacy Notice shall apply.

Your use of the Web Properties is also governed by the Terms and Conditions located at [www.bennycasanovas.com](http://www.bennycasanovas.com).

## **Types of Information Collected**

Benny Casanova's may collect two types of information when you visit the Web Properties: personal information and usage information.

**Personal Information:** In order to participate in certain features, services and/or programs of the Web Properties, we may require that you provide us with certain specific information, which we may collect including, among other similar types of information (collectively, "Personal Information"): (1) contact information (e.g., name, address, phone number, email address); (2)

demographic information (e.g., date of birth, gender, marital status); (3) bank account and credit/debit card numbers; (4) purchase information and restaurant reservation information; (5) relationship to food allergies; (6) resume information (e.g., education, work and military history, legal work eligibility status); and (7) your physical location. We may receive from you your mobile number to participate in our VIP Privilege Program, place orders, or otherwise participate in non-marketing activities.

Usage Information: We may obtain non-individualized, generic information about you when you visit the Web Properties. This may include your (i) Internet Protocol (or IP) address, protocol and sequence information; browser language; browser type; domain name system requests; browsing history (including time spent at a domain, time and date of your visit); number of clicks; hypertext transfer protocol headers; application client and server banners; and operating system fingerprinting data (collectively, "Browsing Information"); and (ii) MAC address, device ID/UDID, or similar device-specific code used for advertising/marketing tracking purposes.

### **How Information Is Collected**

We may collect Personal Information and Browsing Information about you from the following sources:

- Information we receive from you, or on your behalf, through forms you complete, or if you contact us, for example, to raise a query;
- Information we receive from you through the Web Properties, such as when creating an account, placing an order, making a reservation, filling out the "Contact Us" form on this website, or signing up for our newsletter (the "Newsletter");
- Information we receive when you download and register for the App;
  - Information we receive from your computer or mobile device;
  - Information we receive from our partners or service providers; and
- Information we receive from other sources, as permitted by applicable laws, rules and regulations.

We may sponsor promotions through the Web Properties. Your participation is entirely voluntary. You may be asked to provide personally identifiable information including, but not limited to, your name, email address or home address or to answer questions in order to participate. We may also transfer Personal Information to certain advertising or marketing partners from whom you have requested to receive information.

You can conveniently sign up to receive our Newsletter by following the prompts on our website. Your receipt of the Newsletter is entirely voluntary. If you have signed up to receive the Newsletter but you no longer wish to receive news updates from us, simply click on the “Unsubscribe” link that you find at the end of each Newsletter.

### **Additional Ways that Information is Collected Through the Web Properties**

**Browser Log Files:** Our servers automatically log each visitor to the Web Properties and collect and record certain Browsing Information about each visitor. The Browsing Information reveals nothing personal about the user and includes only the generic information described in the definition of “Browsing Information.” We may use this information to examine our traffic in the aggregate, but we do not collect and evaluate this information for individuals.

**Cookies:** From time to time, we and/or our advertisers or other third parties may send a “cookie” to your computer. A cookie is a small piece of data that is sent to your Internet browser from a web server and stored on your computer’s hard drive and that can be re-sent to the serving website on subsequent visits. A cookie, by itself, cannot read other data from your hard disk or read other cookie files already on your computer. A cookie, by itself, does not damage your system. We, our advertisers and other third parties may use cookies to identify and keep track of, among other things, those areas of the Web Properties and third party websites that you have visited in the past in order to enhance your next visit to the Web Properties. Our advertisers may also use cookies to ascertain how many times that you have seen an advertisement and obtain similar analytical information. You can choose whether or not to accept cookies by changing the settings of your Internet browser, but some functionality of the Web Properties may be impaired or not function as intended if you choose not to accept cookies. See the “Third Party Opt Out” section below.

**Web Beacons:** Some of our web pages and electronic communications may contain images, which may or may not be visible to you, known as Web Beacons (sometimes referred to as ‘clear gifs’). Web Beacons collect only limited information that includes a cookie number; time and date of a page view; and a description of the page on which the Web Beacon resides. We may also carry Web Beacons placed by third party advertisers. These Web Beacons do not carry any Personal Information and are only used to track usage of the Web Properties and activities associated with the Web Properties. See the “Third Party Opt Out” section below.

**iBeacons and Geolocation:** While using certain features of one or more of the Web Properties, we may in the future choose to track the physical location of your mobile device or web browser to send you information that is relevant to you. Certain of the Web Properties may request your physical location for purposes of offering you discounts, notifying you about restaurant promotions or open reservations in your geographic area, or delivering other messages when you are in proximity to one of our restaurant locations, or for other purposes that we may determine in the future. You will always have control over whether to transmit your physical location, and you can prevent such disclosure by disabling Bluetooth and Wi-Fi, declining the request to share your location, or adjusting your privacy settings in your mobile device operating system (as applicable).

**Unique Identifier:** We may assign you a unique internal identifier to help keep track of your future visits. We use this information to gather aggregate demographic information about our visitors, and we use it to personalize the information you see on the Web Properties and some of the electronic communications you receive from us. We keep this information for our internal use, and this information is not shared with others.

**Third Party Opt Out:** Although we do not presently do so, in the future we may allow third-party companies to serve advertisements and/or collect certain anonymous information when you visit the Web Properties. These companies may use non-personally identifiable information (including, but not limited to, click stream information, browser type, time and date, subject of advertisements clicked or scrolled over) during your visits to the Web Properties in order to provide advertisements about goods and services likely to be of greater interest to you. These companies typically use a cookie or third party Web Beacon to collect this information, as further described above. Through these technologies, the third party may have access to and use such non-personalized information about your online usage activity.

- You can opt out of certain online behavioral services through any one of the ways described below (you do not need to go to each opt-out site, one is sufficient). After you opt out, you will continue to receive advertisements, but those advertisements will no longer be as relevant to you.

