1. DESCRIPTIONS AND DEFINITIONS

1.1 Second Harvest

Second Harvest Food Support Committee ("Second Harvest") is a registered Canadian charity that operates non-profit food rescue programs.

1.2 FoodRescue.ca

FoodRescue.ca is a food rescue program operated by Second Harvest that connects food donors and social services via an innovate online platform at the domain FoodRescue.ca.

1.3 Food Rescues, Food Donors and Recipient Agencies

FoodRescue.ca permits restaurants, suppliers, wholesalers and other entities who are approved as a food donor ("Food Donor") to donate food directly to an approved agency that provide social services ("Recipient Agency").

Any registered Canadian charity or not-for-profit organization that uses rescued food in social service programs may apply to become a Recipient Agency. Once approved, a Recipient Agency is granted access to services, programs and Food Donors that have been cultivated on FoodRescue.ca.

Any food business that has surplus food to donate using the platform on FoodRescue.ca may apply to become a Food Donor. Once approved, Food Donors have access to certain services and programs offered on FoodRescue.ca – including being connected with certain Canadian charitable and not-for-profit social service organizations that rescue food.

A Food Rescue is defined as a donation of food from a Food Donor to a Recipient Agency via FoodRescue.ca.

A Member is defined as including both Food Donors and Recipient Agencies.

1.4 These Terms and Conditions

By seeking approval to be a Food Donor or Recipient Agency, you agree to be bound by these Terms and Conditions, as applicable. These Terms and Conditions constitute a legal agreement and are entered into by and between you and Second Harvest. The following terms and conditions, together with any documents and/or additional terms they expressly incorporate by reference (collectively, these “Terms and Conditions”), govern your access to and use, including any content, functionality, services and programs offered on or through FoodRescue.ca.
BY APPLYING TO BECOME A MEMBER AND USING FOODRESCUE.CA, YOU ACCEPT AND AGREE TO BE BOUND AND COMPLY WITH THESE TERMS AND CONDITIONS.

2. DONATION AND DISTRIBUTION OF FOOD

2.1 Acknowledgement of Donation of Food Legislation

You understand that the donation of food is governed by the Ontario Donation of Food Act, S.O. 1994. c. 1994 and similar legislation in other provinces and territories of Canada (collectively, the “Donation of Food Legislation”), except the Province of Quebec in which donations are governed by the Civil Code of Quebec. For a list of applicable Donation of Food Legislation, see Appendix A (https://www.foodrescue.ca/docs/default-source/default-document-library/appendix-a-(donation-of-food-legislation).pdf) to these Terms and Conditions. You acknowledge that you have read and understand the applicable Donation of Food Legislation and understand that in most jurisdictions in Canada there is no liability for damages resulting from injuries or death caused by the consumption of the food unless:

1. the food was adulterated, rotten or otherwise unfit for human consumption, and
2. in donating or distributing the food, the person who donated or distributed the food intended to injure or to cause the death of any person who consumed the food or acted in reckless disregard for the safety of others.

2.2 Food Must Be Fit for Human Consumption

You agree that in compliance with the applicable Donation of Food Legislation, you will not donate or distribute donated food that is adulterated, rotten or otherwise unfit for human consumption.

2.3 Title and Risk of Loss

Title and risk of loss pass from the Food Donor to the Recipient Agency upon pick-up of the rescued food by the Recipient Agency, including pick-up by any directors, officers, agents or volunteers of the Recipient Agency.

2.4 No Reliance

The services and information on FoodRescue.ca are provided to facilitate food donations from Food Donors to Recipient Agencies. It is not intended to amount to food donation services upon which you should rely. You should not rely on FoodRescue.ca to meet your operational needs and you must obtain other sources to donate and/or receive food to ensure that such operational needs are met.

