

“LOCAL BUSINESSES ARE THE BACKBONE OF VIBRANT SPACES”

TERMS AND CONDITIONS OF – MERCHANTS

Welcome to *biz.Fabbang.com* (“*Merchants*”) - Terms and Conditions

This legal document is published in accordance with the provisions of Rule 3 (1) of the Indian Information Technology (Intermediaries guidelines) Rules, 2011 and Rule 4 of the Information Technology (Reasonable security practices and procedures and sensitive personal data or information) Rules, 2011 of Information Technology Act, 2000 amended through Information Technology Amendment Act, 2008.

We respect you and take the information provided by you very seriously and hence the creator of this Terms and Conditions ensures a steady commitment with regard to the protection of your invaluable information also to support the ongoing cause that you may share across on this Platform. We ask for this information so that we can understand more about the people who support us.

These Terms and Conditions are an integral part of the marketplace form which shall, at all times, be read as part and parcel of the marketplace form and deemed to be entered and executed on the date of signing of marketplace form. The following are the Terms and Conditions.

1. DEFINITIONS

- i. **“Agreement”** here shall mean and refer to the Terms and Conditions agreed between the Merchant and Fabbang containing the reference of the Terms and Conditions contained herein below.
- ii. **“Applicable Law”** shall mean and refer to all applicable laws, statutes, ordinances, rules, regulations, guidelines, policies and other pronouncements including amendments thereof having the force of law by Central, State, Municipality, Court, Tribunal, Governmental Authority, Appellate Authority, Ministry, Department, Commission, Regulatory Authority or any Judicial Forum.
- iii. **“Cashback/ Discount”** shall mean and refer to a promotional incentive offered to a User using an offer booked on the Platform that can be used by the User while making payment(s) for the next transaction on the Platform within the validity period of such Cashback or Discount offered to such User.
- iv. **“User”** shall mean and refer to a registered user of the Platform who transacts on the Platform.
- v. **“Effective Date”** shall mean and refer to the date on which the Marketplace Form is signed and executed between the Platform Parties and the respective Merchant.
- vi. **“Establishment(s)”** means an establishment from where the Services/ Products of the Merchant can be availed by the User, and shall not be limited to all kind of food outlets/ restaurants/ cafes, hotels/ service and/ or any other place of service from which the Merchant conducts or operates its business either on a permanent or temporary basis.
- vii. **“Flash Sale/ Promotional Activity”** shall mean and refer to any marketing or promotional campaign which is made live for a ‘limited span of time’ and is a tailor-made concept solely developed by the Platform Party, keeping in mind the services which the Merchant specializes in and to which the Merchant consents and acknowledges.
- viii. **“Marketplace Fee”** shall mean and refer to any Settlement Mechanism which is applicable on the below Deals/ fabPay/ FabRewards listed by the Merchant on the Platform:
 - In case of Deals: That percentage proportion of the Commission which is deducted from the total price of Offer/ Deal/ Voucher value of the service / product availed by the User.
 - In case of Pay: That Percentage proportion of the Commission which is deducted from the Merchant Share from the amount of the Offer/ Deal value minus additional Cashback/ Discount, if any, offered by the Merchant to the User on its Deal/ Offer.
 - In case of Rewards: That Percentage proportion of Commission which is deducted from the Merchant Share from the total amount of the Offer/ Deal/ Voucher, if any, offered by Merchant to the User on its Deal/ Offer.
- ix. **“Marketplace Form”** shall mean and refer to the arrangement entered into between the Merchant and Fabbang and/ or Strategic Partner for providing goods/ services on the basis of a comprehensive understanding between the Parties executed with free consent that contains the link of the terms and conditions contained in this Agreement which shall include and shall not be limited to Merchant Information, Merchant Bank Account Details, Service Details, Offer Details, Acknowledgment/ Confirmation, any other Annexure pertaining to the Merchant Share, MRP, Commission, Convenience Fee, etc.
- x. **“Merchant”** shall mean and refer to a Sole Proprietor or any other Authorized Person by way of an Authority Letter in case of a Proprietary Concern, Partner or any person so authorized by all the Partners by way of Power of attorney in case of a Partnership

Firm or a Designated Partner in case of a Limited Liability Partnership Concern or a Director in case of a Company or any person authorized as such by a duly passed Board Resolution in this regard, or the Karta of the HUF, as the case may be, representing the commercial establishment, who executes the Form and agrees thereby to be bound by the terms and conditions contained in the Form as a PDF link of the terms and conditions mentioned in this Agreement to enable listing of Offers through the Platform/s.

