

SOUTH MOUNTAIN CREAMERY Terms and Conditions

SMC is Maryland's first on-the-farm dairy processing plant that delivers farm fresh and all-natural products to your doorstep. We're family owned and operated and have over 8,500 customers from MD, VA, PA, WV, and DC! We call our process, "from field to fork" because every process is completed at our farm. We grow, process, package, and sell our products. Our goal is to instill healthy eating habits, educate about the benefits of local agriculture, and provide a sustainable future for our children! If you want your milk straight from the cow, you HAVE to call South Mountain Creamery. Learn more at www.southmountaincreamery.com or find us on Facebook at www.facebook.com/smcdairy.

Please read and acknowledge the terms and conditions below and you will automatically be enrolled as a Home Delivery member, but are subject to application process set forth by the Delivery Route Manager. By registering to participate in the delivery service and clicking "I Agree" on the registration page, you acknowledge that you have reviewed these Terms and Conditions and agree to the following rules governing the delivery service.

Overview of the Program

The Delivery Service is a program sponsored by South Mountain Creamery (hereinafter "we", "our", or "us") through which qualified individuals can purchase deliveries through online purchases and qualifying telephone purchases at 1-301-371-8565. Delivery Service participants (hereinafter "you" or "your"), may review and change orders through the "Login" section on www.southmountaincreamery.com.

General Membership Details and Information

The Delivery Service and its benefits are offered at our sole discretion.

Participation in the Delivery Service is subject to the Terms and Conditions, rules, regulations, policies and procedures ("Program Rules") that we may, in our sole discretion, adopt from time to time. The interpretation and application of the Delivery Services are at our sole discretion.

We have the right to change, limit, modify, amend, or cancel the Delivery Service and these terms and conditions at any time, with or without notice.

To apply for Delivery Service, simply click on the "Apply Now" button and follow the onscreen instructions.

We are the final authority for membership. We reserve the right to restrict, suspend, and/or correct errors or omission. We reserve the right to approve, deny or revoke membership in the program to any individual for any reason whatsoever.

You are responsible for remaining knowledgeable as to any changes we may make to the Delivery Service or to these Terms and Conditions. The most current version of these Terms and Conditions will be available at www.southmountaincreamery.com and will supersede all previous versions of these Terms and Conditions.

Conditions for Membership Eligibility

Only individuals 18 years of age or older are eligible to receive home deliveries. Each individual may maintain only one account, with a limit of one account per household.

You must register to be a customer of South Mountain Creamery. In addition, you must accept and agree to these Terms and Conditions by clicking "I Agree" on the registration page and furnish a valid email address.

Membership in the Service will be renewed automatically each year, so long as your account is open and not in violation as defined in the Terms and Conditions Agreement. Currently, membership for Delivery

Service is subject to a one-time fee of \$45.00, \$40.00 will be credited to your account and \$5.00 is charged as an admin fee. Weekly orders are subject to a delivery fee per order, which is subject to change at any time.

We reserve the right to terminate your membership at any time based on violations of the Delivery Service Rules, Terms and Conditions, fraud or appearance of fraud, or violation of any federal, state, or local law or regulation in connection with the Delivery Service privileges.

Ability to order and receive home deliveries:

You must be a registered customer as described in these Terms and Conditions in order to be a Member and order and receive home deliveries. If at any time you become a non-qualified member you will not be allowed to order or receive deliveries.

A " Member" is a registered customer who has:

- Been approved by a Delivery Representative
- Placed an order online at www.southmountaincreamery.com; or
- Placed an order by calling 1-301-371-8565.

Duration of the Program

You can order and receive deliveries through online purchases or by placing an order by calling 1-301-371-8565. We anticipate that the Delivery Service will continue in perpetuity.

Placing an order

Orders can be placed two ways:

- Online purchase of SMC products at www.southmountaincreamery.com.
- Call 1-301-371-8565 for the order and delivery of SMC products.

Deliveries may be obtained by making weekly order placements or through recurring orders which can be set for weekly, biweekly, or monthly.

Orders must be placed once every three months or the account will be deactivated.

Vacation stops can be placed to hold orders for a set amount of time through www.southmountaincreamery.com or by calling 1-301-371-8565.

Bottle deposits are \$2.00 per bottle and are refunded after return of bottle. Green and yellow recyclable bags for items like meats and veggies will carry a deposit of \$5 per bag. So be sure to place them back in your box with your bottles for return.

Delivery fees are as follows:

- **Normal Delivery Fee is \$4.99**
- Orders that exceed \$50 will receive a 20% discount off of their delivery fee (\$3.99)
Orders that exceed \$70 will receive a 40% discount off of their delivery fee. (\$2.99)
Orders that exceed \$95 will receive a 100% discount off of their delivery fee (FREE!)