Second Harvest makes no representations, warranties or guarantees, whether express or implied, that the content on FoodRescue.ca is accurate, complete or up to date nor about the quality, quantity, availability, nor frequency of donated food, Food Donors, Recipient Agencies and the services provided by Second Harvest. Your use of FoodRescue.ca is at your own risk and Second Harvest has no responsibility or liability whatsoever for your use of FoodRescue.ca.
FoodRescue.ca includes content provided by third parties, including from Members. All statements in any such third-party content, other than the content provided by Second Harvest, are solely the opinions and the responsibility of the person or entity providing those materials. Such materials do not necessarily reflect the opinion of Second Harvest. Second Harvest has no responsibility or liability whatsoever to you, or any third party, for the content or accuracy of any third-party materials.

2.5 Distribution

Members agree that they will donate or distribute food, as applicable, in a fair, equitable, and dignified way and will not engage in discrimination, in offering this food, against any person because of race, colour, citizenship, religion, sex, national origin, ancestry, age, marital status, disability, sexual orientation, including gender identity or any other analogous grounds of discrimination.

3. TERMS AND CONDITIONS APPLICABLE TO FOOD DONORS

3.1 Accountability

As a Food Donor, you will ensure donated food is made available at the agreed upon time and location, or you will provide at least four (4) hours’ advance notice that the donation is being cancelled or rescheduled.

3.2 Food Safety

As a Food Donor, you will ensure that you have traceability procedures in place to manage potential food product recalls and that you will advise Second Harvest and any affected Recipient Agencies promptly of any and all food recalls that could potentially affect food that you have donated.

3.3 No Sale or Barter

If you are a Food Donor, then you will not ask any Recipient Agency for any form of cash, goods or services, in exchange for rescued food donated through the program on FoodRescue.ca.

4. TERMS AND CONDITIONS APPLICABLE TO RECIPIENT AGENCIES

4.1 Food Safety

Maintaining and preserving the safety of rescued food is of utmost importance to the success of the programs offered on FoodRescue.ca. If you are a Recipient Agency, then you are responsible for ensuring that the food you redistribute is safe for human consumption. You agree to the terms in this section 4.1.

(1) You will only redistribute fresh and frozen raw (uncooked) meat to organizations that have demonstrated the capacity to accept, store and redistribute protein of this nature consistent with requirements set out by the government local public health authority.
(2) You will sort all food to ensure it is safe for human consumption before distribution to end-recipients.

(3) Except where local requirements dictate otherwise, your facilities where food is stored and prepared will be inspected by a local public health unit within 18 months of claiming any food through FoodRescue.ca, and you will continue to comply with all local requirements.

(4) You will follow the rules and procedures set out in your provincial/territorial Ministry of Health’s food safety acts and/or regulations. You acknowledge that you have read and understood applicable acts and regulations that apply to your province/territory.

(5) You will track temperatures of any rescued food that must remain in a cold chain from donor to your facilities. You will retain appropriate temperature logs for a minimum of 1 year and make these available as requested by either, the Food Donor or any associated organizations.

(6) You will follow the rules and procedures set out in your provincial/territorial Ministry of Health’s food safety acts and/or regulations for maintaining safe food handling certification requirements of staff or volunteer’s, who will physically handle food on site during your operational hours.

(7) You have traceability procedures in place to manage potential food product recalls.

4.2 Limits on Sale or Barter

If you are a Recipient Agency, then you will not sell, or trade food received through the program on FoodRescue.ca. If you ask any end-recipients for any form of payment, whether in the form of cash, goods or services, in exchange for rescued food received through the program on FoodRescue.ca, such payment will be used solely for the purpose of operating your social welfare organization.

4.3 No Compensation

If you are a Recipient Agency, then you will inform end-recipients that they must not return donated food to the Food Donor, or any other retail outlet, with any intention of complaint or refund request.

4.4 Accountability

If you are a Recipient Agency, when you claim a Food Rescue through FoodRescue.ca, you are agreeing to pick up the donation at the time and location specified by the Food Donor. You will provide at least four (4) hours advance notice of any inability to pick up the food donation, so that this food may be offered to others. Once a food donation has been picked up and brought to your facility, you are responsible for confirming the donation on FoodRescue.ca. Once confirmed, the details of this Food Rescue be attributed to both your organization’s and the Food Donor’s data reports.

