

Last Updated: June 2, 2025

Rainbow Cone LLC (“Rainbow Cone”, “we,” or “us”) welcomes you to use our websites (“Websites”), mobile application (“App”), Text Program, Rainbow Rewards Program and its Terms and Conditions, third party messaging platforms, ordering and online services or programs (collectively “Services”). Before you use our Services, create an account, download the App, or use any other tools, please read the following rules and understand that when you use the Services, you agree to follow the terms and conditions outlined below (the “Terms of Use”), and that the Terms of Use are a legal and binding agreement between you and Rainbow Cone.

By accessing or using the Services, you agree that you have read and accept these Terms of Use (including the Text (SMS) Messaging Terms below and the Privacy Policy and Rainbow Rewards Program Terms and Conditions (as applicable) all of which are incorporated herein (and may be referred to collectively as the “Rainbow Cone Terms”), and you voluntarily consent to the collection and use of your information described herein and in the Privacy Policy. Use of the Services, even if you disagree with or do not understand these Terms of Use, nonetheless constitutes acceptance of these Terms of Use, the Privacy Policy, and Rainbow Rewards Program Terms & Conditions (as applicable). Do not use the Services if you do not agree to be bound by these Terms of Use, the Privacy Policy, and Rainbow Rewards Program Terms & Conditions (as applicable) (collectively may be referred to as the “Rainbow Terms”).

ARBITRATION NOTICE: BY USING OUR SERVICES, YOU AGREE THAT DISPUTES BETWEEN YOU AND RAINBOW CONE ARISING OR RELATING TO THE SERVICES OR ANY ELEMENT THEREOF WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION AND YOU WAIVE YOUR RIGHT TO PARTICIPATE IN A JURY TRIAL, CLASS ACTION LAWSUIT OR CLASS-WIDE ARBITRATION. SEE DISPUTE RESOLUTION, ARBITRATION CLAUSE AND CLASS ACTION WAIVER.

MODIFICATIONS TO THE TERMS OF USE

From time to time, these Terms of Use or any element thereof may change in Rainbow Cone’s sole discretion, and any changes are effective immediately. Any changes will be posted to our Websites within seven (7) days of the effective date of the change(s). Your continued use of the Services indicates your acceptance of the revised Terms of Use. You should periodically review the Terms of Use to stay informed as to any revisions that may be applicable to your use of the Services.

ELIGIBILITY

All legal residents of the 50 United States of America and Washington, D.C. who are 13 years of age or older may open a Rainbow Rewards Program account. A Rainbow Rewards Program account is intended for personal use only. Commercial use is prohibited. Rainbow Rewards Program accounts are not targeted toward, nor intended for use by, anyone under the age of 13.

PRIVACY POLICY

Your privacy is important to us. The information we collect about you is subject to our Privacy Policy, the terms of which constitute part of these Terms of Use and are incorporated herein. We encourage you to read our Privacy Policy to become familiar with its terms.

YOUR USE OF SERVICES

Rainbow Cone grants you permission to use the Services in compliance with these Terms of Use for your own personal, non-commercial purposes only. You have no right, title, or interest in any Services, Trademarks (defined below), Rainbow Cone Content (defined below), or materials you download from the Websites. You may NOT reproduce, create derivatives, distribute, change, display, re-create, publish, re-post, transmit or sell the Services or any materials contained therein without the prior written permission of Rainbow Cone, which permission may be withheld in Rainbow Cone's sole discretion. Any unauthorized use of the Services may violate these Terms of Use and result, among other things, in you no longer being permitted to use the Services.

You will have to create a Rainbow Rewards Program account in order to access some features of the Services. When creating an account, you must provide accurate and complete information. You are solely responsible for all activity that occurs on your account, and you must keep your account password secure. You may never use another's account without permission. Rainbow Cone may update your telephone number or other information associated with your account, as provided by you. However, maintaining accurate account information remains, at all times, your and not Rainbow Cone's responsibility. Rainbow Cone will not be liable for any losses caused directly or indirectly by any unauthorized use of your account, but you may be liable for Rainbow Cone's or others' losses due to such unauthorized use.

You may not or attempt in any way to use any hardware or software intended to damage or interfere with the proper working of the Services or to surreptitiously intercept any system, data or personal information from the Services. You agree not to interrupt or attempt to interrupt the operation of the Services in any way. You understand that engaging in this or any similar behavior may subject you to criminal and/or civil liability without limitation.