- xi. **“Pay”** shall mean and refer to the offers where the Users book a Service/ Product and may choose to pay for that particular Service/ Product at the time of availing that Service/ Product using the Platform.
- xii. **“Gift Cards (Fab GC)”** shall mean and refer to all the offers where the Merchant gets an interface created solely by Fabbang on the Platform to create and list such deals with unique voucher codes having an appropriate value against the actual MRP of the services or goods which are offered by the Merchant by accepting and acknowledging the terms and conditions relating to these FabGC on the interface.
- xiii. **“Rewards”** shall mean and refer to the Users who successfully avail the offers and deals listed on the Platform by the respective Merchants of the Platform Party.
- xiv. **“Fabbang”** shall mean and refer to Fabbang.com / Fabbang app, owned by Green Brother International Private Limited.
- xv. **“Credits”** shall mean and refer to virtual currency equivalent to same amount of Indian Rupees stored in the Wallet.
- xvi. **“Wallet”** shall mean and refer to a payment mode available to all the Fabbang registered users through which the Users can complete their bookings.
- xvii. **“Offer(s)”** shall mean and refer to offers on the Services/ Products of the Merchants as may be listed on a Platform.
- xviii. **“Payment Gateway”** shall mean and refer to a provider of the payment gateway solutions, including e-wallet services, with whom a Platform Party may engage for enabling the collection of such payments from the User towards the Offers redeemed/ transacted.
- xix. **“Platform(s)”** shall mean and refer to the Fabbang Platform.
- xx. **“Platform Party”** shall mean and refer to, in respect of an order placed by a User on the Platform.
- xxi. **“Redemption”** shall mean and refer to the transaction where the User, after purchasing the voucher for the Services/ Products, avails the same within the validity period of such voucher.
- xxii. **“Services / Products”** shall mean and refer to the services / products offered by the Merchant on the Platforms.
- xxiii. **“Strategic Partner”** shall mean and refer to a third party with which Fabbang may enter or already has entered into a strategic alliance for displaying / promoting / advertising / featuring Merchant Offers through a Strategic Partner Application.
- xxiv. **“Strategic Partner Application”** shall mean and refer to software, website or mobile application designed, developed and operated by a Strategic Partner.
- xxv. **“Voucher”** shall mean and refer to the acknowledgement receipt, containing an alphanumeric code / QR Code and the terms of the offer / deal, received by the User upon transacting a Merchant Offer listed on the Platform.

2. TYPES OF OFFERS

The Merchant may elect to provide offer to Users on the Platform, and for all such offers:

- i. The Platform Party will collect payment made by a User for Offers booked/ purchased, as the case may be, through the Payment Gateway or on its own.
- ii. The Platform shall issue a Voucher to the User, which is only a confirmation of the payment received from the User. The Voucher shall give a right to the User to demand and receive Services/ Products from the Merchant upon presentation of the Voucher within the validity period of the Offer and in accordance with the terms of the Offer.
- iii. Payments received from the User by a Platform Party shall be remitted to the Merchant, post redemption of Voucher, after adjustment of the Marketplace Fee required to be paid by the Merchant to the relevant Platform Party.
- iv. **Pay Offers:** Here Fabbang and the Merchant agree to feature Pay Offers on the Platform, the Merchant shall be allowed access to Platform through the Merchant account feature for offering Cashback/ Discount (in addition to any existing Cashback). Marketplace Fees for Pay Offers shall be agreed under the Form and may be modified from time to time upon mutual agreement between the Merchant and Fabbang. The Merchant may at any time modify/ remove the additional Cashback/ Discount that is offered by the Merchant in relation to Pay Offers only on the Platform. However, the Platform Party may, in its sole discretion on a fair and reasonable basis shall be at liberty to modify, alter, recall or amend the Cashback/ Discount offered by the Merchant from time to time of which the Platform Party shall be under no obligation or any liability of any manner whatsoever in regard of such modifications. Payments received from the User by Fabbang for Pay Offers shall be remitted to the Merchant after adjustments of the Marketplace Fee required to be paid by the Merchant to the relevant Platform Party.
- v. **Promotional Activity/ Flash Sale:** Here a Flash Sale is made live where a Platform Party has customized a marketing activity/ campaign to be made live on the Platform for the Users for a limited duration of time, and such an activity, at all times, shall

be treated as an additional activity for promotions and sales enhancement of the Merchant's goods/ services. This activity shall be agreed via any form of electronic communication in writing to be duly received by the Platform Party from the Merchant within a reasonable time before such activity goes live and shall be treated as an acknowledgment by the Merchant.