- You can opt out via the Network Advertising Initiative industry opt-out at [www.networkadvertising.org](http://www.networkadvertising.org).

- You can opt-out via the Consumer Choice Page at [www.aboutads.info](http://www.aboutads.info).

- You can opt-out via the IAB UK's industry opt-out at [www.youronlinechoices.com](http://www.youronlinechoices.com).

- You can configure your web browser (Chrome, Firefox, Internet Explorer, Safari, etc.) to delete and/or control the use of cookies. More information can be found in the Help system of your web browser. It is at your discretion whether you use the opt-out described above or manage cookies via the browser.

Note: If you opt out as described above, you should not delete your cookies. If you delete your cookies, you will need to opt out again.

### **Use of Personal Information**

The Personal Information that we collect may be used for five main purposes:

1. To enable the features of the Web Properties, including, but not limited to: (a) operating any promotions in which you may participate; (b) setting up and managing your online or mobile application account, including, but not limited to, our processing your requests for information, and/or providing support services to you; (c) providing services to you; and (d) delivering rewards, coupons and offers to you;

2. To improve the Web Properties by determining which of our products, features and services are most popular. We may analyze your information and usage information to enable us and our affiliates to provide services to you and develop new features, functionality, and services and otherwise for our internal business purposes;

3. To personalize your experience on the Web Properties;

4. To communicate with you and to inform you about our and third parties' products and services. We and/or any of our third party service providers may send you and keep you updated with information about existing and new services, products, and special offers, by email, telephone, mail or by means of any other contact details you provide to us or our affiliates, or to such third party service providers. We may also send you and keep you updated with information about our service and products when you sign up for our Newsletter; and

5. To license, sell, or share your Personal Information to non-affiliated third party companies whose products and services we believe that you may enjoy. You may, at any time, opt out of us sharing your Personal Information for such purposes by contacting us as described below in "Choices With Your Personal Information."

### **When Information Is Disclosed**

In addition to the other times or occasions on which we might disclose Personal Information about you, we might also disclose Personal Information

and/or Browsing Information when required by law or in the good-faith belief that such disclosure is necessary to: (1) comply with legal processes and applicable law; (2) enforce this Privacy Notice; (3) take precautions against liability and to respond to any claim that any material, document, image, graphics, logo, design, audio, video, and any other information provided to, from or on the Web Properties by you violates the rights of third parties; (4) assist government enforcement agencies; or (5) protect our rights, property, or safety or the rights, property, or personal safety of our visitors and the public.

We may use your Personal Information and Browsing Information to deliver coupons, offers, and otherwise promote our products to you.

We use reasonable precautions to keep the information that is disclosed to us secure. We may provide Personal Information and Browsing Information to our subsidiaries, affiliated companies, and other businesses or persons for the purposes of processing such information on our behalf and promoting the goods and services of our trusted business partners, some or all of which may store some or all of your information on servers outside of the United States. We require that these parties agree to process such information in compliance with our Privacy Notice or in a similar, industry-standard manner, and we use reasonable efforts to limit their use of such information and to use other appropriate confidentiality and security measures. The use of your information by one of our trusted business partners may be subject to that party's own Privacy Notice.

We may share Browsing Information with third parties to demonstrate the usage patterns for advertisements, content, functionality, promotions, and/or services on the Web Properties and/or on third party websites. We share your Personal Information with Parse, a non-affiliated third party company, which will have access to your Personal Information when you sign up for the App. Parse has adopted a privacy policy setting forth its procedures for protecting personal information it retains. Parse's privacy policy is located on its website at [www.parse.com](http://www.parse.com).

We reserve the right to transfer your Personal Information, as well as any information about or from you, in connection with the merger, sale or other disposition of all or part of our business and/or assets. We cannot make any representations regarding the use or transfer of your Personal Information or other information that we may have in the event of our bankruptcy, reorganization, insolvency, receivership, or an assignment for the benefit of creditors, and you expressly agree and consent to the use and/or transfer of your Personal Information or other information in connection with a sale or transfer of some or all of our assets in any of the above-described

proceedings. Furthermore, we cannot and will not be responsible for any breach of security by any third parties or for any actions of any third parties that receive any of the information that is disclosed to us.

### **Account, Password and Security**

For certain features available through the Web Properties, we may require the use of encryption technologies provided for your protection and/or account.

We use reasonable precautions to protect the privacy of your username, password, and account information.

You, however, are ultimately responsible for protecting your username, password, and account information from disclosure to third parties, and you are not permitted to circumvent the use of required encryption technologies.

You agree to: (a) immediately notify us of any unauthorized use of your username or password, and/or any other breach of security; and (b) ensure that you log out from your account at the end of each session. While we may provide certain encryption technologies and use other reasonable precautions to protect your confidential information and provide suitable security, we do not and cannot guarantee or warrant that any information transmitted through the Internet is secure, or that such transmissions are free from delay, interruption, interception, or error.

### **Employment Opportunity Information Collection**

For individuals interested in job opportunities with us, the Web Properties allow prospective employees to request additional job opportunity information, apply for a job online, and email information about a job listing to a friend. The Web Properties may be used to collect Personal Information from prospective employees for human resources recruitment purposes. By submitting any of the foregoing information, you consent to its dissemination to, and use by, us and our affiliates. The foregoing also applies to job application inquiries and submissions that you may transmit to us other than through the Web Properties.

