

Last Updated 07/11/2017

## TERMS OF USE

### BUZZUB INC. TERMS OF USE

IMPORTANT NOTICE – PLEASE READ THESE TERMS OF USE CAREFULLY BEFORE USING THE SITE OR ANY SERVICES, SOFTWARE, OR CONTENT AVAILABLE ON OR THROUGH THE SITE. THE FOLLOWING TERMS OF USE ARE A LEGALLY BINDING CONTRACT BETWEEN YOU AND THE SITE PROGRAM OWNERS AND OPERATORS REGARDING YOUR USE OF THIS WEBSITE, MOBILE APPLICATIONS, NETWORKS, AND OTHER RELATED FEATURES OR SERVICES (COLLECTIVELY, THE “SERVICE”). BY CLICKING “I ACCEPT,” REGISTERING FOR AN ACCOUNT, DOWNLOADING A MOBILE APPLICATION, ACCESSING, BROWSING, OR OTHERWISE USING THE SERVICE, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THE FOLLOWING TERMS AND CONDITIONS, INCLUDING THE PRIVACY POLICY, ANY APPLICABLE END USER LICENSE AGREEMENT, AND ANY ADDITIONAL TERMS OR FUTURE MODIFICATIONS (COLLECTIVELY, THE “TERMS”). IF YOU ARE NOT ELIGIBLE, OR DO NOT AGREE TO ALL OF THE TERMS, THEN PLEASE DO NOT USE THE SERVICE.

THESE TERMS ARE APPLICABLE TO **ALL USERS** OF THE SITE, PRODUCTS AND SERVICES INCLUDING **CONSUMERS, USERS AND MERCHANTS**.

ADDITIONAL TERMS THAT APPLY ONLY TO **MERCHANTS** THAT USE THE SITE, PRODUCTS AND SERVICES ARE OUTLINED IN SPECIFIC SECTIONS BELOW.

This site is operated by Buzzub Inc. (the “Company”), a company dedicated to the success of small and medium businesses and their customers and offers numerous products and services in the advertising, coupons and rewards domains. The Company previously operated as NetIncent, Inc, and these Terms apply to the products and services that are offered under different sub-brands of the Company including the following: Buzzub Rewards, Buzzub Coupons, as well as previously used brands Top Hat Rewards, Kash4me, and See You Soon Coupons. Welcome to this site as well as related websites and portal and thanks for your interest in the solutions provided here.

### 1. Definition of Terms

These Terms of Use are applicable when you use the Service in any capacity as a User (also referred to as an End User), including as a Merchant (a business owner with a

physical presence store or a web-based e-Commerce store), a Customer (also referred to as a consumer or shopper) or even as an Employee/Contractor/Partner of the Company. A brief definition of terms:

- 1.1. **User:** Any user of the site or products, whether the person be a Customer, Merchant, Employee or just a casual browser that is neither. If used without qualification (e.g. Customer or Merchant), the term User applies to either or both.
- 1.2. **Merchant:** A user that has registered as or looking to register as a retail store/shop-owner or representative that will use the services of this site.
- 1.3. **Customer:** A user or consumer that shops at any participating Merchant.
- 1.4. **Consumer:** Same as a Customer. Also called a Shopper.
- 1.5. **Site:** The website and the domain name being accessed along with the sub-pages and links referenced at the site for any of the sub-brands of the Company.
- 1.6. **Network:** All participating Merchants that sign up with Company for giving out offers/coupons or rewards are considered part of the network, which is also called the Buzzub Network for coupons and rewards. All consumers who receive offers/coupons or rewards from any of these merchants by providing their mobile phone number (or other authentication, if applicable, such as email or Facebook or Twitter logins), also become a part of the Buzzub Network.

## 2. Privacy Policy; End User License Agreement; Additional Terms

- 2.1. **Privacy Policy.** Please read the [Privacy Policy](#) carefully for information relating to our collection, use, and disclosure of your personal information. The [Privacy Policy](#) is hereby incorporated by reference into, and made a part of these Terms.
- 2.2. **End User License Agreement.** Your use of any mobile application or other online (e.g. webapp) or downloadable software we may provide (e.g. an "App") is subject to an End User License Agreement. The applicable End User License Agreement depends on the platform on which the App is designed to run and the features of the App. The End User License Agreement will be presented to you when you use, download and/or install the App and will be accessible through the App. Apps are deemed part of the Service, and all such End User License Agreements are hereby incorporated into, and made a part of, the Terms by reference.

