

## 1. FLUU.IO REGULATIONS

### BRANDLOVER AND INFLUENCER

BE GENEROUS: Post must stay on the top of your feed for minimum 5 hours and on your platform for 30 days.

BE AUTHENTIC: Only recommend brands you love and you would also work without compensation.

BE GENUINE: You must hold all rights or have permission to use all content contained in your submitted posts, including pictures.. FLUU.IO developed the FLUU.IO Formula with which it proves the quality of a Brand Lover and Influencer. We work exclusively with Brand Lovers and Influencers who've organically grown their audience, therefore if you're misrepresenting the size of your audience or engagement in your content, we reserve the right terminate your FLUU.IO account.

BE MINDFUL: Don't recommend competing brands in quick succession, otherwise you'll lose credibility.

BE PASSIONATE: Include #beafluion in your post to show you engagement for us.

BE TRANSPARENT: Include [#ad](#) if it is a sponsored post.

### BRAND

BE RESPONSIVE: Please appreciate the time each Influencer has invested into their submission by responding to each one in an appropriate way.

BE AWARE: Share a Brand Lover's and Influencer's post within the same social platform, however content cannot be used in any additional marketing material, nor should it be used outside of the original social platform without giving notice to and having obtained written consent by the author.

BE TRANSPARENT: Be transparent when engaging with influencers, and the requirement to label influencer posts with [#ad](#) to inform consumers of the commercial relationship and don't mislead them.

## 2. FLUU.IO TERMS AND CONDITIONS OF USE

Last updated: April 19, 2017

Welcome to FLUU.IO. We created the FLUU.IO platform as a simple way for brands to collaborate with influencers and brand lovers, and vice versa.

FLUU.IO Platform is owned and operated by M´CAPS GmbH.

Information about how to join and use the FLUU.IO Platform forms part of these FLUU.IO Platform Terms and Conditions of Use (“Terms of Use”). Please read these Terms of Use carefully before using the services offered by FLUU.IO.

FLUU.IO reserves the right to change the FLUU.IO Platform in any way at its sole discretion. Even if you have an Account, your ability to access and use the FLUU.IO Platform may be terminated at any time with prior written notice. By registering and using the FLUU.IO Platform or any FLUU.IO Services, you agree to be bound by this Terms of Use.

## DEFINITIONS

- a. “Account” means each and any account assigned to Brand Lovers / Influencers or Brands after registration with the FLUU.IO Platform.
- b. “Brand” means entrepreneurs and agencies registered with the FLUU.IO Platform either as brand or agency.
- c. “Brand Lover” or “Influencer” means a user registered with the FLUU.IO Platform as influencer.
- d. “Content” means any content uploaded to the FLUU.IO Platform by Brands falling within the following five categories (i) campaigns, (ii) news, (iii) offers, (iv) surveys, or (v) contests.
- e. “Channels” means social media channels such as Instagram, Pinterest, Youtube, Facebook and Twitter or blogs that a Brand Lover / Influencer has registered with the FLUU.IO Platform and linked to FLUU.IO.
- f. “Influencer Budget” means the aggregated compensation made available by a Brand for a certain type of campaign to be distributed among participating Brand Lovers / Influencers as Influencer Fee based on the underlying individual agreement.
- g. “Influencer Fee” means the compensation to be paid by the Brand to a Brand Lover / Influencer for each Post published by a Brand Lover / Influencer.
- h. “Post” means either (i) a post published by a Brand Lover / Influencer on one of his or her Channels in connection with a campaign or (ii) a post published by a Brand on the FLUU.IO newsfeed.
- i. “Fee” means the fee to be paid by a Brand to FLUU.IO for a Post published by the Brand on the FLUU.IO newsfeed or a Post published by a Brand Lover / Influencer.
- j. “User” means any Brand Lover, Influencer or Brand.

## APPLICABILITY OF TERMS OF USE

FLUU.IO Platform shall provide its services exclusively on the basis of the Terms of Use. They shall apply to all legal relationships between the FLUU.IO Platform and the Users, even if they are not expressly referred to.

