

## Terms of Use

Effective Date: [Sept 1, 2019]

Last Updated Date: [February 1, 2017]

### I. Introduction and Eligibility

Please read these Terms of Use (“**Terms**”) carefully before using the Coin Up Service.

These Terms include Company’s [Privacy Policy](#) [add link], which is incorporated by reference into these Terms.

**Binding Agreement.** These Terms constitute a binding agreement between you and Coin Up, LLC (“**Company**,” “**we**,” “**us**”). “**You**” and “**users**” shall mean all users of the Coin Up Service. If you do not accept these Terms, you must not use the Coin Up Service.

**Revisions to Terms.** We may revise these Terms at any time by posting an updated version. You should visit this page periodically to review the most current Terms, because you are bound by them. If we modify these Terms, we will notify you, and you will be required to accept such modified Terms as a condition to continuing using the Coin Up Service. Your continued use of the Coin Up Service shall serve as your acceptance of any modified Terms.

### II. The Coin Up Service

The “**Coin Up Service**” means the Coin Up application (the “App”) and its associated features and services, including without limitation the [www.coinupapp.com](http://www.coinupapp.com) website operated by Company. The Coin Up Service provides an online platform to virtually “round up” the user’s debit or credit card transactions and use this “spare change” to make tax-deductible donations to the registered non-profit of their choice, less the transaction fees (described below). Once registered, the user is able to set a monthly limit, no less than US\$5 (Five US Dollars) per month, on user’s donation and donate on a recurring, monthly basis using user’s credit or debit card. Donations will occur once a month on an ongoing basis, either when the user reaches the specified monthly limit or at the end of month, whichever comes first. A minimum donation of US\$5 (Five US Dollars) per month will be charged to the User’s registered debit or credit card. Users may change or terminate their designated charity, monthly cap, bank, or monthly donations at any time, using the Coin Up Service’s functionality. All banking information is encrypted and stored on secure, bank approved, third party servers.

### III. Eligibility to Use the Coin Up Service

**Minors.** You may only use the Coin Up Service if you are at least 18 years old. If you are younger than 18 years old you should leave the Coin Up Service immediately.

**Agent of a Company, Entity, or Organization.** If you are using the Coin Up Service on behalf of a company, entity, or organization (collectively “**Organization**”), then you represent and warrant that you:

1. are an authorized representative of that Organization;
2. have the authority to bind that Organization to these Terms; and
3. agree to be bound by these Terms on behalf of that Organization.

#### **IV. Your Account**

You represent and warrant that the information you provide to Company upon the signing up to the Coin Up Service and at all other times will be true, accurate, current, and complete.

**Your Log-In Credentials.** By registering to the Coin Up Service, you agree to (a) provide accurate, current and complete information about you as may be prompted by any registration forms on the Coin Up Service; (b) maintain the security of your password and login credentials; and (c) maintain and promptly update the information you provide during registration, and any other information you provide to Company, so as to keep it accurate, current and complete. Registration requires information that includes without limitation your full name, your phone number, your zip code, and your email address. You will be solely responsible for the losses incurred by Company and others due to any unauthorized use of the Coin Up Service under your access credentials.

#### **V. Donations and Payments**

**Donations.** When you reach your specified monthly limit or at the end of month, whichever comes first, Company will charge your designated credit or debit card for the amount of your monthly donation, but in any event no less than US\$5 (Five US Dollars). For clarity, you understand and acknowledge that your designated charity will receive approximately the amount of your donation, less the cost of our third party payment processing and the costs of our operations, marketing, and technology (collectively referred to as “**transaction fees**”). Transaction fees are calculated as 15% of donated amount on a monthly basis+ a \$1.00 **one-time** fee for each new user registration.

**Minimum.** The minimum donation for charities through Coin Up is \$5.00.

**Designation of Funds.** These donations will be designated as “Unrestricted Funds” for the nonprofit, unless otherwise stated by the nonprofit on the charity selection page.

**Payments.** The Coin Up Service currently uses third parties to process payments. Our third-party payment processors accept payments through various credit and debit cards, as detailed on the applicable payment screen.