### **Information From Children**

We do not collect Personal Information from any person that we know to be under the age of thirteen (13). Specifically, the Web Properties are not intended or designed to attract children under the age of thirteen (13). You affirm that you are more than eighteen (18) years of age, or an emancipated minor, or possess legal parental or guardian consent, and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in this Privacy Notice, and to abide by and comply with this Privacy Notice. In any case, you affirm that you are

over the age of thirteen (13), as **THE WEB PROPERTIES ARE NOT INTENDED FOR CHILDREN UNDER THIRTEEN (13) WHO ARE UNACCOMPANIED BY THEIR PARENT(S) OR LEGAL GUARDIAN(S).**

Parents and legal guardians should be aware that this Privacy Notice will govern our use of Personal Information, but also that information that is voluntarily given by children – or others – in email exchanges, bulletin boards or the like, may be used by other parties to generate unsolicited communications. We encourage all parents to instruct their children in the safe and responsible use of their Personal Information while using the Internet.

For the avoidance of confusion, we may collect Personal Information about children in connection with administering and operating our services, including, but not limited to, information about their relationship to food allergies, and nothing herein shall limit or otherwise restrict our ability or practices with respect to such collection about children.

### **Privacy Outside the Web Properties**

The Web Properties may contain links to other websites, including, but not limited to, Facebook, Twitter and Instagram, and contain advertisements of third parties. We are not and cannot be responsible for the privacy practices or the content of any of those websites. Please check with those websites in order to determine their privacy policies and your rights under them.

Other than under agreements with certain reputable organizations and companies, and except for third party service providers (as described in this Privacy Notice, including, but not limited to, Parse), we do not share any of the Personal Information that you provide to us with any of the websites to which the Web Properties links, although we may share aggregate, non-personally identifiable information with those other third parties. Please check with those websites in order to determine their privacy policies and your rights under them.

### **European Union Users**

If you are visiting us from the European Union, please note that we may collect, transfer, and continue to use your Personal Information outside the European Union for any of the purposes described in this Privacy Notice. By using the Web Properties and providing us with your Personal Information, you consent to our collection, transfer, and continued use of your Personal Information in accordance with this Privacy Notice.

### **Information Security**

We take reasonable efforts to ensure that information collected through the Web Properties is not lost, misused or altered inappropriately by administering security measures. However, all information accessible and/or transferred over the Internet can potentially be accessed by unauthorized parties; therefore, we cannot guarantee the security of your data transmitted to the Web Properties.

### **Choices With Your Personal Information**

Whether you submit any Personal Information to us is entirely up to you. You are under no obligation to provide Personal Information. However, this information is essential for the provision and quality of some of the services we offer to you, so we cannot provide you with certain services if you choose to withhold requested information.

You may choose to prevent us from disclosing or using your Personal Information under certain circumstances (“opt-out”). You may opt out of any disclosure or use of your Personal Information for purposes that are incompatible with the purpose(s) for which it was originally collected or for which you subsequently gave authorization by notifying us by one of the methods at the end of this Privacy Notice, or by following the procedures set forth in an electronic communication from us, if applicable. Furthermore, even where your Personal Information is to be disclosed and used in accordance with the stated purposes in this Privacy Notice, you may elect to opt out of such disclosure to and use by a third party that is not acting as our agent.

There are some uses from which you cannot opt out, such as to provide products or services that you have requested from us.

Please note that opting out of the disclosure and use of your Personal Information as a prospective employee may prevent you from being hired as an employee to the extent you are using the Web Properties to apply for an open position.

To the extent applicable, you may opt out of online behavioral advertising by following the instructions set forth above under the above section “Additional Ways that Information is Collected Through the Web Properties,” subsection “Third Party Opt Out.”

When you download the App, you may be able to manage how your mobile device shares certain information with us by adjusting your mobile device’s privacy or security settings. In particular, you may elect whether to share location information with our mobile application to access the mobile application’s location-based services.

### **Access and Correction**

Please contact us in the manner specified at the end of this Privacy Notice to access your Personal Information in our possession and correct inaccuracies of that information in our records. We ask individuals to identify themselves and the information requested to be accessed and amended before processing such requests, and we may decline to process requests in limited circumstances, as permitted by applicable privacy legislation.

### **Your California Privacy Rights**

Under California's "Shine the Light" law, California residents who provide certain personally identifiable information in connection with obtaining products or services for personal, family, or household use are entitled to request and obtain from us (once a calendar year) information about the customer information we shared (if any) with other businesses for their own direct marketing uses. If applicable, this information would include the categories of customer information and the names and addresses of those businesses with which we shared customer information for the immediately prior calendar year (e.g., requests made in 2015 will receive information regarding 2014 sharing activities, if any).

To obtain this information, please send an email message to [privacy@fbeckerhospitality.com](mailto:privacy@fbeckerhospitality.com) with "Request for California Privacy Information" in the subject line and in the body of your message. We will provide the requested information to you at your email address in response.

Please be aware that not all information sharing is covered by the "Shine the Light" requirements, and only information on covered sharing will be included in our response.

### **Do Not Track Requests**

Additionally, because we may collect your Personal Information from time to time, California's Online Privacy Protection Act requires us to disclose how we respond to "do not track" requests and other similar mechanisms. Currently, our policy is that we do not recognize "do not track" requests from Internet browsers and similar devices.

### **Your Consent To This Privacy Notice**

By using the Web Properties, you consent to the collection and use of your information (including Personal Information) by us as specified above or as we otherwise see fit, in compliance with this Privacy Notice, unless you inform us otherwise by means of the procedure identified below. If we decide to change this Privacy Notice or some part of it, we will make an effort to post those changes on this web page so that you will always be able to understand what information we collect, how we use that information and under what

circumstances we may disclose that information to others. Your use of the Web Properties following such publication of any amendment of this Privacy Notice will signify your assent to and acceptance of its revised terms for all previously collected information and information collected from you in the future. We may use comments, information or feedback that you may submit in any manner that we may choose without notice or compensation to you.

