

## Terms

Dated: 12 October 2015

### About these terms

These are the terms and conditions governing our supply of the Community2Go Service to you, including our obligations to each other (**Terms**).

#### 1. Definitions

Some words in these Terms have particular meanings:

**ACL** or **Australian Consumer Law** means Schedule 2 of the Competition and Consumer Act 2010 (Cth).

**Community** means your team or group or club.

**Community2Go Service** or **App** means the Community2Go app, which allows you to communicate with, and receive communications from, other members of your Community.

**Content** means any content that you or any member of your Community posts to, or makes available on, the App. Content includes, without limitation, messages, information, publications, images or videos.

**we, us, our** or **CommunityToGo** means CommunityToGo Pty Ltd ABN 79 160 476 942 of PO Box 1477 Joondalup DC, WA, 6919 and 08 6102 5117.

**you** and **your** means you, the end-user of our Community2Go Service.

#### 2. Acceptance

By using the App you agree to these Terms and our Privacy Policy, available here: <https://www.community2go.com.au/documents/PrivacyPolicy.pdf>. Please read these Terms and the Privacy Policy carefully. Your use of the App will be subject to these Terms.

#### 3. Changes to Terms

We may change any of the Terms provided that we give you at least 10 days' prior notice via the method set out in paragraph 10(b) below of any change that is likely to materially affect or disrupt the manner in which you use the App.

By continuing to use the App after these changes have come into effect, you are signalling your acceptance of these changes.

If you do not accept these changes, you should stop using the App.

#### **4. Use of the App**

You are permitted to use the App solely to communicate with, and receive Content and other material from, your Community and its members. Your use must be in compliance with these Terms.

The following activities are expressly prohibited:

- (a) collecting usernames and/or email addresses of other users by electronic or other means for the purpose of sending unsolicited email or other unsolicited communications;
- (b) any use of the App which, in our sole opinion, degrades its reliability, speed or underlying software;
- (c) use of web scraping, web harvesting or web extraction methods from the App;
- (d) posting any content or information that is offensive, defamatory, or in breach of applicable laws or regulation, including in relation to privacy and intellectual property rights;
- (e) reverse-engineering, reverse-assembling, decompiling, or otherwise attempting to discover source code, formulas or processes in respect of the software behind the App;
- (f) copying, reproducing, altering, modifying, creating derivative works, or publicly displaying any part of any content from the App except where we have given you permission. This includes, without limitation, any post in a forum; or
- (g) any other use which is unlawful or in violation of these Terms.

#### **5. Posting in forums on the App**

- (a) We can remove any content you post on the App if we believe that it violates these Terms.
- (b) When you upload content onto the App, you do so at your own risk. You acknowledge that, once you upload content onto a publicly accessible forum such as the App, you no longer have control over who will see this content and/or what they will do with it. We cannot control how any third party, including members of your Community, will use your content.
- (c) You are able to delete content you upload to the App, however, you acknowledge that any content that you upload to the App and then decide to delete from the App may,

after you have deleted this content, persist in backup or cached copies of any forum that appears or has appeared on the App. Additionally, third parties may have accessed and saved this content prior to you deleting it.

## **6. Intellectual property**

- (a) We are the owner and/or the licensee of all intellectual property rights in our App and in the material we publish on it. Those works are protected by trade mark, copyright and other laws and treaties governing proprietary and intellectual property rights around the world and all our rights are reserved. Materials posted by others on our App may also be protected by trade mark, copyright and other laws and treaties governing proprietary rights and intellectual property rights. If you copy, modify, distribute or otherwise deal with those materials posted by others, you may be infringing the rights of such third parties.
- (b) By posting Content and/or engaging in any form of communication through the App, you grant us and each member of your Community a royalty-free, perpetual, non-exclusive, unrestricted, worldwide licence to use, reproduce, modify, adapt, translate, enhance, transmit, distribute, publicly perform, display, or sublicense any such Content and/or communication (including your identity and information about you) in any medium (now in existence or hereinafter developed) and for any purpose, including commercial purposes, and to authorise others to do so.

