

## **Rodman's Online Terms and Conditions**

These Terms & Conditions apply to the Rodman's website located at [www.rodmans.com](http://www.rodmans.com) and all other sites, mobile sites, services, applications, platforms and tools where these Terms & Conditions appear or are linked (collectively, the "Site"). As used in these Terms & Conditions, "Rodman's", "us" or "we" refers to Discount Drugs Wisconsin Inc, operating under the name Rodman's Discount Gourmet, and its subsidiaries and affiliates.

### **Introduction**

BY ACCESSING OR OTHERWISE USING THE SITE YOU AGREE TO THESE TERMS & CONDITIONS. Any person or entity who interacts with the Site through the use of crawlers, robots, browsers, data mining or extraction tools, or other functionality, whether such functionality is installed or placed by such person or entity or a third party, is considered to be using the Site. If at any time you do not accept all of these Terms & Conditions, you must immediately stop using the Site. Certain areas within the Site may be governed by additional terms and policies ("Additional Terms"). By using those areas of the Site, you agree to the Additional Terms. The Additional Terms are incorporated into these Terms & Conditions, and any reference to these Terms & Conditions includes the Additional Terms.

### **License and Access**

Rodman's grants you a limited license to access and make personal use of the Site and the Content for NONCOMMERCIAL PURPOSES ONLY and only to the extent such use does not violate these Terms & Conditions including, without limitation, the prohibitions listed in the "UNLAWFUL OR PROHIBITED USES" section of these Terms & Conditions. You may download, print and copy Content for personal, noncommercial purposes only, provided you do not modify or alter the Content in any way, delete or change any copyright or trademark notice, or violate these Terms & Conditions in any way. Accessing, downloading, printing, posting, storing or otherwise using the Site or any of the Content for any commercial purpose, whether on behalf of yourself or on behalf of any third party, constitutes a material breach of these Terms & Conditions. The Site is intended for use by individuals 13 years of age or older. If you are under 18, you may use this Site only with involvement of a parent or guardian. If you are under 21 years of age you may not use this site with the intent of purchasing alcohol.

### **Unlawful or Prohibited Uses**

The Site may only be used for lawful purposes in accordance with the terms of the license granted in these Terms & Conditions. As a condition of your use of this Site, you warrant to Rodman's that you will not use the Site for any purpose that is unlawful or prohibited by these Terms & Conditions. Whether on behalf of yourself or on behalf of any third party, YOU MAY NOT:

- Make any commercial use of the Site or its Content, including making any collection or use of any product listings, descriptions, prices or images;

- Download, copy or transmit any Content for the benefit of any other merchant;
- Misrepresent the identity of a user, impersonate any person or entity, falsely state or otherwise misrepresent your affiliation with any person or entity in connection with the Site, or express or imply that we endorse any statement you make;
- Use a buying agent to conduct transactions on the Site;
- Conduct fraudulent activities on the Site;
- Violate or attempt to violate the security of the Site, whether in an automated fashion or otherwise, including, without limitation: (i) accessing data not intended for you or logging onto a server or an account that you are (a) not authorized to access or, (b) in the case of a user account, not the registered user of such account; (ii) trying to change the behavior of the Site; (iii) attempting to probe, scan or test the vulnerability of a system or network, or to breach security or authentication measures; (iv) attempting to interfere with service to any user, host or network, including, without limitation, via means of submitting malware to the Site, overloading, "flooding," "spamming," "mailbombing" or "crashing"; (v) forging any header or any part of the header information in any email or posting; or (vi) forging communications on behalf of the Site (impersonating the Rodman's Site) or to the Site (impersonating another user whether such user provided their approval for such action(s) or not);
- Send unsolicited or unauthorized email on behalf of Rodman's, including promotions and/or advertising of products or services;
- Tamper with the Site or use or attempt to use any device, software, routine or data that interferes or attempts to interfere with the working or functionality of the Site or any activity being conducted on the Site;
- Use the Site to defame, abuse, harass, stalk, threaten or otherwise violate the legal rights of others, including others' privacy rights or rights of publicity;
- Harvest or collect personally identifiable information about other users of the Site;
- Restrict or inhibit any other person from using the Site (including, without limitation, by hacking or defacing any portion of the Site);
- Use the Site to advertise or offer to sell or buy any goods or services.
- Reproduce, duplicate, copy, sell, resell or otherwise exploit for any commercial purposes any portion of, use of, or access to the Site;
- Modify, adapt, translate, reverse engineer, decompile or disassemble any portion of the Site; or
- Remove any copyright, trademark or other proprietary rights notice from the Site or materials originating from the Site.