- vi. **Rewards:** Here a User visits a Merchant's Establishment and redeems the Offer/ Deal using the Platform Rewards Feature available on the Merchant Offers/ Deals and gets reward points on such transactions, where One Reward Point is equal to One INR. These Reward Points are accrued in the User's Account, which can be further used to avail the products/ services of the same Merchant only.
- vii. **Gift Cards:** Here Fabbang and Merchant agree to a certain set of terms and conditions made available to the Merchant subject to the discretion of Fabbang on the interface developed by Fabbang which is a self-serve option to the Merchant (where creation of which is solely at Merchant's end by a unique Username and Password provided initially by Fabbang) to create and list such deals with unique voucher codes/ Gift Cards having an appropriate dummy value against the actual MRP of the services or goods which are offered by the Merchant by accepting and acknowledging the terms and conditions relating to these GC available on the interface.

3. PLATFORM

The Merchant agrees that a Platform Party's role is limited to managing the Platform for the display of the Offers and other incidental services to facilitate online transactions between Merchant and the User and hence the Platform Party shall merely act as intermediaries under the terms of the Information and Technology Act, 2000, and the Rules made thereunder.. Platform Party will also not be responsible for any unsatisfactory performance or any actions or inactions or omissions by the Merchant including delays, defects or misinformation.

- i. Each Platform Party is, and its role is limited to, operating as an information technology platform on a digital and electronic network to act as a facilitator between a Merchant and User for transacting Services/ Products offered by the Merchant.
- ii. Each Platform Party shall make available a User service centre to provide assistance to Users in relation to their transactions on the relevant Platform. Merchant shall provide all information and assistance as may be requested by Platform Party or its User service centres to assist the Users in resolving any queries, enquiries or grievances, provided however that it is understood that the overall responsibility for resolving any queries, enquiries or grievances of Users is of the Merchant. Platform Party disclaims any liability arising due to delay in providing information to Users, or failure in resolution of queries, grievances and disputes of Users to their satisfaction.
- iii. The Merchant acknowledges that as Platform Party is not a party to any transactions between Merchant and Users, and the Merchant hereby releases and discharges the Platform Party from any claims, disputes, demands, liabilities and damages, of any nature (whether direct, indirect, actual or consequential), arising out of or in relation to or in connection with transactions on a Platform.
- iv. The Platform Party does not assume any obligation for the success of the Services/ Products marketed through the Platforms nor do they grant any exclusivity to the Merchant of any space on the Platform on which its Services/ Products are marketed.
- v. The Merchant agrees that it is its responsibility to ensure that the Services/ Products and Offers comply with all Applicable Laws. A Platform Party may, in its sole discretion, suspend a Merchant's access and/ or cease to list any Services/ Products of the Merchant, forthwith and without notice, where a Merchant is in violation of any Applicable Law or in the breach of the provisions of this Agreement.
- vi. The Platform Party shall display on the Platform, on best effort basis, all necessary information provided by the Merchant. However, a Platform Party shall not be under any obligation to display any information until the Merchant provides all necessary information and such information is in compliance with the respective Platforms policies and guidelines.
- vii. The Merchant agrees that all information provided to a Platform Party that is published on the Platform or otherwise, may be relied upon by Users to enable them to evaluate and enter into a binding contract for Services/ Products.
- viii. The Merchant hereby agrees and undertakes that it shall not provide any information or data to a Platform Party in relation to the Services/ Products (including text descriptions, graphics or pictures relating thereto) that:
 - Belongs to another person and to which the Merchant does not have any right;
 - Is grossly harmful, harassing, blasphemous, defamatory, obscene, pornographic, paedophilic, libellous, invasive of another's privacy, hateful, or racially, ethnically objectionable, disparaging, relating or encouraging money laundering or gambling, or otherwise unlawful in any manner whatsoever;
 - Harms minors in any manner whatsoever;
 - Infringes any patent, trademark, copyright, technological information, trade secrets, or other proprietary rights/

intellectual property, etc.;

- Violates any applicable law for the time being in force;
- Deceives or misleads the addressee about the origin of such messages or communicates any information which is grossly offensive or menacing in nature;
- Impersonates another person;
- Contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer resource or any mobile interface;
- Threatens the unity, integrity, defence, security or sovereignty of India, friendly relations with foreign states, or public order or causes incitement to the commission of any cognizable offence or prevents investigation of any offence or is insulting any other nation; or
- Is misleading or known to be false in any way.

