

Terms & Conditions

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This Agreement constitutes a legally binding agreement between each individual who visits or uses this Site (“you”). If you use this Site, YOU AGREE THAT YOU HAVE READ THIS AGREEMENT, UNDERSTAND IT, AND AGREE TO BE BOUND BY ALL OF ITS TERMS.

IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DISCONTINUE USE OF THE SITE IMMEDIATELY.

NOTICE REGARDING DISPUTE RESOLUTION: THIS AGREEMENT CONTAINS PROVISIONS THAT GOVERN HOW CLAIMS THAT YOU AND RAKUTEN HAVE AGAINST EACH OTHER ARE RESOLVED (SEE SECTION 3, “DISPUTE RESOLUTION AND ARBITRATION AGREEMENT,” BELOW), INCLUDING AN OBLIGATION TO ARBITRATE DISPUTES, WHICH WILL, SUBJECT TO LIMITED EXCEPTIONS, REQUIRE YOU TO SUBMIT CLAIMS YOU HAVE AGAINST US TO BINDING ARBITRATION.

1. CHANGES TO THE TERMS

1.1 Rakuten may at its discretion modify, update, add to, discontinue, remove or otherwise change these Terms at any time. Each such modification will take immediate effect upon notification to you. Rakuten may provide you with notices, including those regarding changes to these Terms, by website, email, regular mail, text message, in-app messaging, or other reasonable means now known or hereinafter developed.

1.2 Your continued use of the Site following any such notifications constitutes your acceptance of such modifications and your agreement to be bound by these Terms. If you do not agree to any modification of these Terms, your sole remedy is to terminate your use of the Site. The most current version of these Terms will be available on the Site and supersedes previous versions.

2. GENERAL

2.1 Our Sites are not available to and should not be accessed or used by anyone under the age of 18 years old. Any and all information collected from you shall be subject to our [Privacy Policy](#), which is hereby incorporated by reference.

3. DISPUTE RESOLUTION AND ARBITRATION AGREEMENT

3.1 THIS SECTION LIMITS CERTAIN RIGHTS, INCLUDING THE RIGHT TO MAINTAIN A COURT ACTION, THE RIGHT TO A JURY TRIAL, THE RIGHT TO PARTICIPATE IN ANY FORM OF CLASS OR REPRESENTATIVE CLAIM, THE RIGHT TO ENGAGE IN DISCOVERY EXCEPT AS PROVIDED IN AAA RULES, AND THE RIGHT TO CERTAIN REMEDIES AND FORMS OF RELIEF. OTHER RIGHTS THAT YOU OR RAKUTEN WOULD HAVE IN COURT ALSO MAY NOT BE AVAILABLE IN ARBITRATION.

3.2 Rakuten tries to address any disputes without the need to initiate a formal legal case. You agree that prior to submitting any dispute or claim to arbitration for resolution, you and Rakuten agree to make a good faith effort to resolve it informally, including having at least one telephone or videoconference conversation between you, personally, and Rakuten. To initiate this good faith effort to informally resolve a dispute, you agree to notify Rakuten in writing by submitting your request to us via cardlinkedoffers@rakuten.com Please provide the nature of the dispute, the basis for your claims and the resolution that you are seeking, including any monetary amount, with as much detail as you can provide so that we can gain a sufficient understanding of the dispute. Within the sixty (60) days following our receipt of this notice, you agree to engage in good faith efforts to resolve the dispute, including personally participating in a telephone call or videoconference with Rakuten. You may have a lawyer attend the call with you if you wish. If the dispute is not resolved within that sixty (60) days (which

period can be extended by agreement of the parties), you or Rakuten may commence an arbitration to resolve the dispute consistent with the process set forth below. Compliance with and completing this informal dispute resolution process is a condition precedent to commencing an arbitration. You and Rakuten agree to toll any applicable statute of limitations and filing fee deadlines while the parties engage in this informal dispute resolution process from the date we receive your notice to the date an arbitration is commenced or the conclusion of the 60-day period described above, whichever is sooner. A court of competent jurisdiction shall have the authority to enforce this condition precedent to arbitration, which includes the power to enjoin the filing or prosecution of a demand for arbitration.