## **Your Account**

You may be required to register with Rodman's in order to access certain services or areas of the Site. With respect to any such registration, we may refuse to grant to you the user name you request. Your user name and password are for your personal use only, and you will not share your user name or

password with any individual or third party (other than Rodman's). If you use the Site, you are responsible for maintaining the confidentiality of your account and password and for restricting access to your computer, and you agree to accept responsibility for all activities that occur under your account or password. In addition to all other rights available to Rodman's including those set forth in these Terms & Conditions, Rodman's reserves the right, in its sole discretion, to terminate your account, refuse service to you, or cancel orders.

## **Modification & Termination**

Rodman's may at any time: (i) modify or discontinue any part of the Site; (ii) charge, modify or waive fees required to use the Site; or (iii) offer opportunities to some or all Site users. Rodman's reserves the right to make changes to these Terms & Conditions at any time, and such changes will be effective immediately upon being posted on the Site. Each time you use the Site, you should review the current Terms & Conditions. You can determine when these Terms & Conditions were last revised by referring to the "LAST UPDATED" legend at the top of these Terms & Conditions. Your continued use of the Site will indicate your acceptance of the current Terms & Conditions; however, any change to these Terms & Conditions after your last usage of the Site will not be applied retroactively. Rodman's reserves the right, without notice and at its sole discretion, to terminate your account or your use of the Site and to block or prevent future access to and use of the Site (i) if you violate any of these Terms & Conditions, (ii) for any other reason or (iii) for no reason. Upon any such termination, your right to use the Site will immediately cease.

You agree that we shall not be liable to you or any third party for any termination of your access to the Site. Upon termination, all provisions of these Terms & Conditions which are by their nature intended to survive termination, all representations and warranties, all limitations of liability and all indemnities shall survive such termination.

## **Order Pickup and Drive Up**

Products offered on the Site are available for pickup in stores or through our curbside pick-up service. Not all items are available for this service in all stores. Once your order is ready for pickup, you will be notified and charged for such item(s). We will notify you in the event that an item is unavailable at that store. If someone else will be picking up your order, you must designate him/her as an alternate pickup person in your special notes when ordering. When picking up your curbside pick-up order, you will need your mobile phone to present the barcode associated with your order and sign for your order. When picking up your order Rodman's reserves the right to request a valid government issued ID for confirmation.

If you don't pick up your order, your order will be canceled after the third contact attempt and you will be issued a refund for the items for which you were charged.

Rodman's reserves the right to limit the quantity of items ordered for pickup as well as the days of the year and daily hours that this service is offered.

## User Transactions

If you wish to purchase any product or service made available through the Site, you may be asked to supply certain information relevant to your Transaction including, without limitation, information about your method of payment (such as your payment card number, expiration date, and security code), your billing address, and your shipping information. YOU REPRESENT AND WARRANT THAT YOU HAVE THE LEGAL RIGHT TO USE ANY PAYMENT CARD(S) OR OTHER PAYMENT METHOD(S) UTILIZED IN CONNECTION WITH ANY TRANSACTION. By submitting such information, you grant to Rodman's the right to provide such information to third parties for purposes of facilitating the completion of Transactions initiated by you or on your behalf. Verification of information may be required prior to the acknowledgment or completion of any Transaction.

For orders placed through the Site, Rodman's will temporarily authorize your payment card for your order amount plus an additional amount to allow for substitutions and special requests related to order. You will only be charged for the items you receive. The final total will be shown in your account and provided via receipt or email after pickup of your order.

All descriptions, images, references, features, content, specifications, products and prices of products and services described or depicted on the Site are subject to change at any time without notice. Certain weights, measures, and other descriptions are approximate and are provided for convenience purposes only. The inclusion of any products or services on the Site does not imply or warrant that these products or services will be available. It is your responsibility to ascertain and obey all applicable local, state, federal, and international laws (including minimum age requirements) in regard to the receipt, possession, use, and sale of any item purchased from this Site. By placing an order, you represent that the products ordered will be used only in a lawful manner. All DVDs and similar products sold are for private, non-public, home use (where no admission fee is charged) and may not be duplicated. Rodman's reserves the right, with or without prior notice, to do any one or more of the following: (i) limit the available quantity of or discontinue any product or service; (ii) impose conditions on the honoring of any coupon, coupon code, promotional code, or other similar promotion; (iii) bar any user from making or completing any or all Transaction(s); and (iv) refuse to provide any user with any product or service. You agree to pay all charges that may be incurred by you or on your behalf through the Site, at the price(s) in effect when such charges are incurred including, without limitation, all shipping and handling charges. In addition, you remain responsible for any taxes that may be applicable to your Transactions. You are responsible for the payment of all goods given in error not returned to store in acceptable condition. Rodman's reserves the right to deny any product for return that has been tampered with.