4.5 Re-Donating Food

If you re-donate food that has been rescued using FoodRescue.ca to another organization, you should re-donate such food to another Recipient Agency through FoodRescue.ca. **If you are unable to re-donate rescued food through FoodRescue.ca and wish to re-donate the food to another non-**
profit organization, you must have written agreements in place with the recipient organization for food chain traceability and appropriate terms to protect you from liability.

5. PROMOTION

5.1 Data Collection by Second Harvest

You acknowledge that Second Harvest will collect and use data in compliance with the FoodRescue.ca Privacy Policy (available at https://www.foodrescue.ca/privacy-policy) and that Second Harvest will collect and use data from FoodRescue.ca for the purpose of tabulating and measuring data about successful and attempted Food Rescues as well as the capability and needs of Members with respect to the food rescue programs offered on FoodRescue.ca.

5.2 Data Sharing

You acknowledge that in order to participate in a Food Rescue, FoodRescue.ca must share information that identifies your organization to other Members.

You acknowledge that Members will have access to data collected about Food Rescues in which they are participating and to aggregated data about Food Rescues. Except as described in subsections 5.5 and 5.6 of these Terms and Conditions, Members are only permitted to use such information for operation and planning purposes.

At the request of Food Donors, additional data about their Food Rescues, including information about the Recipient Agencies that participated in successful and attempted Food Rescues, may be provided to Food Donors.

5.3 Ongoing Data Measurement

Any data collected from your use of FoodRescue.ca may continue to be tabulated and measured, even if your organization ceases to be associated with FoodRescue.ca.

5.4 Consent to Recognition

You consent to FoodRescue.ca or Second Harvest identifying your organization as a Member on FoodRescue.ca or in any Second Harvest or FoodRescue.ca promotional/informational material. You are free to decline or withdraw your consent by emailing your request to contactus@foodrescue.ca or adjusting the privacy setting in your profile on FoodRescue.ca. You recognize that if you cease to be associated with FoodRescue.ca or request the removal of your organization’s name(s) or logo(s) from any electronic or print material, it will take a reasonable time to complete the removal.

5.5 Permission to Publish

Second Harvest acknowledges and encourages sharing celebratory details and good news stories about Food Rescues and the work being done by Members, FoodRescue.ca and Second Harvest in
social and other public media communications, such as Twitter, Facebook, websites, newsletters, reports, promotional materials, press releases, media interviews, etcetera, however, before publicizing or sharing any information that identifies another Member or other participants (e.g. volunteer) in Food Rescues or FoodRescue.ca, you must obtain clear verbal or written consent to identify the Member or other participant. If you intend to publicize or share information about an individual under the age of 16 years, then his or her parent or guardian must consent, in writing only and in advance, to the individual’s inclusion in the publicity. Consent is not required to share celebratory details and good news stories such as the Member’s own participation in FoodRescue.ca or Food Rescues, the types of food donated or the types of people or programs receiving rescued food, or other general information that does not identify a specific Member or individual.

5.6 Use of Graphics and Trademarks

Members agree to obtain written consent prior to displaying a graphic logo or trade-marks of other Members, affiliates of members and Second Harvest (including its logos for FoodRescue.ca) in social and other public media communications, such as Twitter, Facebook, websites, newsletters, reports, promotional materials, press releases, media interviews, etcetera. You agree to indemnify and hold harmless another party from any and all losses, damages or expenses incurred or suffered as a result of unauthorized use of the other party’s logo or other trademarks.

5.7 Positive Statements

If you make any public statements about Second Harvest or FoodRescue.ca, you will only make statements that reflect positively on Second Harvest, FoodRescue.ca, Members as well as any and all their respective officers, directors, employees, contractors, staff, volunteers and representatives.