The version applicable at the time of conclusion of a contract shall be relevant. Deviations from these Terms of Use and other supplementary agreements with the Users shall only be effective if they have been confirmed by the FLUU.IO Platform in writing.

Terms and conditions of any User, if any, shall not be accepted, even if the FLUU.IO Platform knows them, unless expressly agreed otherwise in writing on a case-by-case basis. The FLUU.IO Platform expressly objects to GTC of any User. No other objection of the FLUU.IO Platform to the Users's GTC shall be required.

The Users shall be informed about amendments to the Terms of Use. They shall be deemed agreed unless the User objects to the amended Terms of Use in writing within 14 days. In the information the Users will be expressly informed about the consequence of silence on their part. If a user objects to such an amendment, the FLUU.IO Platform reserves the right to cancel the respective Account.

The FLUU.IO Platform solely matches Influencers and Brand Lovers with Brands as described below. With respect to Posts published by a Brand Lover / Influencer in collaboration with a Brand, the FLUU.IO Platform solely acts as an intermediary. The contractual relationship regarding the services provided by the Brand Lover or Influencer to the Brand, e.g., publishing of a Post, is established directly between the Brand and the respective Brand Lover or Influencer.

## SCOPE OF FLUU.IO SERVICE

1. FLUU.IO provides a platform which allows Brands to create social media campaigns, which are then shared with Brand Lovers/ Influencers. Brand Lovers/ Influencers can respond to a Content by creating a Post and submitting it to the relevant Brand for approval. Brand Lovers and Influencers get goodies to test, or earn compensation when a Brand approves a Post and the Post is published to the Influencer's community via his or her Channels, as selected. The Brand is solely responsible for reviewing and approving all Posts that form part of their campaign and for the payment of the applicable Influencer Fee, in accordance with these Terms of Use. FLUU.IO is not responsible in any way for the content of any Post at any time and FLUU.IO is not responsible for payment of the Post Fee to Influencers. These Terms of Use apply to all transactions conducted through or in connection with the

FLUU.IO Platform.

2. Influencers/Brand Lovers provide content which is not altered, approved or endorsed by FLUU.IO. No content of any Influencer/Brand Lover constitutes a representation by FLUU.IO, nor does FLUU.IO accept any liability for the legality, validity, accuracy or suitability of any content provided by Brand Lovers, Influencers or Brands. You agree that FLUU.IO is not liable for, and does not approve, any Content posted using the FLUU.IO Platform. FLUU.IO is not obligated to consult, monitor, edit or remove any Content. If your Content violates these Terms of Use, you bear legal responsibility for that Content. Individual campaigns that are based on a separate individual agreement between FLUU.IO and the Brand are excluded. Questions or concerns about Content, including your rights to reproduce it, must be forwarded to FLUU.IO directly and if advised by FLUU.IO, by contacting the relevant Influencer or Brand directly.
3. The FLUU.IO Platform is generally developed for use by people aged 18 years and over. Users guarantee that the registration form is true, accurate and complete and not misleading and that they have full legal capacity to register for and engage in the activities in connection with the FLUU.IO platform. To use FLUU.IO, you must be eligible to use the social media platforms (under the relevant platforms prevailing terms and conditions) upon which you intend to publish Posts.
4. FLUU.IO is not responsible for the conduct of any user. You agree that you are solely responsible for your interactions with other users of FLUU.IO.
5. The Terms of Use seek to create neither a partnership, agency, employment nor any type of fiduciary relationship between FLUU.IO and any user.
6. Brand Lovers, Influencers and Brands are prohibited from negotiating terms or payment with each other outside of the FLUU.IO Platform. Any attempt to circumvent the FLUU.IO Platform may result in removal from FLUU.IO, without limiting any other rights or remedies available to FLUU.IO.
7. FLUU.IO is an independent platform and is not sponsored, or endorsed by, or associated with, any social media platforms. The FLUU.IO Platform may also utilise social network or share functionality and may contain social media links, applications or features (including but not limited to Facebook, Twitter, LinkedIn, Google+, Youtube and Instagram). Your use of any social media platforms is subject to the particular social media platform's prevailing terms and conditions of use.

