

**1. The Service.** These Terms of Service state the terms and conditions under which BarkeepOnline will provide its Inventory Management, Pour Cost Analysis, Sales Analysis and other services ("Services") to you. Please read these Terms of Service carefully. Please also note that the Terms of Service incorporates the Privacy Policy, the Data Confidentiality Agreement, the Acceptable Use Policy and any other policy which BarkeepOnline may choose to implement from time to time and post on its website (collectively "the BarkeepOnline Policies"). It is your responsibility to review the Terms of Service and BarkeepOnline Policies on a frequent basis to ensure compliance. Your access to and use of this website and the Services are expressly conditioned on your compliance with the Terms of Service (incorporating the BarkeepOnline Policies). By using this website, you agree to be bound by these Terms of Service so if you do not wish to be bound, you should choose not to use this website.

**2. Changes.** At any time, BarkeepOnline may supplement or amend these Terms of Service, as well as the BarkeepOnline Policies.

**3. Accuracy of your Registration Information.** You agree to provide accurate, current and complete information as prompted by the registration form ("Registration Data"), which you will fill out online in order to gain access to the Service. You will use commercially reasonable efforts to maintain and promptly update the Registration Data to keep it accurate, current, and complete.

**4. Account Ownership.** In completing the Registration Data, you will be asked to specify an Account Contact. You acknowledge and agree that in the event of any dispute regarding ownership of or entitlement to access to your BarkeepOnline account, Barkeep will defer to the current nominated Account Contact. If there are any changes to the Account Contact, the onus is on you to notify Barkeep and to ensure your Registration Data is updated.

**5. Email and notices.** In order to save trees, Barkeep will use email and/or the BarkeepOnline website to provide all notices, statements etc. to you. It is up to you to keep the email address specified in your Registration Data up to date.

**6. Account Security.** You are responsible for safeguarding the password that you use to access the BarkeepOnline Website and Services. You agree not to disclose your password to any third party. You agree to take sole responsibility for any activities or actions under your password, whether or not you have authorized such activities or actions. You will immediately notify Barkeep of any unauthorized use of your password.

**7. Account Name Change.** You may change your "Business Name" at any time by accessing your account settings in BarkeepOnline.

**8. Billing.** Barkeep charges and collects for the Services in advance under your BarkeepOnline plan. On the renewal date, Barkeep will automatically renew the plan and bill you for the new term. If you do not wish to renew, then you must cancel your plan according to the terms outlined in Clause 11 (below) a minimum of fourteen (14) days prior to the renewal date. Unless specified otherwise, all fees and charges are non-refundable and there are no refunds or credits for partially used periods.

**9. Grace Period.** BarkeepOnline allows you a thirty (30) day grace period from beginning of your renewal period. If you do not bring your balance current within this thirty (30) day grace period, Barkeep may use its discretion to suspend your access to the Services until the amount outstanding is paid in full. Your obligation to pay for the Services continues during the suspension. If the amount outstanding is not paid in full within ninety (90) days of the due date of the invoice, your Account will be automatically canceled by Barkeep. You agree and acknowledge that Barkeep has no obligation to retain your Data. "Data" includes all data stored by you through use of the Services.

**10. Account Cancellation** Your BarkeepOnline account will continue in effect unless and until you cancel the account or Barkeep terminates your account. You may cancel your plan at any time from within the Account Information page of the BarkeepOnline application, or by notifying BarkeepOnline Support by email. You must cancel your BarkeepOnline account at least fourteen (14) days before the end of your billing cycle anniversary date in order to avoid billing of the next cycle's

