

Terms of Service

Last Updated: 2.12.18

Thank you for your interest in the Valevo, Inc. application for your mobile device (the "App") provided to you by Valevo, Inc. ("Valevo" "us" or "we"), and our web site at www.valevo.com (the "Site"), as well as all related web sites, networks, downloadable software, and other services provided by us and on which a link to this Terms of Service is displayed (collectively, together with the App and Site, our "Service"). These Terms of Service (these "Terms"), including the Privacy Policy incorporated into these Terms by reference and any other applicable policies and guidelines, as may be updated from time to time, govern your use of the Service. These Terms constitute a legal agreement between you and Valevo. In order to use the Service you must agree to these Terms.

These Terms provide that with limited exceptions all disputes between you and Valevo arising out of or relating to these Terms or your use of the Service will be resolved by BINDING ARBITRATION. YOU AGREE TO GIVE UP YOUR RIGHT TO GO TO COURT to assert or defend your rights under these Terms, except for matters covered by Section 16.3 of these Terms. Your rights will be determined by a NEUTRAL ARBITRATOR and NOT a judge or jury, and your claims cannot be brought as a class action. Please review Section 16 ("Dispute Resolution and Arbitration") for the details regarding your agreement to arbitrate most disputes with Valevo.

BY DOWNLOADING, INSTALLING, OR OTHERWISE ACCESSING OR USING THE SERVICE, YOU AGREE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THESE TERMS. IF YOU DO NOT AGREE, YOU MAY NOT USE THE SERVICE.

Valevo provides a mobile app and web-based technology platform that encourages consumers to shop at local merchants with loyalty dollars and general Abacus dollars (the "Platform").

As provided in greater detail in these Terms, you agree and acknowledge these material Terms:

- The App is licensed, not sold to you, and you may use the Service only as set forth in these Terms;
- Your use of the Service may be subject to separate third party terms of service and fees, including without limitation your mobile network operator's ("Carrier") terms of service and fees, including fees charged for data usage and overage, which are your sole responsibility;
- You consent to the collection, sharing, and use of your personally identifiable information in accordance with Valevo's Privacy Policy;
- The Service is provided "as is" without warranties of any kind, and Valevo's liability to you is limited; and

- Disputes arising under these Terms will be resolved by binding arbitration.

BY ACCEPTING THESE TERMS, YOU AND VALEVO ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION. YOU AGREE TO WAIVE YOUR RIGHT TO GO TO COURT to assert or defend your rights under this contract (except for matters that may be taken to small claims court). Your rights will be determined by a NEUTRAL ARBITRATOR and NOT a judge or jury, and your claims cannot be brought as a class action. Please review the Dispute Resolution and Arbitration section below for the details regarding your agreement to arbitrate any disputes with Valevo.

1. Account Access

You must be at least eighteen (18) years old to use the Service. By agreeing to these Terms, you represent and warrant to us:

1. That you are at least eighteen (18) years old;
2. That you have not previously been suspended or removed from the Service; and
3. That your registration and your use of the Service is in compliance with any and all applicable laws and regulations.

If you are using the Service on behalf of an entity, organization, or company, you represent and warrant that you have the authority to bind that organization to these Terms and you agree to be bound by these Terms on behalf of that organization.

2. Accounts and Registration

To access some features of the Service, you must register for an account. When you register for an account, you may be required to provide us with some information about yourself (such as your name, phone number or other contact information). You agree that the information you provide to us is accurate and that you will keep it up-to-date at all times. When you register, you will be asked to provide a password. You are solely responsible for maintaining the confidentiality of your account and password, and any password for Facebook, Google, or other third party login. You accept responsibility for all activities that occur under your account.

3. Scope of License

The App is licensed, not sold, to you for use only under the terms of this license. Valevo reserves all rights not expressly granted to you. Subject to your complete and ongoing compliance with these Terms, Valevo hereby grants you a personal, limited, revocable, non-transferable license to use the App on compatible devices that you own or control, solely for your non-commercial use.