If you have additional questions or comments of any kind, or if you see anything on the Web Properties that you think is inappropriate or incorrect, please let us know by email or by sending your comments or requests to:

FB 3300 Fairmount LLC

3300 Fairmount Ave

Philadelphia, PA 19104

Phone: 215-609-4007

[privacy@fbeckerhospitality.com](mailto:privacy@fbeckerhospitality.com)

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Effective as of: September 1, 2020

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### **TERMS OF USE**

Please read the following Terms of Use (these “Terms”) carefully before using the Benny Casanova’s (“we,” “our,” or “us”) website, located at [www.bennycasnovas.com](http://www.bennycasnovas.com), or participating in any online features, services and/or programs offered by us, including, but not limited to, our App, as defined herein (collectively, the “Web Properties”). These Terms are in effect for all of our Web Properties, including the use of the VIP Privilege Program App (the “App”) by VIP Privilege Program members (“VIP Members”).

These Terms are not applicable to any other web page operated and/or owned by any entity other than Benny Casanova’s, including, but not limited to, any website, mobile application, blog, forum, or other material operated by any third party identified on the Web Properties. When visiting these third-party websites, you should refer to the terms and conditions in effect for the applicable owner.

**PLEASE READ THESE TERMS CAREFULLY, WHICH INCLUDE IMPORTANT INFORMATION ABOUT YOUR LEGAL RIGHTS, REMEDIES, AND OBLIGATIONS. BY ACCESSING OR USING THE WEB PROPERTIES, YOU ARE ENTERING INTO A LEGAL CONTRACT WITH BENNY CASANOVA’S REGARDING YOUR USE OF THE WEB PROPERTIES. BY ACCESSING OR USING THE WEB PROPERTIES, YOU AGREE TO BE BOUND BY THESE TERMS AND ALL**

**ADDITIONAL TERMS INCORPORATED BY REFERENCE. IF YOU DO NOT AGREE TO ANY PORTION OF THESE TERMS, YOU SHOULD NOT ACCESS OR OTHERWISE USE THE WEB PROPERTIES.**

1. **CONVENIENCE AND INFORMATION ONLY.** The Web Properties are provided to you as a convenience and for your information only. By merely providing access to the Web Properties, we do not warrant or represent that: (a) any materials, documents, images, graphics, logos, design, audio, video, and any other information provided from or on the Web Properties (collectively, the “Content”) is accurate or complete; (b) the Content is up-to-date or current; (c) we have any obligation to update any Content; (d) the Content is free from technical inaccuracies or programming or typographical errors; (e) the Content is free from changes caused by a third party; (f) your access to the Web Properties will be free from interruptions, errors, computer viruses or other harmful components; (g) any information obtained in response to questions asked through the Web Properties is accurate or complete; and/or (h) the Content is non-infringing of any third party’s intellectual property rights.

2. **WEB PROPERTIES USE AND CONTENT.** You may view, download, copy or print a single copy of any page from the Web Properties for personal, non-commercial purposes if you do not remove, modify, or alter any copyright and proprietary rights notices that may be present. You may not otherwise use, modify, copy, print, display, distribute, publish, or sell any information from the Web Properties without our express, prior, written consent. **YOU MAY NOT USE ANY WEB PROPERTY FOR ANY COMMERCIAL USE.** Any special rules for the software, audio files, downloads, and other items accessible through the Web Properties may be included elsewhere in the Web Properties and are incorporated into these Terms by reference.

3. **UPDATES.** We may make changes to or stop providing the Web Properties, the Content, and/or the User Content described in these Terms at any time and without further notice to you. We will make an effort to update this web page with any changes to these Terms and you are encouraged to review these Terms frequently (the date of the most recent revision to these Terms appears at the end of these Terms).

4. **PRIVACY.** We know that privacy is very important to you, and it is very important to us as well. You consent to receive electronic communications from us. We will communicate with you by email or by posting notices on our Web Properties. You agree that all agreements, notices, disclosures and other communications that we provide to you electronically satisfy any legal requirement that such communication is in writing. Personal data that you

provide regarding yourself will be handled in accordance with our Privacy Notice.

**5. USER ACCOUNT, PASSWORD AND SECURITY.** To the extent that a user account is created by you to access and use any Web Property (“User Account”), the following shall apply:

(a) **USER ACCOUNT.** To access certain types of features, the Content, and the User Content available through the Web Properties, we require the use of a username and password after setting up a User Account. To use the App, VIP Members must provide their full name, as their name appears on valid government-issued photo identification (e.g., visa, driver’s license or passport). We use reasonable precautions to protect the privacy of your username, password, and User Account information. You, however, are ultimately responsible for protecting your username, password, and User Account information from disclosure to third parties, and you are not permitted to circumvent the use of required encryption technologies, if any.

You agree to (i) immediately notify us of any unauthorized use of your username, password, or User Account, or any other breach of security; (ii) ensure that you exit from your User Account at the end of each session; and (iii) use a security passcode to secure your device where the App may be installed or your User Account information is stored. While we provide certain encryption technologies and use other reasonable precautions to protect your confidential information and provide suitable security, we do not and cannot guarantee or warrant that information transmitted through the Internet is secure, or that such transmissions are free from delay, interruption, interception or error.

(b) **ACCURATE INFORMATION.** In creating and using your User Account and participating in the VIP Privilege Program, you agree to: (i) provide true, accurate, current, and complete information about yourself on any registration form required for the Web Properties, including, but not limited to, your full name, physical address and email address (such information being the “Registration Data”); and (ii) maintain and promptly update the Registration Data to keep it true, accurate, current, and complete. If you provide any information that is untrue, inaccurate, not current, or incomplete, or if we have reasonable grounds to suspect that such information is untrue, inaccurate, not current, or incomplete, then we have the right to suspend or terminate your User Account and refuse any and all current or future use of your User Account, including cancellation of any pending reservation at any of our restaurant locations.