**United States Dollars.** All monetary transactions on the Coin Up Service take place in U.S. dollars.

**Cancellation Terms.** Your monthly donations reoccur automatically until you cancel your subscription. You may cancel a subscription at any time by using the App’s functionality,

and your cancellation will be effective at the beginning of the next subscription cycle. **PLEASE NOTE THAT IN ORDER FOR CANCELLATION TO TAKE EFFECT YOU MUST DEACTIVATE YOUR SUBSCRIPTION AND UNINSTALL THE APP FROM YOUR DEVICE(S).**

**Refunds.** If you believe any charge was incorrectly made to your credit or debit card, you must contact us to seek resolution. If we determine that a charge is in error, we will issue a refund in the amount of the charge in dispute, less the transaction fees, which are non-refundable.

## **VI. Communications**

You may opt-in to email communications from us on the Coin Up Service. By doing so, you agree to receive email from us at the email address you provided to us for customer service-related purposes.

**Electronic Notices.** By using the Coin Up Service or providing Personal Information to us, you agree that we may communicate with you electronically regarding security, privacy, and administrative issues relating to your use of the Coin Up Service. If we learn of a security system's breach, we may attempt to notify you electronically by posting a notice on the Coin Up Service or sending an email to you. You may have a legal right to receive this notice in writing. To receive free written notice of a security breach (or to withdraw your consent from receiving electronic notice), please write to us at [hollerback@coinupapp.com](mailto:hollerback@coinupapp.com).

## **VII. Coin Up Service Ownership and Use**

The contents of the Coin Up Service include: designs, text, graphics, images, video, information, logos, button icons, software, audio files, computer code, and other Company content (collectively, "**Company Content**"). All Company Content and the compilation (meaning the collection, arrangement, and assembly) of all Company Content are the property of Company or its licensors and are protected under copyright, trademark, and other laws.

**License to You.** We authorize you, subject to these Terms, to access and use the Coin Up Service and the Company Content solely for the personal use of the Coin Up Service, at our discretion. Any other use is expressly prohibited. This license is revocable at any time without notice and with or without cause. Unauthorized use of the Company Content may violate copyright, trademark, and applicable communications regulations and statutes and is strictly prohibited. You must preserve all copyright, trademarks, service marks, and other proprietary notices contained in the original Company Content on any copy you make of the Company Content.

**Company Marks.** Company, the Company logo, and other Company logos and product and service names are or may be trademarks of Company (the "**Company Marks**"). Without our prior written permission, and except as solely enabled by any link as provided by us, you agree not to display or use in any manner the Company Marks.

**Third Party Content.** The Coin Up Service contains content from other Company licensors. Except as provided within these Terms, you may not copy, modify, translate, publish,

broadcast, transmit, distribute, perform, display, or sell any content appearing on or through the Coin Up Service.

**Consent to Use of Data.** You agree that Company may collect and use technical data and related information, including, but not limited to, technical information about your handset, device, system and application software, and peripherals, that is gathered periodically to facilitate the provision of software updates, product support and other services to you (if any) related to the Coin Up Service or the App. In addition, the App may require access to your location. Company may use and disclose this and other information you provide for a variety of purposes. To learn more about our policies with respect to the collection, use and disclosure of information, please review our Privacy Policy.

**NOTICE REGARDING APPLE.** If you are using the App on an iOS-based device, you agree to and acknowledge that this Agreement is between you and Company only, not with Apple, Inc. (“**Apple**”), and Apple is not responsible for the App and the content thereof. Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Service. In the event of any failure of the App to conform to any applicable warranty, then you may notify Apple and Apple will refund any applicable purchase price for the App to you; and, to the maximum extent permitted by applicable law, Apple has no other warranty obligation whatsoever with respect to the App. Apple is not responsible for addressing any claims by you or any third party relating to the App or your possession and/or use of the App, including, but not limited to: (i) product liability claims; (ii) any claim that the App fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation. Apple is not responsible for the investigation, defense, settlement and discharge of any third party claim that the App and/or your possession and use of the App infringe that third party’s intellectual property rights. You agree to comply with any applicable third party terms, when using the App. Apple, and Apple’s subsidiaries, are third party beneficiaries of this Agreement, and upon your acceptance of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement against you as a third party beneficiary of this Agreement. You hereby represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a “terrorist supporting” country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties.

