

# LINDT MOMENTS

## Terms and Conditions

Last updated: April 30, 2024

Please read these terms and conditions carefully before using Our Service.

## Interpretation and Definitions

### Interpretation

The words of which the initial letter is capitalized have meanings defined under the following conditions. The following definitions shall have the same meaning regardless of whether they appear in singular or in plural.

### Definitions

For the purposes of these Terms and Conditions:

- **Affiliate** means an entity that controls, is controlled by or is under common control with a party, where "control" means ownership of 50% or more of the shares, equity interest or other securities entitled to vote for election of directors or other managing authority.
- **Company** (referred to as either "the Company", "We", "Us" or "Our" in this Agreement) refers to Lindt & Sprüngli (Canada), Inc., 181 University Avenue, Suite 900, (416) 351-8566.
- **Content** refers to content such as text, images, voice or video recording, or other information that can be posted, uploaded, linked to or otherwise made available by You, regardless of the form of that content.
- **Device** means any device that can access the Service such as a computer, a cellphone or a digital tablet.
- **Service** refers to the Website and the services offered through it.
- **Terms and Conditions** (also referred as "Terms") mean these Terms and Conditions that form the entire agreement between You and the Company regarding the use of the Service.

- **Third-party Service** means any services and/or content (including data, information, products or services) provided by a third-party that may be displayed, included or made available by the Service.
- **Website** refers to Lindt Moments, accessible: [www.lindtmoments.com](http://www.lindtmoments.com)
- **You** means the individual accessing or using the Service, or the company, or other legal entity on behalf of which such individual is accessing or using the Service, as applicable.

## Acknowledgment

These are the Terms and Conditions governing the use of this Service and the agreement that operates between You and the Company in respect of the Services. These Terms and Conditions set out the rights and obligations of all users regarding the use of the Service.

Your access to and use of the Service is conditioned on Your acceptance of and compliance with these Terms and Conditions. These Terms and Conditions apply to all visitors, users and others who access or use the Service.

By accessing or using the Service You agree to be bound by these Terms and Conditions. If You disagree with any part of these Terms and Conditions then You may not access the Service.

You represent that you are over the age of 18. The Company does not permit those under 18 to use the Service. Minors who are 18, but below the age of majority where they reside must have the permission of their parent/legal guardian, and their agreement to these terms.

Your access to and use of the Service is also conditioned on Your acceptance of and compliance with the [Privacy Policy](#) of the Company. Our [Privacy Policy](#) describes Our policies and procedures on the collection, use and disclosure of Your personal information when You use the Application or the Website and tells You about Your privacy rights and how the law protects You. Please read Our [Privacy Policy](#) carefully before using Our Service.

## Content

### Your Posted Content

Our Service allows You to post Content. You are responsible for the Content that You post to the Service, including its legality, reliability, and appropriateness.

By posting Content to the Service, You grant Us the right and license to use, modify, publicly perform, publicly display, reproduce, and distribute such Content on and through the Service. You retain any and all of Your rights to any Content You submit, post or display on or through the Service and You are responsible for protecting those rights. You agree that this license includes the right for Us to make Your Content available to other users of the Service, who may also use Your Content subject to these Terms.

You represent and warrant that: (i) You have the right to grant Us the rights and license as provided in these Terms, and (ii) the posting of Your Content on or through the Service does not violate the privacy rights, publicity rights, copyrights, contract rights or any other rights of any person.

## Content Restrictions

Certain features and/or portions of the Service may permit you to transmit content that you have created (“**Content**”). The Company is not responsible for any Content of the Service's users. You expressly understand and agree that You are solely responsible for the Content that you provide to the Service and for all activity that you take on the Service, whether done so by You or any third person using Your device.

You may not transmit any Content that is unlawful, offensive, upsetting, intended to disgust, threatening, libelous, defamatory, obscene or otherwise objectionable, all as determined by Company in its sole discretion. Examples of such objectionable Content include, but are not limited to, Content that is:

- Unlawful or promoting unlawful activity.
- Defamatory, discriminatory, or mean-spirited content referencing or commenting on religion, race, sexual orientation, gender, national/ethnic origin, or other targeted groups.
- Spam, machine – or randomly – generated.
- Constituting unauthorized or unsolicited advertising, chain letters, any other form of solicitation unauthorized by Company.
- includes, without limitation, any of the following: nudity; alcohol/drug consumption or smoking; explicit or graphic sexual activity, or sexual innuendo; crude, vulgar or offensive language and/or symbols.
- Containing or installing any viruses, worms, malware, trojan horses, or other content that is designed or intended to disrupt, damage, or limit the functioning of any software, hardware or telecommunications equipment or to damage or obtain unauthorized access to any data or other information of a third person.
- Infringing on any proprietary rights of any party, including patent, trademark, trade secret, copyright, right of publicity or other rights.

