

Terms of Service

Effective Date: October 2, 2015

1. Introduction

Thank you for visiting TopList and, if applicable, choosing to download and/or install our App. Please read these Terms of Service and our Privacy Policy, as you must agree to both documents in order to be permitted to use our Service.

2. Definitions

Throughout this Agreement, we may use certain words or phrases, and it is important that you understand the meaning of them. The list is not all-encompassing and no definition should be considered binding to the point that it renders this Agreement nonsensical:

- “Agreement” refers to these Terms of Service;
- “Service” refers to the services that we provide through our Site or App, including our Site and App;
- “Site” refers to our website, www.gettoplist.com;
- “TopList” refers to our company, known as “TopList, LLC”; our Site; our App; our Service; or a combination of all or some of the preceding definitions, depending on the context in which the word is used;
- “User” refers to anyone who uses our Service, including users of our App and general visitors to our Site;
- “You” refers to you, the person who is entering into this Agreement with TopList.

3. Description of Service

TopList is a mobile application that enables Users to easily create and share reviews of music, TV shows, movies and books with friends, family, co-workers and other trusted sources. Users can also easily add titles to their wishlist.

After installing the App, Users register using either a) their email address, username and full name, or b) their social sign-on via Facebook. They then find friends or influencers to follow on the App who can in return choose to follow them. Users can then post reviews or add music, movie, book or TV show titles to their wishlist.

This application uses several APIs, including the TMDb API, to surface product images and data to make it easy for Users to populate their recommendation posts. This product is not endorsed or certified by TMDb.

4. Eligibility

In order to use our Service, you must meet a number of conditions, including but not limited to:

- You must not be in violation of any embargoes, export controls, or other laws of the United States or other countries having jurisdiction over this Agreement, TopList, and yourself. For example, if the Office of Foreign Assets Control prohibits conducting financial transactions with nationals, residents, or banks of your country, you must not use our Service.
- You must be the minimum age required to enter into a contract in the area in which you reside, and, in any event, must not be less than 18 years of age.
- You must not sign up for our Service on behalf of anyone other than yourself.
- You must provide us with personal information and other information that we deem necessary to provide you with our Service.

5. Nature of Service

Unless otherwise stated, TopList does not endorse or condone any recommendations by any Users. You agree that TopList is not responsible for any advice that you may act upon if it is provided by any of TopList's Users. TopList does not sell any products, services, or items recommended or featured on the App and is not acting as an agent or broker of any third party seller. Accordingly, TopList is not and will not be a party to any agreement you make with any third party seller regarding any purchase of any product, service, or item recommended or featured on the App.

6. Rules of Use

You must not:

- Violate the laws of the United States, its states, or any foreign political entity having jurisdiction over this Agreement, whether or not the foreign political entity is a country or a subdivision (such as a state or province) or municipality (such as a city, town, county, or region) of a foreign country.
- Post or send anything violent, threatening, pornographic, racist, hateful, or otherwise objectionable according to the opinion of TopList.
- Infringe on anyone's intellectual property rights, defame anyone, impersonate anyone, or otherwise violate the rights of a third party.
- Hack, crack, phish, SQL inject, or otherwise compromise the security or integrity of the TopList Site, App, Service, or its Users' computers.
- Do anything else which could bring TopList into disrepute or violate the rights of any person.

7. Our Content

The App and Service is owned and operated by TopList. The contents of the App and Service, including without limitation the text, graphics, images, audio, and video, as well as any product descriptions, pricing, and reviews ("Content") constitute proprietary information and property and are protected by United States copyright and/or trademark law, as well as applicable foreign laws. Such Content is owned by or is licensed to TopList (User Submitted Content is licensed by Users to TopList).

TopList hereby grants you permission to use the App, Service, and Content, provided that (i) your use is solely for your personal, noncommercial use; (ii) you do not modify or sell the Content; and (iii) you do not reproduce, display, publicly perform, distribute, or otherwise use the Content for any public or commercial purpose, including the use of the Content on any other application or website. To the extent the App or Service provides features allowing you to distribute the Content by email, social media, or another method, you may distribute the Content using such features.

If you violate any of these terms, your permission to use the Content automatically terminates.

8. User Submitted Content

A user may generate and/or submit content to the App, including content in video, audio, photographic, and written or text form ("User Submitted Content"). You warrant

that you own all intellectual property rights in any User Submitted Content or that you have the appropriate license rights from the owner to submit the User Submitted Content. By submitting User Submitted Content to the App, you grant TopList a non-exclusive, worldwide, perpetual, irrevocable, fully paid and royalty-free, sublicensable, transferable right and license to use, reproduce and copy, display, modify, adapt, publish, translate, create derivative works, and distribute such User Submitted Content.