8. Subject to your compliance with these Terms of Use, you are granted a limited, non-exclusive, revocable and non-transferrable licence to access and use the FLUU.IO Platform in the manner anticipated in these Terms of Use.

## GENERAL REPRESENTATIONS AND WARRANTIES

Each User participating in the FLUU.IO Platform represents (*gewährleisten*) and warrants (*garantieren*) that:

- all information the User provide to FLUU.IO upon registering for an Account is true, accurate and complete and not misleading;
- any third-party social media accounts to which User link are:
  1. User's own accounts;
  2. if the Account refers to a Brand, that User is the authorised representative of the Brand with the right to access its social media accounts and represent its interests; and
  3. if the Account refers to an individual other than the User itself, User is authorised representative of that individual with the right to access his or her social media accounts and control his or her interests.
- User has the right and authority to create an Account and agree to these Terms of Use and the FLUU.IO Regulations for him and herself and any individual or brand he or she is representing, agree to these Terms of Use and to use the FLUU.IO Platform on its or his or her behalf and submit Content through FLUU.IO Platform;
- any Content submitted to the FLUU.IO Platform will not contain anything that;
  1. violates any laws or applicable regulations (including but not limited to unauthorised copy of another person's copyrighted work or any other intellectual property right);
  2. is indecent, obscene, threatening, discriminatory, harassing, in breach of any confidence, defamatory, offensive or objectionable or contains, depicts or alludes to or promotes aggressive, unruly, antisocial, lewd or illegal behaviour or sexually suggestive imagery; or
  3. involves the transmission of junk mail, chain letters, unsolicited mass mailing or spam.

## TERMS FOR BRAND LOVERS/ INFLUENCERS

### REGISTRATION

1. Users gurantee when registering an Account, that all information provided are current, accurate, complete and not misleading. Account registrations that do

not comply with these Terms of Use are invalid and constitute a breach of the Terms of Use, which may result in immediate termination of your Account.

2. You may not use as a username the name of another person or entity or that is not lawfully available for use, a name or trade mark that is subject to any rights of another person or entity other than you without appropriate authorization, or a name that is otherwise offensive, vulgar or obscene.
3. You are liable for safeguarding the password that you use to access your Account and for any activities or actions under your password. It is your sole responsibility to control access to and use of your Account and to notify FLUU.IO when you desire to cancel your Account. FLUU.IO will not be responsible for any loss or damage arising from your failure to comply with this provision.
4. You agree to immediately notify FLUU.IO of any unauthorised use of your Account or any other breach of security.
5. If FLUU.IO believes that you are abusing or tampering with the FLUU.IO Platform (or any element thereof) in any way, that you have breached these Terms of Use, or that you have engaged in any unlawful, unethical or other misconduct calculated to put in danger the proper administration of the FLUU.IO Platform (or any element thereof), FLUU.IO retains the right and absolute discretion to terminate your Account and access to the FLUU.IO Platform (or any element thereof). FLUU.IO's reserves the right to recover damages or other compensation from such a violation.
6. You are prohibited to use any automated software or any other mechanical or electronic means allowing a member to create Account. FLUU.IO reserves the right to disable your Account, restrict your access, require that you delete data, terminate our agreements with you or any other action that we deem appropriate, if FLUU.IO discovers that you are engaging in such activity.
7. By registering with FLUU.IO, you confirm your understanding that you provide your information to FLUU.IO and not to any social media platform. Users of the FLUU.IO Platform are solely responsible and liable for any Content or information they share with others.
8. FLUU.IO has the right to refuse an Account for any reason in its sole discretion.

#### **ADDITIONAL TERMS FOR BRAND LOVERS/ INFLUENCERS**

### Eligibility

Everybody who is over the age of 18 years, or over the age of 14 years with the written consent of a parent or legal guardian, is allowed to register at FLUU.IO.