You may not modify, alter, reproduce, distribute or make the App available over a network where it could be used by multiple devices at the same time. You may not rent,

lease, lend, sell, redistribute or sublicense the App. If you breach these license restrictions, or otherwise exceed the scope of the license granted in these Terms, you may be subject to prosecution and legal damages, as well as liability for infringement of intellectual property rights. These Terms will govern any updates provided to you by Valevo that replace and/or supplement the original App, unless the upgrade is accompanied by a separate license in which case the terms of that license will govern.

4. Third-Party Interactions

4.1. Third-Party Providers

During use of the Service, you may purchase goods and services from third-party merchants through the Service. Any such activity, and any disputes, terms, conditions, warranties or representations associated with that activity, is solely between you and the applicable third party. Valevo and its licensors shall have no liability, obligation or responsibility for any purchase or transaction between you and any third-party provider. In no event shall Valevo or its licensors be responsible for any content, products, services or other materials on or available from third-party sites or third-party providers. Certain third-party providers of goods and/or services may require your agreement to additional or different terms and conditions prior to your use of or access to such goods or services, and Valevo disclaims any and all responsibility or liability arising from such agreements between you and a third party.

4.2. Third-Party Advertising

The Service may contain third-party advertising and marketing. By agreeing to these Terms you agree to receive such advertising and marketing.

4.3. Links to Third Party Sites

The Service may contain links to third-party websites. Linked websites are not under our control, and we are not responsible for their content.

5. Your Use of the Service

In order to use the Service, you agree to the following:

- The Service, including any content that forms part of the Service, contains proprietary content, information and material that is protected by applicable intellectual property and other laws, including copyright;
- You will not violate, or encourage others to violate, any right of a third party, including by infringing or misappropriating any third-party intellectual property right, or otherwise engage in the unauthorized use of any proprietary content, information or materials;

- Unless expressly permitted, you may not alter, modify, create derivative works of, sell, license or in any way exploit any part of the Service, and you agree not to copy, reproduce, distribute, publish, display, perform, transmit, stream or broadcast any part of the Service without prior written authorization;
- You agree not to bypass any security or other features of the Service designed to control the manner in which the Service is used, harvest or mine content from the Service, or otherwise access or use the Service in a manner inconsistent with individual human use;
- You agree not to perform any fraudulent activity, including impersonating any person or entity, or accessing any other Service account without permission;
- You agree not to decipher, reverse engineer, decompile or disassemble the Service, or the software used to provide the Service, in whole or in part, or authorize, direct, or cause a third party to do so;
- You agree not to use, display, mirror, frame or utilize framing techniques to enclose the Service, or any portion thereof, unless and solely to the extent Valevo makes available the means for embedding any part of the Service;
- You agree not to access, tamper with, or use non-public areas of the Service, Valevo's (and its hosting company's) computer systems and infrastructure, or the technical delivery systems of Valevo's providers;
- You agree not to use any robot, spambot, spider, crawler, scraper or other automated means or interface not provided by us to access the Service or to extract data;
- You agree not to use the Service in any manner to harass, abuse, stalk, threaten, defame or otherwise infringe or violate the rights of any other party, and that Valevo is not in any way responsible for any such use by you, nor for any harassing, threatening, defamatory, offensive or illegal messages or transmissions that you may receive as a result of using the Service;
- You agree that your use of the App may incur third-party fees, such as fees charged by your Carrier for data usage, and may be subject to third-party terms, such as your Carrier's terms of service, and you agree to pay all such fees and abide by all such terms;
- You agree not to introduce viruses, time-bombs, worms, cancelbots, trojan horses and/or other harmful code into the Service;
- You agree not to do any of the acts described in this Section 5, or to assist or permit any person in engaging in any of the acts described in this Section 5.

6. Consent to Use of Data

Please see Valevo's Privacy Policy for more information regarding information Valevo collects, and how it uses and shares that information.

7. Intellectual Property Ownership

The Service, and the media and materials contained in the Service, including all intellectual property rights in the Service, are the sole and exclusive property of Valevo

and its licensors. Except for the limited license expressly granted by and to you under these Terms, no other rights, licenses, or immunities are granted or shall be deemed to be granted under these Terms, either expressly, or by implication, estoppel or otherwise. All rights not expressly granted by Valevo in these Terms are expressly reserved.