Rodman's may call or text by telephone regarding your account, orders, or your Transactions. You agree that we may make such calls or texts to a mobile telephone or other similar device.

### **Limitations on Quantity**

Rodman's does not offer additional discounts on large orders of a single item or on large orders of many individual items. In addition, we reserve the right to limit quantities on orders placed by the same account, on orders placed by the same method of payment, and on orders that use the same billing or shipping address. We will notify you if such limits are applied.

### **Colors**

Rodman's strives to display as accurately as possible the colors of the products shown on the Site; however, Rodman's cannot and does not guarantee that your monitor's display of any color will be accurate.

### **Availability, Errors & Inaccuracies**

If an item is out of stock, Rodman's may call you to request a substitution preference. If you do not reply Rodman's is not responsible for the products not included in the order.

Rodman's acknowledgement of an order means that your order request has been received; it does not mean that your order has been accepted or that the price or availability of an item has been confirmed. Rodman's makes a conscientious effort to describe and display its products and services accurately on the Site. Despite these efforts, a small number of items on the Site may be mispriced, described inaccurately or unavailable, and we may experience delays in updating information on the Site and in our advertising on other sites. As a result, we cannot and do not guarantee the accuracy or completeness of any information, including prices, product images, specifications, availability and services. Rodman's reserve the right to change or update information and to correct errors, inaccuracies or omissions at any time without prior notice. We apologize for any inconvenience.

### **Text Messages**

Your carrier's standard message rates will apply to your entry or submission message, Rodman's confirmation, and all subsequent text messages. Other charges may apply. All charges are billed by and payable to your mobile service provider.

Rodman's will not be liable for any delays in the receipt of any text messages. Delivery is subject to effective transmission from your network operator.

Data obtained from you in connection with this text messaging service may include your mobile phone number, your carrier's name, and the date time and content of your messages and other information you provide to Rodman's as part of this service. Rodman's may use this information to contact you and provide

services you request from Rodman's. Rodman's may also use this information as described in the subscription list you've enrolled in. Rodman's may use an automatic dialing system to deliver text messages to you.

### **Mobile Application Users**

The following provisions apply to users of Rodman's mobile applications (each, an "Application"):

### **Links to Third-Parties' Websites**

The Site may contain links and interactive functionality interacting with the websites of third parties, including social sites and product manufacturers' sites. Rodman's is not responsible for and has no liability for the functionality, actions, inactions, privacy settings, privacy policies, terms, or content of any such website. Before enabling any sharing functions of the Site to communicate with any such website or otherwise visiting any such website, Rodman's strongly recommends that you review and understand the terms and conditions, privacy policies, settings, and information-sharing functions of each such third-party website. The links and interactive functionality for third-party sites on the Site do not constitute an endorsement by Rodman's of such third-party sites. Other sites may link to the Site with or without our authorization, and we may block any links to or from the Site. YOUR USE OF THIRD-PARTY WEBSITES AND RESOURCES IS AT YOUR OWN RISK.

### **Disclaimers of Warranties**

Rodman's cannot and does not represent or warrant that the Site or its server will be error-free, uninterrupted, free from unauthorized access (including third-party hackers or denial of service attacks), or otherwise meet your requirements.

CERTAIN PROVIDERS OF PRODUCTS MAY SEPARATELY PROVIDE LIMITED REPRESENTATIONS AND/OR WARRANTIES REGARDING THEIR PRODUCTS. THIS DISCLAIMER DOES NOT APPLY TO SUCH PRODUCT WARRANTIES.

RODMAN'S DOES NOT REPRESENT OR WARRANT THAT THE NUTRITION, INGREDIENT, ALLERGEN, AND OTHER PRODUCT INFORMATION ON OUR SITE IS ACCURATE OR COMPLETE SINCE THIS INFORMATION IS PROVIDED BY THE PRODUCT MANUFACTURERS OR SUPPLIERS AND ON OCCASION MANUFACTURERS MAY MODIFY THEIR PRODUCTS AND UPDATE THEIR LABELS. WE RECOMMEND THAT YOU DO NOT RELY SOLELY ON THE INFORMATION PRESENTED ON OUR SITE AND THAT YOU CONSULT THE PRODUCT'S LABEL OR CONTACT THE MANUFACTURER DIRECTLY IF YOU HAVE A SPECIFIC DIETARY CONCERN OR QUESTION ABOUT A PRODUCT.

