

## **Couplah Terms of Use**

### **Couplah, Inc.**

#### **Terms of Use**

Couplah is a federally registered trademark of Couplah, Inc. Couplah, Inc. reserves all rights and uses thereof.

For the purposes of these Terms and Conditions "End User" is defined as any person or persons utilizing the Couplah services through any medium for any purpose, whether intended or otherwise.

For the purposes of these Terms and Conditions "Buyer" is defined as any person, persons or entity who participates in Couplah services to disseminate any coupon or advertising message(s).

By submitting this order for one or more SMS Coupon(s) to be placed on the Couplah.com website, the Buyer agrees to the following terms and conditions:

**1.** The term of this Agreement shall be listed on the front of this contract subject to the terms hereof. Subsequent renewals shall be priced at the Couplah, Inc. rate then in effect. Couplah, Inc. shall notify Buyer of said renewal rate with at least 30 days notice prior to expiration of this term.

**2.** Upon receipt of Buyer's payment, Couplah, Inc.'s sole responsibility under this Agreement is to place Buyer's SMS Coupon(s) on the Couplah.com website. Upon written notice by Buyer of any discrepancies or desired changes, Couplah, Inc. shall use due diligence to make such changes. Buyer acknowledges that Couplah, Inc. shall retain total discretion not to place Buyer's SMS Coupon(s) on Couplah.com, if Couplah, Inc. deems the content to be sexually explicit or suggestive, violent, illegal, immoral or otherwise not in accordance with the values, standards and policies of Couplah, Inc. Should Couplah, Inc. find itself unable to approve Buyer's SMS Coupon(s), Couplah, Inc. shall notify Buyer and advise of any and all necessary changes. In the event Buyer is unable or unwilling to modify Buyer's SMS Coupon(s) as required by Couplah, Inc., Couplah, Inc. shall refund any payment submitted to Couplah, Inc. by Buyer in good faith unless Buyer's purpose, as deemed by Couplah, Inc. in Couplah, Inc.'s sole discretion, was to submit copy knowingly in direct violation of this clause. Should Buyer elect to modify, alter or change Buyer's SMS Coupon(s) on Couplah.com, in any way following initial approval, Couplah, Inc. shall have the right once again to approve / disapprove Buyer's modified, altered or changed copy; however, in the event that the new copy is not approved, Buyer's prior copy shall be retained and Buyer shall not be entitled to a refund. Additionally, to protect the integrity of the Couplah.com website, Buyer agrees that it's SMS Coupon offer shall not be offered under more favorable terms and conditions on any other website than Buyer is offering on the Couplah.com website.

**3.** Couplah, Inc. has no obligation to provide any creative, design, technical or production services to Buyer and the nature and extent of any such services which Couplah, Inc. may provide to Buyer shall be determined by Couplah, Inc. in its sole discretion. All of Buyer's advertisement and/or graphics provided by Buyer must be submitted to Couplah, Inc. in either jpeg or gif format containing a file size not to exceed 15k.

**4.** Buyer and/or End User is solely responsible for and agrees to indemnify and hold Couplah, Inc. and/or any third party harmless from any legal liability arising out of or relating to Buyer's respective goods and services and any content accessible to its customers which Buyer places on the Couplah.com website. Buyer represents and warrants that it holds the necessary rights to

permit the use of its goods and services and that the sale and use thereof will not violate any criminal or common law, any statutory rights or any rights of any third parties, including, but not limited to, such violations as infringement or misappropriation of any copyright, patent, trademark, trade secret, music, image or other proprietary or property right, false advertising, unfair competition, defamation, invasion of privacy or right of celebrity, violation of any anti-discrimination law or regulation, violation of any state or federal decency or obscenity law or regulation or any right of any person or entity. Buyer agrees to defend, indemnify and hold harmless Couplah, Inc., its successors, assigns, subsidiaries, agents, officers, directors, employees, attorneys, accountants, affiliates, distributors, and franchisees ("Releasees") from and against any and all liability, loss, damages, claims, or causes of action, lawsuits and expenses of any kind, including reasonable legal fees and expenses that may be incurred by Couplah, Inc. (including in-house attorneys' fees) in defending any such action, arising out of or related to Buyer's breach of any of the foregoing representations and warranties or any other terms and conditions in this Agreement.