5.8 Terms of Use and Privacy

Your use of FoodRescue.ca is subject to the Website Terms of Use for FoodRescue.ca, which are available at:

- [https://www.foodrescue.ca/public/terms-of-use](https://www.foodrescue.ca/public/terms-of-use)
- [https://www.foodrescue.ca/privacy-policy](https://www.foodrescue.ca/privacy-policy)

6. GENERAL TERMS

6.1 Termination

Second Harvest may terminate your organization’s participation as a Member if the programs offered on FoodRescue.ca cease to operate, or if your organization (i) violates these Terms and Conditions; (ii) is deemed, in Second Harvest’s sole discretion, to no longer be able to comply with these Terms and Conditions, (iii) acts, or fails to act, in a manner that, in Second Harvest’s opinion, negatively impacts on Second Harvest, FoodRescue.ca, another Member, or Second Harvest’s relationship(s) with other Members, sponsors or donors, or any of Second Harvest’s fundraising efforts or food rescue
programs. Upon any such termination, your organization’s ability to participate as a Member will be withdrawn without further notice. In addition, either Second Harvest or a Member may terminate the Member’s participation in the programs offered in FoodRescue.ca by providing at least ten (10) days’ prior written notice.

6.2 Disclaimer of Warranties

YOU UNDERSTAND AND AGREE THAT YOUR USE OF FOODRESCUE.CA, ITS CONTENT, AND ANY SERVICES OR FOOD FOUND OR ATTAINED THROUGH FOODRESCUE.CA IS AT YOUR OWN RISK. THE WEBSITE, ITS CONTENT, AND ANY SERVICES OR ITEMS FOUND THROUGH THE WEBSITE ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. THE FOREGOING DOES NOT AFFECT ANY WARRANTIES THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

NEITHER SECOND HARVEST NOR ITS AFFILIATES OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SERVICE PROVIDERS, CONTRACTORS, LICENSORS, LICENSEES, SUPPLIERS OR SUCCESSORS MAKE ANY WARRANTY, REPRESENTATION OR ENDORSEMENT WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, SUITABILITY, ACCURACY, CURRENCY OR AVAILABILITY OF FOODRESCUE.CA OR ITS CONTENTS. WITHOUT LIMITING THE FOREGOING, NEITHER SECOND HARVEST NOR ITS AFFILIATES OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SERVICE PROVIDERS, CONTRACTORS, LICENSORS, LICENSEES, SUPPLIERS OR SUCCESSORS REPRESENT OR WARRANT THAT FOODRESCUE.CA, ITS CONTENT, OR ANY SERVICES OR ITEMS FOUND OR ATTAINED THROUGH FOODRESCUE.CA WILL BE ACCURATE, RELIABLE, ERROR-FREE, OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT FOODRESCUE.CA OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

6.3 Limitation on Liability

EXCEPT WHERE SUCH EXCLUSIONS ARE PROHIBITED BY LAW, UNDER NO CIRCUMSTANCE WILL SECOND HARVEST OR ITS AFFILIATES OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SERVICE PROVIDERS, CONTRACTORS, LICENSORS, LICENSEES, SUPPLIERS, OR SUCCESSORS BE LIABLE FOR NEGLIGENCE, GROSS NEGLIGENCE, NEGLIGENT MISREPRESENTATION, FUNDAMENTAL BREACH, DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND
WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT, BREACH OF PRIVACY OR OTHERWISE, EVEN IF THE PARTY WAS ALLEGEDLY ADVISED OR HAD REASON TO KNOW, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, OR RELIANCE ON, FOODRESCUE.CA, ANY LINKED WEBSITES OR SUCH OTHER THIRD-PARTY WEBSITES AND WEBSITE CONTENT, MATERIALS AND PROGRAMS ON FOODRESCUE.CA, POSTING OR INFORMATION THEREON EVEN IF THE PARTY WAS ALLEGEDLY ADVISED OR HAD REASON TO KNOW.