(c) **NON-TRANSFERABILITY OF USER ACCOUNT.** User Accounts and usernames are non-transferable, and all users are obligated to take preventative measures to prohibit unauthorized users from accessing the Web Properties with his or her username and password. We are entitled to act on all instructions received by anyone using your User Account. Use of the App is limited to VIP members who are provided an email invitation to download and register for the App. You acknowledge that this invitation is exclusive, and you agree that you will not share or forward such email invitation to anyone who is not the named recipient of such invitation. Only one individual can be enrolled per User Account. In the event that more than one User Account is assigned to the same individual, the duplicate account will be canceled, and we will determine if any applicable reservation data or Eligible Spending (as defined herein) can be transferred to the remaining User Account. We may change this policy, and/or cancel your VIP member status at any time, without notice to you. Membership in the VIP Program has no monetary value.

(d) **ACCOUNT DEACTIVATION.** We reserve the right to deactivate or cancel a User Account and/or your access to the App in our sole discretion, including for the following reasons: (i) you request such deactivation; (ii) you are deceased; (iii) you do not respond to repeated communication attempts regarding the status of your User Account or use of the App; (iv) you reside in or relocate to a country where use of a User Account or the App is prohibited under applicable law; or (v) you act in a fraudulent or an inappropriate manner while using the User Account or the App, or while visiting any one of our restaurants.

6. **USER CONTENT.** The Web Properties may now or in the future permit the submission of various forms of content submitted by you and other users, such as materials, statements, reviews, ratings, opinions, personal accounts, documents, images, graphics, logos, designs, videos, text files, audio files, and comments (collectively, "User Content") and the hosting, sharing, downloading, publishing and/or republishing of such User Content. **WE DO NOT GUARANTEE ANY CONFIDENTIALITY WITH RESPECT TO ANY USER CONTENT. TO PROTECT YOUR PRIVACY AND THE PRIVACY OF OTHERS, YOU AGREE THAT YOU WILL NOT PROVIDE ANY USER CONTENT THAT CONTAINS PERSONALLY IDENTIFIABLE INFORMATION (SUCH AS NAME, PHONE NUMBER, EMAIL OR MAILING ADDRESS, SOCIAL SECURITY NUMBER, ETC.) BELONGING TO YOU OR ANYONE ELSE. UPLOADING IMAGES OR VIDEO OF OTHER PEOPLE WITHOUT THEIR PERMISSION IS STRICTLY PROHIBITED.**

You shall be solely responsible for your User Content, and the consequences of posting or publishing it. We do not endorse any User Content or any opinion, recommendation, or advice expressed therein, and we expressly disclaim any and all liability in connection with User Content. You acknowledge that Benny Casanova's reserves the right to pre-screen User Content and we have the right (but not the obligation) in our sole discretion to refuse, move, and/or remove User Content that is available on or through the Web Properties.

**7. OBJECTIONABLE MATERIAL.** You acknowledge that in using the Web Properties and accessing the Content and/or the User Content, you may encounter material that you deem to be disturbing, offensive or objectionable. You agree to use the Web Properties at your sole risk and that we shall have no liability to you for material that may be disturbing, objectionable or offensive to you.

**8. NOT INTENDED FOR CHILDREN.** We do not collect Personal Information from any person that we know to be under the age of thirteen (13). Specifically, the Web Properties are not intended or designed to attract children under the age of thirteen (13). You affirm that you are more than eighteen (18) years of age, or an emancipated minor, or possess legal parental or guardian consent, and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in these Terms, and to abide by and comply with these Terms. In any case, you affirm that you are over the age of thirteen (13), as **THE WEB PROPERTIES ARE NOT INTENDED FOR CHILDREN UNDER THIRTEEN (13) WHO ARE UNACCOMPANIED BY THEIR PARENTS OR LEGAL GUARDIANS.**

#### **9. DISCLAIMERS.**

(a) **NO WARRANTIES FOR WEB PROPERTIES.** When using the Web Properties, information will be transmitted in such a way that may be beyond our control. As such, we make no warranty concerning the delay, failure, interruption, or corruption of any data, the Content, the User Content, or other information transmitted in connection with the use of the Web Properties. **YOU EXPRESSLY AGREE THAT YOUR USE OF THE WEB PROPERTIES IS AT YOUR SOLE RISK. THE WEB PROPERTIES, THE CONTENT AND THE USER CONTENT ARE PROVIDED "AS IS" AND "AS AVAILABLE" FOR YOUR USE, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, UNLESS SUCH WARRANTIES ARE LEGALLY INCAPABLE OF EXCLUSION. WE MAKE NO REPRESENTATIONS OR WARRANTIES THAT THE WEB PROPERTIES, THE CONTENT, AND THE**

USER CONTENT, OR ANY SERVICES OFFERED IN CONNECTION WITH THE WEB PROPERTIES, INCLUDING, BUT NOT LIMITED TO, THE APP, ARE OR WILL REMAIN UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE WEB PAGES ON OR THROUGH THE WEB PROPERTIES, OR THE SERVERS USED IN CONNECTION WITH THE WEB PROPERTIES, ARE OR WILL REMAIN FREE FROM ANY VIRUSES, WORMS, TIME BOMBS, DROP DEAD DEVICES, TROJAN HORSES, OR OTHER HARMFUL COMPONENTS. WE DO NOT GUARANTEE THAT YOU WILL BE ABLE TO ACCESS OR USE THE WEB PROPERTIES AT TIMES OR LOCATIONS OF YOUR CHOOSING, OR THAT WE WILL HAVE ADEQUATE CAPACITY FOR THE WEB PROPERTIES AS A WHOLE OR IN ANY SPECIFIC GEOGRAPHIC AREA. WE MAKE NO REPRESENTATION OR WARRANTY REGARDING GOVERNMENT COMPLIANCE OF ANY SOFTWARE USED IN RUNNING THE WEB PROPERTIES.

