

## TERMS OF SERVICE AND USER AGREEMENT

*Last updated October 31, 2023*

Please read these Terms of Service and User Agreement (the "Terms") carefully before using the Couples GPS websites (the "Service") operated by Ostrea Cultura Company ("us", "we", "our" or "Ostrea Cultura"). The Terms also include the "Privacy Policy", which is posted on our website.

Your access to and use of the Service is conditioned on your acceptance of and compliance with these Terms. Your registration for and/or use of the Service shall be deemed to be your agreement to abide by these Terms, including any requirements or policies available on the Service incorporated by reference herein, including but not limited to the Privacy Policy. These Terms apply to all visitors, users and others who access or use the Service and constitute the entire agreement between you and us. There may be times when we offer a service or product that has its own written terms and conditions that apply in addition to these Terms ("Additional Terms"). In those cases, the Additional Terms will control to the extent there is a conflict with these Terms, unless the Additional Terms state otherwise. The headings used in these Terms are included for convenience only and will not limit or otherwise affect these Terms.

THESE TERMS CONTAIN WARRANTY DISCLAIMERS AND OTHER PROVISIONS THAT LIMIT OUR POTENTIAL LIABILITY TO YOU. PLEASE READ THESE TERMS IN THEIR ENTIRETY. By accessing or using the Service you agree to be bound by these Terms. If you disagree with any part of these Terms then you may not access the Service.

### License and Restrictions

1. Ostrea Cultura hereby grants you a non-exclusive, non-transferable, limited, revocable, worldwide right to use the Service during the term of your subscription, solely for your own internal, non-commercial purposes, subject to these Terms. All rights not expressly granted to you are reserved by Ostrea Cultura and its licensors.
2. You agree not to (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service in any way; (ii) modify or make derivative works based upon the Service; (iii) embed the Service as a frame from within another application; or (iv) reverse engineer or access the Service in order to (a) build a competitive product or service, (b) build a product using ideas, features, functions or graphics that are similar to those related to the Service, or (c) copy any ideas, features, functions or graphics of the Service.
3. You agree not to: (i) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (ii) interfere with or disrupt the integrity or performance of the Service or the data contained therein, or the Service; (iii) attempt to gain unauthorized access to the Service or its related systems or networks; or (iv) take any action that imposes an unreasonably or disproportionately large load on the Service's infrastructure.

### Content You Own

1. You own the rights to all content you submit.
2. You are responsible for the content that you post to the Service, including its legality, reliability, and appropriateness.
3. You represent and warrant that: (i) the content is yours (you own it) or you have the right to use it and 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 or entity.

## **Content Ostrea Cultura Owns (Intellectual Property)**

1. We (and our licensors, where applicable) shall own all right, title and interest, including all related intellectual property rights, in and to the Service and its original content, features, functionality, and any aggregated metrics, data and trends compiled by or for Ostrea Cultura.
2. The Ostrea Cultura name, the Ostrea Cultura logo and the product and service names associated with the Service are trademarks of Ostrea Cultura or third parties, and no right or license is granted to use them hereunder.
3. Our trademarks, copyrighted material (including questions), and trade dress may not be used in connection with any product or service without the prior written consent of Ostrea Cultura.
4. Ostrea Cultura appreciates hearing from you, as well as our other users, and welcomes your comments and feedback regarding our Service. If you send us creative suggestions, questions, ideas, other ideas, drawings, concepts, feedback or other information (collectively, the "Submissions"), such Submissions will be the property of Ostrea Cultura. In addition, none of the Submissions will be subject to any obligations of confidentiality and Ostrea Cultura will not be liable for any future use or disclosure of such Submissions.

## **Possible Cell Carrier Fees**

1. Standard rates for text messages or data may apply. Ostrea Cultura is not responsible for any text-message or data related costs you or any user on your account incur through the use of the service. Not all cell phone plans have free / unlimited texting so please check your plan details carefully prior to signing up for the Service.
2. If you are a user outside of the continental U.S. or Canada, please also be aware that Ostrea Cultura currently texts from a U.S. or Canadian phone number. Texts to/from Ostrea Cultura may be classified as international and accrue at a higher rate than local texts. The phone number and area code Ostrea Cultura texts from is subject to change at any time.
3. You may opt out of receiving text messages by cancelling your subscription (see the "Canceling Your Subscription" section below).