**2.3. Additional Terms.** Your use of the Service is subject to any additional terms, rules, or guidelines applicable to certain services and features which we may post from time to time (the "Additional Terms"). All such Additional Terms are hereby incorporated by reference into, and made a part of, the Terms.

### 3. Children and Eligibility

If you are under 13 years of age, then please do not use or access the Site at any time or in any manner, or submit any information to the Site. You must be at least thirteen (13) years old to use the Service. By agreeing to the Terms, you represent and warrant to us: (i) that you are at least thirteen (13) years old (ii) that you have not previously been suspended, removed or deactivated from the Service and (iii) 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 (collectively "Subscribing Organization"), you are an authorized representative of that Subscribing Organization with the authority to bind such organization to these Terms; and agree to be bound by these Terms on behalf of such Subscribing Organization. In such a case, "you" in these Terms refers to your Subscribing Organization, and any individual authorized to use the Service on behalf of the Subscribing Organization, including you.

### 4. Modification of the Terms

We reserve the right, at our discretion, to change the Terms on a going forward basis at any time. Please check the Terms periodically for changes. Your continued use of the Service after the changes become effective constitutes your binding acceptance of such changes. In the event that a change to the Terms materially modifies your rights or obligations, we will make an effort to notify you of the change, such as by sending you an email to the address we have on file for you, or presenting a pop-up window or other notification to you through the Service when you log in. Immaterial modifications are effective upon publication, and material changes will be effective upon the earlier of (a) continued use of the Service with actual knowledge of the modification, or (b) thirty (30) days following the change. For the avoidance of doubt, disputes arising hereunder will be resolved in accordance with the Terms in effect that the time the dispute arose.

## 5. User Accounts and Registration

A user may not create more than one (1) account in each capacity as a Customer or a Merchant to participate in the Network. Accounts are associated with a person's mobile phone number.

Access to and use of password protected or secure areas of the Site is restricted to authorized or registered users only. Some services do not require registration, but to access other 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 mobile phone number, email address etc.). You agree that the information you provide to us is and will be accurate and up-to-date at all times. When you register, you will be asked to provide a secure password. You are solely responsible for maintaining the confidentiality of your account and password. You agree to accept responsibility for all activities that occur under your account. If you have reason to believe that your account is no longer secure for any reason (for example, in the event of a loss, theft or unauthorized disclosure or use of your password), then you agree to notify us immediately at [support@buzzub.com](mailto:support@buzzub.com).

## 6. Referral Bonuses

From time to time, Company may introduce special bonuses or incentives for users to refer others to various programs, using a personal referral code or URL. Users shall not be eligible to earn these bonuses if they invite other users who share the same mobile device or if they create multiple accounts in an effort to earn referral bonuses for inviting themselves. Such actions violate these Terms of Use and shall be grounds for Company to terminate a User's account, decline/rescind any referral bonuses, reverse or correct user rewards balances, or take other actions as appropriate.

## 7. User Content Overview

Certain features of the Service may permit users or Merchants to post content, including messages, reviews, photos, images, folders, data, text, and other types of works (collectively called, "User Content") and to publish User Content on the Service.

- 7.1. Limited License Grant to Company.** By posting User Content, you grant Company a worldwide, non-exclusive, transferable, assignable, fully paid-up, royalty-free, perpetual, irrevocable right and license to host, transfer, display,

perform, reproduce, modify, distribute and re-distribute, and otherwise exploit your User Content, in whole or in part, in any media formats and through any media channels (now known or hereafter developed). You retain copyright and any other proprietary rights you hold in the User Content that you post to the Service.

**7.2. User Content Representations and Warranties.** You are solely responsible for your User Content and the consequences of posting or publishing User Content. By posting and publishing User Content, you affirm, represent, and warrant that:

7.2.1. You are the creator and owner of, or have the necessary licenses, rights, consents, and permissions to use and to authorize Company and users of the Service to use and distribute your User Content as necessary to exercise the licenses granted by you in this section and in the manner contemplated by Company and the Terms;

7.2.2. Your User Content, and the use thereof as contemplated herein, does not and will not: (a) infringe, violate, or misappropriate any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; (b) slander, defame, libel, or invade the right of privacy, publicity or other property rights of any other person; (c) contain any viruses, adware, spyware, worms, or other malicious code; or (d) violate any applicable law or regulation.