(b) **INDEMNIFICATION.** You agree to defend, indemnify, and hold harmless Benny Casanova's and our directors, officers, employees, and agents from and against any and all claims, demands, suits, proceedings, liabilities, judgments, losses, damages, expenses, and costs (including, but not limited to, reasonable attorneys' fees) assessed or incurred by us, directly or indirectly, with respect to or arising out of: (i) your failure to comply with these Terms; (ii) your breach of your obligations under these Terms; (iii) your use of the rights granted hereunder, including, but not limited to, any claims made by any third parties; and/or (iv) any claim that your User Content caused damage to a third party.

**10. LIMITATION OF LIABILITY.** IN NO EVENT WILL WE BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES ARISING FROM YOUR USE OF OR INABILITY TO USE THE WEB PROPERTIES, ANY CONTENT AND/OR USER CONTENT PROVIDED IN CONNECTION WITH THE WEB PROPERTIES OR FOR ANY OTHER CLAIM RELATED IN ANY WAY TO YOUR USE OF THE WEB PROPERTIES AND/OR ANY CONTENT AND/OR USER CONTENT PROVIDED AND/OR ANY PRODUCTS PURCHASED THROUGH THE WEB PROPERTIES. ADDITIONALLY, WE SHALL NOT BE LIABLE FOR NEGATIVE REPERCUSSIONS TO ANY PARTY BASED ON THE USE OF OR INABILITY TO USE THE WEB PROPERTIES, INCLUDING, BUT NOT LIMITED TO, LOST GOODWILL OR LOST

PROFITS. WE SHALL BE LIABLE ONLY TO THE EXTENT OF ACTUAL DAMAGES INCURRED BY YOU, NOT TO EXCEED THE AMOUNT YOU ACTUALLY PAID TO US FOR GOODS OR SERVICES IN THE PRIOR SIX (6) MONTHS, IF ANYTHING. WE ARE NOT LIABLE FOR ANY PERSONAL INJURY, INCLUDING DEATH, OR PROPERTY DAMAGE CAUSED BY YOUR USE OR MISUSE OF THE WEB PROPERTIES, THE CONTENT, THE USER CONTENT AND/OR ANY PRODUCTS. REMEDIES UNDER THESE TERMS ARE EXCLUSIVE AND ARE LIMITED TO THOSE EXPRESSLY PROVIDED FOR IN THESE TERMS. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES OR JURISDICTIONS OUR LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW.

**11. THIRD PARTY CONTENT AND THIRD PARTY APPLICATIONS.** We may provide hyperlinks to other websites maintained by third parties, or may provide third party content on the Web Properties by framing or other methods (collectively, "Third Party Content"). In addition, the Web Properties may include certain applications, features, programs and services provided by third parties (collectively, the "Third Party Applications"). We do not monitor Third Party Content or Third Party Applications and can make no guarantee as to the accuracy or completeness of such Third Party Content or Third Party Applications. THE LINKS TO THIRD PARTY WEBSITES, ANY THIRD PARTY CONTENT, AND ANY THIRD PARTY APPLICATIONS MAY BE PROVIDED FOR YOUR CONVENIENCE AND INFORMATION ONLY. THE CONTENT ON ANY LINKED WEBSITE OR IN ANY THIRD PARTY APPLICATION IS NOT UNDER OUR CONTROL AND, JUST AS WITH THE WEB PROPERTIES, WE ARE NOT RESPONSIBLE FOR THE CONTENT OF LINKED WEBSITES AND/OR THIRD PARTY APPLICATIONS, INCLUDING ANY FURTHER LINKS CONTAINED IN A THIRD PARTY WEBSITE. WE MAKE NO REPRESENTATIONS OR WARRANTIES IN CONNECTION WITH ANY THIRD PARTY CONTENT OR THIRD PARTY APPLICATIONS, WHICH AT ALL TIMES AND IN EACH INSTANCE IS PROVIDED "AS IS." THIRD PARTY APPLICATIONS MAY BE SUBJECT TO ADDITIONAL TERMS AND CONDITIONS OR AGREEMENTS BETWEEN YOU AND THE PROVIDER OF SUCH THIRD PARTY APPLICATIONS AS MAY BE PROVIDED TO YOU IN CONNECTION THEREWITH, AND YOU AGREE TO FULLY COMPLY WITH ALL SUCH ADDITIONAL TERMS, CONDITIONS AND AGREEMENTS. IF YOU DECIDE TO ACCESS ANY OF THE THIRD PARTY WEBSITES LINKED TO

THE WEB PROPERTIES, ANY THIRD PARTY CONTENT, AND/OR ANY THIRD PARTY APPLICATION, YOU DO SO ENTIRELY AT YOUR OWN RISK.

If a third party links or refers to the Web Properties, it is not necessarily an indication of an endorsement, authorization, sponsorship, affiliation, joint venture, or partnership by or with us. In most cases, we are not even aware that a third party has linked to or refers to the Web Properties.

**12. INTELLECTUAL PROPERTY.** The Content of the Web Properties is intellectual property owned, controlled and/or licensed by us. All applicable intellectual property laws, including copyright laws, protect our rights in and to the Content. No portion of the Content and/or the User Content may be reproduced in any form or by any means, except as provided in Section 2 (Web Properties Use and Content) and elsewhere in these Terms.