To participate in any Campaigns, earn Goodies or compensation via FLUU.IO Platform, Brand Lovers/ Influencers must meet the following minimum standards:

- their Channels must be public (viewable by anyone); and
- their Channels may not contain content that is contrary to these Terms of Use or to the terms of use of the relevant social media platform of the Influencer's Channel;
- at least 500 followers on one of their Channels; for this purpose followers from different Channels are not summed up.

If you do not meet minimum requirements above, you may not be able to participate in Campaigns or access the full functionality of the Account.

### Compensation

After a Brand has approved your Post, you are required to publish the Post to your relevant Channel through the FLUU.IO platform in the manner required within 48 hours upon approval of the Post. Brand Lovers / Influencers are not allowed to edit a Post after a Brand has approved the Post. You agree to be solely responsible for the publication of Posts. FLUU.IO merely provides a service allowing Brands to approve Posts before publication, but publishing of Posts via the FLUU.IO Platform remains your responsibility.

Brand Lovers and Influencers will be asked to provide financial details including their designated bank account or PayPal account details. After an approved Post has been published and maintained for the respective period as set out by these Terms of Use or an individual agreement, you will be entitled to be paid the Influencer Fee, subject to your compliance with these Terms of Use and the FLUU.IO Regulations. If you do not comply, you will not be paid. You are responsible for the accuracy of your nominated bank account or PayPal account details.

You acknowledge and agree that the relevant Brand, not FLUU.IO, will be solely liable for payment of the applicable Influencer Fee for the approved Post. FLUU.IO merely processes such payment on behalf of the Brand and, while FLUU.IO may remit payment to the Influencer directly to the account details provided by Influencer, under no circumstances does FLUU.IO accept liability for payment of the Influencer Fee. You agree that you will not pursue any actions, legal or otherwise, against FLUU.IO for any non-payment.

### Terms for Participating in a Campaign

Users' Posts must adhere to the requirements contained in these Terms of Use, the FLUU.IO Regulations and any additional requirements imposed by Brands as part of a Content and advised to Brand Lover and Influencer at the time of submitting the

Post for approval (Dos and Don'ts), otherwise such post will be removed from the FLUU.IO Platform at FLUU.IO's absolute discretion without any kind of compensation for Brand Lover/ Influencer.

FLUU.IO requires that if there is a commercial relationship between Brand Lover/ Influencer and the Brand you need to make a disclosure in a way, so that it is clear to the ordinary consumer viewing your Channels. Brand Lovers and Influencers must clearly disclose in sponsored Posts their relationship with the Brand, for example through the use of hashtags such as [#advertisement](#) or [#ad](#) or through other means suitable to your particular circumstances, community and Channels. FLUU.IO reserves the right, but is in no way obliged, to review and monitor the disclosure practices of all Brand Lovers/ Influencers in relation to particular Posts or your Channels generally and to require greater levels of disclosure (at FLUU.IO's sole discretion).

Brand Lovers and Influencers may not misrepresent the size of their audience or their numbers of followers or engagement. Followers must be obtained organically and not through unethical behavior such as, purchasing followers, likes or engagement. If FLUU.IO suspects in its sole discretion that Influencers are not complying with the requirement for followers to be authentic and organically grown, FLUU.IO reserves the right to remove Influencers from the FLUU.IO Platform. Additionally, Brands may refuse to pay any sort of compensation in case an Influencer has artificially inflated his or her numbers of followers, likes or engagement.

You warrant, in respect of each Post you submit to a Brand for approval, or publish to a Channel via the FLUU.IO Platform, that:

- you are aged over 18 years;
- if not aged over 18 years but over 14 years you have your parents or legal guardian's consent;
- you own the intellectual property rights in connection to the relevant Post and have the right to licence the Post to FLUU.IO and the Brand in the manner set out in these Terms of Use;
- the relevant Post does not violate the privacy rights, contract rights or other rights (including intellectual property rights) of any person, corporation or entity;
- the relevant Post does not contain any misrepresentation or suggestion that you or any entity has the approval or sponsorship of any other entity which you or it does not have;
- any and all opinions and views stated in the relevant Post are genuinely held by you;
- any and all statements in the relevant Post regarding your use and experience of the Brand or the Brand's products or services are true and correct and



representative of your opinion regardless of whether you are paid for such content or not, and fairly represent your use and experience;