On the Site, we may display names, products, advertisements, or links to third-party sites. If you decide to link to any such third-party sites, you do so entirely at your own risk.

## **Limitation of Liability**

UNDER NO CIRCUMSTANCES SHALL RODMAN'S OR ITS EMPLOYEES, DIRECTORS, OFFICERS OR AGENTS BE LIABLE FOR ANY DIRECT OR INDIRECT LOSSES OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH YOUR USE OF OR INABILITY TO USE THE SITE. THIS IS A COMPREHENSIVE LIMITATION OF LIABILITY THAT APPLIES TO ALL LOSSES AND DAMAGES OF ANY KIND (WHETHER GENERAL, SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, LOSS OF DATA, INCOME OR PROFITS), WHETHER IN CONTRACT OR TORT, EVEN IF RODMAN'S HAS BEEN ADVISED OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. IF YOU ARE DISSATISFIED WITH THE SITE, ANY CONTENT ON THE SITE, OR THESE TERMS & CONDITIONS, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SITE. YOU ACKNOWLEDGE, BY YOUR USE OF THE SITE, THAT YOUR USE OF THE SITE IS AT YOUR SOLE RISK.

EACH PROVISION OF THESE TERMS & CONDITIONS THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS UNDER THE AGREEMENT BETWEEN YOU AND RODMAN'S. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN YOU AND RODMAN'S. THE LIMITATIONS IN THIS SECTION WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE(S).

## **Indemnification & Defense**

As a condition of the use of the Site, you agree to defend, indemnify and hold harmless Rodman's and its respective employees, directors, officers, agents, vendors and suppliers from and against any liabilities, losses, investigations, inquiries, claims, suits, damages, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) (each, a "Claim") arising out of or otherwise relating to Claims alleging facts that if true would constitute a breach by you of these Terms & Conditions, or any User Content submitted by you.

## **Notices & Electronic Communications**

Except as explicitly stated otherwise, any notices you send to Rodman's shall be sent by mail to Rodman's Discount Gourmet, 5100 Wisconsin Avenue NW, Washington, D.C. 20016. In the case of notices Rodman's sends to you, you consent to receive notices and other communications by Rodman's posting notices on the Site, sending you an email at the email address listed in your profile in your account, or mailing a notice to you at your billing address listed in your profile in your account. You agree that all agreements, notices, disclosures and other communications that Rodman's provides to you in accordance with the prior sentence satisfy any legal requirement that such communications be in writing. Notice shall be deemed given (i) 24 hours after the notice is posted on

the Site or an electronic message is sent, unless the sending party is notified that the message did not reach the recipient, or (ii) in the case of mailing, three days after the date of mailing. You agree that a printed version of these Terms & Conditions and/or any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to these Terms & Conditions to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

## **Arbitration Agreement**

**Please read this section carefully. Except as the Terms & Conditions otherwise provide, you waive your rights to try any claim in court before a judge or jury and to bring or participate in any class, collective, or other representative action.**

- **Agreement to Binding Arbitration**

You and Rodman's agree that in the event of any claim, dispute, or controversy (whether in contract, tort, statute, or otherwise) arising out of, relating to, or connected in any way with (1) the site or (2) the breach, enforcement, interpretation, application, or validity of these Terms & Conditions, such claim, dispute or controversy will be resolved exclusively by final and binding arbitration, except as otherwise set forth in these Terms & Conditions (the "Arbitration Agreement").

- **Exceptions to Arbitration**

Notwithstanding the foregoing, in lieu of arbitration: (1) either you or Rodman's can bring an individual claim in small claims court in the United States of America consistent with any applicable jurisdictional and monetary limits that may apply, provided that it is brought and maintained as an individual claim; and (2) you agree that you or Rodman's may bring suit in court to enjoin infringement or other misuse of intellectual property rights.

- **Jury Trial & Class Action Waiver**

Except as the Terms & Conditions otherwise provide, you and Rodman's acknowledge and agree that you are each waiving the right to a trial by jury. The parties further agree that any arbitration shall be conducted in their individual capacities and not as a class action or other representative action, and the parties expressly waive their right to file a class action or seek relief on a class basis. You and Rodman's may not be plaintiffs or class members in any purported class, collective, or representative proceeding, and may each bring claims against the other only in your or its individual capacity. The arbitrator may award declaratory or injunctive relief only on an individual basis and only to the extent necessary to provide relief warranted by the individual claim.