6.4 Indemnification

To the maximum extent permitted by applicable law, you agree to defend, indemnify, and hold harmless Second Harvest, its parent, subsidiaries, affiliates, and their respective directors, officers, employees, agents, service providers, contractors, licensors, suppliers, successors, and assigns from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses, or fees (including reasonable lawyers’ fees) arising out of or relating to your breach of these Terms and Conditions or your use of FoodRescue.ca, including, but not limited to, third-party sites, any use of FoodRescue.ca content and services other than as expressly authorized in these Terms and Conditions.

6.5 Complete Agreement

These Terms and Conditions, the Website Terms of Use, and FoodRescue.ca Privacy Policy will be deemed the final and integrated agreement between you and Second Harvest on the matters contained in these Terms and Conditions.

6.6 Waivers

No waiver of any part of the Terms and Conditions will be deemed to be a waiver of any other provision in these Terms and Conditions. No term of these Terms and Conditions will be deemed to be waived by reason of any previous failure to enforce it. No term of these Terms and Conditions may be waived except in a written document signed by the party waiving enforcement.

6.7 Amendments

Second Harvest may make changes to the terms of these Terms and Conditions from time to time and at any time. If changes are made to these Terms and Conditions, you understand that your organization will be provided with notice of the changes and a copy of the then most current version of these Terms and Conditions. Second Harvest may, but they are not obliged to, ask your organization to actively confirm your consent to the revised Terms and Conditions. If Second Harvest does not do so, but your organization continues to use FoodRescue.ca after the changes come into effect, your organization will be deemed to have agreed to abide by the revised Terms and Conditions. If your organization does not agree with the revised Terms and Conditions without qualification, your organization will not log into FoodRescue.ca, you will discontinue using FoodRescue.ca and you will instruct Second Harvest to disable any password(s) for FoodRescue.ca assigned to your organization. Should any provision of these Terms and Conditions be held to be invalid by a court of competent jurisdiction, then that provision will be enforced only to the extent permissible, and all other provisions will remain in effect and are enforceable by the parties.
6.8 Assignments

You may not transfer any of our rights or obligations as a Member nor your rights and obligations under these Terms and Conditions, either in whole or in part, without the prior written consent of Second Harvest. Should Second Harvest consent to any such assignment, such consent may be subject to such additional terms and conditions as Second Harvest may require. No assignment shall relieve you from your obligations under these Terms and Conditions. Second Harvest may, in whole or in part, assign these Terms and Conditions.

6.9 Relationships

These Terms and Conditions do not establish any relationship of partnership joint venture, employment, franchise or agency between your organization and Second Harvest, or any of the other Members. No party will have the power to incur any obligations that are not expressed in these Terms and Conditions.

6.10 Interpretation

No provision of these Terms and Conditions will be interpreted against any party merely because that party or its legal representative drafted the provision. All remedies are cumulative. These Terms and Conditions are for the benefit of, and binding upon the parties, their successors and permitted assigns. The headings used in these Terms and Conditions are for convenience of reference only and are not intended to be full or accurate descriptions of the content of the sections.

6.11 Choice of Law

These Terms and Conditions will be governed by and construed in accordance with the laws of the Province of Ontario and applicable laws of Canada. You agree that any legal proceedings will take place in courts located in Toronto.

6.12 Survivability

Sections 5 and 6 of these Terms and Conditions will survive any termination of your participation in the programs offered on FoodRescue.ca and use of the FoodRescue.ca website.

AGREEMENT TO THESE TERMS AND CONDITIONS IS MADE ELECTRONICALLY WHEN COMPLETING THE REGISTRATION PROCESS ONLINE AND MUST BE MADE BY A SIGNING AUTHORITY OF YOUR ORGANIZATION.

If you have any questions about the following, please reach out to us at https://www.foodrescue.ca/contact-us so that we can best capture your feedback to create better experiences.

We thank you for your desire to rescue food!
The FoodRescue Team