

TERMS OF USE

Welcome to the Einstein Noah Restaurant, Group, Inc. ("ENRGI") family of brands and Web sites. ENRGI is the corporate parent of Einstein and Noah Corp. and Manhattan Bagel Company, Inc. (collectively, "we," "us," and "our"). These Terms of Use govern your use of the Web sites that display these Terms of Use (our "**Sites**").

Scope of These Terms of Use.

These Terms of Use govern your use of the following Sites:

<http://www.einsteinbros.com>
<http://www.einsteinnoah.com>
<http://www.manhattanbagel.com>
<http://www.noahs.com>

ENRGI owns the Sites located at einsteinnoah.com. ENRGI has two subsidiaries: Einstein and Noah Corp. and Manhattan Bagel Company, Inc. Einstein and Noah Corp. owns the Sites located at einsteinbros.com, and noahs.com. Manhattan Bagel Company, Inc. owns the Site located at www.manhattanbagel.com.

Effective Date of These Terms of Use

These Terms of Use are effective as of February 8, 2008.

Questions About This Privacy Policy

If you have questions regarding these Terms of Use:

- Send an e-mail to guestservices@einsteinnoah.com writing "Terms of Use" in the subject line
- Write to us at: 555 Zang Street, Suite 300, Lakewood, CO 80228
- Call i-800-BAGEL ME

Your Consent to These Terms of Use

By accessing or using one of our Sites, you are agreeing to comply with and be bound by these Terms of Use. If you do not agree to these Terms of Use, you may not use our Sites.

These Terms of Use May Change

We reserve the right to update or modify these Terms of Use, at any time and without prior notice, by posting the revised version on our Sites. These changes will be effective as of the date we post the revised version on our Sites. Your use of anyone of our Sites following any such change constitutes your agreement to be bound by the revised Terms of Use.

To alert you to changes in these Terms of Use, we will provide a notice at the top of this page for at least 30 days after the new effective date. Unless the change is a minor change (such as a change in our contact information or in our list of Sites) or

a non-substantive change (such as the reformatting of our Terms of Use), we will also post notices on our home pages and/or on the relevant pages of our Sites for 30 days after the new effective date to alert you to the change.

You may access the current version of these Terms of Use at any time by clicking on the link marked "Terms of Use" at the bottom of each page of our Sites.

Ownership, Copyright, and Trademark Matters

Our Sites, including the software and code that comprise and operate our Sites and all of the content of our Sites, for example, all of the text, images, illustrations, graphics, audio clips, and video clips published on our Sites, are protected under trademark, service mark, trade dress, copyright, patent, trade secret and other intellectual property laws. All of the rights in our Sites, including all of the rights in the content of our Sites, are owned by ENRGI, its subsidiaries, its franchisees, its or their licensors, and other third parties. The entire content of each Site is copyrighted as a collective work under U.S. and international copyright laws and treaties, and ENRGI or one of its subsidiaries owns the copyright in the selection, coordination, arrangement and enhancement of the content of each Site.

Individual users of our Sites are permitted to download copies of the information on our Sites for their own personal use. This limited, revocable privilege to use the content in no way constitutes a transfer of any right, title or interest in the material you download. You may not, under any circumstances, (a) modify the content of our Sites or use or exploit it for any commercial purpose, or for any public display, performance, sale or rental; (b) decompile, reverse engineer, or disassemble the any part of our Sites or the content; or (c) remove any copyright, trademark registration, or other proprietary notices from the content. No material from our Sites may be copied, reproduced, republished, uploaded, posted, transmitted, distributed, exploited or used in any manner or form except as expressly provided above without first obtaining written permission from ENRGI or one of its subsidiaries. The use of any materials from our Sites on any other Web site or networked computer environment is prohibited.

The trademarks and service marks used or displayed on our Sites ("Trademarks") are registered and unregistered trademarks of ENRGI, one of its subsidiaries, or third parties. Nothing on our Sites may be construed as granting - by implication, estoppel, or otherwise - any license or right to use any Trademarks displayed on the Site without the prior express written permission of ENRGI or the trademark owner. In particular, you may not use any trademark displayed on our Sites as a "hot" link without the prior written approval of the trademark owner.

Our Online Privacy Policy

Our Online Privacy Policy (our "Online Privacy Policy") describes how we protect your privacy when you use our Sites. To review our Online Privacy Policy click on the link marked "Privacy Policy" at the bottom of each page of our Sites. Our Online Privacy Policy is an integral part of and is incorporated into these Terms of Use.

Your Comments and Other Submissions

We welcome your comments regarding our Sites. Please note, however, any comments, feedback, suggestions, reviews or other communications (collectively,

"Comments") sent to us shall be and remain the exclusive property of ENRGI. Your submission of Comments will constitute an assignment to ENRGI of all worldwide rights, title and interests in your Comments, including all copyrights and other intellectual property rights in your Comments.

ENRGI will be entitled to reduce to practice, make, use, copy, disclose, display or perform publicly, distribute, improve and modify any Comments you submit for any purpose whatsoever, without restriction and without compensating you in any way. For this reason, we ask that you not send us any comments that you do not wish to assign to us, including any confidential information, product ideas, inventions, or original artwork.

We will not use your Comments in a way that identifies you personally, without your permission.

Password-Protected Areas of Our Sites

Certain areas of our Sites are password protected. You are responsible for maintaining the confidentiality of your passwords. We have the right to assume that anyone accessing our Sites using a password assigned to you has the right to do so. You will be solely responsible for the activities of anyone accessing our Sites using a password assigned to you, even if the individual is not, in fact authorized by you. You agree to notify us promptly at guestservices@einsteinnoah.com if you have reason to believe that your password may have been compromised or used without authorization.