9. Trademarks

“TopList” is a trademark mark owned and used by us, TopList, LLC, to uniquely identify our Site, App, Service, and business. You agree not to use “TopList” as a trademark, service mark, or trade name. Additionally, you agree not to use our trade dress, or copy the look and feel of our Service or its design.

10. Revocation of Consent

We may revoke our consent for your use of our intellectual property, or any other permission granted to you under this Agreement, at any time. You agree that if we so request, you must take immediate action to remove any usage of our intellectual property that you may have engaged in, even if it would cause a loss to you.

11. Copyright & Trademark Infringement

We take copyright infringement very seriously, and we have registered a Copyright Agent with the United States Copyright Office, pursuant to the Digital Millennium Copyright Act. If you believe that your copyright has been infringed, please send us a message which contains:

- Your name.
- The name of the party whose copyright has been infringed, if different from your name.
- The name and description of the work that is being infringed.
- The location on our Site or App of the infringing copy.
- A statement that you have a good faith belief that use of the copyrighted work described above is not authorized by the copyright owner (or by a third party who is legally entitled to do so on behalf of the copyright owner) and is not otherwise permitted by law.

- A statement that you swear, under penalty of perjury, that the information contained in this notification is accurate and that you are the copyright owner or have an exclusive right in law to bring infringement proceedings with respect to its use.

You must sign this notification electronically and send it to our Copyright Agent at info@gettoplist.com.

Although U.S. law does not provide for a similar procedure for trademark infringement, we recommend that you send us similar information to that above in regards to any allegation of trademark infringement, and we will address it as soon as practicable.

12. Communications Decency Act

Similar to the DMCA provisions above, United States law—specifically Section 230 of the Communications Decency Act—creates a defense for us for the actions of third parties in regards to any defamatory content posted on our Site. Although we are not liable for defamatory words posted on our Site by our Users even if given notice, we do prohibit defamation under this Agreement and we may, if we believe the situation warrants it, take action against the offending User. Please notify us at TopList if any of our Users have posted anything that you believe is defamatory.

13. Disclaimer of Warranties

THE APP AND SERVICE ARE PROVIDED “AS IS” AND WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, TOPLIST DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. TOPLIST DOES NOT WARRANT THAT THE APP OR SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE APP, SERVICE, OR THE SERVERS THAT MAKE THEM AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. TOPLIST DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING (I) THE USE OR THE RESULTS OF THE USE OF THE APP OR SERVICE IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE, OR (II) ANY PRODUCTS OR SERVICES RECOMMENDED BY USERS OF THE APP AND PURCHASED OR USED BY YOU FROM ANY THIRD

PARTY SELLER. YOU ASSUME ALL RISK FOR ANY DAMAGE TO YOUR MOBILE DEVICE OR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM USE OF THE APP OR SERVICE, INCLUDING ANY DAMAGES RESULTING FROM VIRUSES. TOPLIST DOES NOT AUTHORIZE ANYONE TO MAKE ANY WARRANTIES ON ITS BEHALF, AND YOU SHOULD NOT RELY ON ANY WARRANTIES MADE BY THIRD PARTIES. APPLICABLE LAW MAY NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU.

14. Limitation of Liability

NEITHER TOPLIST NOR ANY OTHER PARTY INVOLVED IN CREATING OR DELIVERING THE APP OR SERVICE SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, CONSEQUENTIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH ANY USE OF, OR INABILITY TO USE, THE APP OR SERVICE. THE FOREGOING LIMITATION APPLIES REGARDLESS OF THE NATURE OF THE CAUSE OF ACTION (WHETHER BREACH OF CONTRACT OR TORT, INCLUDING NEGLIGENCE, INTELLECTUAL PROPERTY, AND PRIVACY CLAIMS) AND EVEN IF TOPLIST HAS PREVIOUSLY BEEN ADVISED OF, OR REASONABLY COULD HAVE FORESEEN, THE POSSIBILITY OF SUCH DAMAGE OR LOSS. THE FOREGOING LIMITATION APPLIES TO ALL DAMAGES ARISING OUT OF OR IN CONNECTION WITH ANY USE OF, OR INABILITY TO USE, THE APP OR SERVICE, INCLUDING BUT NOT LIMITED TO: (I) ERRORS, MISTAKES, OR INACCURACIES; (II) PERSONAL INJURY OR PROPERTY DAMAGE; (III) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS, INCLUDING ANY PERSONAL OR FINANCIAL INFORMATION STORED THEREIN; AND/OR (IV) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE THAT MAY BE TRANSMITTED THROUGH THE APP OR SERVICE. TO THE EXTENT THAT ANY JURISDICTION DOES NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, THE ABOVE LIMITATION SHALL APPLY TO THE EXTENT PERMISSIBLE UNDER APPLICABLE LAW. TOPLIST'S AGGREGATE LIABILITY TO YOU IN ANY CIRCUMSTANCE IS LIMITED TO EITHER THE AMOUNT PAID BY YOU TO TOPLIST OR \$10, WHICHEVER IS LESS.