Rainbow Cone reserves the right, in its sole discretion, to limit or terminate your access to or use of the Services at any time for any reason without notice, and Rainbow Cone will have no liability for such decision. Termination of your access or use will not waive or affect any other right or relief to which Rainbow Cone or any of its affiliates may be entitled at law or in equity.

RAINBOW CONE'S PROPERTY

The Services contain many valuable intellectual property including all patents, copyrights and trademarks owned, licensed and used by Rainbow Cone (collectively referred to as "Trademarks"). These Trademarks distinguish Rainbow Cone, its products and Services. The Trademarks, and all photographs, illustrations, designs, icons, logos, text, graphics, and html code and all other similar materials and content contained on this Website, in the App, and throughout the Services are the exclusive property of Rainbow Cone ("Rainbow Cone Content"). Rainbow Cone's Content is protected from reproduction and simulation under several international, federal, state, and local laws ("Laws") and, except where otherwise noted, is not to be used, copied, distributed, displayed, reproduced, or transmitted in any form, by any means, without Rainbow Cone's prior express written consent, which may be withheld in its discretion. Any unauthorized use of the Rainbow Cone's Content, may violate without limitation all applicable Laws, these Terms of Use, as well as laws of privacy and publicity, and communications regulations and statutes.

If you are an owner of intellectual property who believes your intellectual property has been improperly posted or distributed through the Services, please notify Rainbow Cone immediately at the following address: 7075 Veteran's Blvd., Burr Ridge, IL 60527. Attention: Legal Department.

YOUR COMMUNICATIONS WITH RAINBOW CONE

Rainbow Cone appreciates appropriate feedback from our guests and visitors who use our Services. Please be aware that anything you transmit or post, including but not limited to suggestions, know-how, techniques, concepts, ideas, promotion, sweepstakes, contest entries, and other submissions (collectively "Comments"), become the sole property of Rainbow Cone. Rainbow Cone (and its authorized third parties) are free to use or not to use the Comments for any purpose whatsoever and we may use them in modified, altered, condensed or composite format in whole or in part, and without any compensation or attribution to you. Submission of any such Comments constitutes your consent to all such use. Except as governed by our Privacy Policy, any Comments, communication or material you transmit to Rainbow Cone by electronic mail or otherwise, including any data, questions or answers, comments, and suggestions is, and will be treated as, non-confidential and non-proprietary. You represent that Comments you submit to Rainbow

Cone do not contain libelous, unlawful, abusive, or obscene material, and any use of Comments by Rainbow Cone or any other party as provided herein will not give rise to any third party claim including, but not limited to infringement of an intellectual property or proprietary right or invasion of privacy or publicity. You agree that you are solely and completely responsible for any Comments you submit and all content therein, and agree to release, indemnify and hold us harmless therefrom.

DISCLAIMER

Rainbow Cone strives to make sure the information provided related to the Services is accurate and complete, but sometimes errors may occur. Your use and browsing of the Services is at your own risk. We make no representations or warranties that your use of the Services or any third party websites or links from our Services will allow you to obtain any particular results.

THE RAINBOW CONE WEBSITES, SERVICES AND ALL RAINBOW CONE CONTENT THEREIN ARE PROVIDED ON AN “AS IS”, AND “AS AVAILABLE” BASIS, AND RAINBOW CONE HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE FOREGOING, RAINBOW CONE DOES NOT GUARANTEE THAT ITS WEBSITES, SERVICES OR CONTENT WILL BE ERROR-FREE, UNINTERRUPTED, OR FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT ANY DEFECTS WILL BE CORRECTED. WE DO NOT WARRANT YOUR SATISFACTION WITH OUR WEBSITES, SERVICES OR CONTENT, AND DO NOT WARRANT OR REPRESENT COMPLETENESS, CORRECTNESS, ACCURACY, ADEQUACY, USEFULNESS, TIMELINESS OR RELIABILITY OF ANY OF THE AFOREMENTIONED, AND RAINBOW CONE MAKES NO COMMITMENT AND ASSUMES NO DUTY TO UPDATE ANY OF THE AFOREMENTIONED. THE FOREGOING DOES NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

INDEMNITY

To the fullest extent permitted by applicable law, you agree to indemnify, defend, and hold harmless Rainbow Cone and all of its affiliates, providers, officers, directors, members, employees, and agents from and against any and all alleged or actual claims, suits, demands, proceedings, damages, losses, costs (including reasonable attorney's fees), liabilities, costs, fees and expenses arising at any time directly or indirectly out of or from your breach of any of these Terms of Use, or any other Rainbow Cone Terms, any activity related to your account (including negligent or wrongful conduct) by you or any other person accessing your account, your use of (or inability to use) the Services your use or

submission of any Content or Comments, and your (or any other persons) use of any other materials, content, features, or services made available through the Services.