If any court or arbitrator determines that any term in the immediately preceding paragraph is unenforceable for any reason as to any claim, then the Arbitration Agreement will be inapplicable to that claim, and that claim will instead proceed



through litigation in court rather than by arbitration, but only after the conclusion of the arbitration of any claim or dispute that is subject to the Arbitration Agreement.

- **Governing Law & Arbitration Rules**

The Arbitration Agreement evidences a transaction in interstate commerce and thus the Federal Arbitration Act, 9 U.S.C. § 1 et seq. (“FAA”), will govern the interpretation and enforcement of this section. If the FAA is found not to apply to any issue that arises under this section or the enforcement of the Arbitration Agreement, then that issue shall be resolved under the laws of the State of Minnesota.

The arbitration will be conducted under the then current and applicable rules of the American Arbitration Association (“AAA”). The AAA rules are available online at [www.adr.org](http://www.adr.org) or by calling the AAA at 1-800-778-7879.

- **Initiating Arbitration**

If you intend to seek arbitration you must first send a written notice (“Notice”), by first class or certified mail to Rodman’s Discount Gourmet, 5100 Wisconsin Avenue NW, Washington, D.C. 20016. If Rodman’s intends to seek arbitration, Rodman’s will send a Notice to the current billing address on your account. The Notice must describe the nature and basis of the claim and the specific relief sought. If the parties cannot reach an agreement within 30 days from the receipt of the Notice, either party may initiate arbitration proceedings.

- **Location & Procedure**

If your claim is for \$10,000 (US Dollars) or less, you may choose to have arbitration conducted solely on the basis of documents submitted to the arbitrator, via a telephone hearing, by an in-person hearing in the county of your residence, or as otherwise mutually agreed to by the parties. If your claim exceeds \$10,000 (US Dollars), the location of the arbitration and the parties’ right to a hearing will be determined in accordance with the rules of the AAA.

- **Arbitrator’s Decision**

The arbitrator’s award shall be written, and binding on the parties and may be entered as a judgment in any court of competent jurisdiction. If you prevail in arbitration you will be entitled to an award of attorneys’ fees and expenses, to the extent provided under applicable law. Rodman’s waives its right to seek attorneys’ fees and costs in arbitration.

### **Choice of Law, Forum Selection, & Jury Waiver**

Except as set forth in the Arbitration Agreement section above, all matters relating to your access to or use of the site and all matters arising out of or related to these Terms & Conditions, will be governed by the applicable laws of the United States of America. Unless you and Rodman’s agree otherwise, in the event that it is determined or these Terms & Conditions provide that a claim

should not proceed through arbitration, you agree that any claim or dispute (with the exception of a claim or dispute appropriately lodged in any small claims court in the United States of America) shall be resolved in the United States District Court for the District of Columbia, and you submit to the personal jurisdiction of that court. If subject matter jurisdiction (including diversity jurisdiction) does not exist in the United States District Court for the District of Columbia for any such claim, then the exclusive forum and venue for any such action shall be the courts of the State of Maryland located Montgomery County, and you submit to the personal jurisdiction of that court. As to any proceeding in court, you and Rodman's both waive your right to a jury trial, unless such waiver is unenforceable.

The choice-of-law and forum-selection provisions in this section do not apply to the Arbitration Agreement or to any arbitrable disputes as provided by the Arbitration Agreement section. Instead, as provided in the Arbitration Agreement section, the FAA shall apply to any such disputes.

### **Miscellaneous**

These Terms & Conditions, including policies and information linked from or incorporated herein or otherwise found on the Site, constitute the entire agreement between you and Rodman's with respect to the Site and supersede all prior or contemporaneous communications, agreements, and proposals with respect to the Site. No provision of these Terms & Conditions shall be waived except pursuant to a writing executed by the party against whom the waiver is sought. No failure to exercise, partial exercise of, or delay in exercising any right or remedy under these Terms & Conditions shall operate as a waiver or estoppel of any right, remedy, or condition. Except as provided in the Arbitration Agreement section, if any provision of these Terms & Conditions is held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not be affected or impaired. You may not assign, transfer, or sublicense any of your rights or obligations under these Terms & Conditions without our express prior written consent. We will not be responsible for failure to fulfill any obligation due to causes beyond our control.

### **Contact Us**

If you have any concerns about Rodman's or your use of the Site, please contact us at [rodmansonline@gmail.com](mailto:rodmansonline@gmail.com) with a detailed description, and we will try to resolve it.