**7.3. User Content Disclaimer.** Company is under no obligation to edit or control User Content that you and other users post or publish, and will not be in any way responsible or liable for User Content. You understand that when using the Service you will be exposed to User Content from a variety of sources and acknowledge that User Content may be inaccurate, offensive, indecent or objectionable. You agree to waive, and hereby do waive, any legal or equitable rights or remedies you have or may have against Company with respect thereto. We expressly disclaim any and all liability in connection with User Content. If notified by a user or content owner that User Content allegedly does not conform to the Terms, we may investigate the allegation and determine in our sole discretion whether to remove the User Content, which we reserve the right to do at any time and without notice. For clarity, Company does not permit copyright infringing activities on the Service.

## 8. Text Messages or SMS

Your mobile phone number is your primary or key identifier in our system for Customers and Merchants. As such, we need to verify it by sending an SMS message with an authentication code prior to enrollment. If you ever forget your password, we would need to re-authenticate you by sending an SMS message with an authentication code, which will enable you to reset your password. You may receive an SMS from Company if you are invited to join a coupon or rewards program. As always, message and data rates may apply for any messages sent to you from us and to us from you. Message frequency depends on the user's interaction. If you have any questions about your text plan or data plan, it is best to contact your wireless provider.

## 9. Customer Offers & Rewards from Merchants

**9.1. Receiving Offers:** Customers may receive (via their mobile phone or by accessing their account on the internet) various kinds of offers or rewards from Merchants depending on the type of service the shopper or Merchant is participating in:

9.1.1. **Advertisements:** Merchants may advertise goods or services in various ways including on the Site, consumer mobile apps, Merchant store-counter tablets/kiosks/TVs, placards and other media.

9.1.2. **Coupons/Offer:** Merchants may offer deals, discounts or other rewards offers to the consumer to shop with them.

9.1.3. **Cash-back Rewards/Rebates:** Merchants may also offer additional cash-back reward incentives to shop with them.

**9.2. Participation in the Network:** A customer becomes a member of the Buzzub Network automatically when he/she receives the first offer/coupon or reward from a merchant. No explicit enrollment is required. As a member, a customer can receive offers/rewards, and also receive confirmation and notifications. A consumer has the option to opt out of the Buzzub Network if so desired.

**9.3. Notifications:** The Company provides the Merchants the ability to notify customers when they receive coupon offers or rewards. This can be done via text/SMS or via email (if an email record has been provided by the consumer) or via push-notifications on the customer's mobile app. Customers have the option to turn off text/SMS or other notifications if they so desire. The

Company's intent and commitment is to not spam consumers, but simply let them opt in for the notifications they wish to receive.

**9.4. Merchant Responsibility:** It is the Merchants' responsibility to make offers they can honor or fulfill. The Company is not responsible for any offers that the Merchant makes to a consumer and is unable to fulfill for any reason whatsoever. Merchants directly determine the validity of an offer including expiration dates, product/service availability, price increases and limits/conditions on customers. If a consumer is dissatisfied with the handling of the offer, he/she has no recourse with the Company.

**9.5. Cash-back Rewards:** Some services include monetary rewards such as cash-back rewards or rebates and this section pertains to these situations.

**9.5.1. Customer Mobile Wallet.** Rewards received by the Customer from multiple Merchants continue to accumulate in the Customer's Mobile Wallet, which is an account maintained by the Company in its cloud service for the Customer for the rewards and bonuses earned by the customer, until they are distributed as described below. The Mobile Wallet is associated with the Customer's Mobile Phone number.

**9.5.2. Customer Responsibility on Account Balance.** Customers have several key responsibilities with respect to their accounts:

**9.5.2.1. Accumulation Thresholds.** These Rewards require a minimum threshold to withdraw and to continue accumulation. It is the Customer responsibility to keep an eye on their account to ensure that they continue to earn Rewards to meet the minimum thresholds

**9.5.2.2. Account Password Security.** It is the Customer's responsibility to use secure passwords and maintain them securely at all times in order to protect their balances.