## **Products or Services**

1. By purchasing our service, you authorize us to send you recurring text messages of any amount or frequency necessary to provide the service
2. We reserve the right, but are not obligated, to limit the sales of our products or Service to any person, geographic region or jurisdiction. We may exercise this right on a case-by-case basis.
3. We reserve the right to limit the quantities of any products or services that we offer.
4. All descriptions of products or product pricing are subject to change at anytime without notice, at Ostrea Cultura sole discretion.
5. We reserve the right to discontinue any product at any time.
6. Any offer for any product or service made on this site is void where prohibited.
7. We do not warrant that the quality of any products, services, information, or other material purchased or obtained by you will meet your expectations, or that any errors in the Service will be corrected.
8. Prices for our products and services are subject to change without notice.
9. We reserve the right at any time to modify or discontinue the Service (or any part or content thereof). In the event of a discontinuance of Service, Ostrea Cultura will use its best efforts to provide 30 days notice prior to a discontinuance of service, communicating via email. We shall not be liable to you or to any third-party for any modification, price change, suspension or discontinuance of the Service.

## **Billing and Account Information**

1. We reserve the right to refuse any order you place with us. We may, in our sole discretion, limit or cancel quantities purchased per person, per household or per order. These restrictions may include orders placed by or under the same customer account, the same credit card, and/or orders that use the same billing and/or shipping address. In the event that we make a change to or cancel an order, we may attempt to notify you by contacting the e-mail and/or billing address/phone number provided at the time the order was made.
2. Your credit card information will be stored and used by our third party payment processor, which is currently Stripe.
3. You agree to provide current, complete and accurate purchase and account information for all purchases made on our website. You agree to promptly update your account and other information, including your email address and credit card numbers and expiration dates, so that we can complete your transactions and contact you as needed.

## **Upgrading and Downgrading Plans**

1. If you change your Plan during the term, you will be purchasing an additional subscription. If the change represents an upgrade to a higher cost Plan, then, at the time of the change, your first subscription shall be upgraded to the new Plan, and you agree to pay for the new Plan at that time, for the price listed at the time of the upgrade. Your second subscription shall begin immediately and a prorated refund for the remainder of your first subscription shall be issued within 5 business days. If the change represents a downgrade to a lower cost Plan, the downgrade will take effect at your plan's renewal date. Your existing plan will remain in effect until its original expiration date.

2. Under certain Ostrea Cultura plans, you may be able to add a spouse/partner to your account. You assume full responsibility for inviting the correct person to access your account. That person will be able to access your journal, including any unintended people due to typos of email address, etc. This person's access to your account will continue until you remove their access.
3. With the purchase of a Couples GPS Plan, you agree to have your account renewed automatically using the credit card on file. You have the right to turn off automatic renewal by emailing [jasonscottrdord@gmail.com](mailto:jasonscottrdord@gmail.com) prior to your Plan's renewal date.

## Canceling Your Subscription

1. If you decide to cancel your subscription, in order to avoid renewal, your cancellation request must be received by no later than 5:00 p.m. Eastern Time three business days prior to your scheduled renewal payment date. You may cancel your subscription by contacting Ostrea Cultura by first class certified mail at 148 Cornell St. Boston, MA 02131; or by email to [jasonscottrdord@gmail.com](mailto:jasonscottrdord@gmail.com).
2. No refunds, whether partial or complete, will be issued upon cancellation of a plan. A canceled Plan will continue to be available to the You until the Plan's renewal date, unless you specify you'd like the account closed sooner by emailing [jasonscottrdord@gmail.com](mailto:jasonscottrdord@gmail.com).

## Sales Tax

1. If you are purchasing a subscription in the state of Massachusetts, the purchase price you see on screen includes sales tax. That sales tax has been paid on your behalf by Ostrea Cultura.

## Closing Your Account

You may request that Ostrea Cultura close your account. Ostrea Cultura's account closure policy is as follows:

To safeguard against mistaken account deletions, Ostrea Cultura's policy is to remove all personally identifiable information from the account holder, other than phone number and email, rather than deleting all content, so that an account could be restored at a future date without loss of content. Upon receipt of a second request from you to specifically delete your content, Ostrea Cultura will acknowledge and perform your request.