3.3 You and Rakuten agree that, except as set forth below, we will resolve any controversies, claims, counterclaims, or other disputes between you and Rakuten or you and a third-party agent of Rakuten (a “**Claim**”) through binding and final arbitration instead of through court proceedings, in accordance with the Consumer Arbitration Rules of the American Arbitration Association (“**AAA Rules**”) and the Mass Arbitration Supplementary Rules when applicable. This arbitration agreement applies to any existing or future Claims that you have not individually filed in a court of law or in arbitration prior to the date these Terms become effective. The AAA Rules are available at www.adr.org or by calling 1-800-778-7879. YOU AND RAKUTEN HEREBY WAIVE ANY RIGHT TO A JURY TRIAL OF ANY CLAIM. The arbitration will be heard and determined by a single arbitrator. The arbitrator’s decision in any such arbitration will be final and binding upon the parties and may be enforced in any court of competent jurisdiction. You and Rakuten agree that the arbitration will be kept confidential and that the existence of the proceeding and any element of it (including, without limitation, any pleadings, briefs or other documents submitted or exchanged and any testimony or other oral submissions and awards) will not be disclosed beyond the arbitration proceedings, except as may lawfully be required in judicial proceedings relating to the arbitration, by applicable disclosure rules and regulations of securities regulatory authorities or other governmental agencies, or as specifically permitted by state law.

The Federal Arbitration Act, including its procedural aspects, and federal arbitration law apply to this agreement. A court of competent jurisdiction has exclusive authority to determine the existence, scope, and validity of the arbitration agreement and the

arbitrability of any claim or counterclaim, including, without limitation, whether any conditions precedent to the commencement of an arbitration have been completely satisfied and any objections with respect to any of the foregoing.

3.4 To begin an arbitration proceeding, you must send us an individual letter signed by you

requesting arbitration and describing your claim to Ebates Performance Marketing, Inc. DBA Rakuten Rewards, 800 Concar Drive, Suite 175, San Mateo, CA 94402, Attn: Rakuten Rewards Legal. This letter must be sent at least ten (10) days before you initiate an arbitration proceeding against us.

3.5 Any party to the arbitration may at any time serve an offer of compromise in writing upon any other party to the action. Offers of compromise pursuant to these Terms will be adjudicated and interpreted in accordance with California Code of Civil Procedure section 998.

3.6 If you demonstrate that the costs of arbitration will be prohibitive as compared to the costs of litigation, Rakuten will pay as much of the administrative costs and arbitrator's fees required for the arbitration as the arbitrator deems necessary to prevent the cost of the arbitration from being prohibitive. In the final award, the arbitrator may apportion the costs of arbitration and the compensation of the arbitrator among the parties in such amounts as the arbitrator deems appropriate. Notwithstanding the foregoing, if your attorney is paying the administrative costs, filings fees, arbitrator fees, and other associated arbitral costs on your behalf, and your attorney may recover all or a portion of those fees only if you obtain an award in the arbitration, your attorney must evenly split all costs with us initially. In the final award, the arbitrator may apportion the costs of arbitration and the compensation of the arbitrator among the parties in such amounts as the arbitrator deems appropriate.

3.7 This arbitration agreement does not preclude either party from seeking action by federal, state, or local government agencies. You and Rakuten also have the right to bring qualifying claims in small claims court or transfer qualifying claims to small claims court which shall be in accordance with the choice of law and venue as specified in Section 21.2. Either party may elect that a Claim be filed exclusively in a small claims

court in accordance with the choice of law and the venue as specified in Section 21.2 by providing notice to the other party. In the event a Claim has already been filed in arbitration, the party who has filed that Claim will, within ten (10) days of receiving such a notice, withdraw their Claim from arbitration. The parties will then proceed with the Claim exclusively in small claims court. A party may apply to any court of competent jurisdiction to enforce the terms of this paragraph.

3.8 In addition, you and Rakuten retain the right to apply to any court of competent jurisdiction for provisional relief, including pre-arbitral attachments or preliminary injunctions. Any such request shall not be deemed incompatible with these Terms, nor a waiver of the right to have disputes submitted to arbitration as provided in these Terms.