**9.5.2.3. Mobile Phone Number Change/Cancellation.** THE MOBILE WALLET ACCOUNTS ARE KEYED TO A PERSON'S MOBILE PHONE NUMBER. IF A CUSTOMER ABANDONS THE NUMBER WITHOUT DISTRIBUTING THE ACCOUNT BALANCE, THE AMOUNT WILL BECOME AVAILABLE TO THE NEW OWNER OF THAT MOBILE PHONE NUMBER. HENCE, IT IS THE CUSTOMER'S RESPONSIBILITY TO DISTRIBUTE THE ACCOUNT BALANCE PERIODICALLY, AND ALSO PRIOR TO THE TIME THEY ARE LIKELY TO LOSE ACCESS TO THEIR PHONE NUMBER. ACCOUNTS CANNOT BE ACCESSED IF THE MOBILE PHONE NUMBER IS NOT ACCESSIBLE OR OPERATIONAL, AS IT IS REQUIRED FOR CUSTOMER VALIDATION.



9.5.2.4. **Account Balances are NOT Transferable.** Balances in accounts cannot be transferred or rolled-over into new accounts if the Customer changes mobile phone numbers. Each phone number results in a separate, independent account with its own thresholds applied.

9.5.3. **Account Balance Distributions.** Validation of a consumer's mobile phone number is required for the consumer to be able to use the funds in his/her mobile wallet. This is typically done by a verification text/SMS code sent to the mobile phone number to confirm that the mobile phone number and providing a secure password for access. This process is referred to as Registration, and the customer is also requested to provide an email or contact address so they can be contacted in the situation that the funds expire. Funds may be redeemed in a participating store as a form of payment. The Company reserves the right to change the distribution mechanisms from time to time to adjust to the market changes in the payment industry. The distribution is subject to various conditions:

9.5.3.1. Distribution can be initiated by the Customer only if the accumulated Rewards balance is ten dollars (\$10.00) or more,

9.5.3.2. Holding Period: The Company holds a customer's reward amount for a period of 60 days, after which time the money is distributed to the customer, if possible, or forfeited by the customer (and handled as per financial regulations by the Company),

9.5.3.3. Distribution can only be made within the Holding Period of when the Rewards started accumulating, after the previous distribution if any,

9.5.3.4. Distributions that are not initiated by the Customer within the Holding Period as stated above, are automatically distributed by the Company using the method that the Customer signed up to during Registration,

9.5.3.5. Automatic distributions by the Company at the end of the Holding Period stated above are only made if the accumulated amount exceeds a minimum threshold to cover processing costs,

9.5.3.6. Distributions are only available for rewards that the Company has been able to collect from the merchant and are not available if collections are not possible due to bad credit or delinquency issues of the merchant,



- 9.5.3.7. Distributions only apply to actual cashback rewards received and not for incentive bonuses, partial punches and any coupon or discount offers,
  - 9.5.3.8. The Company charges a nominal fee for distributions (whether initiated by the Customer or automatically initiated by the Company) to cover processing costs, hence, the received distribution will be less than the account balance that was initiated for transfer,
  - 9.5.3.9. Any Rewards that are below the minimum threshold of automatic distribution are forfeited, and are not carried forward,
  - 9.5.3.10. Distributions may only be for the entire account balance at the time of distribution and partial withdrawals or payments may not be permitted,
  - 9.5.3.11. Once a distribution is done, whether it is Customer initiated or automatic, or if the amounts are below the minimum threshold and forfeited, the account balance immediately becomes zero, and new accumulation begins with the next Reward which also triggers the start of the new Holding Period to determine minimum threshold and automatic distributions,
  - 9.5.3.12. A Customer may close or terminate the Service but is advised to use up the account balance at any of the other participating merchants to get the maximum benefit of the reward. If the Customer later decides to re-join the Service, then he/she must go through the Registration process again, and access to the previous account history is not available.
- 9.5.4. **Taxes.** Depending on applicable federal, state, and local tax laws, a distribution of Rewards may be subject to taxes. You will be solely responsible for any and all tax liability arising out of your receipt of Rewards. Further, if your rewards in a given calendar year exceed the IRS threshold (currently at \$600), you may be required to fill out a W-9 form with your Social Security Number, SSN as per mandatory IRS requirements.
- 9.5.5. **Compliance with Law.** Under state escheatment law, or other applicable law, Company may be required to remit Rewards in your mobile wallet account to the state of your last known address if your account has not had any activity for certain period of time. Your last known address will be determined by Company based on the zip code that you provided when creating your account. If we remit funds as required by law, you will need to contact the state directly to obtain the funds.

9.5.6. **Claims.** By accepting these Terms of Use you agree not to seek Rewards or make any claims for Rewards against third-party providers, Merchants or manufacturers of products and services.