LIMITATION ON LIABILITY

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES SHALL RAINBOW CONE BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE SERVICES, WEBSITES, CONTENT, COMMENTS OR ANY OF THE RAINBOW CONE TERMS EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BY PARTICIPATING IN OR USING ANY OF THE RAINBOW CONE SERVICES, WEBSITES, ACCOUNTS, THE RAINBOW CONE TERMS, CARDS AND/OR ANY REWARD, YOU AGREE THAT RAINBOW CONE HAS NO RESPONSIBILITY OR LIABILITY TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW FOR ANY EXPENSE, FEES (INCLUDING ATTORNEY FEES), LOSS, COST, INJURY, DAMAGE, LIABILITIES OR ANY OTHER MATTER OR THING WHATSOEVER, HOWEVER SUFFERED OR CAUSED AT ANY TIME, DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATED TO ANY OF THE AFOREMENTIONED.

THE FOREGOING DO NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW. IN THAT EVENT, RAINBOW CONE'S TOTAL LIABILITY TO YOU FOR ALL LOSSES, DAMAGES, AND CAUSES OF ACTION, IN CONTRACT, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, SHALL NOT EXCEED \$100.

HYPERLINKS

The Services may link to websites and content not maintained or related to Rainbow Cone. Rainbow Cone has not reviewed all of the websites that have linked themselves to the Services and is not responsible for the contents of any non-Rainbow Cone pages, websites, or any other sites linked to the Services. The inclusion of any link to such websites does not imply that Rainbow Cone endorses or supports the websites. Clicking or accessing any other off-site pages or other websites is at your own risk. Rainbow Cone does not allow the unauthorized use of its logos, trademarks, or other graphics to create links to third party sites.

Text (SMS) Messaging Terms

Rainbow Cone may offer programs that involve the use of text messaging (either sending or receiving) to communicate with you, including but not limited to sending you promotional and marketing text communications, including texts relating to Rainbow Rewards Program from Rainbow Cone (collectively "Text Program"). To participate in the Text Program you must be the mobile phone account holder and at least 13 years of age or have a parent or guardian's permission in order to participate. We may amend the Text SMS Messaging

Terms and modify or cancel our Text Program or any of the respective terms, short codes, or features without notice.

If you would like to voluntarily participate in any of our Text Program, then you must opt-in to receive text messages. You may need to confirm your consent by following the instructions contained in an initial text message we send. If you opt-in to our Text Program, Rainbow Cone may provide communications regarding promotional offers, Rainbow Rewards Program including participation milestones, Rewards, and related offers and promotions in connection with the Rainbow Rewards Program, restaurant openings, new menu items, or other offers or promotions, including for marketing purposes, with messages through your wireless provider to the mobile phone number you provide. By opting-in you expressly acknowledge and agree that you are voluntarily consenting to receive text messages from Rainbow Cone and its respective service providers (which may vary depending on the applicable Text Program) in connection with our Text Program to which you opt-in.

You may obtain help or opt out of our Text Program by (i) texting the keyword HELP to the short code 86278 for help, or contact Rainbow Cone support at rewards@rainbowcone.com or or (ii) to opt-out text the keyword STOP to the short code 86278 to cancel. After texting STOP, you will receive one additional message confirming that your request has been processed.

Rainbow Cone does not charge for its Text Program, but you are responsible for all charges and fees associated with text messaging that may be imposed by your mobile operator/carrier. Standard message and data rates may apply. You can expect to receive recurring autodialed marketing messages from Rainbow Cone and its service providers. Message frequency will vary.

