

# GENERAL TERMS OF USE

## [Français](#)

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Welcome to **MySmartJourney** application (which we will simply refer to as the “**Application**”) operated by 9374-3078 Québec Inc. (which we will refer to as “**us**” and “**MySmartJourney**”). In order to use the Application, you must respect certain terms, conditions and rules which are set forth in these terms of use.

As a user (which we will refer to as “**you**” or the “**user**”), you agree to these terms of use by using the Application and understand that this forms a contract between you and MySmartJourney. *If you do not accept these terms of use, you must stop using the Application.*

## 1. Use of the Application

The Application is a platform used by various enterprises (the MySmartJourney “**Partner**”) to promote their activities, products or services by providing you with an interactive multimedia experience in the physical location of their choice, or via physical objects.

Within this context, several types of experience are made available to you—including information capsules, video and audio recordings, augmented reality, etc., as well as options that allow you to take videos or photos of yourself in relation to these activities, products and services. Logos, filters, emojis and promotional offers for these activities, products and services may be added to these photos and videos. You may then share your photos and videos via social networks (Facebook), email, or even upload them to your mobile device’s photo library. You may also permit MySmartJourney and its Partners to use these photos, videos and other content.

## 2. Accessing the Application

You may access the Application through a mobile phone, a tablet, a computer or a device supplied by the Partner by using a URL, or by locating the MySmartJourney token provided as a QR code or NFC tag.

You may not access the Application via automated means, unless you have a written agreement with us.

We may, at our entire discretion, interrupt or cancel your access to all or part of the services available through the Application for any reason—including abusive, indecent, illicit or illegal use.

## 3. User account

There is no need to create a user account to use the Application.

## 4. Partner offers

The Partner may add cultural, informative or promotional content to the Application that you may consult.

The Partner may also add the option to let you take photos or videos on its Application page. The Partner may add or permit the addition of promotional or other information to this photo or video content.

Promotional offers available on the Application are provided solely at the Partner's initiative. We are not responsible for the content of promotional offers; they are solely the responsibility of the Partner concerned.

The Application does not allow the promotional offer to be removed once it has been added to the user's photo or video.

Any dispute concerning a promotional offer must be settled between you and the Partner concerned. You understand and acknowledge that you may not take action against us concerning a promotional offer published via the Application.

If you consider a promotional offer to be misleading, fraudulent or otherwise inappropriate, we invite you to contact us at the following email address: [privacy@mysmartjourney.co](mailto:privacy@mysmartjourney.co). Please note that the only action we can take on your behalf consists of putting you in contact with the Partner concerned, considering the removal of a photo or video from the Application, or considering the deletion of the page containing the promotional offer in question.

## 5. Electronic communications

You may withdraw your consent to receive electronic communications at any time by writing to the following address: [privacy@mysmartjourney.co](mailto:privacy@mysmartjourney.co).

The Partner is not under our control; you may receive electronic communications from a Partner even if you have withdrawn your consent from MySmartJourney. In this situation, we invite you to send your consent withdrawal request directly to the Partner so that they may remove your information from their database. **We are never responsible for communications sent by a Partner.**

When you use the Application, if you take a photo or video of yourself, to which a promotional offer is added, and you have opted for the option to share the photo or video on Facebook, you should avoid sharing it with a specific friend list. If you share this photo or video with a specific friend list, it could be considered an electronic communication under Canada's Antispam Legislation. In such a case, MySmartJourney does not accept any liability or penalty that may result under any Canadian law.

## 6. Intellectual property

The content available through the Application is our property or is used under licence from the Partner. We make no warranty as to this content.

You may not modify, copy, distribute, execute, transmit, transfer, display, provide, reproduce, publish or sell all or part of the Application or any content contained in the Application, nor any

content or service obtained through the use of the Application, except as required for personal use of the Application made in accordance with these terms of use.

You may not licence or sub-licence the Application or any content available through the Application without our prior written consent. You may not use the photos, texts, logos or trademarks reproduced in the Application—other than by using the sharing functions provided in the Application for personal and non-commercial use—without our prior written consent.

## **7. Personal data**

We collect certain data through the Application, including personal data about users. To use the Application, you must consent to the collection, processing and disclosure of your personal data in accordance with our Privacy Policy. By accepting these terms of use, you declare that you have read the Privacy Policy and that you give us your consent.

The collection and processing of certain data are subject to your specific consent, which may be withdrawn at any time, as stipulated in our policy.

## **8. User-generated content**

The Application allows you to create content in the form of text, images, videos, sounds or other, formats which will be accessible to users of the Application or to the public through the Application (referred to as “**User Content**”). You are fully responsible for all the User Content you publish using the Application. You must ensure that the content you publish complies with the law and respects the rights of others, if applicable. You represent and warrant that you are authorized to share your User Content with the public, throughout the world, and that this content does not infringe upon the rights of other persons or entities, including intellectual property rights.