- Impersonating any person or entity including the Company and its employees or representatives.
- Violating the privacy of any third person, for example, by containing any reference to or likeness of any identifiable third parties, unless their consent has been obtained.
- False information and features.

The Company reserves the right, but not the obligation, to, in its sole discretion, determine whether or not any Content is appropriate and complies with these Terms. The Company may refuse or remove Content at its discretion, though it is under no obligation to do so. The Company further reserves the right to make formatting and edits and change the manner of any Content. The Company can also limit or revoke the use of the Service if You post such objectionable Content. As the Company cannot control all content posted by users and/or third parties on the Service, you agree to use the Service at your own risk. You understand that by using the Service You may be exposed to content that You may find offensive, indecent, incorrect or objectionable, and You agree that under no circumstances will the Company be liable in any way for any content, including any errors or omissions in any content, or any loss or damage of any kind incurred as a result of your use of any content.

## **You License your Content to Us**

By using the Services and providing Content, you: (i) grant the Company a world-wide, perpetual, irrevocable, transferable, sub-licensable, royalty-free, non-exclusive, and unrestricted license to copy, reproduce, adapt, transmit, edit, modify, or otherwise use, publicly display, distribute, translate and create compilations and derivative works from, any and all Content (in any format or media) that you submit to or through, the Services; and (ii) waive all moral rights in and to all Content that you submit to or through the Services in favour of the Company.

## **Content Backups**

You acknowledge that the Company has no liability related to the integrity of Content or the failure to successfully restore Content to a usable state.

You agree to maintain a complete and accurate copy of any Content in a location independent of the Service.

## **Code of Conduct**

a. You agree that you shall not use the Services to:

- i. disrupt, place unreasonable burdens or excessive loads on, interfere with or attempt to gain unauthorized access to any portion of the Services;
  - ii. use, copy, modify, download or transfer the Services or any component of the Services, in whole or in part, except as expressly provided in these Terms;
  - iii. (i) reverse engineer, disassemble, decompile, or translate the Services or any component of the Services; (ii) attempt to derive the source code of the Services or any component of the Services; (iii) create any derivative work from the Services or any component of the Services; and/or (iv) authorize or assist any third party to do any of the foregoing;
  - iv. rent, lease, loan, resell, or otherwise distribute the Services or any component of the Services;
  - v. remove or alter any proprietary notice or legend regarding Company's, or any third party's, proprietary rights in the Services or any component of the Services;
  - vi. remove, circumvent or disable any rights management or protection tools we use on the site or in respect of any Services;
  - vii. use the Services or any component of the Services except in accordance with these Terms and all applicable laws and regulations;
  - viii. collect information about others without their consent; and/or
  - ix. upload, post, email, transmit or otherwise make available any content that you do not have the right to disclose or make available.
- b. Further, you hereby agree that you shall not engage in prohibited or unauthorized use of the Services, or of Company systems, including, but not limited to, unauthorized entry into the systems, misuse of passwords, or misuse of any information on the Services.

## **Copyright Policy**

### **Intellectual Property Infringement**

We respect the intellectual property rights of others. It is Our policy to respond to any claim that Content posted on the Service infringes a copyright or other intellectual property infringement of any person.

If You are a copyright owner, or authorized on behalf of one, and You believe that the copyrighted work has been copied in a way that constitutes copyright infringement that is taking place through the Service, You must submit Your notice in writing to the attention of our copyright agent via email at [consumerservice-CA@lindt.com](mailto:consumerservice-CA@lindt.com) and include in Your notice a detailed description of the alleged infringement.

You may be held accountable for damages (including costs and attorneys' fees) for misrepresenting that any Content is infringing Your copyright.

## **Canadian Copyright Act for Copyright Infringement Claims**

You may submit a notification pursuant to the Copyright Act by providing our copyright agent with the following information in writing:

- An electronic or physical signature of the person authorized to act on behalf of the owner of the copyright's interest.
- A description of the copyrighted work that You claim has been infringed, including the URL (i.e., web page address) of the location where the copyrighted work exists or a copy of the copyrighted work.
- Identification of the URL or other specific location on the Service where the material that You claim is infringing is located.
- Your address, telephone number, and email address.
- A statement by You that You have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law.
- A statement by You that the above information in Your notice is accurate and that You are the copyright owner or authorized to act on the copyright owner's behalf.