Rainbow Cone reserves the right to remove you from our Text Program and database at our discretion. In the event that you change or deactivate your mobile number it is your responsibility to notify Rainbow Cone support at _____ to have your number removed. Rainbow Cone will not be liable for any delays in the receipt of any text messages or undelivered messages, or any violations of law caused by a carrier network failure or malfunction. Our carrier policies require that we specify that our carrier, also, will not be liable for any delays in the receipt of any text messages or undelivered messages.

Data obtained from you in connection with the Text Program may include your cell phone number, your carrier's name, the date, time and content of your messages and other information you provide to Rainbow Cone as part of the Services. We may use this

information to contact you and to provide the services you request from us, and as further described in Rainbow Cone's Privacy Policy.

These Text (SMS) Messaging Terms do not apply to order delivery notifications from delivery drivers, including when using a third-party delivery service.

IN ADDITION TO ANY LIMITATIONS ON OUR LIABILITY AS SET FORTH IN THE TERMS OF USE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, RAINBOW CONE IS NOT RESPONSIBLE OR LIABLE IN ANY MANNER FOR FAILED, DELAYED, OR MISDIRECTED DELIVERY OF ANY INFORMATION SENT THROUGH ANY TEXT PROGRAM, ANY ERRORS IN SUCH INFORMATION, AND/OR ANY ACTION YOU MAY OR MAY NOT TAKE IN RELIANCE ON THE INFORMATION OR TEXT PROGRAM.

ONLINE ORDERS (ON WEBSITES AND APP)

Rainbow Cone may make available to you the opportunity to place an online order through the Services (via Website or App). These Terms of Use apply to orders placed online. Minimum order amount subtotals may apply and delivery is subject to availability. In addition, there may be limits on the dollar value and number of orders that may be placed using the Services. Discounts, coupons and other offers may not be able to be combined with online ordering. Any applicable delivery fees, taxes and other amounts due in connection with the Services will be identified when the order is placed. You are responsible for providing billing information and a valid payment method allowed by the Services when placing an order. Rainbow Cone collects and uses such information in accordance with Rainbow Cone's Privacy Policy. The Rainbow Cone location identified when you place your online order is responsible for fulfilling your order and for any questions or other communications regarding your order. Availability of merchandise and menu items may vary by participating location.

RAINBOW CONE GIFT CARDS & PROMOTIONAL CARDS

Rainbow Cone Gift Cards and promotional cards are issued by Valutec Card Solutions, LLC, a Tennessee limited liability company, and their use are subject to the terms and conditions of such issuer. Valutec is authorized to issue Rainbow Cone Gift Cards (and promotional cards) for sale by and redemption at participating Rainbow Cone locations in the United States. Valutec is solely responsible for the operation and maintenance of Rainbow Cone gift card program (including promotional cards), and Valutec is the sole legal obligor for all gift cards and promotional cards. Rainbow Cone and its affiliates have no liability, responsibility, or obligation for any Rainbow Cone gift cards or promotional cards. In addition to the indemnity obligations below, you knowingly release and hold harmless Rainbow Cone and its affiliates from and against any and all liability or claims of

any nature whatsoever arising in connection with Rainbow Cone gift cards or promotional cards.

TERMINATION AND REMEDIES

Rainbow Cone reserves the right to refuse to provide the Services to any person, and to terminate any user's right to access the Services at any time, in our sole discretion, without prior notice. If you violate any of the Terms of Use, your permission to use the Services automatically terminates. You agree that Rainbow Cone will not be liable to you or any third party for termination of your access to the Services as a result of any violation of these Terms of Use.

GOVERNING LAW AND JURISDICTION

These Terms of Use are governed by United States law and are subject to all applicable federal, state, and local laws and regulations. All issues and questions concerning the construction, validity, interpretation, and enforceability of these Terms of Use, Rainbow Rewards Terms and Conditions and any other Rainbow Cone Terms, or the rights and obligations of you or Rainbow Cone in connection with your use of the Services or participation (or inability to participate) in any activity or benefit provided by the Services, shall be governed by, and construed in accordance with, the laws of the State of Illinois, without regard to conflicts of laws.

You agree that any action of whatever nature arising from or relating to these Terms of Use, the Services, or any other Rainbow Cone Terms, which is not subject to Dispute Resolution, Arbitration Clause, and Class Action Waiver section set forth below, will be filed only in the state courts located in DuPage County, Illinois, or federal courts located in Chicago, Illinois. You consent and submit to the personal jurisdiction of such courts for the purposes of any such action.

