

TERMS OF USE

THESE TERMS OF USE (“User Terms”, “Terms” or “Agreement”) are a contract between you (“user”, “you” or “your”) and Menin Hotels, LLC, its subsidiaries, parents and affiliated companies (“Menin”, “Company”, “us”, “we”, or “our”) and govern your access to and use of our website located at www.bodegasouthbeach.com, including other media forms, media channels, mobile website related or connected thereto (collectively, the “Website”).

BEFORE YOU PROCEED, PLEASE READ THESE USER TERMS CAREFULLY. THE TERMS AND CONDITIONS OF THIS AGREEMENT MAY HAVE CHANGED SINCE YOU LAST USED THESE SERVICES.

THIS AGREEMENT CONTAINS WARRANTY AND LIABILITY DISCLAIMERS. BY USING WWW.BODEGASOUTHBEACH.COM, YOU ACCEPT AND AGREE TO THE TERMS HEREOF WITHOUT ANY MODIFICATIONS, ADDITIONS OR DELETIONS. YOU AGREE TO ABIDE BY AND BE BOUND BY THE TERMS DESCRIBED HEREIN AND BY ALL TERMS, CONDITIONS, POLICIES AND GUIDELINES INCORPORATED BY REFERENCE AS WELL AS ANY ADDITIONAL TERMS AND RESTRICTIONS PRESENTED IN RELATION TO SPECIFIC CONTENT OR A SPECIFIC PRODUCT, SERVICE OR FEATURE OFFERED BY MENIN. IF YOU DO NOT AGREE TO THE TERMS OF USE CONTAINED IN THIS AGREEMENT, YOU ARE NOT AUTHORIZED TO USE OUR WEBSITE.

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GENERAL

Acceptance of User Terms. By accessing and/or using the Website, you accept and agree to be bound by these User Terms, just as if you had agreed to these User Terms in writing. If you do not agree to these User Terms, do not use the Website.

Amendment of User Terms. Menin may amend the User Terms from time to time. Unless we provide a delayed effective date, all amendments will be effective upon posting of such updated User Terms. Your continued access to or use of the Website after such posting constitutes your consent to be bound by the User Terms, as amended.

Additional Terms. In addition to these User Terms, when using particular products, services or features on our Website, you will also be subject to any additional posted guidelines, FAQs, or rules applicable to such product, service or feature, which may be posted and modified from time to time. All such additional terms are hereby incorporated by reference into the User Terms.

INTELLECTUAL PROPERTY

Menin's services are legally protected in various ways, including copyrights, trademarks, service marks, patents, trade secrets, and other rights and laws. You agree to respect all copyright and other legal notices, information, and restrictions contained in any content accessed through the Website. You also agree not to change, translate, or otherwise create derivative works therefrom.

If you wish to use, reproduce, modify, distribute, or store any of this content for any purpose, including commercial purposes, you need prior written permission from Menin or the relevant copyright holder. A "commercial purpose" means you intend to use, sell, license, rent, or otherwise exploit content for commercial use, in any way.

Menin does not permit activities that may constitute copyright or trademark infringement and reserves the right to terminate access to the Website and remove all content submitted by any persons who are found to be infringers. Any suspected fraudulent, abusive, or illegal activity that may be grounds for termination of your use of the Website may be referred to appropriate law enforcement authorities. These remedies are in addition to any other remedies Menin may have at law or in equity.

If you provide Menin with any comments, bug reports, feedback, or modifications proposed or suggested by you to the Website ("Feedback"), Menin shall have the right to use such Feedback at its discretion, including, but not limited to the incorporation of such suggested changes into the Website. You hereby grant Menin a perpetual, irrevocable, nonexclusive license under all rights necessary to incorporate and use your Feedback for any purpose.

The Company remains independent and is not affiliated with, sponsored by, or endorsed by ChowNow. All use of ChowNow's trademarks, brands, and logos, including all ChowNow marks displayed here, is purely referential, and such marks are the property of ChowNow. The Company makes no claim of ownership in such marks, and no claim of affiliation with ChowNow.

