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You are expressly and emphatically restricted from all of the following:

1. publishing any Website material in any media;
2. selling, sublicensing and/or otherwise commercializing any Website material;
3. publicly performing and/or showing any Website material;
4. using this Website in any way that is, or may be, damaging to this Website;
5. using this Website in any way that impacts user access to this Website;
6. using this Website contrary to applicable laws and regulations, or in a way that causes, or may cause, harm to the Website, or to any person or business entity;

7. engaging in any data mining, data harvesting, data extracting or any other similar activity in relation to this Website, or while using this Website;
8. using this Website to engage in any advertising or marketing;
9. using this Website to harass, abuse, or threaten others or otherwise violate any person's legal rights;
10. using this Website to perpetrate any fraud;
11. using this Website to engage in or created any unlawful gambling, sweepstakes or pyramid scheme;
12. using this Website to publish or distribute any obscene or pornographic material;
13. using this Website to publish or distribute any material that incites violence, hate or discrimination towards any group;

#### **SUBMISSIONS AND USE OF THIS SITE**

You agree not to introduce a virus or other harmful component, or otherwise tamper with, impair or damage the Site, or interfere with any person or entity's use or enjoyment of the Site. You agree that you are and shall remain solely responsible for the content of any submissions that you may make to this Site, and that you will not submit material that are unlawful, defamatory, abusive or obscene. You further agree not to submit anything to the Site that may violate any rights of any third party, including copyright, trademark, privacy or other personal or proprietary rights.

Newmark does not accept or consider unsolicited ideas, including ideas for new advertising campaigns, new promotions, new or improved products or menu items, product enhancements, processes, recipes, materials, marketing plans or new product names. Please do not send any original creative artwork, suggestions or other works. The sole purpose of this policy is to avoid potential misunderstandings or disputes when Newmark's products or marketing strategies might seem similar to ideas submitted to Newmark. So, please do not send your unsolicited ideas to Newmark or anyone at Newmark.

If, despite our request that you not send us your ideas, you still submit them, then regardless of what your letter says, the following terms shall apply to your submission. You agree and warrant that: (1) the submission will immediately become the sole and exclusive property of Newmark without compensation to you or any other person or party; (2) Newmark will consider the submission to be non-confidential and non-proprietary; (3) Newmark shall have no obligations concerning the submission, including but not limited to, no obligation to return any materials or acknowledge receipt of any submission; (4) Newmark may use or redistribute the submission or its content for any purpose and in any way it chooses; and (5) the submission does not contain trade secrets or proprietary information owned by another. You agree to execute any documents required by Newmark to confirm such rights.

#### **REVERSE ENGINEERING AND SECURITY**

You agree not to undertake any of the following actions:

1. Reverse engineer, or attempt to reverse engineer or disassemble any code or software from or on the Website or Services;
2. Violate the security of the Website or Services through any unauthorized access, circumvention of encryption or other security tools, data mining or interference to any host, user or network.

## **PRODUCT SALES AND AVAILABILITY**

All prices displayed on this Site are in U.S. Dollars for restaurant locations in the United States of America, including Puerto Rico, and are valid and effective only at the restaurant location specified. Newmark reserves the right to change the prices of its products, without prior notice and without incurring any obligations, and to discontinue or change the specifications of any products or services offered on this Site.

## **LINKS**

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## **THIRD PARTY ADVERTISEMENTS AND PROMOTIONS**

Newmark may display advertisements and promotions from third parties on the Site or may otherwise provide information about or links to third-party products or services. Your business dealings or correspondence with, or participation in promotions of, such third parties, and any terms conditions, warranties or representations associated with such dealings or promotions, are solely between you and such third party. Newmark is not responsible or liable for any loss or damage of any sort incurred as the result of such dealings or promotions or as the result of the presence of such third party information on the Site.

## **PRIVACY**

See Privacy Policy.

## **MODIFICATIONS TO THE SITE**

Newmark reserves the right to modify or discontinue, temporarily or permanently, the Site or any features or portions thereof without prior notice. You agree that Newmark will not be liable for any modification, suspension or discontinuance of the Site or any part thereof.

## **JURISDICTION**

Except with respect to principles of conflicts of laws, any dispute arising from these terms or from any other use of this Site shall be resolved in accordance with the laws of the state of New Jersey and the prevailing party as determined by the trier of fact in any such action, proceeding, litigation or other

dispute resolution forum or judicial proceeding shall be entitled to recover its reasonable attorney's fees and costs.