## **7. Your responsibilities**

- (a) You will not post to, or communicate through, the App any Content or other material that is offensive, defamatory, or in breach of applicable laws or regulation, including in relation to privacy and intellectual property rights.
- (b) You must not:
  - i. reverse-engineer, reverse-assemble, decompile, or otherwise attempt to discover source code, formulas or processes in respect of the software behind the App; or
  - ii. copy, reproduce, alter, modify, create derivative works, or publicly display any part of any Content except where we have given you permission. This includes, without limitation, any Content in a forum.
- (c) You must not tell anyone your username or password.
- (d) If you think any unauthorized third party might know your password, you should reset your password.

- (e) You must update your details as soon as there has been any change to these details. You can do this by logging in to the App or by informing your Community's administrator.

## **8. Disclaimer and limitation of liability**

- (a) Nothing in these Terms excludes, restricts or modifies any term, condition, warranty, guarantee, right or remedy (including but not limited to a consumer guarantee under the Australian Consumer Law ("ACL")) which cannot lawfully be excluded, restricted or modified.
- (b) In no event shall we be liable (whether for breach of contract, negligence or for any other reason) for any loss arising from your use of the App. This paragraph does not, and nothing in these Terms shall act to, exclude or limit our liability for death or personal injury resulting from our negligence or fraud.
- (c) Your use of the App comes with guarantees that cannot be excluded under the Australian Consumer Law. Where there is a failure to comply with a consumer guarantee, you are entitled, and our liability to you is limited, to:
  - i. the re-supply of the App; or
  - ii. our payment of the cost of having the App re-supplied.
- (d) The App includes links to external sites. We (or your Community or other members of your Community) have included links to these sites to provide you with access to information and services that you may find useful or interesting. We are not responsible for the content of these sites or for anything provided by them.
- (e) We are not liable for any action you may take as a result of relying on any information (including misinformation) displayed in the App.
- (f) You agree that we and our clients are not responsible, and shall have no liability to you, with respect to any Content, including defamatory, offensive or illicit material, or material that violates these Terms.
- (g) You will indemnify us in respect of any and all losses, costs, expenses, claims, demands, liabilities and damages (including legal fees on a solicitor/client basis) suffered or incurred by us, our officers, directors, employees, agents and related companies that arise in connection with your use of the App or any breach by you of these Terms, but you will not be liable for any losses or damages we suffer or incur to the extent such loss or damage is caused by us.

## **9. Suspension and termination of Service**

- (a) We may update, change or suspend access to the App at any time and from time to time.
- (b) Without limiting paragraph (a) above, we may suspend the operation of the App for repair or maintenance work or in order to update or upgrade the contents or functionality of the App at any time and from time to time. We do not guarantee that access to or use of the App or any sites or pages linked to it will be uninterrupted or error free.
- (c) We may terminate this Agreement and your right to use of the App immediately in the event you breach any of these Terms.

## **10. Notices**

- (a) You agree that all communications between you and us in relation to the App will be via email or the communication tools available on the App unless another method is agreed to by both parties.
- (b) We may provide a notice or other communication to you via an email which will be sent from your Community or your Community's administrator to you on our behalf and upon our request. That notice or other communication is regarded as being given by us and received by you when it is sent by your Community's administrator to you. It is your responsibility to ensure that your Community holds your most up-to-date contact details at all times. .

## **11. Legal**

- (a) If any part or provision of the Agreement is void, unenforceable or illegal in a jurisdiction, that part or provision does not apply in that jurisdiction. However, the remainder of the Agreement continues in operation in that jurisdiction unless this would alter the basic agreement between you and us, in which case we can terminate your use of the App at our election.
- (b) If we do not insist upon strict performance of any part or provision of the Agreement, that waiver will not be deemed to be a waiver of a subsequent breach or default of the Agreement.
- (c) You cannot assign or otherwise transfer the benefit of the Agreement between us and you without our prior written consent. We can assign or otherwise transfer the benefit of the Agreement between us and you.
- (d) The Agreement is governed by the laws of NSW and the courts of NSW have jurisdiction over the parties to the Agreement (being you and us).

