



BUZZTIME BASIC SERVICE AGREEMENT TERMS AND CONDITIONS

THIS BUZZTIME BASIC SERVICE AGREEMENT TERMS AND CONDITIONS ("**AGREEMENT**") GOVERNS CUSTOMER'S ACQUISITION AND USE OF BUZZTIME SERVICES. CAPITALIZED TERMS HAVE THE DEFINITIONS SET FORTH HEREIN. BY ACCEPTING THIS AGREEMENT, BY (1) CLICKING A BOX INDICATING ACCEPTANCE, (2) EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, OR (3) USING FREE SERVICES, CUSTOMER AGREES TO THE TERMS OF THIS AGREEMENT. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS ACCEPTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT THEY HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERM "CUSTOMER" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY, OR DOES NOT AGREE WITH THESE TERMS AND CONDITIONS, SUCH INDIVIDUAL MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

This Agreement was last updated on August 4, 2021.

1. SERVICES. eGames.com Holdings, LLC, dba Buzztime ("**Buzztime**") grants Customer the right to use the Buzztime services, including certain equipment to facilitate use of such services at the site set forth in the order form. **The services and equipment are licensed only; they are not sold.** This Agreement does not convey to Customer any ownership interest in the content, the services, the equipment or any component thereof, Buzztime trademarks (and all goodwill associated therewith), user data, usage statistics and any intellectual property rights in any one or more of the foregoing. As between the parties, Buzztime is and shall remain the sole and exclusive owner of, and at all times retain, all worldwide rights, title and interest in and to each of the foregoing. Any rights not expressly granted to Customer in this Agreement are reserved to Buzztime.

2. TERM; TERMINATION. This Agreement will have an initial term commencing on the date the Buzztime services go-live. Upon expiration of the initial term, this Agreement automatically continues month-to-month until cancelled by written notice sent at least thirty (30) days prior to the end of the then current term. Upon any termination or expiration, all rights granted to Customer shall terminate and Customer shall cooperate with Buzztime in order to deactivate the services and return the equipment. Customer shall contact Buzztime Support at customersupport@buzztime.com for instructions on how to return the equipment.

3. FEES. The services provided by Buzztime under this Agreement shall be provided to Customer at no charge, as long as Customer designates one (1) television screen to receive and display the Buzztime services in accordance with Customer's commitments in Section 5 (SETUP & MAINTENANCE; CUSTOMER COMMITMENT) of this Agreement.

4. CONTENT. Customer understands and agrees that Buzztime shall have sole discretion with respect to all programming and content, including advertising, as part of the services. During the term, and as permitted by applicable law, Buzztime may collect certain personal information from end users use of the services. Buzztime's collection, use, and disclosure of any end user data will be in material compliance with (i) applicable laws, including, without limitation, those governing data privacy and security, and (ii) in accordance with its [terms of service](#) and [privacy policy](#).

5. SETUP & MAINTENANCE; CUSTOMER COMMITMENT. Customer shall install the equipment pursuant to instructions provided by Buzztime. Customer agrees to provide Buzztime with continuous unrestricted high speed internet connection and one (1) designated tv screen. Customer shall provide Buzztime with written notice of any material change (e.g. transfer of ownership or management, move or discontinuation) to the location or to Customer as soon as possible, but not less than thirty (30) days before a change. Customer agrees to make the Buzztime services obvious, open and accessible to its customers during all business hours and to prevent misuse of or damage to the equipment. In the event of an outage, Customer shall contact Buzztime at customersupport@buzztime.com or 800-745-4686 as soon as practical.

6. RESTRICTIONS ON USE. Customer shall not (nor attempt to) fix, repair, modify, edit or otherwise alter the services or equipment in any way. Customer is expressly prohibited from using the services in conjunction with any lottery, gambling or similar activity and shall not sponsor, encourage, organize or allow its customers to participate in such activity in connection with the services. Customer shall not permit betting or charge its customers to use the services; only fees charged within the services by Buzztime or its partners are permitted.

7. MOBILE PHONE MESSAGE AND DATA FEES. Messages and data rates may apply when using the services. Message and data fees are the sole responsibility of Customer and their patrons.

8. REPRESENTATIONS.

8.1 Mutual Representations. Each party hereby represents and warrants to the other party that: (i) it has the full corporate power and authority to execute and deliver this Agreement and any applicable order; (ii) this Agreement has been duly authorized and executed by such party; (iii) this Agreement is a legally valid and binding obligation of such party, enforceable in accordance with its terms; and (iv) the execution, delivery and performance of this Agreement do not conflict with any agreement to which it is a party.

8.2 Customer Representations. Customer agrees to operate its business in compliance with all applicable laws, ordinances, and regulations.

9. INDEMNITY. Customer agrees to indemnify, defend and hold harmless Buzztime, its subsidiaries, stockholders, directors, officers, employees, agents, representatives and assignees from and against any claim, demand, debt, liability, obligation, cause of action, loss, damage or expense including, attorneys' fees, resulting directly or indirectly from (i) injury or death to a person or damage to property resulting from (a) Customer's improper installation of equipment, or (b) participation in an event operated by Customer in connection with the services; or (ii) any negligence or breach by Customer of its obligations, warranties or representations in this Agreement.

10. NO WARRANTIES. BUZZTIME EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE SERVICES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY,

FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. CUSTOMER WAIVES THE BENEFIT OF ALL SUCH REPRESENTATIONS AND WARRANTIES. BUZZTIME DOES NOT REPRESENT OR WARRANT THAT THE FUNCTIONS CONTAINED IN THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS OR BE AVAILABLE, TIMELY, SECURE, UNINTERRUPTED, OR ERROR FREE, AND BUZZTIME WILL NOT BE LIABLE FOR ANY SERVICE INTERRUPTION.

11. LIMITATION OF LIABILITY.

11.1 Limitation of Liability. EXCEPT WITH RESPECT TO DAMAGES ARISING OUT OF THE INDEMNIFICATION OBLIGATIONS UNDER SECTION 9 (INDEMNITY), IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EACH PARTY TOGETHER WITH ALL OF ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER AND ITS AFFILIATES HEREUNDER FOR THE SERVICES GIVING RISE TO THE LIABILITY IN THE TWELVE MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY.

11.2 Exclusion of Consequential and Related Damages. EXCEPT WITH RESPECT TO DAMAGES ARISING OUT OF THE INDEMNIFICATION OBLIGATIONS UNDER SECTION 9 (INDEMNITY), IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOST PROFITS, REVENUES, GOODWILL, OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER, BUSINESS INTERRUPTION OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF A PARTY'S OR ITS AFFILIATES' REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

12. MISCELLANEOUS. A) All obligations which expressly or by their nature survive the termination or expiration of this Agreement shall continue in full force and effect. B) If any provision of this Agreement is invalid or unenforceable, such provision shall be deemed severed and deleted and shall not affect the remainder of the Agreement. C) No waiver or modification of any provision of this Agreement shall be effective unless in writing and signed by both parties. D) This Agreement shall be governed by the laws of the state of California excluding conflicts of laws principles. Customer hereby submits to exclusive venue and jurisdiction in the courts of San Diego County and waives any objection to it. E) This Agreement may be assigned by Buzztime, in whole or in part. F) Notices shall be in writing and effective when delivered electronically (with confirmation of receipt) or by facsimile, regular mail or courier.