Periodically, there may be promotional offers for the Service, which provide the opportunity to apply discounts to order as defined by the terms of the promotion.

You can only order and receive home deliveries if you are a Member.

Ability to order will begin upon your enrollment date in the Service. ("Enrollment Date" is the day on which you become a Member.) Deliveries will not be made for purchases prior to the Enrollment Date. Any previously entered orders will be applied to the first delivery after the Enrollment Date.

Orders will be posted online in "My Orders" section of "My Account" after the application process is complete; approximately within four (4) weeks.

Orders/purchases are void if not obtained in accordance with these Terms and Conditions and through legitimate channels.

There is NO limit to the amount ordered.

Your activity will be recorded and tracked in "My Orders" section on www.southmountaincreamery.com.

You are responsible for ensuring the accuracy of your account and encouraged to check your account on a regular basis. If you believe that orders were not properly placed, delivered or charged to/from your account, you must notify us. Failure to notify us of improper delivery could result in the loss of credit to account.

You are responsible for determining, recording and paying all federal, state, and local taxes, deposits, and delivery fees related to home delivery. It is important that you keep records of all home deliveries. We will not provide any tax information to you. You should consult with your tax advisors for tax guidelines specific to your needs. Any and all tax liabilities arising from the Service are your sole responsibility.

Receiving Home Deliveries

Home delivery is available once weekly and will be delivered on a transactional basis.

Payment is due after order is received. Visa, MasterCard, Amex, Discover or ECheck are acceptable forms of payment.

Home Delivery orders will not be delivered until after they have been placed. Orders must be placed by midnight the day before your delivery.

- Tuesday Delivery- Sunday at 11:59pm
- Wednesday Delivery- Monday at 11:59pm
- Thursday Delivery- Tuesday at 11:59pm
- Friday Delivery- Wednesday at 11:59pm

All orders for products after the deadline are final. All other order issues are governed by the Terms and Conditions of this Program.

Noncompliance with placing an order set forth in these Terms and Conditions and Service Rules is a violation and may result in your removal from the Delivery Service.

A cooler must be placed outside of home by 7pm the night before delivery and must remain outside until after delivery has been made which can vary day to day, from 7pm, the evening before, to 4:00pm. Deliveries made without a cooler will be placed in a reusable green insulated bag, which is subject to a \$5.00 non-refundable fee.

A separate cooler and dry ice pack must be used for ice cream delivery.

If you request a re-delivery of product, where South Mountain Creamery was unable to deliver due to customer error (i.e. no cooler, no delivery; no key, unable to access building; dogs were aggressive; etc) a second delivery fee will be charged.

No delivery driver will enter a home under any circumstance, as provided in the Terms and Conditions set forth by South Mountain Creamery. Coolers and empty bottles must be placed outside of the home.

If your account has been inactive for a period of 90 days or more, account will be deactivated and subject to a new account set-up.

Restrictions Relating to Home Deliveries

Deliveries will not be made if cooler is blocked by debris or other materials. Customers with set orders and no visible cooler may receive a reusable green insulated bag, which is subject to a \$5.00 non-refundable fee.

Deliveries are not transferable unless otherwise approved by Delivery Route Manager.

There is no maximum order required by the Service.

You may not combine orders with other members' accounts.

If there is any abuse of the Service, failure to follow Service Rules, or any misrepresentation by you, all home deliveries shall be cancelled, no additional orders shall be placed, and you will be removed from the Service.

Home Deliveries may not be exchanged for other goods or services.

All orders are subject to availability.

Coupons will be deemed to have been surrendered at redemption and no other offers will be honored.

Expiration and Termination of Delivery Service

If your Delivery Service account is closed for any reason, your membership in the Service will be terminated.

Home Deliveries will be forfeited if you cancel your Service account, Service is terminated, or if you are no longer a Member.

Any fraud or abuse related to the order or delivery of products will result in forfeiture of cancellation of membership in the Service.

We reserve the right to take any other or additional action we deem appropriate in our sole discretion in the event we believe a Member (or Members) have violated any of the Service Rules or uses the Service in a manner inconsistent with these Terms and Conditions or any federal, state or local laws, statutes or ordinances.

Discontinued participation privileges may result in the loss of saved orders. In addition to discontinuance of participation privileges, we have the right to take appropriate administrative and/or legal action, including criminal prosecution, as we deem necessary in our sole discretion.

Home deliveries do not constitute property of a Member and may be revoked at any time by us as set forth herein.