15. Release of Unknown Claims

IF YOU ARE A RESIDENT OF A JURISDICTION THAT REQUIRES A SPECIFIC STATEMENT REGARDING RELEASE THEN THE FOLLOWING APPLIES. FOR EXAMPLE, CALIFORNIA RESIDENTS MUST, AS A CONDITION OF THIS AGREEMENT, WAIVE THE APPLICABILITY OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH STATES, "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR." YOU HEREBY WAIVE THIS SECTION OF THE CALIFORNIA CIVIL CODE. YOU HEREBY WAIVE ANY SIMILAR PROVISION IN LAW, REGULATION, OR CODE THAT HAS THE SAME INTENT OR EFFECT AS THE AFOREMENTIONED RELEASE.

16. Indemnity

You agree to indemnify and hold us harmless for any claims by you or any third party which may arise from or relate to this Agreement or the provision of our Service to you, including any damages caused by your use of our Service or acceptance of the offers published through it. You also agree that you have a duty to defend us against such claims and we may require you to pay for an attorney(s) of our choice in such cases. You agree that this indemnity extends to requiring you to pay for our reasonable attorneys' fees, court costs, and disbursements. In the event of a claim such as one described in this paragraph, we may elect to settle with the party/parties making the claim, and you shall be liable for any monies to be paid under such settlement. You shall not enter into any settlement agreement that affects the rights of TopList without TopList's prior written approval.

17. Choice of Law

This Agreement shall be governed by the laws in force in the State of New Jersey. The offer and acceptance of this contract are deemed to have occurred in the State of New York.

18. Forum of Dispute

You agree that any dispute arising from or relating to this Agreement will be heard solely by a court of competent jurisdiction in the State of New Jersey. You agree that

the unsuccessful party in any dispute arising from or relating to this Agreement will be responsible for the reimbursement of the successful party's reasonable attorneys' fees, court costs, and disbursements.

19. Force Majeure

You agree that we are not responsible to you for anything that we may otherwise be responsible for, if it is the result of events beyond our control, including, but not limited to, acts of God, war, insurrection, riots, terrorism, crime, labor shortages (including lawful and unlawful strikes), embargoes, postal disruption, communication disruption, unavailability of payment processors, failure or shortage of infrastructure, shortage of materials, or any other event beyond our control.

20. Severability

In the event that a provision of this Agreement is found to be unlawful, conflicting with another provision of the Agreement, or otherwise unenforceable, the Agreement will remain in force as though it had been entered into without that unenforceable provision being included in it.

If two or more provisions of this Agreement are deemed to conflict with each other's operation, TopList shall have the sole right to elect which provision remains in force.

21. Non-Waiver

TopList reserves all rights afforded to us under this Agreement as well as under the provisions of any applicable law. Our non-enforcement of any particular provision or provisions of this Agreement or any applicable law should not be construed as our waiver of the right to enforce that same provision under the same or different circumstances at any time in the future.

22. Limited License

You agree that you are being provided with a limited license to download and install one copy of our App. You must not attempt to reverse engineer, distribute, or otherwise tamper with or copy our App. TopList may revoke this license to you at any time at which point you agree that you shall remove our App and any of its derivative data from

any devices under your possession or control. TopList shall not be liable to you for any loss in the event of such a revocation.

23. Third Party Charges

The use of our App may result in third party charges including, but not limited to, data charges assessed by your mobile phone provider. You agree that TopList is not liable to you for any third party charges incurred by you as the result of your use of our Service, and you are hereby advised to review your contract with your mobile phone provider to ensure that you do not incur any unexpected third party charges.

24. Termination & Cancellation

We may terminate your access to our Site and Service at our discretion without explanation, though we will strive to provide a timely explanation in most cases. Our liability for refunding you, if you have paid anything to us, will be limited to the amount you paid for goods or services which have not yet been and will not be delivered, except in cases where the termination or cancellation was due to your breach of this Agreement, in which case you agree that we are not required to provide any refund or other compensation whatsoever.

Under no circumstances, including termination or cancellation of our Service to you, will we be liable for any losses related to actions of other Users.

25. Assignment of Rights

You may not assign your rights and/or obligations under this Agreement to any other party without our prior written consent. We may assign our rights and/or obligations under this Agreement to any other party at our discretion.

26. California Users and Residents

Pursuant to California Civil Code Section 1789.3, any questions about pricing, complaints, or inquiries about TopList must be addressed to our agent for notice and sent via certified mail to that agent. For our agent's most current contact information, please send a request to info@gettoplist.com.

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

Last Modified: October 1, 2015