fees. **11. Your responsibilities.** You acknowledge and agree that you should not rely on the BarkeepOnline website and the Services for any reason, unless expressly agreed otherwise between yourself and Barkeep. You further acknowledge and agree that you are solely responsible for maintaining and protecting all Data that is stored, retrieved or otherwise processed by the BarkeepOnline website or through your use of the Services. Without limiting this, you will be responsible for all costs and expenses that you or others may incur with respect to backing up, and restoring or recreating any data and information that is lost or corrupted as a result of your use of the Barkeep Online website and/or Services. **12. Data Backup.** BarkeepOnline will maintain a daily backup of all Data stored in BarkeepOnline or through the Services, but makes no claim about the accuracy and reliability of these backups. **13. Transmission of data.** You acknowledge and agree that the technical processing and transmission of your electronic communications is fundamentally necessary to your use of the Services. You agree that Barkeep is not responsible for any electronic communications and/or data which are lost, altered, intercepted or stored without authorization during the transmission of any data across networks not owned and/or operated by Barkeep. **14. Customer Support.** You will receive email support as part of the Services provided with your BarkeepOnline account. Additional support options may be made available in the future for an additional fee. **15. Third Party Software.** BarkeepOnline is not responsible for the code that implements any third party software or service used on the BarkeepOnline website nor is Barkeep responsible for the code that implements any third party software or services provided via a non-web interface. This is the responsibility of the implementers of the third party software. This software is provided to you "as is" and Barkeep makes no representation nor provides any warranty to you as to its availability reliability, suitability or timeliness. **16. Use of Service.** You agree not to do any of the following while using the BarkeepOnline website: i) Access, tamper with, or use non-public areas of the BarkeepOnline website, Barkeep's computer systems, or the technical delivery systems of BarkeepOnline's providers; ii) attempt to probe, scan or test the vulnerability of any system or network or breach any security or authentication measures; iii) attempt to access or search the BarkeepOnline website or Services with any engine, software, tool, agent, device or mechanism other than the software and/or search agents provided by BarkeepOnline or other generally available third-party web browsers; iv) forge any TCP/IP packet header or any part of the header information or in any way use the BarkeepOnline website or Services to send altered, deceptive or false information; v) attempt to decipher, decompile, disassemble or reverse engineer any of the software used to provide the BarkeepOnline website or services; vi) interfere with or attempt to interfere with the access of any user, host or network; vii) harvest or collect information about visitors to the BarkeepOnline website with their express written consent; viii) impersonate or misrepresent your affiliation with any person or entity; ix) run any program or script that places undue load on the BarkeepOnline servers as determined by the BarkeepOnline infrastructure support team at their sole discretion. Barkeep may modify the acceptable use policy at any time and without notice, including adding restrictions on data storage and data transmission capacity associated with your BarkeepOnline account. **17. Barkeep's Rights.** All right, title, and interest in and to the BarkeepOnline website, its content, and the Services are and will remain the exclusive property of Barkeep and its licensors, including all Intellectual Property Rights in that property, even if Barkeep incorporates any of your Feedback (as defined below) into subsequent versions. The BarkeepOnline website, its content, and the Services are protected by copyright, trademark, and other laws of both the United States and foreign countries. Except as expressly permitted in these Terms of Service, you may not reproduce, modify or prepare derivative works based upon, distribute, sell, transfer, publicly display, publicly perform, transmit, or otherwise use the