## **VIII. Contributed Content; Suggestions and Submissions**

**User Content.** The Coin Up Service may now or in the future permit you and other users to post or link media, text, audio and video recordings, photos, graphics, commentary or other information or content (“**User Content**”), and to host and/or share such User Content. User Content is not controlled by Company. Company makes no representations that your User Content will remain available via the Service in any way and may remove your User Content in its sole discretion. YOU UNDERSTAND THAT ANY USER CONTENT THAT YOU POST FOR VIEWING ON THE SERVICE IS MADE PUBLICLY AVAILABLE TO USERS OF THE SERVICE, AND COMPANY DOES NOT GUARANTEE ANY CONFIDENTIALITY WITH RESPECT TO ANY SUCH USER CONTENT. NOR DOES IT GUARANTEE THAT YOUR

INTELLECTUAL OR PROPRIETARY RIGHTS IN SUCH USER CONTENT WILL NOT BE INFRINGED OR MISAPPROPRIATED.

By submitting User Content to Company, you hereby grant Company and its affiliates a worldwide, non-exclusive, fully paid-up, royalty-free, transferable license, with the right to grant and authorize sublicenses, to use, reproduce, distribute, modify, adapt, translate, prepare derivative works of, display, perform, and otherwise exploit your User Content in connection with the Coin Up Service and Company's business, including without limitation for promoting and redistributing part or all of the Coin Up Service (and derivative works thereof) in any media formats and through any media channels. **The above licenses granted by you in User Content you submit to the Coin Up Service shall be perpetual and irrevocable, except that with respect to any User Content that you have removed or deleted while maintaining your Coin Up Service user account, or any User Content following any deactivation or deletion of your Service user account, you may specifically notify Company regarding the termination of the foregoing license from you to Company, specifically identifying the item(s) of User Content to which such termination applies, in which case the foregoing license will terminate within a commercially reasonable time after you provide such notice to Company.** You understand and agree, however, that even following such termination, Company may retain, but not display or perform, server copies of such User Content. Notwithstanding anything to the contrary herein, the above licenses granted by you in user comments you submit are perpetual and irrevocable.

You shall be solely responsible for your own User Content and the consequences of posting such Content. In connection with User Content, you affirm, represent, and/or warrant that: (i) you own, or have the necessary licenses, rights, consents, and permissions to use and authorize Company to use, all patent, trademark, copyright, or other proprietary rights in and to any and all User Content to enable inclusion and use of User Content in the manner contemplated by Company and these Terms, and to grant the rights and license set forth in this Section, and (ii) your User Content, Company's use of such User Content pursuant to these Terms, and Company's exercise of the license rights set forth in this Section, do 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; or (C) violate any applicable law or regulation.

We appreciate hearing from our users and welcome your comments regarding the Coin Up Service. Please be advised, however, that if you send us creative ideas, suggestions, inventions, or materials ("**creative ideas**"), we shall:

1. own, exclusively, all now known or later discovered rights to the creative ideas;
2. not be subject to any obligation of confidentiality and shall not be liable for any use or disclosure of any creative ideas; and
3. be entitled to unrestricted use of the creative ideas for any purpose whatsoever, commercial or otherwise, without compensation to you or any other person.

## **IX. Third Party Content Disclaimers, Limitations, and Prohibitions**

We do not represent or guarantee the truthfulness, accuracy, or reliability of content, posted by third parties (“**Third Party Content**”). You accept that any reliance on material posted by third-party service providers will be at your own risk. By using the Coin Up Service you accept the risk that you might be exposed to content that is objectionable or otherwise inappropriate.