8. Feedback

You may choose to, or Valevo may invite you to, submit comments, bug reports, ideas or other feedback about the Service ("Feedback"). By submitting Feedback, you agree that Valevo is free to use such Feedback at its discretion without any obligation to you. Valevo may also choose to disclose Feedback to third parties. You hereby grant Valevo a royalty-free, perpetual, irrevocable, transferable, sublicensable, worldwide, nonexclusive license under all rights necessary to incorporate and use your Feedback for any purpose.

9. Communications

9.1 Text Messaging

By using the Services or Software, you agree and acknowledge that the Company and those acting on its behalf will send you text (SMS) messages at the phone number you provided us in order to use the App. These messages may include operational messages about your use of the Services, as well as marketing or other promotional messages. You will not be able to use the Services or Software without agreeing to receive operational text messages. You may opt-out of receiving all text messages from Valevo at any time by deactivating your account. Text messages may be sent using an automatic telephone dialing system. If you change or deactivate the phone number you provided to Company, you must update your account information to help prevent us from inadvertently communicating with anyone who acquires your old number.

9.2 Push Notifications

When you install our app on your mobile device you agree to receive push notifications, which are messages an app sends you on your mobile device even when the app is not on. You can turn off notifications by visiting your mobile device's "settings" page.

9.3 Email

You agree that we may send you emails concerning our products and services, as well as those of third parties. You may opt-out of promotional emails by following the unsubscribe instructions in a promotional email.

10. Indemnity

You are responsible for your use of the Service, and you agree to defend (at Valevo's option) and indemnify Valevo and its officers, directors, employees, contractors, consultants, affiliates, investors, service providers, business partners, subsidiaries and agents from and against every claim, liability, damage, loss, and expense, including reasonable attorneys' fees and costs, arising out of or in any way connected with:

1. Your violation of any of these Terms, any representation, warranty, or agreement referenced in these Terms, or any applicable law or regulation;
2. Your violation of any third-party right, including any intellectual property right or publicity, confidentiality, other property, or privacy right; or
3. Any dispute or issue between you and any third party, including any Courier, restaurant or other third-party merchant

Valevo reserves the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you (without limiting your indemnification obligations) and you agree to cooperate with our defense of that claim. If the defense or settlement is assumed by you, Valevo may at any time thereafter elect to take over control of the defense and settlement of the claim. You must not settle any claim without Valevo's prior written consent.

11. Disclaimer of Warranties

YOUR USE OF THE SERVICE IS AT YOUR SOLE RISK. THE SERVICE IS PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED. ALL REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, ARE HEREBY DISCLAIMED BY VALEVO TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. VALEVO MAKES NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICE. VALEVO DOES NOT REPRESENT OR WARRANT THAT THE USE OF THE SERVICE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR WILL OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA; THAT THE SERVICE OR ANY PRODUCTS OR MATERIALS OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS; OR THAT THE SERVICE OR THE SERVER(S) THAT MAKE THE SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

VALEVO'S SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. VALEVO IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

VALEVO DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A MERCHANT OR OTHER THIRD PARTY THROUGH THE SERVICE OR ANY HYPERLINKED WEBSITE OR THIRD-PARTY SERVICE, AND VALEVO WILL NOT BE A PARTY TO OR IN ANY WAY MONITOR ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES.

12. Limitation of Liability

IN NO EVENT SHALL VALEVO AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING PERSONAL INJURY, LOSS OF DATA, REVENUE, PROFITS, REPUTATION, USE OR OTHER ECONOMIC ADVANTAGE) EVEN IF VALEVO AND/OR ITS LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