## Errors, Inaccuracies, and Omissions

1. Occasionally there may be information on our site or in the Service that contains typographical errors, inaccuracies or omissions that may relate to product descriptions, pricing, promotions, offers, product shipping charges, transit times and availability. We reserve the right to correct any errors, inaccuracies or omissions, and to change or update information or cancel orders if any information in the Service or on any related website is inaccurate at any time without prior notice (including after you have submitted your order).
2. We undertake no obligation to update, amend or clarify information in the Service or on any related website, including without limitation, pricing information, except as

required by law. No specified update or refresh date applied in the Service or on any related website, should be taken to indicate that all information in the Service or on any related website has been modified or updated.

## **Advertisements and Other Commercial Content Served by Ostrea Cultura**

Ostrea Cultura, from time to time, may deliver advertising and other commercial or sponsored content on its platform, via text message, website, email, or other means, that we feel is valuable to our users. In order to help us do that, you agree to the following:

1. We do not give your content or information, including any personally identifiable information, to advertisers without your consent.
2. You understand that we may not always identify paid services and communications as such.

## **Modification & Limitation of Service**

1. You agree that Ostrea Cultura may establish general practices, policies and limits, which may or may not be published, concerning the use of the Service, including without limitation the maximum number of journal entries and photos that may be sent from an account, the length of journal entries, and the maximum number of photos contained within an account/journal.
2. You agree that Ostrea Cultura has no responsibility or liability for the failure to store any content transmitted by or through the Service. You agree that Ostrea Cultura has the right to change these general practices and limits at any time, in its sole discretion, with or without notice.

## **Prohibited Uses**

In addition to other prohibitions as set forth in these Terms, you are prohibited from using the site or its content for any of the following:

1. for any unlawful purpose;
2. to solicit others to perform or participate in any unlawful acts; to upload, post, order books for print, email or otherwise transmit material that provides instructional information about illegal activities;
3. to violate any international, federal, provincial or state regulations, rules, laws, or local ordinances;
4. to upload, post, order books for print, email or otherwise transmit any material that infringes upon or violates our intellectual property rights or the intellectual property rights of others;
5. to harass, abuse, insult, harm, defame, slander, disparage, intimidate, or discriminate based on gender, sexual orientation, religion, ethnicity, race, age, national origin, or disability;
6. to harm minors in any way; this may include, but is not limited to, uploading, posting, ordering books for print, emailing or otherwise transmitting or communicating any content that violates child pornography laws, child sexual exploitation laws and laws prohibiting the depiction of minors engaged in sexual conduct;

7. to upload or transmit viruses or any other type of malicious code that will or may be used in any way that will affect the functionality or operation of the Service or of any related website, other websites, or the Internet;
8. to collect or track the personal information of others;
9. to provide any information to us that is false or misleading, that attempts to hide your identity or that you do not have the right to disclose;
10. to spam, phish, pharm, pretext, spider, crawl, or scrape;
11. to transmit or any material for any obscene or immoral purpose, in each case as determined by us in our discretion; or
12. to interfere with or circumvent the security features of the Service or any related website, other websites, or the Internet.

We reserve the right to terminate your use of the Service or any related website for violating the terms and conditions herein.

### **Accessing Your Account**

1. You are responsible for safeguarding the account that you use to access the Service and for any activities or actions under your account, whether your account is with our Service or a third-party service.
2. You agree not to disclose your account information to any third party. You must notify us immediately upon becoming aware of any breach of security or unauthorized use of your account.

### **Links To Other Websites**

1. Our Service may contain links to third-party web sites or services that are not owned or controlled by Ostrea Cultura.
2. Ostrea Cultura 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 Ostrea Cultura 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 use of or reliance on any such content, goods or services available on or through any such web sites or services.
3. 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 of this Agreement**

1. All provisions of the Terms which by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnity and limitations of liability.
2. Upon termination, your right to use the Service will immediately cease.
3. If in our sole judgment you fail, or we suspect that you have failed, to comply with any term or provision of these Terms, we also may terminate Service at any time without notice and you will remain liable for all amounts due up to and including the date of termination, and we may deny you access to our Services (or any part thereof).