USER GUIDELINES

When using the Website, you agree not to use the information, services or any other part of the Website to take any actions that:

- i. Are contrary to Menin’s public image, goodwill or reputation;
- ii. Promote any illegal activity or content;
- iii. Infringe on our or any third party’s copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity and privacy;
- iv. Express or imply that any of your statements, activities or causes are endorsed by us, without our prior written consent;
- v. Violate any applicable law, statute, ordinance or regulation, or encourage any conduct that could constitute a criminal offense or give rise to civil liability;
- vi. Are libelous, defamatory, threatening, harassing, invasive of privacy, abusive, tortious, hateful, discriminatory, pornographic or obscene;
- vii. Transmit any trade secret or other material, non-public information about any person, company or entity without the authorization to do so;
- viii. Restrict or inhibit any other visitor from using the Website, including without limitation, by means of “hacking” or defacing any portion of the Website;
- ix. Modify, adapt, sub-license, translate, sell, reverse engineer, decompile, or disassemble any portion of the Website;
- x. Remove any copyright trademark or other proprietary rights notices contained in the Website;
- xi. Sublicense, sell, rent, lease, transfer, assign, or convey any rights under the Agreement to any third party, or otherwise commercially exploit or profit from the information or content of the Website, or any portion thereof, in any manner whatsoever, except as expressly permitted herein;
- xii. “Frame” or “mirror” any part of the Website without prior written authorization;
- xiii. Distribute any virus, worm or other similar or deleterious files, scripts or programming routines;
- xiv. Use any robot, spider, site search/retrieval application, or other manual or automatic device or process to retrieve, index, “data mine” the Website or in any way reproduce or circumvent the navigational structure or presentation of the Website or its contents, authentications and security measures;
- xv. Harvest or collect information about any Website visitors or users without their express consent.

PRIVACY POLICY AND COOKIE POLICY.

In connection with your use of our Website, you expressly agree to our [Privacy Policy](#) (“Privacy Policy”) and our [Cookie Policy](#) (“Cookie Policy”), each of which are incorporated herein by reference. Please read the Privacy Policy and Cookie Policy carefully in order to learn more about how we use information we collect from you when you access, visit or use the Service. The Privacy Policy and Cookie Policy are part of and is governed by these Terms of Use and by agreeing to

the Terms of Use, you agree to be bound by the terms of the Privacy Policy and Cookie Policy, and you agree that we may use information collected from you in accordance with the Privacy Policy and Cookie Policy.

DISCLAIMER

IF YOU CHOOSE TO USE THE WEBSITE YOU DO SO AT YOUR SOLE RISK. THE WEBSITE IS PROVIDED "AS IS", WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. WITHOUT LIMITING THE FOREGOING, MENIN EXPLICITLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. MENIN MAKES NO WARRANTY THAT THE WEBSITE WILL MEET YOUR REQUIREMENTS OR BE AVAILABLE ON AN UNINTERRUPTED, SECURE, OR ERROR-FREE BASIS. MENIN MAKES NO WARRANTY REGARDING THE ACCURACY, TIMELINESS, TRUTHFULNESS, COMPLETENESS OR RELIABILITY OF ANY CONTENT OBTAINED THROUGH THE WEBSITE.

NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM MENIN OR THROUGH THE WEBSITE, OR COLLECTIVE CONTENT, WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN.