## **INDEMNIFICATION**

You agree to indemnify, defend and hold harmless Newmark, and its officers, directors, employees, contractors, agents, licensors, and service providers from and against any claims, damages, costs, liabilities and expenses (including, but not limited to, reasonable attorneys' or legal fees) arising out of or related to (i) your use of this Site, (ii) your violation of these terms, (iii) your violation of any rights of any third party, or (iv) your conduct in connection with the Site.

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## **LIMITATION OF LIABILITY**

NEWMARK WILL NOT BE LIABLE FOR ANY DAMAGES OR INJURY CAUSED BY OR ARISING OUT OF YOUR USE OF THE SITE, INCLUDING BUT NOT LIMITED TO, ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DEFECT, DELAY IN OPERATION OF TRANSMISSION, COMPUTER VIRUS, OR LINE FAILURES. NEWMARK WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, CONSEQUENTIAL, OR SPECIAL DAMAGES THAT RESULT FROM THE USE OF, OR THE INABILITY TO USE, THE CONTENTS OR MATERIALS ON THIS SITE, EVEN IF NEWMARK IS NEGLIGENT OR IF NEWMARK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, NOR WILL NEWMARK BE HELD LIABLE FOR DELAY OR FAILURE IN PERFORMANCE RESULTING FROM CAUSES BEYOND ITS REASONABLE CONTROL. NEWMARK'S TOTAL LIABILITY FOR ANY LOSS, DAMAGES OR CAUSE OF ACTION (INCLUDING CONTRACT, TORT, STRICT LIABILITY, ETC.) SHALL NOT EXCEED THE AMOUNT PAID BY YOU TO ACCESS THIS SITE.

THESE DISCLAIMERS AND LIMITATIONS DO NOT LIMIT LIABILITY THAT CANNOT BE EXCLUDED UNDER THE LAW.

## **SEVERABILITY**

Any provision of these terms shall be severable to the extent that the provision, or any portion thereof, might be illegal, invalid or otherwise unenforceable. The invalidity of any provision, or portion thereof, shall not affect the enforceability of the remaining provision or provisions.

## **WAIVER**

Failure or delay by Newmark to exercise any right, power, privilege or remedy shall not constitute a waiver thereof. No modification or waiver by Newmark of any provision shall be deemed to have been made unless made in writing.

## **NOTICE TO CALIFORNIA RESIDENTS**

Under California Civil Code Section 1789.3, California residents are entitled to the following consumer rights notice: If you have a question or complaint regarding the Site, please CONTACT US (with "California Resident Request" as the Subject Line), send a letter to us at [legal@mercatofamily.com](mailto:legal@mercatofamily.com) You may also contact the Complaint Assistance Unit of the Division of Consumer Services of the Department of Consumer Affairs in writing at 1625 North Market Blvd., Suite N 112, Sacramento CA 95834 or by telephone at 800.952.5210.

## **CONTACT US**

Please feel free to contact us with any comments, questions or suggestions you might have regarding the information described in the Site.

You may contact us at: [legal@mercatofamily.com](mailto:legal@mercatofamily.com)

## **PRIVACY POLICY**

This policy describes how we may collect and use information provided to us by people visiting this website. Because this policy may be revised from time to time, we suggest that you check here periodically for policy updates. "We," "us," "our" and "Newmark" refers collectively to Newmark, its subsidiaries and affiliates, directors, officers and employees.

## **OUR INFORMATION VALUES**

If you provide us with information about yourself or your company, we believe that you have the right to know why we are collecting that information and how we use it. If, for any reason, you want to opt out of the marketing use of your information, we have an obligation to comply with your request.

## **INFORMATION WE COLLECT**

This policy outlines how we obtain your information, what we use it for, and who we share it with, including information you give us, information we collect from you automatically, and information we collect from other sources.

### **Information You Give Us**

"Personal information" includes any information identifiable in nature, and may include: your company information, your name, your address, your e-mail, and your employment related information (such as a resume or references). You may visit and use this website without providing Personal Information. We will collect Personal Information only if you provide it to us. If you do not want us to have your Personal Information, please do not provide it to us.

You may provide us with Personal Information through various methods, including (without limitation):

**Registration Forms** - If you are offered the opportunity to enter a promotion, to become a registered user of this website, or to receive information about Newmark, you may be required to fill out a registration form. This form requires that you provide certain Personal Information that may include, without limitation, your name, email address, postal address, telephone number, areas of interest, product usage, and/or a unique individual password.

**Email and other voluntary communications** - You may also choose to communicate with us through email, via our website, by telephone, in writing, or through other means. We collect the information in these communications, and such information may be personally identifiable.