## Indemnification

You agree to defend, indemnify and hold harmless Ostrea Cultura and its licensee and licensors, and their employees, contractors, agents, officers and directors, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees), resulting from or arising out of a) your use and access of the Service, by you or any person using your account and password; b) a breach of these Terms, or c) your content posted on the Service.

## Limitation Of Liability

IN NO EVENT SHALL OSTREA CULTURA, OR ITS DIRECTORS, EMPLOYEES, PARTNERS, AGENTS, SUPPLIERS, LICENSORS OR AFFILIATES, BE LIABLE FOR ANY (A) INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, DATA, USE, GOODWILL, OR OTHER INTANGIBLE LOSSES, RESULTING FROM (I) YOUR ACCESS TO OR USE OF OR INABILITY TO ACCESS OR USE THE SERVICE; (II) ANY CONDUCT OR CONTENT OF ANY THIRD PARTY ON THE SERVICE; (III) ANY CONTENT OBTAINED FROM THE SERVICE; AND (IV) UNAUTHORIZED ACCESS, USE OR ALTERATION OF YOUR TRANSMISSIONS OR CONTENT, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY, WHETHER OR NOT WE HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE; OR (B) DAMAGES HEREUNDER IN EXCESS OF THE AGGREGATE AMOUNTS YOU HAVE PAID TO OSTREA CULTURA FOR THE SERVICE.

## Disclaimer

1. YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK. WE DO NOT GUARANTEE, REPRESENT OR WARRANT THAT YOUR USE OF OUR SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE. THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. THE SERVICE IS PROVIDED WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR COURSE OF PERFORMANCE.
2. OSTREA CULTURA, ITS SUBSIDIARIES, AFFILIATES, AND LICENSORS DO NOT WARRANT THAT (A) THE SERVICE WILL FUNCTION UNINTERRUPTED, SECURE OR AVAILABLE AT ANY PARTICULAR TIME OR LOCATION; (B) ANY ERRORS OR DEFECTS WILL BE CORRECTED; (C) THE SERVICE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; OR (D) THE RESULTS OF USING THE SERVICE WILL MEET YOUR REQUIREMENTS.

## Exclusions

Some jurisdictions do not allow the exclusion of certain warranties or the exclusion or limitation of liability for consequential or incidental damages, so the limitations above may not apply to you.

## Governing Law; Jurisdiction; Venue

1. These Terms shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts, United States, without regard to its conflict of law

provisions. You consent to exclusive venue and jurisdiction for actions concerning or relating to these Terms in the federal or state courts of Massachusetts, Suffolk County. In any action to interpret or enforce these terms, the prevailing party shall be awarded all court costs and reasonable attorneys' fees it incurs. You submit to the jurisdiction of said courts and waive any defense of forum non conveniens and agree to waive all rights to jury trials. **YOU AGREE THAT YOU MAY BRING CLAIMS AGAINST US ONLY IN YOUR INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.**

2. Our failure to enforce any right or provision of these Terms will not be considered a waiver of those rights. If any provision of these Terms is held to be invalid or unenforceable by a court, the remaining provisions of these Terms will remain in effect. These Terms constitute the entire agreement between us regarding our Service, and supersede and replace any prior agreements we might have between us regarding the Service.

## **Changes, Assignment**

1. We reserve the right, at our sole discretion, to modify or replace these Terms at any time by posting updated terms on our website, found at this URL.
2. 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, please stop using the Service.
3. Please review the website periodically for changes. If you do not agree to any or all posted changes, please do not continue to access or use Ostrea Cultura's Products and Services.
4. These Terms may not be assigned by you without the prior written approval of Ostrea Cultura, but may be assigned without your consent by Ostrea Cultura to (i) a parent, subsidiary or other affiliate, (ii) an acquirer of Ostrea Cultura's assets, or (iii) a successor by merger, consolidation, stock sale or similar transaction. Any purported assignment in violation of these Terms shall be void.

## **Contacting Us**

If you have any questions about these Terms, please contact us at [jasonscottrdford@gmail.com](mailto:jasonscottrdford@gmail.com)