## 10. Digital Millennium Copyright Act

**DMCA Notification.** Company complies with the provisions of the Digital Millennium Copyright Act applicable to internet service providers (17 U.S.C. §512, as amended). If you have any complaints or objections to material posted on the Service, you may contact our Designated Agent at the following address:

Buzzub Inc.:  
650 Page Mill Rd.  
Palo Alto, CA 94304  
E-mail: [support@buzzub.com](mailto:support@buzzub.com)

Any notice alleging that materials hosted by or distributed through the Service infringe intellectual property rights must include the following information:

- an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other right being infringed;
- a description of the copyrighted work or other intellectual property that you claim has been infringed;
- a description of the material that you claim is infringing and where it is located on the Service;
- your address, telephone number, and email address;
- a statement by you that you have a good faith belief that the use of the materials on the Service of which you are complaining is not authorized by the copyright owner, its agent, or the law; and
- a statement by you that the above information in your notice is accurate and that, under penalty of perjury, you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

## 11. Third Party Services and Websites

Company may provide tools through the Service that enable you to export information to third party services, including through use of an API or by linking your account on Company with an account on the third party service, such as Google, Twitter or Facebook. By using these tools, you agree that we may transfer such User Content and information to the applicable third party service. Such third party services are not under our control, and we are not responsible for the contents of

the third party service or the use of your User Content or information by the third party service. The Service, including our websites, may also contain links to third-party websites. The linked sites are not under our control, and we are not responsible for the contents of any linked site. We provide these links as a convenience only, and a link does not imply our endorsement of, sponsorship of, or affiliation with the linked site. You should make whatever investigation you feel necessary or appropriate before proceeding with any transaction with any of these third parties services or websites.

## 12. Prohibited Conduct while using this Service

You agree not to do any of the following, either as a user or a merchant:

- 12.1. Derive or extract information from Company's web or mobile applications for the purpose of using said information in conjunction with another service, web or mobile application;
- 12.2. Distribute, rent, lease, loan, sell, resell, sublicense or otherwise transfer the licenses granted herein or any Materials (defined later);
- 12.3. Publish, post, upload, or distribute any defamatory, libelous, or inaccurate User Content or other content; post, upload, or distribute any User Content or other content that is unlawful or that a reasonable person could deem to be objectionable, profane, offensive, indecent, pornographic, harassing, threatening, embarrassing, distressing, vulgar, hateful, racially or ethnically offensive, or otherwise inappropriate;
- 12.4. Take advantage of or attempt to exploit Company's referral bonus program by inviting yourself to join the program using another account or invite others who share the same mobile device, in an effort to earn referral bonuses or credit(s); make false or misleading claims about Company's referral program or any other incentive program created by Company;
- 12.5. Impersonate any person or entity, falsely claim an affiliation with any person or entity, or access the Service accounts of others without permission, forge another person's digital signature, misrepresent the source, identity, or content of information transmitted via the Service, or perform any other similar fraudulent activity;
- 12.6. Make unsolicited offers, advertisements, proposals, or send junk mail or spam to other users of the Service. This includes, but is not limited to, text/SMS messages, unsolicited advertising, promotional materials, political materials, or other solicitation material, bulk mailing of commercial advertising, chain mail, informational announcements, charity requests, and petitions for signatures;

- 12.7. Use the Service for any illegal purpose, such as funds transfers or payments for illegal activities, or in violation of any local, state, national, or international law, including, without limitation, laws governing intellectual property and other proprietary rights, and data protection and privacy, or the collection, storage, or transmission of information;
- 12.8. Defame, harass, abuse, threaten or defraud users of the Service, or collect, or attempt to collect, personal information about users or third parties without their consent; use the Service for any commercial or non-commercial purpose other than the specified legitimate business of Company's services of coupon offers and rewards;
- 12.9. Remove, circumvent, disable, damage or otherwise interfere with security-related features of the Service or User Content, features that prevent or restrict use or copying of any content accessible through the Service, or features that enforce limitations on the use of the Service or User Content; reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the Service or any part thereof (including any App), except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation; modify, adapt, translate or create derivative works based upon the Service or any part thereof, except and only to the extent the foregoing restriction is expressly prohibited by applicable law; or
- 12.10. Delete the copyright or other proprietary rights on the Service or any User Content; intentionally interfere with or damage operation of the Service or any user's enjoyment of it, by any means, including uploading or otherwise disseminating viruses, adware, spyware, worms, denial-of-attack services or other malicious code.