YOU ARE SOLELY RESPONSIBLE FOR ALL OF YOUR COMMUNICATIONS AND INTERACTIONS WITH OTHER USERS OF THE WEBSITE AND WITH OTHER PERSONS WITH WHOM YOU COMMUNICATE OR INTERACT AS A RESULT OF YOUR USE OF THE WEBSITE. YOU UNDERSTAND THAT MENIN DOES NOT MAKE ANY ATTEMPT TO VERIFY THE STATEMENTS OF USERS OF THE WEBSITE. MENIN MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE CONDUCT OF USERS OF THE WEBSITE OR THEIR COMPATIBILITY WITH ANY CURRENT OR FUTURE USERS OF THE WEBSITE. YOU AGREE TO TAKE REASONABLE PRECAUTIONS IN ALL COMMUNICATIONS AND INTERACTIONS WITH OTHER USERS OF THE WEBSITE AND WITH OTHER PERSONS WITH WHOM YOU COMMUNICATE OR INTERACT AS A RESULT OF YOUR USE OF THE WEBSITE.

YOU ACKNOWLEDGE AND AGREE THAT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE ENTIRE RISK ARISING OUT OF YOUR ACCESS TO AND USE OF THE WEBSITE REMAINS WITH YOU. NEITHER MENIN NOR ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING, OR DELIVERING THE WEBSITE WILL BE LIABLE FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOSS OF DATA OR LOSS OF GOODWILL, SERVICE INTERRUPTION, COMPUTER DAMAGE OR SYSTEM FAILURE OR THE COST OF SUBSTITUTE PRODUCTS OR SERVICES, OR FOR ANY DAMAGES FOR PERSONAL OR BODILY INJURY OR EMOTIONAL DISTRESS ARISING OUT OF OR IN CONNECTION WITH THESE TERMS, FROM THE USE OF OR INABILITY TO USE THE WEBSITE, FROM ANY COMMUNICATIONS, INTERACTIONS OR MEETINGS WITH OTHER USERS OF THE WEBSITE, OR SERVICES OR OTHER PERSONS WITH WHOM

YOU COMMUNICATE OR INTERACT AS A RESULT OF YOUR USE OF THE SITE, WEBSITE WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT MENIN HAS 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.

IN NO EVENT WILL MENIN AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THESE TERMS AND YOUR USE OF THE WEBSITE OR INABILITY TO USE THE WEBSITE.

INDEMNIFICATION; HOLD HARMLESS

To the fullest extent permitted by law, you agree to release, defend, indemnify, and hold Menin and its affiliates and subsidiaries, and their officers, directors, employees and agents, harmless from and against any claims, liabilities, damages, losses, 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 Website; (b) your interaction with any User; (c) your breach or violation of the terms in this Agreement, any representation, warranty, or covenant referenced in this Agreement, or any applicable law or regulation; (d) any allegation that you have infringed or otherwise violated the copyright, patent, trademark, trade secret, or other intellectual property or other rights of any third party; (e) your activities in connection with the Website; and/or (f) your negligent or willful misconduct, including but not limited to any injuries, losses, or damages (compensatory, direct, incidental, consequential or otherwise) of any kind arising therefrom.

THIRD PARTIES

Our Website may contain links to or advertisements for other sites, services or products ("Third Party Products"). Third Party Products are provided solely as a convenience to you and may contain materials which you find offensive, objectionable, unlawful or inaccurate. Such Third Party Products are governed by their own terms of use and privacy policies which may differ from this Agreement or those of our Website. The inclusion of links to Third Party Products does not indicate that we endorse those products or services. We are not responsible for examining or evaluating the content of Third Party Products.

We, our affiliates or contracted third parties may also offer new, updated or additional services ("Additional Services") through our Website from time to time. Your use of those Additional Services will be governed by this Agreement but may also be subject to additional terms and conditions, which will be posted from time to time and with which users must comply. By continuing to use our Website, you expressly consent to any additional terms and conditions associated with the Additional Services.

We contract with ChowNow®, a third-party service, to deliver food through the Website. Please do not use ChowNow until you have read ChowNow's [Terms of Use](#) to which you expressly agree.

DISPUTE RESOLUTION; ARBITRATION AND CLASS ACTION WAIVER

PLEASE READ THE FOLLOWING TERMS CAREFULLY.