4. MERCHANT'S DUTIES AND OBLIGATIONS

- Any Offers featured on the Platforms pursuant to this Agreement and the Marketplace Form executed between the Parties, for which the preview has been sent to the Merchant, or the Offers that are featured/ displayed/ advertised on the Platform and transacted by the User, cannot be refused by the Merchant.
- The Merchant will ensure that the attributes of the Offer and information relating to the Services/ Products provided to the Platform Party is current, accurate, complete, and relevant for each Service/ Product while listing for sale on a Platform including but not limited to its name, address, contact telephone number, manager/ contact person details, price lists, taxes, service addresses, and other relevant information. The Platform Party may not check or monitor the listings, data and contents displayed, appearing, published and transmitted on the Platform and that the Platforms or Platform Party do not own, stock, sell, distribute or in any manner come into possession of or verifies any services or products listed or put up for sale on Platform. The Platform is a platform which enables transactions between the various users of the platform as an independent and objective marketplace provider. The Platform Party and the Platform are not originators of or for any third party or content on the Platform.
- The Merchant acknowledges and agrees that it will be solely responsible for providing the Services/ Products to the Users. The Merchant will be responsible for the warranty and guarantee of the quality, expertise, safety, usability, permits or the like of any service or product or activity being marketed on the Platform and the responsibility for the same shall, at all times, during and after the Term of the Agreement remain with the Merchant. The Merchant agrees to promptly redress the User complaints, which have been referred by a Platform Party to the Merchant in respect of the Services/ Products.
- The Merchant acknowledges and affirms that if there is any statutory requirement under law for obtaining/ renewing any licenses or approvals pertaining to Merchant's businesses and operations like licenses regarding serving of alcohol and/ or any other applicable licenses such as FSSAI License, Legal Metrology Certificate, Fire NOC, Drug License, Pollution Clearance Certificate, etc., from any Department/ Panchayat/ Governmental/ Appellate Board or Nodal Authority shall be the sole responsibility of the Merchant for compliances associated and the Platform Party disclaims any liability of whatsoever nature pertaining thereto.
- The Merchant warrants that the Services/ Products provided to Users are:
 - Of high quality;
 - Merchantable and imperishable in nature
 - Fit for human consumption, wherever applicable;
 - Comply with all the Applicable Laws.
- The Merchant acknowledges the value created by the Platforms for its Services/ Products and has accordingly contracted with the Platform Party for listing its Services/ Products on the Platforms.
- The Merchant hereby agrees not to solicit or prompt or otherwise dissuade a User from using or transacting through the Platforms, and shall promote the Platforms as a means of transacting with the Merchant.
- The Merchant agrees to not accept any other means of payment except payment through the Platforms, should a User approach the Merchant by making reservation through the Platforms. The Merchant also agrees to not to cancel or reject the booking of the User after accepting the same.
- The Merchant will not discriminate while providing Services/ Products between its Users and Users booking via the Platform.

- x. The Merchant agrees to provide Services/ Products only at the Establishment for which such Service/ Product are sought or at any other place of service from which the Merchant conducts or operates its business either on a permanent or temporary basis.
- xi. The Merchant undertakes to ensure additional oversight by it for any Services/ Products that are offered at a location other than a Merchant Establishment to ensure quality of services are not adversely impacted.
- xii. The Merchant shall:
 - Undertake adequate police verification and background checks for its personnel and maintain records of the same;
 - Ensure that its personnel are not intoxicated while on duty;
 - Ensure that its personnel do not misbehave with the User or otherwise engage in conduct which may constitute an offence of moral turpitude;
 - Make timely payment of all applicable statutory dues;
 - Maintain adequate insurances; and
 - Provide proper training to its personnel to ensure that its personnel provide the Services without any delay and negligence
- xiii. The Merchant shall address and resolve all User complaints received by a Platform Party relating to the efficacy, quality or any other issues relating to the Services/ Products expeditiously within timelines prescribed by the relevant Platform Party or Applicable Laws and the Merchant shall be solely liable and bound to take action on complaints raised by User pertaining.
- xiv. The Merchant acknowledges and agrees that the Merchant shall be required to provide all the correct details in the Marketplace Form along with a copy of its PAN Card, TAN, GSTIN and other required details as may be requisitioned by a Platform Party from time to time failing which, the relevant Platform Party reserves the right to delist the Merchant from the Platform and/ or curtail its access from the Platform.
- xv. The Merchant acknowledges and agrees, at all times, to designate the duly appointed Authorized Signatory/ Personnel to do such activities as agreed under this Agreement and if such Authorized Signatory is changed, till the time this Agreement is live between the Parties, it shall be the duty of the Merchant to intimate via written communication at least 10 days prior/ post such change is implemented.
- xvi. The Merchant shall not engage in any fraudulent activity and shall be liable to the Platform Party. Fraudulent activity for the purposes of this Agreement shall include but not be limited to a suspicious event deemed to be suspicious by the Platform Party where there is an irregular upsurge in the redemption of Offer Options by the Merchant or its relatives, affiliates, employees, acquaintances, etc. Each Platform Party reserves the right to delist the Merchant from the Platform and/ or curtail its access to the Platform in such cases. In any such event the Platform Party shall not be liable to release the payment for any such fraudulent activity committed or under consideration to the Merchant by the Platform Party.