**5.** All copyrights to templates, artwork, and graphics used to create Buyer's SMS Coupon(s) which are created by Couplah, Inc. and other templates or other original content located on the Couplah.com website shall remain the sole property of Couplah, Inc. or its licensors. Accordingly, except for any intellectual property rights Buyer may already have, Buyer acknowledges that it retains no exclusive copyright or intellectual property rights in the components used by Couplah, Inc. to create Buyer's SMS Coupon(s) or in Buyer's completed SMS Coupon(s). Should Buyer own any such trademark or other rights in its trade name, Buyer hereby grants Couplah, Inc. a non-exclusive worldwide license to market, display, license, distribute, reproduce, transmit, perform and promote Buyer's goods and services contained therein through the use of any of its trademarks, trade names and service marks in connection with the Couplah.com website.

**6.** COUPLAH, INC. MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND AND COUPLAH, INC. HEREBY SPECIFICALLY DISCLAIMS ANY AND ALL REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING BUYER'S SMS COUPON(S) PLACED ON THE COUPLAH.COM WEBSITE, INCLUDING, BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR ANY IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. BUYER ACKNOWLEDGES THAT COUPLAH, INC. SPECIFICALLY DISCLAIMS ANY WARRANTY REGARDING (I) THE NUMBER OF PERSONS THAT WILL ACCESS BUYER'S SMS COUPON(S), (II) ANY BENEFIT THAT BUYER MIGHT OBTAIN FROM INCLUDING BUYER'S SMS COUPON(S) ON THE COUPLAH.COM WEBSITE OR (III) THE FUNCTIONALITY OF THE COUPLAH.COM WEBSITE.

**7.** UNDER NO CIRCUMSTANCES SHALL COUPLAH, INC. BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES OF ANY NATURE, EVEN IF SUCH PARTY SHALL HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES ARISING FROM THE USE OR INABILITY TO USE THE COUPLAH.COM WEBSITE OR FROM ANY OTHER ASPECT OF THE RELATIONSHIP PROVIDED FOR BY THIS AGREEMENT, SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS. COUPLAH, INC. SHALL NOT BE LIABLE TO BUYER UNDER THE AGREEMENT FOR MORE THAN THE AMOUNTS PAID TO COUPLAH, INC. BY BUYER HEREUNDER.

**8.** The parties to this Agreement are independent contractors. There is no relationship of agency, partnership, joint venture, employment or franchise between the parties in any way. Neither party nor its employees has the authority to bind or commit the other party in any way, or to incur any obligation on its behalf.

**9.** This Agreement, coupled with the Payment terms and conditions, sets forth the complete and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes all prior oral and written understandings, communications or agreements not

specifically incorporated herein. This Agreement may not be modified except in writing duly signed by Buyer and Couplah, Inc.

**10.** This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of Florida, without regard to its conflict of law provisions. Buyer hereby irrevocably consents to the exclusive jurisdiction of the courts of Hillsborough County, Florida and the federal courts for the State of Florida in connection with any action arising under this Agreement.

**11.** In the event any provision of this Agreement is held invalid by a court with jurisdiction over the parties to the Agreement, the remaining provisions of this Agreement shall remain in full force and effect.

**12.** Couplah, Inc. shall not be liable for delay or default in performance of its obligations under this Agreement if such delay or default is caused by conditions beyond its reasonable control, including, but not limited to, fire, floods, accidents, earthquakes, telecommunication line failure, storms, acts of war, riots, government interference, strikes and/or walk-outs.

**13.** Each party represents and warrants that (I) such party has the necessary right, power and authority to enter into this Agreement; and (II) nothing contained in this Agreement or in such party's performance hereunder will place such party in breach of any other contract or agreement to which it is a party. If Buyer fails to abide by any of the above Terms and Conditions after initial approval of Buyer's SMS Coupon(s), Couplah, Inc. shall terminate this Agreement immediately and immediately remove Buyer's SMS Coupon(s) from the Couplah.com website. In that event, Couplah, Inc. shall not be obligated to provide any refund whatsoever of any monies buyer has paid following the initial approval of Buyer's copy.

**14.** UNDER NO CIRCUMSTANCES SHALL COUPLAH, INC. BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES OF ANY NATURE TO THE END USER OF THE COUPLAH SERVICES. COUPLAH, INC. ASSUMES NO RESPONSIBILITY AND SHALL BE HELD HARMLESS WITH REGARD TO ANY COST, LIABILITY, OR DAMAGES INCURRED BY ANY END USER OF THE COUPLAH SERVICES.