### 13. Termination of Use

If you violate any of the Terms, your permission to use the Service will automatically terminate. You also agree that we may, at any time and without notice to you, suspend or revoke your access to and use of the Service, and any accounts you may have in connection with the Service including: (i) where we determine in our sole discretion that such action is reasonable in order to comply with legal requirements or to protect the rights or interests of Company or any third party; or (ii) in connection with any general discontinuation of the Service.

### 14. Modification of the Service

We also reserve the right to modify the Service at any time without notice to you. We will have no liability whatsoever on account of any change to the Service or any

suspension or revocation of your access to or use of the Service, provided that if we terminate your access to the Service other than for your breach of these Terms, you may be entitled to have your Rewards distributed, as described in the Terms. You may terminate your account at any time by contacting customer service at [support@buzzub.com](mailto:support@buzzub.com) . If you terminate your account, you will remain obligated to pay all outstanding fees and charges, if any, relating to your use of the Service incurred before termination.

## 15. Ownership & Property Rights

The Service is owned and operated by Company. The visual interfaces, graphics, design, compilation, information, computer code (including source code or object code), products, software, services, and all other elements of the Service provided by Company (the "Materials") are protected by United States copyright, trade dress, trademark laws, international conventions, and all other relevant intellectual property and proprietary rights, and applicable laws. Except for any User Content that is provided and owned by users of the Service, all Materials contained in the Service are the property of Company or its subsidiaries or affiliated companies and/or third-party licensors. Except as expressly authorized by Company, you agree not to sell, license, distribute, copy, modify, publicly perform or display, transmit, publish, edit, adapt, create derivative works from, or otherwise make unauthorized use of the Materials. Company reserves all rights to the Materials not expressly granted in the Terms.

## 16. Indemnity

You agree that you will be personally responsible for your use of the Service, and you agree to defend, indemnify and hold harmless the Company and its operators, officers, directors, employees, consultants, affiliates, subsidiaries and agents (collectively, the "Company Entities") from and against any and all claims, liabilities, damages, losses and expenses, including reasonable attorneys' and accounting fees and costs, arising out of or in any way connected with (i) your access to, use of or alleged use of the Service; (ii) your violation of the Terms or any representation, warranty, or agreements referenced herein, or any applicable law or regulation; (iii) your violation of any third party right, including without limitation any intellectual property right, publicity, confidentiality, property or privacy right; or (iv) any disputes or issues between you and any third party. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise

subject to indemnification by you, and in such case, you agree to cooperate with our defense of such claim.

## 17. DISCLAIMERS; NO WARRANTIES

THE SERVICE IS PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS, WITHOUT WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED. THE COMPANY ENTITIES SPECIFICALLY (BUT WITHOUT LIMITATION) DISCLAIM (i) ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT OR NON-INFRINGEMENT; (ii) ANY WARRANTIES ARISING OUT OF COURSE-OF-DEALING, USAGE, OR TRADE; (iii) ANY WARRANTIES THAT THE INFORMATION OR RESULTS PROVIDED IN, OR THAT MAY BE OBTAINED FROM USE OF, THE SERVICE WILL MEET YOUR REQUIREMENTS OR BE ACCURATE, RELIABLE, COMPLETE, OR UP-TO-DATE; (iv) THE SITE, WILL MEET YOUR REQUIREMENTS; (v) THE SITE WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS; (vi) THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SITE WILL BE ACCURATE, TIMELY, OR RELIABLE; OR (vii) THE QUALITY OF THE SITE WILL MEET YOUR EXPECTATIONS, AND (viii) ANY WARRANTIES WHATSOEVER REGARDING ANY PRODUCTS, SERVICES, INFORMATION OR OTHER MATERIAL ADVERTISED, MADE AVAILABLE, OR REFERRED TO YOU THROUGH THE SERVICE. YOU ASSUME ALL RISK FOR ALL DAMAGES, INCLUDING DAMAGE TO YOUR COMPUTER SYSTEM, MOBILE DEVICE OR LOSS OF DATA THAT MAY RESULT FROM YOUR USE OF OR ACCESS TO THE SERVICE. ANY CONTENT, MATERIALS, INFORMATION OR SOFTWARE DOWNLOADED, USED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES IN SOME CIRCUMSTANCES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