5. PAYMENT TO FABBANG

- i. The Platform will receive payment from the User for payment to the Merchant and shall remit the payments to the Merchant, post redemption of voucher retaining the Marketplace Fee to be paid by the Merchant to Platform for their Service/ Product.
- ii. The Marketplace Fee for the Collection Services shall be as agreed with the Merchant from time to time over an email.
- iii. The User shall only be issued a Voucher through the Platform, which is only a confirmation of the advance payment received.
- iv. Once the validity period of the voucher(s) purchased by the User gets expired, the Merchant expressly waives any right to claim payment from the Platform Party for any such expired voucher(s) and the Platform Party shall only be liable to make payment to the Merchant for the vouchers specifically redeemed by the User.

6. PAYMENT TO MERCHANT

- i. The Platform Party will settle amounts collected from Users and Marketplace Fee payable to the relevant Platform Party, once a Week. Where any Marketplace Fee due to a Platform Party, the Platform Party may deduct such amounts from payments required to be made by it.
- ii. In the event a Platform Party has provided any advance amount to the Merchant (“Advance Amount”) for any Pre-Buy Offers/ Deals vide separate Marketplace Form/ Agreement along with T&Cs as may be applicable on the Merchant to this Agreement, the Platform Party shall adjust the monies collected on behalf of Merchant post redemption of the Vouchers and retain Platform Party’s Marketplace Fee from the Advance Amount. Upon exhaustion of the Advance Amount or at any time during the Term of the Agreement, the Parties may agree to a further advance or to a different payment mechanism of transfer of payment amount to the Merchant on redemption on a weekly basis. This sub-clause shall only be applicable in case of Pre-Buy Offers/ Deals offered by the Merchant on the Platform.
- iii. The Merchant is responsible for its taxes, including but not limited to Goods and Services Tax (GST) and all related compliances/ clearances to be obtained for providing Services/ Products for the bookings received through the Platform. A Platform Party shall have no liability and shall not bear any such tax in any manner whatsoever.

- iv. The Platform shall reimburse to the Merchant the amount for the tax deducted at source (TDS) as would have been deposited by the Merchant on Marketplace Fee within 7 working days of the Merchant submitting the TDS Certificates with the Platform.
- v. The Merchant consents for receiving payments through electronic mode and shall provide the correct and complete information with respect to bank details. The Platform Party assumes no liability, and the Merchant discharges the Platform Party from any liability arising from incompleteness or inaccuracy in information provided by the Merchant.

7. INTELLECTUAL PROPERTY RIGHTS

- i. The Platform Party shall, at all times, be the sole and beneficial owners of all right, title and interest to any intellectual property in and to their respective Platforms and the technology, know-how and infrastructure pertaining thereto. This Agreement shall be construed to be a mere right for the Merchant to advertise and promote itself on the Platform through agreed Offers.
- ii. The Merchant grants to the Platform Party an unrestricted, non-exclusive, royalty-free, worldwide, right and license to use, reproduce, perform, display on the Platform, and in marketing (or social media) communications promoting the Platform, all content and information provided by the Merchant (including the Merchant's name, Establishment name, logo, menu items and price list for the Offers). This includes, but is not limited to:
 - Use of the Merchant's name in the context of Google ad words to support advertising and promotional campaigns to promote online ordering on internet which may be undertaken by the Platform Party.
 - Preparation of derivative works of, or incorporate into other works, all or any portion of the marketing materials which will be made by the Platform Party for the purposes of its business.
- iii. Any material the Merchant transmits or submits through the Platform or otherwise shall be considered and may be treated by the Platform Party as non-confidential, subject to their obligations under Applicable Laws.

8. REPRESENTATION AND WARRANTIES

- i. The Parties represent and warrant to each other that each has the authority to execute this Agreement and perform their respective obligations contained herein.
- ii. The Merchant represents and warrants to each Platform Party that:
 - It is duly organized and validly existing under the Applicable Laws and is duly registered and authorized to do the business and has all requisite government and regulatory approvals, corporate powers and authority to own and operate its business and to enter into this Agreement and while entering into this Agreement shall not violate or conflict with any agreement, contract, arrangement and understanding or any instrument, to which it is a party or by which it is bound.
 - It has the requisite power, licenses, consents, permission, approvals and authorities to execute, perform and deliver this Agreement.
 - There is no action, suit, proceeding, claim, arbitration, inquiry or investigation pending against Merchant, its activities, properties or assets or for its winding up. It is not a party to or subject to the provisions of any order, writ, injunction, judgment or decree of any court or governmental authority or instrumentality.
 - All trademarks and all the rights, title and interest in intellectual property relating to the Offers and the Services/ Products are the sole property of the Merchant and the Merchant's intellectual properties do not infringe or pass off the trademarks or logos or service marks or other intellectual property rights of any third party.
 - The safety gears, if any, as provided by the Merchant meet the adequate quality standards and there are adequate & requisite safeguards at the Merchant Establishment. The Merchant has the required medical and first aid facilities at the Merchant Establishment. This clause shall apply on Merchant only as per applicability.
- iii. The Merchant undertakes with each Platform Party that:
 - If the Merchant ceases to do business, ceases or threatens to cease its operations or is otherwise unable to offer Services/ Products to Users, it will inform the Platform Party promptly;
 - It will include in listings of Services/ Products all disclosures associated with the relevant Services/ Products;
 - All Services/ Products shall comply in all respects with Applicable Laws, and it shall continue to maintain and possess requisite power, licenses, consents, permission, approvals for the conduct of its businesses;
 - It shall not disparage the Platform or the Platform Party, or negatively influence any person relating to the use of the Platform, whether during the term of this Agreement or thereafter; and
 - It shall keep, maintain and preserve books and records pertaining to Offers extended by it, and Services/ Products sold on the Platform.
- iv. The Merchant warrants that it will not offer for sale any potentially hazardous food, alcoholic beverage, tobacco product, or any other item prohibited by Applicable Laws.