You grant us a non-exclusive, universal, royalty-free, irrevocable, transferable and sublicensable licence to reproduce, represent, use, modify, adapt, translate, transform, commercially exploit and communicate to the public all User Content via telecommunication or other means. You hereby waive and irrevocably undertake to waive, to our benefit and to the benefit of our successors and assigns the exercise of the moral rights you hold and may hold in any User Content.

Accordingly, you waive in perpetuity your copyright over the image to MySmartJourney and the Partner and grant them irrevocable permission to use your image and voice together or in connection with their activities, products and services.

We may, at our entire discretion, delete any User Content that does not comply with these terms of use or that we consider to be inappropriate. However, we do not systematically monitor User Content shared through the Application and assume no liability for User Content made available through the Application. Be advised that by using the Application, you may be exposed to inappropriate or illegal content.

## **9. Third-party-generated content**

MySmartJourney or the Partner may use certain applications from third parties to produce some of the content found on the Application. If, while using the Application, you must exit the Application to be redirected on a third-party's website, you will be notified beforehand. These third parties are governed by their own terms and policies, which may be different from these terms of use and may not be under our control. We encourage you to familiarize yourself with the terms and policies applicable to these third parties.

## **10. Use of third-party images**

You represent and warrant that you have obtained the authorization of all persons appearing in a photo, video or other User Content, with or without you, prior to sharing it on the Application, to conveying it to third parties and to consenting to its use by MySmartJourney and the Partner.

## **11. Prohibited use**

You may not upload or otherwise transmit via the Application any material that is illegal, false, misleading, defamatory, abusive, profane, threatening, vulgar, obscene, sexually explicit or pornographic, or that contains malicious computer code, constitutes harassment, could disrupt the operation of the Application or is otherwise harmful to users of the Application.

You may not use the application to access or attempt to access other computer systems without authorization, nor cause harm to other computer systems.

You may not attempt to copy or reproduce the Application or its source code or attempt to reverse engineer the Application.

## **12. External links**

The Application contains links to web sites owned and operated by third parties—including, but not limited to—web sites operated by Facebook. We do not control any of these sites and are not responsible for their content. The Application may link to external sites solely to facilitate navigation; the availability of a link does not mean we have approved the content of a web site.

Web sites and pages linked to the Application (such as the MySmartJourney Facebook page) are governed by their own terms and policies which may differ from these terms of use and may not even be under our control. We encourage you to read the applicable terms and policies before visiting and using these web sites or linked pages.

## **13. Disclaimer of warranty**

**Use of the Application and the services offered through it is at your own risk. The Application is provided "as is" with no other warranty—express, tacit or implied.**

**We do not warrant that the availability of the Application and related services will be uninterrupted and secure and that the content available through the Application will be free of errors, accurate, complete and up to date.**

## **14. Limitation of liability**

**To the full extent permitted by law, under no circumstances will 9374-3078 Québec Inc., nor its directors, shareholders, employees or officers be liable for any damages you may incur as a result of your use of the Application or your inability to use the Application, including direct, indirect, punitive, incidental, special, consequential or other damages of any kind whatsoever, including, but not limited to, damages for loss of use of data or loss of profits. If you are not satisfied with all or part of the Application, or any of these terms of use, your sole and exclusive remedy is to stop using the Application and the services.**

## **15. Indemnification**

You agree to compensate us and our affiliates, directors, officers, shareholders, employees, mandataries and licensors for any damages, claims, liabilities, losses, expenses, fines, penalties and debts, including any reasonable legal fees that result:

- a. from your use of the Application or from any alleged violation by you of these terms of use; or
- b. from your User Content.

## **16. Applicable laws**

These terms and conditions and all related operations shall be governed by the applicable laws of the province of Quebec and the laws of Canada and be interpreted in accordance with these laws.

Any dispute, controversy or claim arising from with respect to the use of the Application or these terms of use shall be adjudicated by a competent court of the province of Quebec, sitting in the judicial district of Montreal, to the exclusion of all other jurisdictions.

## **17. Assignment**

You may not assign or otherwise transfer your rights and obligations arising out of these terms of use to another person without our prior written consent. We may assign our rights and obligations arising out of these terms of use to any person without your consent.

## **18. Modification**

We may modify these terms of use at any time by making available the modified terms of use on the Application.

The modified terms of use shall take effect immediately; you consent to these modified terms by continuing to use the Application.

The date of the most recent update is indicated at the start of these terms of use.

## **19. Contact us**

We welcome your questions, comments and reactions concerning these terms of use. If you have questions any questions, please contact us at the following address:

[privacy@mysmartjourney.co](mailto:privacy@mysmartjourney.co).