

SMART BUSINESS & OPPORTUNITIES, INC.

DISPLAYOFF

TERMS AND CONDITIONS OF SERVICE

These Terms and Conditions of Service (these “Terms”) govern your use of the software and services provided by Smart Business & Opportunities Inc. (“SBO”), also known as Displayoff. These Terms apply to any person who registers for the use of the Services (as defined below), including for any free trial (“Subscriber”). By registering for the use of the Services, the Subscriber agrees to be bound by these Terms in addition to the separate End User License Agreement (“EULA”) governing the general use of the Displayoff desktop and mobile application. These Terms may refer to SBO or the Subscriber as a “Party,” or collectively as the “Parties.”

1. APPLICABILITY

- 1.1 These Terms and the EULA (collectively, this “Agreement”) comprise the entire agreement between the Parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. In the event of any conflict between these Terms and the EULA, these Terms shall govern.
- 1.2 These Terms prevail over any of Subscriber’s general terms and conditions. Provision of services to Subscriber does not constitute acceptance of any of Subscriber’s terms and conditions and does not serve to modify or amend these Terms.
- 1.3 SBO may modify these Terms from time to time. The most current version of these Terms will be available on the Displayoff desktop and mobile application (collectively, the “App”) or the Displayoff website. Subscriber agrees that its access to or use of the Services is governed by the Terms effective at the time of access to or use of the Services. If SBO makes material changes to these Terms, SBO will notify Subscriber by email, via the App, or by posting a notice on the website prior to the effective date of the changes. Subscriber should revisit these Terms on a regular basis as revised versions will be binding on Subscriber. Any such modification will be effective upon SBO’s posting of new Terms. Subscriber understands and agrees that its continued access to or use of the Services after the effective date of modifications to the Terms indicates Subscriber’s acceptance of the modifications.

2. SERVICES

In exchange for subscription fees, SBO shall provide the following services (the “Services”): SBO shall provide Subscriber with access to the App, a desktop and mobile platform that allows the Subscriber to publicly post deals or discounts for specified products, in accordance with a subscription plan.

3. SUBSCRIPTION PERIOD

The Services will be provided on a monthly subscription basis. Each one-month term of the subscription (a “Subscription Period”) will renew automatically unless terminated earlier in accordance with Section 9.

4. LIMITED LICENSE

- 4.1 Subscriber and Authorized Users (as defined in Section 5.2) are granted a non-exclusive, non-transferable, non-sublicensable, limited license to access and use the Services.
- 4.2 SBO does not review or pre-screen the contents of electronic data, including text and images, uploaded or posted to the App by Subscribers or Authorized Users (“Content”). SBO claims no intellectual property rights with respect to the Content and is not in any way responsible for such Content.
- 4.3 The Subscriber and Authorized Users shall not:
 - (a) reproduce, duplicate, copy, sell, resell or exploit access to the App or any portion thereof, including, but not limited to the HTML or any visual design elements without the express written permission from SBO;
 - (b) modify, reverse engineer, adapt or otherwise tamper with the App or modify another website or mobile application so as to falsely imply that it is associated with the Services, SBO, or any other software or service provided by SBO;

- (c) use the Services to upload, post, host, or transmit unsolicited bulk e-mail “Spam”, short message service “SMS” messages, viruses, self-replicating computer programs “Worms” or any code of a destructive or malicious nature;
 - (d) use the Services in any manner which may infringe copyright or intellectual property rights, or in any manner which is unlawful, offensive, threatening, libelous, defamatory, obscene or in violation of the terms of this Agreement or the EULA; or
 - (e) use the Services to post false or misleading advertising or to post any materials in violation of any laws related to gift cards, coupons, sweepstakes, or other marketing materials.
- 4.4 Except for the non-exclusive license granted pursuant to this Agreement, Subscriber acknowledges and agrees that all ownership, license, intellectual property and other rights and interests in and to the Services and the App shall remain solely with SBO.
- 4.5 SBO reserves the right at any time, and from time to time, to modify or discontinue, temporarily or permanently, any feature associated with the Services, with or without notice, except that SBO shall provide Subscriber with reasonable notice of any modification that materially reduces the functionality of the Services. Continued use of the Services following any modification constitutes Subscriber’s acceptance of the modification.
- 4.6 SBO reserves the right to temporarily suspend access to the Services for operational purposes, including, but not limited to, maintenance, repairs or installation of upgrades. SBO will provide reasonable advance notice prior to any such suspension and will attempt to minimize disruption to the Subscriber.
- 4.7 SBO reserves the right to generate and publish reports and other data related to the usage of its Services, and Subscriber hereby grants SBO permission to obtain and utilize any such data.