- v. The Merchant warrants that it will undertake its obligations with reasonable skill and care.

The Platform Party do not guarantee or warrant that the Platforms will be free from defects or malfunctions, or will be available on an uninterrupted basis. The Platform Party will use reasonable efforts to rectify any defects or malfunction.

9. INDEMNIFICATION

- i. The Merchant shall defend, indemnify and hold harmless each Platform Party and its affiliates (and its respective Directors, officers, agents, representatives and employees) from and against any and all claims, costs, suits, liabilities, judgments, losses, damages, penalties, interest and expenses, arising out of or in connection with:
- A claim by a User (or any party on whose behalf a User has been acting) in respect of any Service/ Product, including without limitation any failure to perform, or deficiency in services or defects in products, or an act or omission of the Merchant or any of its personnel and for any deficiency in service attributable to the Merchant, the Platform Party shall have right to deduct / be at liberty to hold back, recover amounts outstanding or payable to the Merchant; and/ or
 - Any actual or alleged breach of any covenant, obligation, undertaking or other provision of this Agreement; and/ or
 - The inaccuracy or breach of any representations or warranties or other policies of a Platform; and/ or
 - In respect of, arising out of, or in connection with Services/ Products, including but not limited to its issuance, terms and conditions, validity, enforceability and compliance with Applicable Laws; and/ or
 - By any statutory or governmental authority in respect of or connected to including but not limited to the collection or payment of applicable taxes in any way connected to this Agreement; and/ or
 - The effectiveness & validity of requisite power, licenses, consents, permission, approvals, business practices and authorities to execute and deliver this Agreement and the Offers as may be featured on the Platforms; and/ or
 - For any safety mishaps attributable to the Merchant or occurring at his own establishment or any other place of business of the Merchant availed on a temporary basis for any activity conducted at such place by the Merchant.
- ii. For any activity carried out at any Merchant Establishment.
- iii. The indemnification obligations contained in this clause shall survive the expiry or termination of this Agreement for any reason whatsoever.

10. LIMITATION OF LIABILITY

- i. Notwithstanding anything to the contrary, a Platform Party shall not have any liability pursuant to this Agreement for loss of actual or anticipated profits; loss of goodwill; loss of business; loss of revenue or of the use of money; loss of contracts; loss of anticipated savings; loss of data and/ or undertaking the restoration of data; and/ or any special, indirect or consequential loss, even if such Platform Party has been advised of the possibility of such loss.
- ii. A Platform Party's total liability, whether arising out of any breach of contract, warranty, tort or otherwise under or in connection with this Agreement or the transactions contemplated hereby, shall not exceed the aggregate sum of Marketplace Fee received by it from the transaction which is the subject matter of the claim.
- iii. Nothing contained herein shall limit the ability of the Platform Party to upgrade, downgrade, modify, alter, limit, suspend, adapt or otherwise alter their respective Platforms, or any part, function or feature thereof, without notice or other obligation to the Merchant, User or any third party.
- iv. The Merchant hereby releases and discharges forever the Platform Party and all those acting or claiming through or for the Platform Party, from any and all claims, demands, liabilities, damages, losses, proceedings, suits, causes of action or any similar obligations of any kind, whether accrued or unaccrued, arising or resulting from or related to the offer of Services/ Products to Users.