3.9 Neither you nor Rakuten may act as a class representative or private attorney general, nor participate as a member of a class of claimants, with respect to any Claim. You may not bring Claims in arbitration on a class or representative basis. The arbitrator can decide only your and/or Rakuten's individual Claims. If for any reason a claim proceeds in court rather than in arbitration you and Rakuten each waive any right to a jury trial. The arbitrator may award in the arbitration the same damages or other relief available under applicable law, including injunctive and declaratory relief, as if the action were brought in court on an individual basis. Notwithstanding anything to the contrary in the foregoing or herein, the arbitrator may not issue a "public injunction" and any such "public injunction" may be awarded only by a federal or state court. If either party seeks a "public injunction," all other claims and prayers for relief must be adjudicated in arbitration first and any prayer or claim for a "public injunction" in federal or state court stayed until the arbitration is completed, after which the federal or state court can adjudicate the party's claim or prayer for "public injunctive relief." In doing so, the federal or state court is bound under principles of claim or issue preclusion by the decision of the arbitrator.

3.10 If any provision of this Section is found to be invalid or unenforceable, then that specific provision shall be of no force and effect and shall be severed, but the remainder of this Section shall continue in full force and effect. No waiver of any provision of this Section of the Terms will be effective or enforceable unless recorded in a writing signed by the party waiving such a right or requirement. Such a waiver shall not waive or affect

any other portion of these Terms. This Section of the Terms will survive the termination of your relationship with Rakuten.

3.11 Mass Arbitration Process Requirements. If twenty-five (25) or more similar claims are asserted against Rakuten at or around the same time by the same or coordinated counsel or are otherwise coordinated (and your Claim is one such claim), you understand and agree that the resolution of your Claim might be delayed. You also hereby agree that for your Claim the AAA Multiple Consumer Case Filing Fee Schedule and Supplementary Rules shall apply, and you commit to adhering to the procedures outlined in these Rules.

3.12 Notwithstanding any provision in this Agreement to the contrary, you agree that if we make any future, material change to this arbitration provision, you may reject any change by sending us written notice within thirty (30) calendar days of the change to Ebates Performance Marketing, Inc. DBA Rakuten Rewards, 800 Concar Drive, Suite 175, San Mateo, CA 94402, Attn: Rakuten Rewards Legal. Your decision to reject changes in a new arbitration provision, however, does not affect any prior arbitration provisions to which you have already agreed, which would still remain in effect.

3.13 This arbitration provision is optional. You may decline or opt out of this agreement to arbitrate by sending written and signed notice to Ebates Performance Marketing, Inc. dba Rakuten Rewards, 800 Concar Drive, Suite 175, San Mateo, CA 94402, Attn: Legal within thirty (30) calendar days of enrolling as a Member or accessing Site for the first time.

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6. COMMUNICATIONS

By submitting an inquiry through the Site or expressing an interest the Client Services, you agree to receive communications and notices by electronic mail. Your consent to receive electronic communications includes any notices or other information that we may be required by law to provide you in writing or otherwise. You may opt out of receiving certain communications in accordance with our [Privacy Policy](#).

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LIABILITIES OR CAUSES OF ACTION HOWEVER ALLEGED OR ARISING, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, BREACH OF CONTRACT, OR ANY OTHER CLAIM WHETHER IN TORT, CONTRACT, OR EQUITY.

12. TERMINATION

We may terminate this Agreement or your use of or access to the Site at any time, for any reason or no reason. We may, in our sole discretion, at any time and without prior notice, discontinue, cancel, suspend, restrict, change, or limit access to all or any part of the Site or any functionality, feature or other component of any Site. You agree that Rakuten will not be liable to you or to any third party for any modification, suspension, or termination of the Site or your access to any of the Site. If you are dissatisfied with any aspect of the Site at any time, your sole and exclusive remedy is to cease using the Site. Termination will not prejudice either you or our remedies at law or in equity.

13. MISCELLANEOUS

The validity, construction and interpretation of this Agreement and the relationship between you and Rakuten, including the rights and duties of the parties, will be governed by the laws of the State of California in the United States without regard to its conflict of law provisions. This shall not limit the protection afforded to you by provisions that cannot be derogated from by agreement by virtue of applicable law. The exclusive venue for any dispute or issue arising out of this Agreement shall be held in San Francisco County, California. Headings under this Agreement are intended only for convenience and shall not affect the interpretation of this Agreement. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. If any provision of this Agreement is held to be invalid, such invalidity shall not affect the remaining provisions, except as otherwise stated. You may not assign, transfer, or otherwise dispose of your rights and obligations under this Agreement, in whole or in part, without our prior written consent, and any such assignment without such consent will be null and void. Rakuten has the right to transfer, assign or otherwise dispose of these Terms without your consent.

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