5. ACCESS TO THE SERVICES

- 5.1 Access to the Services will be granted within a reasonable time after Subscriber registers for use of the Services.
- 5.2 For purposes of this Agreement, “Authorized User” means the Subscriber and any individual partners, members, officers, employees, temporary employees, and independent contractors of the Subscriber who are permitted to use the Services under the Subscriber’s subscription plan.
- 5.3 Each Subscriber will have a unique account for access and use of the Services (“User Account”). The User Account shall only be used by an Authorized User and shall not be shared with or used by any other person.
- 5.4 Only Authorized Users are permitted to access and use the Services. Authorized Users may be required to provide their full legal name and any other information reasonably requested by SBO.
- 5.5 All access to and use of the Services via mechanical, programmatic, robotic, scripted or any other automated means not provided as part of the Services is strictly prohibited.
- 5.6 Subscriber will be responsible for protecting the security of usernames and passwords, or any other codes associated with the Services, and for the accuracy and adequacy of personal information provided to SBO in relation to the Services.
- 5.7 Subscriber will implement policies and procedures to prevent unauthorized use of usernames and passwords, and will promptly notify SBO upon suspicion that a username and password has been lost, stolen, compromised, or misused.

6. SUBSCRIPTION PLANS

- 6.1 Subscription fees are based on the number of deals or discounts (“Deals”) that the Subscriber can post on the App. In registering for the use of the Services, the Subscriber will choose a subscription plan that allows the Subscriber to post up to a certain number of Deals for each Subscription Period. Some subscription plans may allow for the posting of an unlimited number of Deals. For example, a plan may include 20 Deals per month, 50 Deals per month, or unlimited Deals per month. The Subscriber will choose a subscription plan when registering for the Services.
- 6.2 The Subscriber shall determine the expiration date of any Deal, or the time that a particular Deal remains active. Each Deal that is posted or is active during any Subscription Period shall count

towards the maximum number of Deals allowed for that Subscription Period, regardless of when the Deal expires.

- 6.3 The number of Deals allowed does not carry over from one Subscription Period to the next. But Subscriber may extend the expiration date of any Deal.
- 6.4 For purposes of illustration only, the following rules shall apply if the Subscriber chooses a subscription plan of 20 Deals per month and its Subscription Period is based on a calendar month:
 - (a) If the Subscriber posts 10 Deals in January, all of which expire by the end of January, then Subscriber can post 20 new Deals in February.
 - (b) If the Subscriber posts 20 Deals in January, but only 10 of them expire in January and the rest in mid-February, then Subscriber can post 10 new Deals in February.
 - (c) If the Subscriber posts 20 Deals in January, all of which expire at the beginning of February, the Subscriber cannot post any new Deals in February. However, Subscriber may (i) extend the expiration dates of the previous Deals until the end of February, or (ii) upgrade its subscription plan to a higher number of Deals and pay the new subscription fee.
- 6.5 SBO reserves the right to refuse the posting of any Deal, for any or no reason, in its sole discretion.