## 18. Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER THE COMPANY ENTITIES NOR ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING, OPERATING OR DELIVERING THE SERVICE WILL BE LIABLE FOR ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE OR ANY OTHER LEGAL THEORY, WHETHER OR NOT THE COMPANY ENTITIES HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE WHERE SUCH DAMAGES RESULT FROM: (i) YOUR ACCESS TO OR USE OF, OR INABILITY TO ACCESS OR USE, THE SERVICE, OR (ii) ANY PURCHASE OR USE OF A THIRD PARTY OFFER, COUPON, REWARD, PRODUCT OR

SERVICE BASED ON INFORMATION CONTAINED IN THE SERVICE. YOU SPECIFICALLY ACKNOWLEDGE THAT THE COMPANY ENTITIES ARE NOT LIABLE FOR THE DEFAMATORY, OFFENSIVE OR ILLEGAL CONDUCT OF OTHER USERS OR THIRD PARTIES AND THAT THE RISK OF INJURY FROM THE FOREGOING RESTS ENTIRELY WITH YOU. FURTHER, THE COMPANY ENTITIES WILL HAVE NO LIABILITY TO YOU OR TO ANY THIRD PARTY FOR ANY THIRD-PARTY CONTENT UPLOADED ONTO OR DOWNLOADED FROM THE SITE OR THROUGH THE SERVICE. YOU AGREE THAT THE AGGREGATE LIABILITY OF THE COMPANY ENTITIES TO YOU FOR ANY AND ALL CLAIMS ARISING FROM OR RELATED TO THE USE OF THE SERVICE IS LIMITED TO THE GREATER OF (i) THE AMOUNTS YOU HAVE PAID TO COMPANY FOR ACCESS TO AND USE OF THE SERVICE GIVING RISE TO SUCH LIABILITY IN THE TWELVE (12) MONTHS PRIOR TO THE CLAIM OR (ii) \$100. THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN COMPANY AND YOU. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY IN CERTAIN CIRCUMSTANCES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU

## 19. Dispute Resolution and Arbitration

- 19.1. **Overview.** In the interest of resolving disputes between you and Company in the most expedient and cost effective manner, you and Company agree that any and all disputes arising in connection with these Terms of the Service shall 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, but is not limited to 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 the claims arise during or after the termination of these Terms. You understand and agree that, by entering into these Terms, you and Company are each waiving the right to a trial by jury or to participate in a class action.
- 19.2. **Exceptions.** Both parties agree that nothing herein shall be deemed to waive, preclude, or otherwise limit either of our right to (i) bring an individual action in small claims court, (ii) pursue enforcement actions through applicable federal, state, or local agencies where such actions are available, (iii) seek injunctive relief in a court of law, or (iv) to file suit in a court of law to address intellectual property infringement claims.



- 19.3. **Arbitrator.** Any arbitration between you and Company 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](http://www.adr.org), by calling the AAA at 1-800-778-7879, or by contacting Company.
- 19.4. **Notice; Process.** A party who intends to seek arbitration must first send a written notice of the dispute to the other, by certified mail, Federal Express (signature required), or in the event that we do not have a physical address on file for you, we may send notice to you by electronic mail ("Notice"). Company's address for Notice is: 650 Page Mill Rd., Palo Alto, CA, 94304. The Notice must (a) describe the nature and basis of the claim or dispute; and (b) 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 120 days after the Notice is received, you or Company may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by you or Company shall not be disclosed to the arbitrator until after the arbitrator makes a final decision and award, if any; provided that if our dispute is finally resolved through arbitration in your favor, Company shall pay you the greater of (i) the amount awarded by the arbitrator, if any, and (ii) the greatest amount offered by Company in settlement of the dispute prior to the arbitrator's award.
- 19.5. **Fees.** In the event that you commence arbitration in accordance with these Terms, Company will reimburse you for your payment of the filing fee, unless your claim is for greater than \$10,000, in which case the payment of any fees shall be decided by the AAA Rules. Any arbitration hearings will take place at a location to be agreed upon in San Jose, California, provided that if the claim is for \$10,000 or less, you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a non-appearance based telephonic hearing, or by an in-person hearing as established by the AAA Rules. If the arbitrator finds that either the substance of your claim or the relief sought in the Demand is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all fees will be governed by the AAA Rules. In such case, you agree to reimburse Company for all monies previously disbursed by it that are otherwise your obligation to pay under the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to

explain the essential findings and conclusions on which the decision and award, if any, are based. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees or expenses at any time during the proceeding and upon request from either party made within 14 days of the arbitrator's ruling on the merits.