VALEVO WILL NOT ASSESS THE QUALITY, SAFETY, OR LEGALITY OF THE ITEMS PROVIDED BY MERCHANTS ON THE PLATFORM, AND YOU EXPRESSLY WAIVE AND RELEASE VALEVO FROM ANY AND ALL LIABILITY, CLAIMS OR DAMAGES ARISING FROM OR IN ANY WAY RELATED TO MERCHANTS AND THE ITEMS THEY PROVIDE. VALEVO WILL NOT BE A PARTY TO DISPUTES OR NEGOTIATIONS OF DISPUTES, BETWEEN YOU AND ANY MERCHANTS RETAILERS. RESPONSIBILITY FOR THE DECISIONS YOU MAKE REGARDING SERVICES OFFERED VIA THE SERVICE (WITH ALL THEIR IMPLICATIONS) RESTS SOLELY WITH YOU. IN ADDITION, WE WILL NOT ASSESS THE SUITABILITY, LEGALITY OR ABILITY OF ANY THIRD PARTIES AND YOU EXPRESSLY WAIVE AND RELEASE VALEVO FROM ANY AND ALL LIABILITY, CLAIMS, CAUSES OF ACTION, OR DAMAGES ARISING FROM YOUR USE OF THE SERVICE, OR IN ANY WAY RELATED TO THE THIRD PARTIES INTRODUCED TO YOU BY THE SERVICE. IF YOU ARE A CALIFORNIA RESIDENT, YOU WAIVE CALIFORNIA CIVIL CODE §1542, WHICH SAYS:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

13. Notice

Valevo may give notice by any means of communication reasonably anticipated to notify you of the information provided. By way of example only, such communication may be a general notice on the Service or via email to the email address listed on your Valevo account. It is your obligation to update your account information so that we may contact you as may be necessary. Such notice shall be deemed to have been given 48 hours after dispatch. If physical notice (e.g., US Mail) is used, then such notice shall be deemed to have been given 7 days after dispatch.

You may give notice to Valevo (such notice shall be deemed given when received by Valevo) at any time by any of the following: letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail to Valevo at the following address:

*24501 Town Center Drive, Suite 103
Valencia, CA 91355*

14. Assignment

You may not assign or transfer these Terms or your rights under these Terms, in whole or in part, by operation of law or otherwise, without our prior written consent. We may assign these Terms in whole or in part at any time to any entity without your notice or consent. Any purported assignment by you in violation of this section shall be void.

15. Term and Termination of Agreement

These Terms are effective until terminated by you or Valevo as described below. Your rights under these Terms will terminate automatically without notice from Valevo if you fail to comply with any of these Terms (including by violating any license restriction contained in these Terms). In addition, Valevo may in its sole discretion terminate your user account on the Service or suspend or terminate your access to the Service at any time without notice. We also reserve the right to modify or discontinue the Service at any time (including by limiting or discontinuing certain features of the Service) without notice to you. We will have no liability whatsoever on account of any change to the Service or any suspension or termination of your access to or use of the Service. You may terminate these Terms at any time by closing your account, uninstalling the App, and ceasing use of the Service.

16. Dispute Resolution and Arbitration

16.1. Disputes

Valevo is not a party to, has no involvement or interest in, makes no representations or warranties as to, and has no responsibility or liability with respect to any communications, transactions, interactions, disputes or any relations whatsoever between you and any other user, or other third party. Disputes between a user and Valevo are subject to this Section 16.

16.2. Generally

In the interest of resolving disputes between you and Valevo in the most expedient and cost effective manner, you and Valevo agree that every dispute arising in connection with these Terms will be resolved by binding arbitration. Arbitration is more informal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury,

may allow for more limited discovery than in court, and can be subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. Our agreement to arbitrate disputes includes all claims arising out of or relating to any aspect of these Terms, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory, and regardless of whether a claim arises during or after the termination of these Terms.

YOU UNDERSTAND AND AGREE THAT, BY ENTERING INTO THESE TERMS, YOU AND VALEVO ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.

16.3. Exceptions

Despite the provisions of the paragraph directly above, we both agree that nothing in these Terms will be deemed to waive, preclude, or otherwise limit the right of either of us to:

1. Bring an individual action in small claims court;
2. Pursue an enforcement action through the applicable federal, state, or local agency if that action is available;
3. Seek injunctive relief in a court of law; or
4. To file suit in a court of law to address an intellectual property infringement claim.

16.4. Arbitrator

Any arbitration between you and Valevo will be governed by the Commercial Dispute Resolution Procedures and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by these Terms, and will be administered by the AAA. The AAA Rules and filing forms are available online at www.adr.org, by calling the AAA at [1-800-778-7879](tel:1-800-778-7879), or by contacting Valevo at support@valevonetwork.com

16.5. Notice Process

A party who intends to seek arbitration must first send a written notice of the dispute to the other, by certified mail or Federal Express (signature required), or if we do not have a physical address on file for you, by electronic mail ("Notice").