7. PAYMENT, REFUNDS AND SUBSCRIPTION CHANGES

- 7.1 In exchange for the Services, Subscriber shall pay a subscription fee to SBO for each monthly Subscription Period, in accordance with the subscription plan chosen by Subscriber. The subscription fees will be specified in the App.
- 7.2 Subscribers with paid subscriptions will provide SBO with a valid credit card for payment of the applicable subscription fees. Subscribers will be charged in advance at the beginning of each month following the expiration of any applicable free trial period. Subscriptions cancelled prior to the expiration of any free trial period will not be charged.
- 7.3 All subscription fees are non-refundable. No refunds or credits will be issued for partial periods of service, upgrade/downgrade refunds, or refunds for periods unused with an active subscription.
- 7.4 The amount charged for each new Subscription Period will be automatically updated to reflect any changes to the subscription, including upgrades or downgrades. Subscription changes, including downgrades, may result in loss of access to content and features, or an increase or reduction in the amount of available capacity for posting Deals.
- 7.5 All prices are subject to change upon notice. Such notice may be provided by an e-mail message to the Subscriber, or in the form of an announcement on the App or the Displayoff website.
- 7.6 All subscription fees are exclusive of all federal, state, provincial, municipal or other taxes which Subscribers agree to pay based on where the Subscriber is primarily domiciled. Without limiting the foregoing, Subscriber is responsible for all sales, service, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental or regulatory authority on any amounts payable by Subscriber hereunder, other than any taxes imposed on SBO's income.

8. SUBSCRIBER'S OBLIGATIONS; ACTS OR OMISSIONS

- 8.1 Subscriber shall:
 - (a) cooperate with SBO in all matters relating to the Services and respond promptly to any SBO request to provide direction, information, approvals, or other materials that are reasonably necessary for SBO to perform the Services in accordance with the requirements of this Agreement;
 - (b) ensure that any materials or information provided by Subscriber are complete and accurate in all material respects;
 - (c) obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the Services before the date on which the Services are to start; and
 - (d) follow all instructions and recommendations provided by SBO concerning the Services.

- 8.2 If SBO's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Subscriber or its agents, subcontractors, consultants or employees, SBO shall not be deemed in breach of this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Subscriber, in each case, to the extent arising directly or indirectly from such prevention or delay.

9. CANCELLATION AND TERMINATION

- 9.1 Subscriber may cancel the subscription for any reason upon written notice to SBO. Subject to Section 7.3, there are no charges for cancelling a subscription, and paying subscriptions cancelled prior to the end of the current Subscription Period will not be charged again in the following cycle.
- 9.2 SBO in its sole discretion has the right to terminate this Agreement or to suspend or discontinue providing the Services to any Subscriber or Authorized User, for any or no reason, with or without notice. SBO shall have no liability to Subscriber or any third party because of such termination, except that SBO will refund a pro rata portion of any prepaid amount if it terminates the Agreement or discontinues providing Services without cause.

10. DISCLAIMER OF WARRANTIES

- 10.1 SBO HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS WITH RESPECT TO ANY SERVICES PROVIDED BY SBO.
- 10.2 SBO MAKES NO REPRESENTATION OR WARRANTY CONCERNING ANY CONTENT POSTED ON THE APP, AND SHALL NOT BE RESPONSIBLE FOR ANY MISLEADING, FALSE, OR INNACURATE INFORMATION POSTED BY THIRD PARTIES.
- 10.3 SBO MAKES NO REPRESENTATION OR WARRANTY (A) THAT SUBSCRIBER'S USE OF THE SERVICES WILL BRING IN BUSINESS OR CUSTOMERS, OR (B) THAT ANY OTHER RESULTS MAY BE OBTAINED FROM THE USE OF THE SERVICES.