11. TERM AND TERMINATION

- i. Term. The term of this Agreement shall commence on the Effective Date and shall continue for a period of 12 Months (1 Year). Upon expiry of the Term, the Agreement shall be automatically renewed for successive terms of -12 Months (1 Year). Year thereafter, until terminated in accordance with Clause ii.
- ii. Termination. A Platform Party can for itself terminate or suspend this Agreement anytime if:
- The representations and warranties made by the Merchant are inaccurate or false or misleading in any manner; and/ or
 - Where the Merchant is in breach of any covenant, obligation, undertaking or other provision of this Agreement; and/ or
 - Where the Merchant is engaged in unethical business practices; and/ or
 - The user experience for the Merchant is not found satisfactory as per a Platform's standards; and/ or

- For a continuous period of 14 days, the Merchant fails to provide Services/ Products to the Users; and/ or
 - Upon the happening of any of the insolvency events such as bankruptcy, appointment of receiver, administrator, liquidator, winding up, dissolution; and/ or
 - The Merchants fails to comply with any Applicable Law; and/ or
 - Where the Merchant's outlet(s) is/ are approaching a partial or a permanent shut down.
- iii. Termination of this Agreement in accordance with its terms, shall not affect the accrued rights or liabilities of the Parties at the date of termination; and shall have no effect on:
- The validity of Vouchers already issued to Users; or
 - The Merchant's obligations to provide Services/ Products vide those Vouchers; and/ or Merchant's obligation to return the unutilized amount as per a Platform Party records from the Advance Amount within 3 (three) days of termination/ expiry of the Agreement.
- iv. The Merchant shall inform each Platform Party as soon as the Merchant decides to close down its Business Establishment or make any changes to its Establishment, which may affect the Offers as marketed on the Platform.

12. ACCEPTANCE TO FABBANG'S PRIVACY POLICY

By signing the Form and this Agreement, the Merchant acknowledges and agrees to be bound by privacy policies of Platform Party. The Merchant will immediately notify the relevant Platform Party if it becomes aware of or suspects any unauthorized use or access to the user data or any other Confidential Information, and shall co-operate with the relevant Platform Party in investigation of such breach and the mitigation of any damage.

13. LICENSE AND SITE ACCESS

- i. Fabbang grants a limited license to access and make personal use of their Platform and not to download (other than page caching) or modify it, or any portion of it. This license does not include any resale or commercial use of this site or its contents; any derivative use of this site or its contents; or any use of data mining, robots, or similar data gathering and extraction tools. This site or any portion of this site (including but not limited to any copyrighted material, trademarks, or other proprietary information) may not be reproduced, duplicated, copied, sold, resold, visited, or otherwise exploited for any commercial purpose.
- ii. Merchants are not allowed to frame or utilize framing techniques to enclose any trademark, logo, or other proprietary information (including images, text, page layout, or form) of Fabbang without their express written consent. Any unauthorized use terminates the permission or license granted by Fabbang. Merchants are granted a limited, non-assignable, revocable, and non-exclusive right to create a hyperlink to the home page of the Site so long as the link does not portray Fabbang, its affiliates, or their products or services in a false, misleading, derogatory, or otherwise offensive matter.

14. ELIGIBILITY

- i. Merchants must represent and warrant that they are competent and eligible to enter into legally binding agreements and of age and that they have the requisite authority to bind themselves to these Terms following the Law. Minors are not permitted to bind themselves to these Terms.
- ii. Further, Merchants must represent that they will comply with these Terms and all applicable local, state, national and international laws, rules and regulations.
- iii. Merchants shall not use the Platform if they are not competent to contract or are disqualified from doing so by any other applicable law, rule or regulation currently in force.

15. SERVICES DESCRIPTION

Fabbang attempt to be as accurate as possible. However, it does not warrant that descriptions of or other content of this site is accurate, complete, reliable, current, or error-free. Also, Merchant access to the Platform may also be occasionally suspended or restricted to allow for repairs, maintenance, or the introduction of new facilities or at any time without prior notice. Fabbang will attempt to limit the frequency and duration of any such suspension or restriction.

16. PROHIBITION TO UNAUTHORISED PAYMENT

- i. It is the intent of the Parties that no payments or transfers of value shall be made which have the purpose or effect of public or commercial bribery or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining the approvals, if required.

In the event of the merchant committing a breach of any of the terms and conditions contained herein then other Party shall be

entitled to forthwith terminate this Agreement without any liability of any sorts whatsoever in respect of such termination.

17. SELLING

Merchants shall lists products/services for being offered on the Platform in accordance with the policies which are incorporated by way of reference in the Terms of Use. They must be legally able to offer the products/services listed for sale on the Platform and must have all the necessary licences and permits required for such offering. Merchants must ensure that the listed items do not infringe upon the intellectual property, trade secret or other proprietary rights or rights of publicity or privacy rights of third parties..