19.6. **No class actions.** *YOU AND COMPANY 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 Company 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.

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

19.8. **Enforceability** If only Subsection 19.6 is found to be unenforceable or the entirety of this Section 19 is found to be unenforceable, then the entirety of this Section 19 shall be null and void and, in such case, the parties agree that the exclusive jurisdiction and venue described in Section 20 shall govern any action arising out of or related to these Terms.

## 20. [Governing Law; Venue](#)

These Terms, whether interpreted in a court of law or in arbitration, shall be governed by the laws of the State of California as they apply to agreements entered into and to be performed entirely within California by California residents, and without regard to conflict of law principles. To the extent that any lawsuit or court proceeding is permitted hereunder, you and Company agree to submit to the personal and exclusive jurisdiction of the state courts and federal courts located within San Jose California for the purpose of litigating all such claims or disputes. We operate the Service from our offices in California, and we make no representations that information and materials included in the Service are appropriate or available for use in other locations. Access to the Service from any territory where the content is illegal is prohibited.

## 21. General

The Terms, together with the [Privacy Policy](#) and any other agreements expressly incorporated by reference herein, constitute the entire and exclusive understanding and agreement between you and Company regarding your use of and access to the Service, and except as expressly permitted above may only be amended by a written agreement signed by authorized representatives of the parties. You may not assign or transfer the Terms or your rights hereunder, in whole or in part, by operation of law or otherwise, without our prior written consent. We may assign the Terms at any time without notice. The failure to require performance of any provision shall not affect our right to require performance at any time thereafter, nor shall a waiver of any breach or default of the Terms constitute a waiver of any subsequent breach or default or a waiver of the provision itself. Use of paragraph headers in the Terms is for convenience only and shall not have any impact on the interpretation of particular provisions. In the event that any part of the Terms is held to be invalid or unenforceable, the unenforceable part shall be given effect to the greatest extent possible and the remaining parts will remain in full force and effect. Upon termination of the Terms, any provision which, by its nature or express terms should survive, will survive such termination or expiration.

## 22. Contact Information

If you have any questions regarding the Company, the Service, or the Terms please contact us at [support@buzzub.com](mailto:support@buzzub.com) or by writing to us at:

Buzzub Inc.  
650 Page Mill Rd,  
Palo Alto, CA, 94304

## 23. Merchant Specific Terms

A positive customer experience is essential to successful reward programs. Merchants that are part of the Network are subject to some additional terms and conditions as follows:

- 23.1. Merchant Agreement: Depending on the product or services they are offering, Merchants have to sign the appropriate agreement(s). These

agreements may be on paper, online or in some cases, click-through agreements on a mobile phone or other app.

- 23.2. Coupon Offer Fulfillment: When Merchants advertise they have a responsibility and an obligation that the items or services they advertise are available to the customer, and if something is temporarily unavailable, they have an obligation to provide a raincheck as a reasonable alternative. When Merchants offer a coupon with a discount or other offer, they are obligated to honor that offer when a customer shows up with a valid coupon offer.
- 23.3. Cash-back Rebate/Reward Fulfillment: Merchants offering cash-back rebates as rewards must do so using the Merchant App for all valid purchases that conform to the advertised rebate. Substitution of an advertised rebate offer with a different discount or other offer is forbidden.
- 23.4. Redemptions: If a Merchant also participates in redemptions from a customer's mobile wallet, he will accept it as a form of payment (such as check or gift cards). If a Merchant is unable to redeem, or has limitations on redemptions, he must inform the Company and clearly post at the place of business that redemption is not available.
- 23.5. Responsible Use: Merchants shall
  - 23.5.1. Use the service for the purpose (selling specific products and services) it was stated and intended for,
  - 23.5.2. Use the service with caution and care so that text/SMS messages are not abused and only sent to intended customers and only when they are physically present and receive a qualified coupon or reward,
  - 23.5.3. Not use the service for any activity that would be considered illegal or inappropriate,
  - 23.5.4. Not discriminate in providing coupon offers or other rewards to their customers
  - 23.5.5. Train their employees to be aware of the offer terms and to honor the offers
- 23.6. License: Merchants need to have a valid business license in the city and state they are operating in, in order to participate in Company's programs.