Franchise Information

Neither our Sites nor the franchise sales information on our Sites constitute an offer to sell a franchise. The offer of a franchise can only be made through the delivery of a franchise offering circular. Certain states require that we register the franchise offering circular in those states. The communications on our Sites are not directed by us to the residents of any of those states. Moreover, we will not offer or sell franchises in those states until we have registered the franchise (or obtained an applicable exemption from registration) and delivered the franchise offering circular to the prospective franchisee in compliance with applicable law.

DISCLAIMERS

OUR SITES, THEIR CONTENTS, AND ALL INFORMATION, PRODUCTS AND SERVICES MADE AVAILABLE THROUGH OUR SITES ARE PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS, WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND. TO THE FULLEST EXTENT PERMITTED BY LAW, ENRGI, ITS SUBSIDIARIES, AND ITS FRANCHISEES DISCLAIM ANY AND ALL REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, WITH RESPECT TO OUR SITES, THEIR CONTENTS, AND THE INFORMATION, PRODUCTS AND SERVICES MADE AVAILABLE THROUGH THESE SITES. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ENRGI, ITS SUBSIDIARIES AND ITS FRANCHISEES DISCLAIM ALL REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, (A) OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE; (B) ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE; (C) RELATING TO THE SECURITY OF THESE SITES; (D) THAT THE INFORMATION ON THESE SITES, INCLUDING MENUS AND PRICING INFORMATION,

IS ACCURATE, COMPLETE OR CURRENT; OR (E) THAT THESE SITES WILL OPERATE WITHOUT INTERRUPTION OR ERROR.

APPLICABLE LAW MAY NOT ALLOW THE LIMITATION OF CERTAIN WARRANTIES, SO THIS ALL OR PART OF THIS DISCLAIMER OF WARRANTIES MAY NOT APPLY TO YOU.

LIMITATION OF LIABILITY

UNDER NO CIRCUMSTANCES, SHALL ENRGI, ITS SUBSIDIARIES, OR ITS FRANCHISEES, OR ANY OF THEIR EMPLOYEES, DIRECTORS, OFFICERS, AGENTS, VENDORS, LICENSORS OR SUPPLIERS, BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOSSES OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE OF OR INABILITY TO USE OUR SITES, ANY CONTENT PUBLISHED ON OUR SITES, OR ANY INFORMATION, PRODUCTS OR SERVICES PROVIDED OR PURCHASED THROUGH OUR SITES.

THIS IS A COMPREHENSIVE LIMITATION OF LIABILITY THAT APPLIES TO ALL LOSSES AND DAMAGES OF ANY KIND (WHETHER DIRECT, INDIRECT, GENERAL, SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, LOSS OF DATA, INCOME OR PROFITS), WHETHER THE CLAIM IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER LEGAL THEORY, EVEN IF AN AUTHORIZED REPRESENTATIVE OF ENRGI, ONE OF ITS SUBSIDIARIES, OR A FRANCHISEE HAS BEEN ADVISED OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES, AND WITHOUT REGARD TO THE EFFECTIVENESS OF OTHER REMEDIES.

IF ANY PART OF THIS LIMITATION ON LIABILITY IS FOUND TO BE INVALID OR UNENFORCEABLE FOR ANY REASON, THEN THE AGGREGATE LIABILITY ENRGI, ITS SUBSIDIARIES, ITS FRANCHISEES (AND ANY OTHER PERSON OR ENTITY WHOSE LIABILITY WOULD OTHERWISE HAVE BEEN LIMITED) FOR LIABILITIES THAT OTHERWISE WOULD HAVE BEEN LIMITED SHALL NOT EXCEED FIVE DOLLARS (\$5.00).

APPLICABLE LAW MAY NOT ALLOW THE LIMITATION OF LIABILITY SET FORTH ABOVE, SO ALL OR PART OF THIS LIMITATION OF LIABILITY MAY NOT APPLY TO YOU.

Links to Sites Operated by Third Parties

Our Sites may provide links to Web sites operated by third parties. We are not responsible for examining or evaluating, and we do not warrant the products or offerings of, any of these businesses or individuals or the accuracy or content of their Web sites. We do not assume any responsibility or liability for the actions, product, and content of any such sites. Before you use any site you should review the applicable conditions of use and policies. The inclusion of a link in our Sites does not imply our endorsement of the site. If you decide to access linked thirdparty Web sites, you do so at your own risk.

Interpretation

As used in these Terms of Use, the term "including" means "including, but not limited to."

Waiver

Our failure at any time to require performance of any provision of these Terms of Use or to exercise any right provided for herein shall not be deemed a waiver of such provision or such right. All waivers must be in writing. Unless the written waiver contains an express statement to the contrary, no waiver by any of us of any breach of any provision of these Terms of Use or of any right provided for herein shall be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right under these Terms of Use.

Severability

If any provision of these Terms of Use is held by a court of competent jurisdiction to be contrary to law, such provision shall be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law and the remaining provisions of these Terms of Use shall remain in full force and effect.

Governing Law, Jurisdiction and Venue

ENRGI's headquarters are located in Colorado. These Terms of Use shall be governed under the laws of the State of Colorado without regard to its conflicts of law provisions. All actions or proceedings arising out of or relating to these Terms of Use shall be venued exclusively in state or federal court in Denver, Colorado. You hereby irrevocably consents and submits to the personal jurisdiction of said courts for all such purposes.

Entire Agreement.

These Terms of Use contains the entire understanding and agreement between you and us with respect to our Sites and supersede all previous communications, negotiations and agreements, whether oral, written, or electronic between you and us with respect to our Sites.