We are the copyright owner or authorized licensee of all trademarks, service marks, and logos used and displayed on the Web Properties. All trademarks and service marks of Benny Casanova's, or our subsidiaries or affiliates, that may be referred to on the Web Properties are the property of Benny Casanova's, or one of our subsidiaries or affiliates. Other parties' trademarks and service marks that may be referred to on the Web Properties are the property of their respective owners. Nothing on the Web Properties should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any of Benny Casanova's's, or our subsidiaries' or affiliates', trademarks, service marks, or copyrights without our prior written permission. We aggressively enforce our intellectual property rights. Neither the name of Benny Casanova's, our subsidiaries or affiliates, nor any of our other trademarks, service marks, or copyrighted materials may be used in any way, including in any advertising, hyperlink, publicity, or promotional materials of any kind, whether relating to the Web Properties or otherwise, without our prior, written permission, except that a third party website that desires to link to the Web Properties and that complies with the requirements of Section 11 (Third Party Content and Third Party Applications) above may use the name "Benny Casanova's" or the title of any Content in or as part of that link.

**13. COPYRIGHT COMPLAINTS.** We own, protect and enforce copyright and other rights in our own intellectual property, and respect the intellectual property rights of others. Materials may be made available on or through the Web Properties by third parties, not within our control. It is our policy not to permit materials known by us to be infringing to remain on or available through the Web Properties. Please notify us promptly if you believe that any materials on or available through the Web Properties infringe on your

intellectual property rights or the intellectual property rights of anyone else.

Once we receive proper notice of claimed infringement under the Digital

Millennium Copyright Act (the “DMCA”), we will respond promptly to remove the material claimed to be infringing and will follow the procedures specified in the DMCA to resolve the claim between the notifying party and the alleged infringer who provided the content at issue. When notifying us of potential infringement, you must include the following:

- Identification of the copyrighted work(s) claimed to have been infringed. If multiple copyrighted works, then a representative list of such works on the Web Properties;
- Identification of the supposedly infringing material that is to be removed;
- Information reasonably sufficient to permit us to locate the material on the Web Properties;
  - Contact information reasonably sufficient to permit us to contact the complaining party, such as an address, telephone number, or email address;
- A statement that the complaining party has a good faith belief that use of the material is, in fact, infringing and/or not authorized by the copyright owner, its agent, or the law;
- A statement that, under penalty of perjury, the information in the notification is accurate and where relevant that the complaining party is authorized to act on behalf of the copyright owner; and
  - The signature, physical or electronic, of the copyright owner or a person authorized to act on his or her behalf.
- A provider of content subject to a claim of infringement may make a counter notification. To file a counter notification with us, please provide the DMCA Agent a written communication containing the following:
  - Identification of the supposedly infringing material that is to be removed;
  - A statement that, under penalty of perjury, you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled;
  - Your name, address, and telephone number, and a statement that you consent to the jurisdiction of the Federal District Court for the judicial district in which your postal address is located, and that you will accept service of process from the party who submitted the infringement notification or his, her, or its principal or agent; and

- The signature, physical or electronic, of you or a person authorized to act on your behalf.

We will promptly provide the party that provided the notice of claimed infringement with a copy of the counter notification, and inform the complaining party that we restore the removed or disabled content in ten (10) business days. If we do not receive notice that a lawsuit has been filed within ten (10) business days after we provide notice of the counter-notification, we will restore the removed or disabled materials. Until that time, your materials will remain removed or disabled.

Notice of alleged infringement must be sent by electronic mail to our DMCA Agent at [DCMA@fbeckerhospitality.com](mailto:DCMA@fbeckerhospitality.com) or by certified mail and marked "Copyright Infringement" to Mark Jordan, Attn: DMCA AGENT.

Before filing such a notification, make a careful determination as to whether or not the use of the material at issue is or may be protected by the "fair use" doctrine. You could potentially be held liable for costs and attorneys' fees should you file a takedown notice where there is no infringing use. If you are unsure whether there is infringement, it may be advisable to seek legal counsel.

#### 14. E-COMMERCE PURCHASES.

(a) **PRODUCT DESCRIPTIONS.** We may offer for sale various food items, merchandise, gift cards, and other items through our Best Olive Oil Store by Benny Casanova's and elsewhere within the Web Properties. We attempt to be as accurate as possible when describing our products on the Web Properties. However, we do not warrant that product descriptions or other content of any of our products or services is accurate, complete, reliable, current, or error-free. If a product offered by us is not as described, your sole remedy is to return it in unused condition for a full refund. We may offer products that we did not manufacture. These third-party manufactured products often carry warranties from their manufacturer. Please check with the manufacturer of the product for complete details regarding any warranty for that product.

(b) **PAYING FOR YOUR ORDER.** Generally, we will charge your credit or debit card for a product when we ship the product to you or confirm its availability in our e-commerce store. However, we may pre-authorize your order amount with your credit or debit card issuer at the time you place the order, which may have an effect on your available credit line. When you preorder with a debit card, we will debit your card when you place the preorder.

(c) **ORDER CONFIRMATION.** Our order confirmation sent to you does not signify our acceptance of your order, nor does it constitute confirmation of our offer to sell. At any time after receipt of your order, we may accept, decline, or place quantity or other limits on your order for any reason. We may impose these limits on a per-person, per-household, per-order, or any other basis. If we reject, limit, or otherwise modify your order, we will attempt to notify you using the email address you provide to us. If we cancel an order or part of an order that we have already charged you for, we will refund you the full amount of the canceled portion of the order.

(d) **SHIPPING.** Shipping charges and shipping options will be provided during the online check-out process. Shipping charges are subject to change. You will receive a shipping confirmation email with a tracking number once your order has shipped. Ground shipping estimates are not guaranteed. Please note that delays can occur due to weather, mechanical delays, incorrect delivery information and other issues or unforeseen circumstances. Once an order has shipped, we are not responsible for any carrier delays or interruptions.