DISPUTE RESOLUTION, ARBITRATION CLAUSE AND CLASS ACTION WAIVER

You agree that any claim or dispute at law or equity that has arisen or may arise relating in any way to or arising out of these Terms of Use will be resolved in accordance with the provisions set forth in this Dispute Resolution section. **PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS YOUR RIGHTS AND WILL HAVE A SUBSTANTIAL IMPACT ON HOW CLAIMS YOU AND WE HAVE AGAINST EACH OTHER ARE RESOLVED.**

You agree that whenever you have a disagreement with Rainbow Cone arising out of, connected to, or in any way related to these Terms of Use, the Services or any of the other Rainbow Cone Terms, you will send a written notice to Rainbow Cone setting forth the specific details of the disagreement ("Demand"). You agree that the requirements of this

Dispute Resolution section will apply even to disagreements that may have arisen before you accepted these Terms of Use. You must send the Demand to the following address (the "Notice Address"): Rainbow Cone LLC, Attn: General Counsel, 7075 Veterans Blvd., Burr Ridge, IL 60527. You agree that you will not take any legal action, including filing a lawsuit or demanding arbitration, until 60 calendar days after you send a Demand. If the disagreement stated in the Demand is not resolved to your satisfaction within 60 calendar days after it is received, you agree that your sole legal recourse will be to file a demand for arbitration with the American Arbitration Association (the "Arbitrator").

As a condition of using or participating in the Services, to the fullest extent permitted by law, you agree that any and all disputes that cannot be resolved between the parties and causes of action arising out of or connected with the Services and these Terms of Use, and any other of the Rainbow Cone Terms shall be resolved individually, **without resort to any form of class action or a jury trial**, exclusively before a neutral **one person binding arbitration** using AAA or other agreed upon arbitration service located in or near Burr Ridge, IL having jurisdiction. Under no circumstances will you be permitted to obtain awards for, and you waive all rights to claim punitive, incidental, consequential, and any other damages (other than for actual out-of-pocket expenses) and any and all rights to have damages multiplied or otherwise increased.

GENERAL PROVISIONS

Your access and use of the Services is subject to the above Terms of Use (including the Privacy Policy) and other applicable Rainbow Cone Terms. By accessing, browsing, participating and/or using the Services or any element thereof, you accept, without limitation or qualification, these Terms of Use, the Rainbow Cone Terms and Privacy Policy, and acknowledge that any of the Terms (as may be amended from time to time) constitute the entire agreement with respect to your use of the Services, and supersede all prior or contemporaneous communications and proposals whether electronic, oral or written, between you and Rainbow Cone with respect to the Services.

Rainbow Cone is not responsible for any failures or delays arising from any telephone, wireless or network carrier or operator or other service provider, Website users, human error, tampering, hacking, artifice, or for any failure of the equipment or programming associated with or utilized by the Services or any element thereof and we assume no responsibility for any error, omission, interruption, deletion, defect, delay in operation or transmission, incompatibility, communications failure, theft, loss or destruction of any information, nor for the failure to capture data, materials, Comments or other information at any time in connection with the Services or any element thereof.

Any failure by Rainbow Cone to exercise or enforce any right or provision of these Terms of Use shall not constitute a waiver of such right or provision. If any provision of these Terms of Use is found to be unlawful, void, or for any reason unenforceable by a court of competent jurisdiction, then that provision shall be construed in accordance with applicable law to the greatest extent possible, and the remainder of the provisions shall remain in full force and effect.

Any failure by Rainbow Cone to provide any part of the Services, including but not limited to an inability to comply with these Terms of Use due to or by reason of any act of God, any action(s), regulation(s) order(s) or request(s) by any governmental or quasi-governmental entity (whether or not invalid), equipment failure, terrorist act, cyber-attack, earthquake, war, fire, flood, explosion, unusually severe weather, hurricane, embargo, labor dispute or strike (whether legal or illegal), labor or material shortage, supply chain issues, transportation interruption of any kind, work slow-down, civil disturbance, insurrection, riot, cancellation or delay of any kind, epidemic or pandemic, or any similar or dissimilar event beyond Rainbow Cone's reasonable control.

The headings in these Terms of Use are for your convenience and reference. These headings do not limit or affect this agreement.