BarkeepOnline website, its content, and the services. You may not copy or modify the HTML or other code used to generate web pages on the Barkeep Online website. **18. User Feedback.** All feedback, comments, and suggestions for improvements ("Feedback") that you provide to Barkeep, in any form, and any contributions you make to the BarkeepOnline website by posting content and communicating with other Barkeep users via posts to forums on the site or on Barkeep's Facebook page ("User Posts") will be the sole and exclusive property of Barkeep. You hereby irrevocably transfer and assign to Barkeep and agree to irrevocably assign and transfer to Barkeep all of your Intellectual Rights in your Feedback and User Posts. **19. Infringements.** Barkeep can investigate and prosecute violations of any of these Terms of Service including any infringements of Barkeep's acceptable use policy, to the fullest extent of the law. **20. Indemnification.** You agree to defend, indemnify, and hold Barkeep, its officers, directors, employees and agents, harmless from and against any claims, liabilities, damages, losses and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of or in any way connected with: i) your access to or use of the BarkeepOnline website and/or Services; ii) your violation of these Terms of Service (incorporating the Barkeep Online policies); iii) your violation of any third party right, including without limitation any Intellectual Property Right. **21. BarkeepOnline is available "AS IS".** THE BARKEEPONLINE WEBSITE AND THE SERVICES ARE PROVIDED "AS IS", WITHOUT WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED. WITHOUT LIMITING THE FOREGOING, BARKEEP EXPLICITLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT AND ANY WARRANTIES ARISING OUT OF COURSE OR DEALING OR USAGE OF TRADE. YOU ACKNOWLEDGE THAT USE OF THE BARKEEPONLINE WEBSITE AND THE SERVICES MAY RESULT IN UNEXPECTED RESULTS, LOSS OR CORRUPTION OF DATA OR COMMUNICATIONS, PROJECT DELAYS, OTHER UNPREDICTABLE DAMAGE OR LOSS, OR EXPOSURE OF YOUR DATA TO UNINTEDED THIRD PARTIES. BARKEEP MAKES NO WARRANTY THAT THE BARKEEPONLINE WEBSITE AND THE SERVICES WILL MEET YOUR REQUIREMENTS OR BE AVAILABLE ON AN UNINTERRUPTED, SECURE OR ERROR-FREE BASIS. BARKEEP MAKES NO WARRANTY REGARDING THE QUALITY OF ANY PRODUCTS, SERVICES, OR INFORMATION PURCHASED OR OBTAINED THROUGH THE BARKEEP ONLINE WEBSITE, OR THE ACCURACY, TIMELINESS, TRUTHFULNESS, COMPLETENESS OR RELIABILITY OF ANY INFORMATION OBTAINED THROUGH THE BARKEEPONLINE WEBSITE OR THE SERVICES. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM BARKEEP OR THROUGH THE BARKEEP WEBSITE AND THE SERVICES, WILL CRAETE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. **22. Limitation of Barkeep Liability.** IN NO EVENT WILL BARKEEP BE LIABLE TO YOU OR TO ANY THIRD PARTY FOR DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, DIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF USE, DATA, BUSINESS OR PROFITS) ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OF SERVICE, OR FROM YOUR ACCESS TO OR USE OF, OR INABILITY TO ACCESS OR USE, THE BARKEEPONLINE WEBSITE AND/OR THE SERVICES, OR FOR ANY ERROR OR DEFECT IN THE BARKEEPONLINE WEBSITE OR THE SERVICES, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, WHETHER OR NOT BARKEEP HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. YOU SPECIFICALLY ACKNOWLEDGE THAT BARKEEP IS NOT LIABLE FOR THE DEFAMATORY, OFFESIVE, OR ILLEGAL CONDUCT OF OTHER USERS OR THIRD PARTIES AND THAT THE RISK OF INJURY FROM THIS RESTS ENTIRELY WITH YOU. YOU AGREE THAT THE AGGREGATE LIABILITY OF BARKEEP TO YOU FOR ANY AND ALL CLAIMS ARISING FROM THE USE OF THE

BARKEEPOPONLINE WEBSITE AND/OR THE SERVICES IS LIMITED TO TWENTY (\$20) U.S. DOLLARS. THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN BARKEEP AND YOU. **23. Termination.** If you violate any of these Terms of Service (incorporating the BarkeepOnline Policies), your permission to use the BarkeepOnline website and the Services will automatically terminate. Barkeep reserves the right to revoke or suspend your access to and use of the BarkeepOnline website and Services at any time, with or without cause, and with or without notice. **24. Waiver.** Barkeep's failure to exercise or delay in exercising a right or power does not operate as a waiver of that right or power and does not preclude the future exercise of that right or power. **25. Governing Law.** These Terms of Service (incorporating the BarkeepOnline Policies) and any action in relation to them will be governed by the laws of the State of California without regard to conflict of law provisions. The exclusive jurisdiction and venue of any such action will be the state and federal courts located in San Francisco County, California, and each of the parties hereto waives any objection to jurisdiction and venue in such courts. **26. Business Transmission.** Barkeep may sell, transfer or otherwise share some or all of its assets in connection with a merger, acquisition, reorganization or sale of assets or in the event of bankruptcy. In such an event, Barkeep will take steps to ensure the security and confidentiality of your Data is preserved by requiring all parties to the transfer to undertake to comply with the Barkeep Data Confidentiality terms. **27. Severance.** Any illegal or invalid provision of the Terms of Service and/or any of the BarkeepOnline Policies will be severable and all other provisions will remain in full force and effect. **28. Tax.** You are responsible for all taxes which may be payable in respect of the provisions of the Services to you and unless otherwise legislated in the jurisdiction which is relevant to the purchase of the Services by you. Barkeep bears no liability in this regard.