**Employment Related Information** - We may retain Personal Information you submit because you are interested in a career with us. We may use the information we collect about you in a variety of ways, including: to process your application; to communicate with you; to conduct applicant and employment-related statistical evaluation and record keeping; to perform aggregated analytics to improve the applicant experience; to respond to your inquiries and requests for information; to maintain and improve our sites; to detect, prevent, or investigate security breaches or fraud; and to maintain appropriate records for internal administrative purposes.

**Promotional Communication** - You can opt out of receiving promotional emails and mailings by informing us of your preference at the time you sign up for an account, modifying your promotional preferences online in your account's profile management section, or following the opt out instructions

in the promotional emails we send you. Similarly, you may opt in to receive text messages, telephone calls, and mailings.

Please note that if you opt out of receiving promotional communications from us, we may still send you transactional communications, including emails about your accounts or purchases.

### **Information We Collect Automatically**

**Location Information** - When you use a smart phone or other mobile device to access the website, use a computer to access our website, or use our mobile application, we may collect information about your physical location.

**Transactions and Activity** - If you become a registered user or if you conduct transactions through this website, we may collect information about the transactions you engage in while on the website and your other activity on the website. This information may include, without limitation, areas of the website that you visit, transaction types, content that you view, download or submit, transaction amounts, payment, and billing information as well as the nature, quantity and price of the goods or services you exchange and the individuals or entities with whom you communicate or transact business.

**Device and Usage Information** - When you visit our website, we automatically collect data about the type of browser you are using, your domain name (the name of your internet service provider, or your company name), your internet protocol (IP) address, the time and length of your visit, the pages you view and the order in which you view them, and the site you last visited before coming to [www.mercatofamily.com](http://www.mercatofamily.com). We use this information only to improve our site's content and structure. You will remain anonymous to us unless you provide us with your Personal Information.

**Cookies, Web Beacons, and Similar Technology** - We may also employ the use of "cookie" or "beacon" technologies. A "cookie" is a small file that we may place on your hard drive to identify you when you visit our website. A "beacon", sometimes called a "pixel", may be embedded on our webpage to communicate certain information from your device to us or a third party. We use these technologies to help analyze our website's performance and content, track visitor usage, provide you are more customized browsing experience, and determine your eligibility to use certain products or services and to tailor advertisements to you. You may set your browser to refuse the "cookie," but there may be pages on our site you will not be able to access if you do.

### **Information We Collect from Other Sources**

**Publicly Available Information** - We collect information that is publicly available. For example, we may collect information you submit to a blog, a chat room, or a social network like Facebook, Twitter, or Google+. We may also collect information about you from other companies and organizations. By gathering additional information about you, we can correct inaccurate information and give you product recommendations and special offers that are more likely to interest you.

**In-Store Camera Information** – We use cameras in stores to keep employees and customers safe and to look for ways to improve our customers' experiences. We do not use these cameras to identify people except when necessary for security reasons.

## **HOW WE USE YOUR INFORMATION**

Except for employment related information, which we will use only for purposes related to your potential employment with us, we may use Personal Information for various purposes, including (without limitation): helping to establish and verify the identity of website users; opening, maintaining, administering and servicing users' accounts or memberships; processing, servicing or enforcing transactions and sending related communications; providing services and support to website users; improving the website, including tailoring it to users' preferences; providing users with product or service updates, promotional notices and offers, and other information about Newmark; responding to your questions inquiries, comments and instructions; maintaining the security and integrity of our systems.

We may engage other companies to perform a variety of functions, such as to fulfill orders, assist with promotions, provide technical assistance, customize or personalize the advertisements that are displayed to you, and for other legitimate business purposes (collectively, "Third Parties"). We may share your information with these Third Parties and these Third Parties may use your information only to the extent necessary to fulfill their functions, and for no other purpose. Except as otherwise stated herein, we will not make your information available to any unrelated business or activity for any reason.

We reserve the right to use or disclose any information as needed to satisfy any law, regulation or other legal request, to protect the integrity of the website, to fulfill your requests, or to cooperate in any law enforcement investigation or any other investigation related to public safety.

## **HOW WE SHARE YOUR INFORMATION**

Third Parties may collect information—including automatically collected information when you use our website or mobile application(s)—through the methods described in the "Information We Collect" Section above (see "cookie, web beacons, and similar technology"). They also may possess or obtain information about you from your interactions: directly with the third party companies; with other websites, mobile applications, or companies that the Third Parties work with; or from your interactions with advertisements Third Parties display to you.