18. MISCELLANEOUS PROVISIONS

- i. **“Confidential Information”** shall mean and include any and all data and information not in the public domain, including technical, marketing and any other know-how and trade secrets, relating to business, personnel or affairs of the Party. Confidential Information may be communicated orally, visually, in writing or in any other recorded or tangible form. Subject to the terms and conditions of this Agreement, the Merchant agrees to keep confidential and not disclose or use any Confidential Information except to support its use or provision of the Services/ Products. The confidentiality obligations set forth herein shall survive the termination or expiration of this Agreement.
- ii. No waiver by a Platform Party of any violation or default in performance of the provisions of this Agreement shall be deemed a waiver of such provisions or the right of a Platform Party to thereafter enforce such provisions or any other provisions of this Agreement.
- iii. No term of this Agreement shall be enforceable by a third party.
- iv. This Agreement and the Form, embodies the entire agreement between Fabbang and the Merchant respecting this arrangement and supersedes all prior agreements, understandings and communications, whether written or oral, between the Parties with respect to the subject matter hereof. No modification or amendment of the Agreement shall be effective unless in writing and executed by a duly authorized representative of each Party or as mutually agreed over emails.
- v. All notices, requests and demands, and other communications required or permitted under this Agreement shall be in the form of email, to the registered email ID.
- vi. The Merchant must not assign, transfer, charge or otherwise encumber, create any trust over or deal in any manner with this Agreement or any right, benefit or interest under it, nor transfer, novate or sub-contract any of Merchant’s obligations under it. A Platform Party shall be free to transfer and/ or assign its rights and obligations hereunder without notice or consent of any party.
- vii. Invalidity or unenforceability of any provision of or right arising pursuant to this Agreement shall not adversely affect the validity or enforceability of the remaining obligations or provisions.
- viii. This Agreement does not create any agency, employment, partnership, joint venture, or other joint relationship. Platform Party and the Merchant are independent contractors and neither has any authority to bind the other.

Governing Law and Jurisdiction. This Agreement shall be governed by the Laws of India, for the time being in force and the courts of Bengaluru, Karnataka, India shall have the exclusive jurisdiction to preside over any matters arising hereunder. Parties shall first endeavour to resolve their disputes amicably within fifteen (15) days from the date on which the dispute was first notified failing which, the dispute shall be referred to courts.

19. DISCLAIMERS

- i. To the fullest extent permitted by law, Fabbang and their affiliates, and each of their respective officers, Directors, Members, employees, and agents disclaim all warranties, express or implied, in connection with this Agreement, the Platform and any use thereof, including, without limitation, the implied warranties of merchantability, fitness for a particular purpose and non-infringement. No Platform Party makes any warranties or representations about the accuracy or completeness of the content and data on the Platforms or the content of any other websites/ mobile apps linked to the Platforms, and assumes no liability or responsibility for any:
 - Errors, mistakes, or inaccuracies of content and materials,
 - Personal injury or property damage, of any nature whatsoever, resulting from the Merchant's access to and use of the Platform,

- Any unauthorized access to or use of a Platform Party's servers and/ or any and all personal information and/ or financial information stored therein,
- Any interruption or cessation of transmission to or from the Platform,
- Any bugs, viruses, Trojan horses, or the like which may be transmitted to or through the Platform, and/ or
- Any errors or omissions in any content and materials or for any loss or damage of any kind incurred as a result of the use of any content posted, transmitted, or otherwise made available via the Platform.

ii. The Merchant shall ensure that it has all rights, title, and interest in:

- The Content it shares with a Platform Party; or
- The Merchant's content that is already available with a Platform Party and these are compliant with the Merchant's internal branding guidelines and applicable laws; or
- The Platform Party shall in no manner be liable for the Content displayed on the Platform, when such Content is provided by the Merchant or approved by the Merchant in advance. The Merchant hereby agrees and acknowledges that Platform Party shall be authorized to use the logo and brand name of the Merchant for displaying the Offers of the Merchant on the Platform.
- For the purpose of featuring the Offers on the Platform, the Merchant hereby grants Platform Party worldwide, non-exclusive, royalty-free right and license to use and reproduce, copy, distribute and display, in any medium now known or hereafter developed, the Content.
- The Platform Party will determine, in their sole discretion, the size, placement, and positioning of the advertisement on the Platform.

20. DECLARATION

In relation to the aforesaid, Merchants declare that:

- Merchants have carefully read the requisite fields Fabbang and Biz.fabbang.com Platform and have provided accurate information to the best of their knowledge, and understand that any misrepresentation or omission of facts may be justification for refusal of payment, if any or termination of your contract.
- Merchants acknowledge that any statements or information or documents provided by them does not create an expressed or implied contract with Fabbang. Any premise to the contrary will be relied upon by the Merchants and they shall be liable for the same.

Merchants hereby declare that the information or documents provided by them to Fabbang are true and correct to the best of their knowledge. Merchants acknowledge and agree that providing any false information may result in Fabbang delisting them from the Platform and take such action as Fabbang may deem appropriate

Posted as of 28th February 2021

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"LOCAL BUSINESSES ARE THE BACKBONE OF VIBRANT SPACES"