General Terms and Conditions

This Service is void where prohibited by law and/or not covered by our delivery area as determined by route management systems.

South Mountain Creamery is not responsible for delayed or lost communications sent by any form or delivery including but not limited to mail, email, web or phone.

Any disputes concerning Delivery Service will not affect your payment obligation to us on your Service account unless otherwise noted by Delivery Representatives, Customer Service Representatives, Office Manager, or General Manager.

An administrative service or services for the Service is provided on our behalf by contracted technology partners. These are independent contractors and have no affiliation with us. By participating in the Service, you hereby indemnify and hold harmless us and any and all of our independent contractor partners shall be liable for any damages whatsoever, including but not limited to, bodily harm and/or property damage and/or lost opportunity, which may result from participating in the Delivery Service or for the provision of goods or services by merchants or providers.

Our rights and obligations under this Service may be transferred or assigned by us to any other related or unrelated entity at any time, and performance thereafter shall be the responsibility of that entity without prior notice to you.

South Mountain Creamery makes no claims, warranties, guarantees or representations of any kind, expressed or implied, with respect to orders and shall not be liable for any loss, expense (including without limitation, attorneys or inconvenience) that may occur in the use of the Service.

To learn how the personal information collected in connection with the Program may be used, you should read the Privacy Policy available at www.southmountaincreamery.com.

We are not responsible for any damages or losses you may incur based on incorrect or inaccurate information supplied by you while participating in the Service.

Limitation of Liability and Dispute Resolution

We are not responsible for incorrect or inaccurate transcription of information, for problems related to any of the equipment or programming associated with the Service or utilized by you or any Member, for any human error, for any interruption, deletion, omission, defect, or line failure of any telephone network or electronic transmission, for problems relating to computer equipment, software, inability to access the Website or online service, or for any other technical or non-technical error or malfunction. In the event of a printing error or irregular packaging, we and our respective related companies, parents, subsidiaries, affiliates, and respective agents and their agencies, suppliers and other companies (hereinafter collectively referred to as "Releases") involved in the development and execution of the Program or the production or distribution of Service materials shall have no liability. UNDER NO CIRCUMSTANCES, INCLUDING, BUT NOT LIMITED TO NEGLIGENCE, SHALL ANY OF THE RELEASEES BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL PROGRAM DAMAGES ARISING OUT OF THE PROGRAM OR MERCHANDISE OFFERED THROUGH THE PROGRAM, EVEN IF ANY OR ALL OF THE FOREGOING OR ANY OF THEIR AUTHORIZED REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BY PARTICIPATING IN THE SERVICE, YOU WAIVE ANY AND ALL RIGHTS TO BRING ANY CLAIM OR ACTION RELATED TO SUCH MATTERS IN ANY FORUM BEYOND ONE (1) YEAR AFTER THE FIRST OCCURRENCE OF THE KIND OF ACT, EVENT, CONDITION OR OMISSION UPON WHICH THE CLAIM OR ACTION IS BASED.

Any and all disputes, claims, and causes of action arising out of or connected with this Service shall be resolved individually, without resort to any form of class action and exclusively by arbitration.

Any and all claims, judgments and Home Deliveries shall be limited to actual out-of-pocket costs incurred, including costs associated with participating in this Service, but in no event shall attorney's fees be recoverable from us.

Under no circumstances will you be permitted to seek recovery for, and you hereby waive all rights to claim punitive, incidental and consequential damages and any other damages, other than for actual out-of-pocket expenses, and you waive any and all rights to have damages multiplied or otherwise increased.

All issues and questions concerning the construction, validity, interpretation and enforceability of the Terms and Conditions, or the rights and obligations in connection with this Service, shall be governed by, and construed in accordance with, the laws of the State of Maryland, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Maryland or any other jurisdiction) other than the State of Maryland.

These Terms and Conditions constitute the entire agreement between all Service Members and South Mountain Creamery pertaining to the subject matter hereof and supersedes all prior or other arrangements, understandings, and negotiations and discussions, whether oral or written. No waiver of any of the provisions of these Terms and Conditions shall be deemed or shall constitute a waiver of any other provisions hereof the Service (whether or not similar), nor shall waiver constitute a continuing waiver unless otherwise expressly provided.

If any provision of these Terms and Conditions is found to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be severed from the remainder of these Terms and Conditions, which will otherwise remain in full force and effect.

Additional Information

You may terminate your participation in the Service at any time by calling [1-301-371-8565](tel:1-301-371-8565).

To update your delivery information, including address changes, please contact Customer Service at (301) 371-8565.

These Terms and Conditions are dated January 1, 2016.