## **Intellectual Property**

The Service and its original content (excluding Content provided by You or other users), features and functionality are and will remain the exclusive property of the Company and its licensors.

The Service is protected by copyright, trademark, and other laws of both Canada and foreign countries.

Our trademarks and trade dress may not be used in connection with any product or service without the prior written consent of the Company.

## **Links to Other Websites**

Our Service may contain links to third-party web sites or services that are not owned or controlled by the Company.

The Company has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third party web sites or services. You further acknowledge and agree that the Company shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with the use of or reliance on any such content, goods or services available on or through any such web sites or services.

We strongly advise You to read the terms and conditions and privacy policies of any third-party web sites or services that You visit.

## **Termination**

We may terminate or suspend Your access immediately, without prior notice or liability, for any reason whatsoever, including without limitation if You breach these Terms and Conditions.

Further, we reserve the right to terminate or modify the Service, in whole or in part, at any time and without notice or liability.

Upon termination, Your right to use the Service will cease immediately.

## **Limitation of Liability**

Notwithstanding any damages that You might incur, the entire liability of the Company and any of its suppliers under any provision of this Terms and Your exclusive remedy for all of the foregoing shall be limited to the amount actually paid by You through the Service.

To the maximum extent permitted by applicable law, in no event shall the Company or its suppliers be liable for any special, incidental, indirect, or consequential damages whatsoever (including, but not limited to, damages for loss of profits, loss of data or other information, for business interruption, for personal injury, loss of privacy arising out of or in any way related to the use of or inability to use the Service, third-party software and/or third-party hardware used with the Service, or otherwise in connection with any provision of this Terms), even if the Company or any supplier has been advised of the possibility of such damages and even if the remedy fails of its essential purpose.

# "AS IS" and "AS AVAILABLE"

## Disclaimer

To the maximum extent permitted by applicable law, the Service is provided to You "AS IS" and "AS AVAILABLE" and with all faults and defects without warranty of any kind. To the maximum extent permitted under applicable law, the Company, on its own behalf and on behalf of its Affiliates and its and their respective licensors and service providers, expressly disclaims all warranties, whether express, implied, statutory or otherwise, with respect to the Service, including all implied warranties of merchantability, fitness for a particular purpose, title and non-infringement, and warranties that may arise out of course of dealing, course of performance, usage or trade practice. Without limitation to the foregoing, the Company provides no warranty or undertaking, and makes no representation of any kind that the Service will meet Your requirements, achieve any intended results, be compatible or work with any other software, applications, systems or services, operate without interruption, meet any performance or reliability standards or be error free or that any errors or defects can or will be corrected.

Without limiting the foregoing, neither the Company nor any of the company's service providers make any representation or warranty of any kind, express or implied: (i) as to the operation or availability of the Service, or the information, content, and materials or products included thereon; (ii) that the Service will be uninterrupted or error-free; (iii) as to the accuracy, reliability, or currency of any information or content provided through the Service; or (iv) that the Service, its servers, the content, or e-mails sent from or on behalf of the Company are free of viruses, scripts, trojan horses, worms, malware, timebombs or other harmful components.

Some jurisdictions do not allow the exclusion of certain types of warranties or limitations on applicable statutory rights of a consumer, so some or all of the above exclusions and limitations may not apply to You. But in such a case the exclusions and limitations set forth in this section shall be applied to the greatest extent enforceable under applicable law.

## Governing Law

For users who are not residents in the province of Ontario, the laws of the province of Ontario, and the federal laws of Canada shall govern this Terms and Your use of the Service. Your use of the Application may also be subject to other local, provincial/territorial, national, or international laws.



# Disputes Resolution

If You have any concern or dispute about the Service, You agree to first try to resolve the dispute informally by contacting the Company.

# Severability and Waiver

## Severability

If any provision of these Terms is held to be unenforceable or invalid, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.

## Waiver

Except as provided herein, the failure to exercise a right or to require performance of an obligation under these Terms shall not affect a party's ability to exercise such right or require such performance at any time thereafter nor shall the waiver of a breach constitute a waiver of any subsequent breach.

# Changes to These Terms and Conditions

We reserve the right, at Our sole discretion, to modify or replace these Terms at any time. If a revision is material We will make reasonable efforts to provide at least 30 days' notice prior to any new terms taking effect. What constitutes a material change will be determined at Our sole discretion.

By continuing to access or use Our Service after those revisions become effective, You agree to be bound by the revised terms. If You do not agree to the new terms, in whole or in part, please stop using the website and the Service.

# Contact Us

If you have any questions about these Terms and Conditions, You can contact us by visiting this page on our website: [www.lindt.ca/contact-us](http://www.lindt.ca/contact-us)