Marketing partners and other third parties also may collect information about your activity on our sites and on third-party sites using tracking technologies. Tracking data collected by these third parties is used to decide which ads you see on third-party sites and applications. You may choose not to receive targeted advertising from many ad networks, data exchanges, marketing analytics and other service providers by visiting the following websites: U.S. visitors click here: \_\_\_\_\_; Canadian visitors click here: \_\_\_\_\_

We may also use third party social platforms such as Facebook to provide users customized advertisements. In this instance, a user's email address, telephone number or other contact information provided to Newmark is converted into a unique value which can be matched to the users social media profile, if they provided that information to the social media platform, such as Facebook. You can visit Facebook for more information on Facebook's advertising privacy policy:

<https://www.facebook.com/about/privacy/>. To opt-out of customized social media ads, adjust your social advertising settings (for example, through the settings of your Facebook profile), or use the links provided in the ad itself.

We may also collect aggregated data, which is data from which the identity of an individual cannot be determined. We may use aggregated data at our discretion.

### **DO NOT TRACK NOTICE**

Some browsers have a "Do Not Track" feature that lets you tell websites that you do not want to have your online activities tracked. These browser features are not uniform, so we are not currently set up to respond to those signals.

### **THIRD PARTY LINKS**

Our website may contain links to third party websites, such as delivery services and social media pages. These links are intended for your convenience only. These third party websites and services are not related with Newmark and may have separate privacy policies and data collection practices. We have no responsibility for these websites or their privacy practices. We encourage users to read the privacy policies of all websites they visit.

### **CHILDREN'S PRIVACY**

This website is directed toward and designed for use only by persons aged 13 or older. We will not approve applications from or establish or maintain registrations for any child we know to be under the age of 13. Newmark does not solicit or knowingly collect personally identifiable information from children under the age of 13. If we discover that we obtained personally identifiable information from an individual who indicates that he or she is (or who we know to be) under the age of 13, we will delete such information from our systems.

### **SECURITY**

Newmark protects your information using commercially reasonable technical, physical, and administrative security measures to reduce the risk of loss, misuse, unauthorized access, disclosure or modification of your information. Some of our safeguards include firewalls, data encryption, physical access controls, and administrative informational controls. While we have employed security technologies and procedures to assist safeguarding your personal information, no system or network can be guaranteed to be 100% secure. If required by law, we shall notify you in the event that any of your Personal Information or other information you provided is compromised.

### **DATA PROCESSING AND STORING**

Newmark and its third-party service providers may process or store your personal information in the United States of America, Canada, and/or other countries around the world. Regardless of the company or person who processes your information and where it is processed, we will take steps to protect your information in accordance with applicable data protection laws and this Privacy Policy. We protect your information using technical, physical, and administrative security measures to reduce the risk of loss, misuse, unauthorized access, disclosure or modification of your information and have required our service providers to use similar standards and procedures. While both Newmark and our service providers have employed security technologies and procedures to assist safeguarding your personal information, no system or network can be guaranteed to be 100% secure.

## **CHOICE AND CONTROL**

In order to provide service to you, we may send you communications related to your transactions, security, or the administration of this website. From time to time, we may also send you other messages or updates about Newmark, our website, and promotions or other activities. If you do not wish to receive non-transaction/security related communications from Newmark, you may opt-out by clicking the “unsubscribe” link in the communication or contact us where specified in the “Contact Us” section, below.

You may also update information about your account with us. We will update and correct your profile if you wish to make changes.

Please note that if you opt out of receiving communications from us, we may still send you service communications such as emails about your account or the status of your application.

## **ACCESSING YOUR INFORMATION**

Under the Personal Information Protection and Electronic Documents Act (“PIPEDA”) of Canada and related Canadian provincial legislation and the General Data Protection Regulation (“GDPR”) of the European Union, you have the right, under certain circumstances, to access information we hold about you, including a copy of your customer profile. Under the GDPR of the European Union, you also have the right, under certain circumstances, to request that the data we have collected from you be erased or for your data not to be shared with third parties. Any such requests must be in writing and provided to us at the email or postal address described in the "Contact Us" section below. Any such requests may be subject to a small administrative fee to meet our costs in providing you with details of the information we hold about you.

## **CONTACT US**

We welcome your questions, comments and concerns about privacy. You may use Contact Us to ask Newmark a privacy question or correct Personal Information or other information you have provided to us. You can contact Newmark’s Privacy Officer at: Newmark NJ LLC, [legal@mercatofamily.com](mailto:legal@mercatofamily.com)

## **UPDATES TO THIS POLICY**

We may make changes to this policy, and may apply any changes to information previously collected, as permitted by law. When we make material changes to this policy, we will notify you by posting the updated policy on our website, and we will update the effective date at the end of this policy.