You agree to use the Coin Up Service only for its intended purpose. You must use the Coin Up Service in compliance with all privacy, data protection, intellectual property, and other applicable laws. The following uses of the Coin Up Service are prohibited. You may not:

1. attempt to interfere with, harm, reverse engineer, steal from, or gain unauthorized access to the Coin Up Service, user accounts, or the technology and equipment supporting the Coin Up Service;
2. frame or link to the Coin Up Service without permission;
3. use data mining, robots, or other data gathering devices on or through the Coin Up Service;
4. post incomplete, false, or misleading information, impersonate another person, or misrepresent your affiliation with a person or entity;
5. disclose personal information about another person or harass, abuse, or post objectionable material;
6. sell, transfer, or assign any of your rights to use the Coin Up Service to a third party without our express written consent;
7. post advertising or marketing links or content, except as specifically allowed by these Terms;
8. use the Coin Up Service in an illegal way or to commit an illegal act in relation to the Coin Up Service or that otherwise results in fines, penalties, and other liability to Company or others; or
9. access the Coin Up Service from a jurisdiction where it is illegal or unauthorized.

## **X. Consequences of Violating These Terms**

We reserve the right to suspend or terminate your account and prevent access to the Coin Up Service for any reason, at our discretion. We reserve the right to refuse to provide the Coin Up Service or any services to you in the future.

You are responsible for any claims, fees, fines, penalties, and other liability incurred by us or others caused by or arising out of your breach of these Terms and your use of the Coin Up Service.

## **XI. Company's Liability**

**Changes to the Coin Up Service.** We may change, suspend, or discontinue any aspect of the Coin Up Service at any time, including hours of operation or availability of the Coin Up Service or any feature, without notice or liability.

**User Disputes.** We are not responsible for any disputes or disagreements between you and any third party you interact with using the Coin Up Service. You assume all risk associated with dealing with third parties. You agree to resolve disputes directly with the other party. You release Company of all claims, demands, and damages in disputes among users of the Coin Up Service. You also agree not to involve us in such disputes. Use caution and common sense when using the Coin Up Service.

**Content Accuracy.** We make no representations about accuracy, reliability, completeness, or timeliness of any contents of the Coin Up Service. Similarly, we make no representations about accuracy, reliability, completeness, or timeliness of any data from a third-party service provider or the quality or nature of third-party products or services obtained through the Coin Up Service. Use the Coin Up Service at your own risk.

**Third-Party Services.** The Coin Up Service may include links to third party websites and applications. You are responsible for evaluating whether you want to access or use them. We are not responsible for and do not endorse any features, content, advertising, products, or other materials on other website or applications. You assume all risk and we disclaim all liability arising from your use of them.

We make no promises and disclaim all liability of specific results from the use of the Coin Up Service.

**Released Parties Defined.** "**Released Parties**" include Company and its affiliates, officers, employees, agents, partners, licensors and suppliers.

### **A. DISCLAIMER OF WARRANTIES**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT: (A) YOUR USE OF THE COIN UP SERVICE IS AT YOUR SOLE RISK, AND THE COIN UP SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND THE RELEASED PARTIES EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES AS TO PRODUCTS OR SERVICES OFFERED ON THE COIN UP SERVICE, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT; (B) THE RELEASED PARTIES MAKE NO WARRANTY THAT (i) THE COIN UP SERVICE WILL MEET YOUR REQUIREMENTS, (ii) THE COIN UP SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE COIN UP SERVICE WILL BE ACCURATE OR RELIABLE, (iv) THE QUALITY OF ANY GOODS OR SERVICE AVAILABLE ON THE COIN UP SERVICE WILL MEET YOUR EXPECTATIONS, AND (iv) ANY ERRORS IN THE COIN UP SERVICE WILL BE CORRECTED; AND (C) ANY MATERIAL OBTAINED THROUGH THE USE OF THE COIN UP SERVICE IS ACCESSED

AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR MOBILE DEVICE THAT RESULTS FROM THE USE OF ANY SUCH MATERIAL.

**B. LIMITATION OF LIABILITY AND INDEMNIFICATION**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT THE RELEASED PARTIES SHALL NOT BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, OR OTHER INTANGIBLE LOSSES (EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (i) THE USE OR THE INABILITY TO USE THE COIN UP SERVICE; (ii) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, INFORMATION OR SERVICES OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH, FROM, OR AS A RESULT OF THE COIN UP SERVICE; (iii) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS; (iv) STATEMENTS OR CONDUCT OF ANY USER OR THIRD PARTY ON THE COIN UP SERVICE; (v) YOUR RELIANCE ON CONTENT MADE AVAILABLE BY US; OR (vi) ANY OTHER MATTER RELATING TO THE COIN UP SERVICE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS IN THIS PARAGRAPH MAY NOT APPLY TO YOU.