11. LIMITATION OF LIABILITY

- 11.1 SBO SHALL NOT BE LIABLE TO SUBSCRIBER OR ANY THIRD-PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, INDIRECT, PUNITIVE OR THIRD-PARTY DAMAGES OR CLAIMS (INCLUDING LOST PROFITS OR FAILURE TO PASS ANY EXAMINATION) REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE; (B) WHETHER SUCH DAMAGES AROSE FROM BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE; AND (C) WHETHER OR NOT SBO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY SHALL APPLY NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.
- 11.2 IN NO EVENT SHALL SBO'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE AGGREGATE AMOUNTS PAID OR PAYABLE TO SBO PURSUANT TO THIS AGREEMENT.

12. INDEMNIFICATION

Subscriber shall indemnify, hold harmless and defend SBO and its officers, directors, agents (including sub-agents), employees and affiliates (the "Indemnified Parties") from and against any and all claims, demands, actions, costs, expenses, liabilities, judgments, causes of action, proceedings, suits, fines, losses and damages of any nature, which are threatened or brought against, or are suffered or incurred by, the Indemnified Parties as a result of:

- (a) any access to and use of the App or the Services by the Subscriber or Authorized User;
- (b) any breach by Subscriber (or its officers, directors, affiliates, representatives, contractors, or employees) of any of the obligations contained in this Agreement, including the prohibition against infringement of intellectual property rights of third parties;
- (c) any negligent acts or omissions of Subscriber (or its officers, directors, affiliates, representatives, contractors, or employees) or Authorized Users; or

- (d) any violation of applicable federal, state, or local laws or regulations, including laws relating to gift certificates, coupons, and promotions, and laws relating to false advertising and consumer fraud.

13. MISCELLANEOUS

- 13.1 *Relationship of Parties.* The relationship of the Parties is that of an independent contractor and shall not be deemed to create any joint venture, association, or partnership.
- 13.2 *Modification and Waiver.* This Agreement may not be modified except in a writing signed by SBO. No waiver by SBO of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by SBO. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.
- 13.3 *Force Majeure.* SBO shall not be liable or responsible to Subscriber, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of SBO, including, without limitation, acts of God, flood, fire, snowstorm, earthquake, explosion, governmental actions, civil unrest, national emergency, unauthorized access to SBO servers or computer systems, power outages, or restraints or delays affecting carriers.
- 13.4 *No Third-Party Beneficiaries; Assignment.* This Agreement binds and inures to the benefit of the Parties and their respective heirs, personal representatives, and successors, and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms. This Agreement or any rights or obligations under this Agreement shall not be assigned without the other Party's prior written consent.
- 13.5 *Survival.* Provisions of this Agreement, which by their nature should apply beyond their terms, will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Disclaimer of Warranties, Limitation of Liability, Indemnification, Governing Law, Submission to Jurisdiction, and Survival.
- 13.6 *Severability.* If any part of this Agreement is for any reason held to be unenforceable, the rest of it remains fully enforceable.
- 13.7 *Interpretation.* For purposes of this Agreement, (a) the words "include," "includes" and "including" are deemed to be followed by the words "without limitation"; and (b) the word "or" is not exclusive. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The EULA shall be construed with, and as an integral part of, this Agreement to the same extent as if it was set forth verbatim herein.
- 13.8 *Notices.* All notices and other communications required or permitted under this Agreement must be in writing and must be sent to the Party at that Party's address set forth below or at whatever other address the Party specifies in writing: To SBO: at 3819 26th St. Dr. NE, Hickory, NC 28601; and to Subscriber, as provided with registration. All notices shall be delivered by personal delivery, verified e-mail, or by certified or registered mail (in each case, return receipt requested, postage prepaid). A notice is effective only (a) upon receipt of the receiving Party, and (b) if the Party giving the notice has complied with the requirements of this Section.
- 13.9 *Governing Law; Submission to Jurisdiction.* This Agreement shall be governed by the laws of the State of North Carolina, United States, without regard to any choice-of-law rules that might direct the application of the laws of any other jurisdiction. **All disputes arising out of or in connection with this Agreement will be brought in the courts of Catawba County, North Carolina or the U.S. District Court for the Western District of North Carolina, and the Parties consent to the jurisdiction of such courts.**