This Agreement includes an agreement to arbitrate claims and an agreement that all claims will be brought only in an individual capacity (and not as a class action or other representative proceeding). You may opt out of the arbitration agreement by following the opt-out procedure described below. You agree that in the event of any dispute between you and Menin, you will first contact us and make a good faith, sustained effort to resolve the dispute before resorting to more formal means of resolution, including without limitation: arbitration or any court action. After the informal dispute resolution process any remaining dispute, controversy, or claim (each a “Claim”) relating in any way to your use of Website, or relating in any way to Menin’s communications with you, will be finally resolved by binding arbitration. This mandatory arbitration agreement applies equally to you and Menin. However, this arbitration agreement does not (a) govern any Claim by Menin for infringement of its intellectual property or access to the Website that are unauthorized or exceed authorization granted in these Terms or (b) bars you from making use of applicable small claims court procedures in appropriate cases. If you do not want to arbitrate disputes with Menin and you are an individual, you may opt out of this arbitration agreement by sending notice to the address provided below within thirty (30) days of the first of the date you access the Website or the date you receive any services.

CLASS ACTION WAIVER

Any Claim must be brought in the respective party’s individual capacity, and not as a plaintiff or class member in any purported class, collective, representative, multiple plaintiff, or similar proceeding (“Class Action”). You expressly waive any ability to maintain any Class Action in any forum. If the Claim is subject to arbitration, the arbitrator shall not have authority to combine or aggregate similar claims or conduct any Class Action nor make an award to any person or entity not a party to the arbitration. Any claim that all or part of this Class Action Waiver is unenforceable, unconscionable, void, or voidable may be determined only by a court of competent jurisdiction and not by an arbitrator. The parties understand that any right to litigate in court, to have a judge or jury decide their case, or to be a party to a class or representative action, is waived, and that any claims must be decided individually, through arbitration. If this class action waiver is found to be unenforceable, then the entirety of the arbitration agreement, if otherwise effective, shall be null and void. The arbitrator 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. If for any reason a Claim proceeds in court rather than in arbitration, you and Menin each waive any right to a jury trial.

GOVERNING LAW AND VENUE

The Services provided through the Website will be deemed as provided within the State of Florida. This Agreement is governed and interpreted pursuant to the laws of the State of Florida, notwithstanding any principles of conflicts of law. Any disputes in connection with these Terms that result in court action, in accordance with these Terms, will be resolved exclusively by a state

or federal court located in Miami-Dade County, Florida, and you specifically consent to the personal jurisdiction of such courts and waive any claim of forum.

SEVERABILITY AND WAIVER

If any part of these Terms is unlawful, void, or unenforceable, that part will be deemed severable and will not affect the validity and enforceability of the remaining provisions. The failure of a party to require performance of any provision will not affect such party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of these Terms or any provision of these Terms constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

ASSIGNMENT

You may not assign or transfer these Terms or any of your rights or obligations under these Terms. Menin may assign these Terms at any time without notice to you.

FORCE MAJEURE

In no event shall Menin or any third party providers or distributors be liable for any injury, loss, claim, damage, or damages, including, but not limited to, any special, exemplary, punitive, indirect, incidental or consequential damages of any kind, whether based in contract, tort, strict liability, or otherwise, which arises out of interruptions of service caused by an act of God, terrorism, accident, fire, labor controversy, riot, civil commotion, act of public enemy, law, enactment, rule order, or act of any government or governmental instrumentality, failure of technical facilities, failure or delay of transportation facilities, illness or incapacity, or other cause of a similar or dissimilar nature not reasonably within the control of Menin or which Menin could not by reasonable diligence have avoided (each such act specified in this paragraph shall be referred to herein as a "Force Majeure Event"). Menin shall not be responsible for reimbursing any fees paid.

CONTACT

If you have any questions or comments regarding these Terms of Use, please contact us at:

Menin Hotels, LLC
Attn: Legal
3050 Biscayne Blvd., PH-1, Miami, FL 33137
Email: bookings@meninhospitality.com
Phone: (305) 704-3615

Last Updated: July 20, 2018