(e) **RETURNS, REFUNDS AND TITLE.** We take great care and pride in selecting the highest quality products for our customers. If you are not satisfied with your purchase or an item is damaged, we will find another solution. Please contact us at [hello@fbeckerhospitality.com](mailto:hello@fbeckerhospitality.com) for additional information regarding returns and exchanges. Please include your transaction or invoice identification number. Returns for items purchased online are not accepted at our restaurants. All in-restaurant purchases are eligible for an exchange within 14 days of receipt. Gift cards are non-refundable. We do not take title to returned products until the product arrives at our shipping center. At our discretion, a refund may be issued without requiring a return. In this situation, we will not take title to the refunded product.

15. **TERMINATION OF SERVICE.** We may terminate your right to access secured portions of the Web Properties at any time, without notice, for conduct that we believe violates these Terms and/or is harmful to other users of the Web Properties, to us, to our partners, to the contributors, to the business of our Internet service provider, or to other information providers.

16. **ADDITIONAL REMEDIES.** You acknowledge that your conduct that is inconsistent with the provisions of these Terms may cause us irreparable damage for which remedies other than monetary relief may be inadequate. In such instances, you agree that we may seek injunctive or other equitable relief seeking to restrain such conduct without the necessity of proving actual harm or posting a bond.

**17. GOVERNING LAW AND JURISDICTION.** You agree that all matters relating to your access to, or use of, this website and our mobile application shall be governed by the laws of the State of New York. You agree and hereby submit to the exclusive personal jurisdiction and venue of the state and federal courts in New York, with respect to such matters.

**18. LOCAL LAWS.** We make no representation that Content or materials on the Web Properties are appropriate or available for use in jurisdictions outside the United States. Access to the Web Properties from jurisdictions where such access is illegal is prohibited. If you choose to access the Web Properties from other jurisdictions, you do so at your own initiative and are responsible for compliance with applicable local laws.

**19. EXPORT RESTRICTIONS.** Any software and all underlying information and technology downloaded or viewed from any Web Property or in connection with the services (collectively, the “Software or Technical Data”) by you may be subject to U.S. export controls, including the Export Administration Act (50 U.S.C. Appx. §§ 2401 et seq.) and the Export Administration Regulations (50 C.F.R. Parts 730-774), and may be subject to export or import regulations in other countries. You are solely responsible for complying with all trade regulations and laws, both foreign and domestic, in your use and viewing of the Web Properties, the Content, the User Content, and any of our products or services, including, but not limited to, the Software or Technical Data. Except as authorized by law, you agree and warrant not to export or re-export the Software or Technical Data to any country, or to any person, entity, or end-user subject to U.S. export controls, including, but not limited to, persons or entities listed on the U.S. Department of Commerce Bureau of Export Administration’s Denied Parties List and the U.S. Department of Treasury’s Specially Designated Nationals. You further represent and warrant that no U.S. federal agency has suspended, revoked, or denied your export privileges.

**20. PROVISIONS RELATING TO THE VIP PRIVILEGE PROGRAM.** We offer the VIP Privilege Program and access to the App to our loyal restaurant patrons. Participation in the VIP Privilege Program grants VIP Members access to prime time reservations, VIP events, and preferred treatment. Your ability to qualify for the VIP Privilege Program is based on the number of reservations you make at our restaurants and your Eligible Spending. “Eligible Spending” shall mean the amount of money you spend on food and drinks, minus any returns or other credits you receive during a Qualification Year. Eligible Spending does not include tax or tip added to any of your bills. A “Qualification Year” is from January 1 to December 31 of each calendar year,

regardless of when you become a VIP Member. This means that for your first year of membership in the VIP Privilege Program, you may have less than twelve (12) months to earn Eligible Spending. Your status as a VIP Member, the privileges we offer and the reservations you make using the App are subject to change, without notice to you. Reservations made using the App are also subject to blackout dates and capacity controls, which we may determine from time to time. Corporations, partnerships, joint ventures, trusts, estates, unincorporated associations or other business entities cannot participate in the VIP Privilege Program.

**21. PROVISIONS RELATING TO APPLE.** Although you can purchase the App through the Apple Store App and use the App on Apple iPhones, iPods, iPads or other Apple devices, Apple is not responsible for: (1) the content of the App; (2) providing maintenance or support services for the App; (3) any product warranties, whether express or implied by law, or other warranty obligations; (4) any claims, including product liability claims, losses, liabilities, damages, cost, or expenses attributable to any failure of the App to conform to any warranty or failure to conform to any applicable legal or regulatory requirement, or arising out of consumer protection or other similar legislation; and (5) the investigation, defense, settlement and discharge of any intellectual property claim brought by a third party against you or Benny Casanova's.

By agreeing to these Terms, you acknowledge and agree that you are only using the App on an Apple device that you own or control, and you are using it as permitted by the Usage Rules set forth in the App Store Terms of Service. You further acknowledge and agree that Apple, and its subsidiaries, will have the right (and will be deemed to have accepted the right) to enforce these Terms as a third party beneficiary thereof. You represent and warrant to Apple that (i) you are not located in a country that is subject to a U.S. Government embargo or that is designated as a "terrorist supporting country"; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.

**22. CUSTOMER COMMENTS.** By submitting comments, information or feedback to us through email and/or the Web Properties, you agree that the information submitted will be subject to our Privacy Notice.

### **YOUR CONSENT TO THIS AGREEMENT**

By accessing and using the Web Properties, you consent to and agree to be bound by these Terms. If we decide to change these Terms or some part of them, we will make an effort to post those changes on this web page and on our mobile application so that you will always be able to understand and agree

to the terms and conditions governing your use of the Web Properties. Your use of the Web Properties following your acceptance of any amendment of these Terms will signify your assent to and acceptance of its revised terms for all previously collected information and information collected from you in the future. If you have additional questions or comments of any kind, or if you see anything on the Web Properties that you think is inappropriate, please let us know by sending your comments or requests to:

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3300 Fairmount Ave

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