TO THE FULLEST EXTENT POSSIBLE BY LAW, THE RELEASED PARTIES' MAXIMUM LIABILITY ARISING OUT OF OR IN CONNECTION WITH YOUR USE OF THE COIN UP SERVICE, REGARDLESS OF THE CAUSE OF ACTION (WHETHER IN CONTRACT, TORT, BREACH OF WARRANTY, OR OTHERWISE), WILL NOT EXCEED \$100.

You agree to defend, indemnify, and hold harmless the Released Parties from and against any claims, actions, or demands, including without limitation reasonable legal and accounting fees, alleging or resulting from (i) your use of or reliance on any third-party content, (ii) your use of or reliance on any Company Content, or (iii) your breach of these Terms. We shall provide notice to you promptly of any such claim, suit, or proceeding.

**XII. Digital Millennium Copyright Act Compliance.**

Company respects the intellectual property rights of others and does not permit copyright infringing activities on the Coin Up Service. If you are a copyright owner or an agent thereof, and you believe that any content hosted on the Coin Up Service infringes your copyrights, you may submit a notification pursuant to the Digital Millennium Copyright Act ("DMCA") by providing our Designated Copyright Agent with the following information in writing (see 17 U.S.C. § 512(c)(3) for further detail):

(i) A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;

(ii) Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works on the Coin Up Service are covered by a single notification, a representative list of such works at the Coin Up Service;

(iii) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit Company to locate the material;

(iv) Information reasonably sufficient to permit Company to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted;

(v) A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and

(vi) A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

The Company Designated Copyright Agent to receive notifications of claimed infringement can be reached as follows: Copyright Agent at Coin Up, LLC, 3830 Valley Centre Drive, #705-734 San Diego, CA 92130, or by email at [hollerback@coinupapp.com]. For clarity, only DMCA notices should go to the Company Designated Copyright Agent. Any other feedback, comments, requests for technical support or other communications should be directed to Company customer service through [hollerback@coinupapp.com]. You acknowledge that if you fail to comply with all of these requirements, your DMCA notice may not be valid.

### **XIII. General Terms**

These Terms constitute the entire agreement between you and Company concerning your use of the Coin Up Service. Our failure to exercise or enforce any right or provision of these Terms shall not constitute a waiver of such right or provision. If any provision of these Terms is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of these Terms remain in full force and effect. The section titles and annotations in these Terms are for convenience only and have no legal or contractual effect.

### **XIV. Arbitration, Class Waiver, and Waiver of Jury Trial**

These Terms and the relationship between you and Company shall be governed by the laws of the state of California without regard to its conflict of law provisions. You and Company agree to submit to the personal and exclusive arbitration of any disputes relating to your use of the Coin Up Service under the rules of the American Arbitration Association. Any such arbitration, to the extent necessary, shall be conducted in Orange County in the state of California. You covenant not to sue Company in any other forum.

You also acknowledge and understand that, with respect to any dispute with the Released Parties arising out of or relating to your use of the Coin Up Service or these Terms:

- YOU ARE GIVING UP YOUR RIGHT TO HAVE A TRIAL BY JURY;
- YOU ARE GIVING UP YOUR RIGHT TO SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY OTHER REPRESENTATIVE CAPACITY, OR TO PARTICIPATE AS A MEMBER OF A CLASS OF CLAIMANTS, IN ANY LAWSUIT INVOLVING ANY SUCH DISPUTE; AND
- YOU MUST FILE ANY CLAIM WITHIN ONE (1) YEAR AFTER SUCH CLAIM AROSE OR IT IS FOREVER BARRED.

**Contact Information**

Coin Up, LLC  
3830 Valley Centre Drive,  
#705-734  
San Diego, CA 92130

[hollerback@coinupapp.com](mailto:hollerback@coinupapp.com)