Valevo' address for Notice is:

*24501 Town Center Drive, Suite 103
Valencia, CA 91390*

The Notice must:

1. Describe the nature and basis of the claim or dispute; and
2. Set forth the specific relief sought ("Demand")

We agree to use good faith efforts to resolve the claim directly, but if we do not reach an agreement to do so within 30 days after the Notice is received, you or Valevo may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by you or Valevo must not be disclosed to the arbitrator until after the arbitrator makes a final decision and award, if any.

If our dispute is finally resolved through arbitration in your favor, Valevo will pay you the highest of the following:

1. The amount awarded by the arbitrator, if any;
2. The last written settlement amount offered by Valevo in settlement of the dispute prior to the arbitrator's award; or
3. \$1,000

16.6. No Class Actions

YOU AND Valevo AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.

Further, unless both you and Valevo agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding.

16.7. Modifications

If Valevo makes any future change to this arbitration provision (other than a change to Valevo's address for Notice), you may reject the change by sending us written notice within 30 days of the change to Valevo's address for Notice, in which case your account with Valevo will be immediately terminated and this arbitration provision, as in effect immediately prior to the amendments you reject, will survive.

16.8. Enforceability

If Section 16.6 is found to be unenforceable or if the entirety of this Section 16 is found to be unenforceable, then the entirety of this Section 16 will be null and void and, in that case, the parties agree that the exclusive jurisdiction and venue described in Section 19 will govern any action arising out of or related to these Terms.

17. Modification of these Terms

We reserve the right to update or modify the Terms at any time without prior notice, and such changes will be effective immediately upon being posted through the Service, except as set forth below. These Terms identify the date of last update. Your use of the Service following any such change constitutes your agreement to be bound by the modified Terms of Service. In the case of material changes to these Terms, we will make reasonable efforts to notify you of the change, such as through sending an email to any address you may have used to register for an account, through a pop-up window on the Service, or other similar mechanism.

Material changes to these Terms will be effective upon the earlier of:

1. Your first use of the Service with actual notice of such change, or
2. 30 days from posting of such change.

Disputes arising under these Terms will be resolved in accordance with the version of the Terms in place at the time the dispute arose. We encourage you to review these Terms frequently to stay informed of the latest modifications.

18. Confidentiality

You acknowledge and agree that when using the App, you may have direct or indirect access or exposure to Valevo's confidential information ("Confidential Information"). Confidential Information includes Valevo's data, provider IDs, user information, delivery recipient information, delivery provider information, package information, and the transaction volume, marketing and business plans, business, financial, technical, operational and such other nonpublic information (whether disclosed in writing or verbally) that Valevo designates as being proprietary or confidential or that you should reasonably know to treat as confidential.

You acknowledge and agree that: (a) all Confidential Information shall remain the exclusive property of the Valevo; (b) you shall not use Confidential Information for any purpose except in furtherance of your use of the App; (c) you shall not disclose Confidential Information to any third party; and (d) you shall not store or keep Confidential Information and shall return or destroy (with confirmation of destruction) all Confidential Information upon the termination of your use of the App or at the request of Valevo.

Notwithstanding the foregoing, Confidential Information shall not include any information to the extent it: (a) is or becomes part of the public domain through no action or omission by you; (b) was possessed by you prior to your use of the App without an obligation of confidentiality; or (c) is disclosed to you by a third party having no obligation of confidentiality with respect thereto.

19. General

These Terms are governed by the laws of the State of California without regard to conflict of law principles. If a lawsuit or court proceeding is permitted under these Terms, you and Valevo agree to submit to the personal and exclusive jurisdiction of the state courts and federal courts located within Orange County, California for the purpose of litigating any dispute. We operate the Service from our offices in California, and we make no representation that materials included in the Service are appropriate or available for use in other locations. No joint venture, partnership, employment, or agency relationship exists between you, Valevo or any third-party provider as a result of the Terms or use of the Service.

If any provision of the Agreement is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced to the fullest extent under law. The failure of Valevo to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Valevo in writing.

This Agreement comprises the entire agreement between you and Valevo and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained in these Terms.

You hereby represent and warrant that:

1. You are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and
2. You are not listed on any U.S. Government list of prohibited or restricted parties.