- the relevant Post does not contain any representations or material which you know or suspect (or ought reasonably to have known or suspected) to be false, misleading or deceptive;
- the relevant Post is original and does not contain materials that have been previously broadcast, streamed, published or otherwise communicated to the public by you in any way and does not contain materials that have been used in previous marketing materials or promotions for any third party or which otherwise infringe the rights of any third party;
- if the relevant Post contains images or references to third parties or third party property, that the third party (or third party property owner) has been informed and agrees in writing that such images or references may be used by the Brand in accordance with these Terms of Use without remuneration or compensation to the third party (or third party property owner) for the purpose of promoting the Brand; and
- the mere use of the Post and the exercise of the intellectual property rights in the relevant Post by the Brand and FLUU.IO will not infringe any legal rights, copyright or other Intellectual Property Rights of any person or entity nor give rise to a liability to pay compensation.

You acknowledge and agree that the Brand and FLUU.IO has the right at any time to request amendments to any Post after publication to a Channel and that you will immediately make any reasonable modification or amendment requested by FLUU.IO or the relevant Brand to the Post, so that the Post is in compliance with these Terms of Use and the FLUU.IO Regulations. You agree that you will immediately comply with such a request.

You acknowledge and agree that the Brand and FLUU.IO has the right at any time to request that you remove any approved Post from you Channels and that you will comply with such a request immediately upon receipt of notification.

FLUU.IO and the relevant Brand Lovers, Influencer and Brand acknowledge and agree that any necessary public relations announcements regarding the removal or modification of a Post, as the case may be, will be agreed by FLUU.IO and the relevant Influencer and Brand before publication.

### Rights

In consideration of payment of the Influencer Fee, the Brand Lover/Influencer agrees to grant in respect of each and every Post:

- to FLUU.IO the right to re-format the Post into such formats or versions for use by FLUU.IO in such media as FLUU.IO requires in accordance with this clause;
- to FLUU.IO (and its agents):

- a) a royalty-free, perpetual, worldwide, irrevocable, unconditional, non-exclusive licence to use the Post for the purpose of marketing and promoting FLUU.IO and its products and services in any manner, without further notification to or consent of the Brand Lover/ Influencer or any further compensation payable to the Brand Lover/Influencer;
- b) the right to use the Influencer's identity and performances in the Post and to communicate the Post to the public in all languages in all media including but not limited to print, digital and/or social media.

- to the relevant Brand:

- a) a royalty-free, perpetual, worldwide, irrevocable, unconditional, non-exclusive licence to use the Post for the purpose of marketing and promoting the Brand and its products and services in any manner, without further notification to or consent of the Brand Lover/ Influencer or any further compensation payable to the Brand Lover/ Influencer, including but not limited to the right to share, comment upon and re-post the relevant Post in social media channels or any other media; and
- b) the right to use the Influencer's identity and performances in the Post and to communicate the post to the public to the public in all languages in all media including but not limited to print, digital and/or social media.

You acknowledge and agree that the relevant Brand will not be required to remove from its social media channels any Post or any comment, share or re-post of a Post after expiry of the thirty (30) days period.

As a Brand Lover / Influencer, in respect of each Post, you consent to the relevant Brand and its successors, licensees, and assigns, and anyone authorised by them, changing, copying, adding to, taking from, adapting or translating, in any manner or context or doing any other act in respect of the Post.

### Restraints

As Brand Lover / Influencer, you agree that you will not:

- delay posting your Post after the Brand has given its approval to your Post and you must publish your approved Post no later than 48 hours after receiving notification of the Brand's approval (unless the Brand stipulates a different timeline);
- for a period of five (5) hours after a Post is published, post, share, re-tweet or re-gram any other posts or content to that Channel where the effect of publishing such additional posts or content would be to reduce the prominence of the Post;
- remove the Post from your Channels for a period of 30 days after the Post is published, expiring at 11:59pm on the thirtieth calendar day after the Post is published;

- edit any approved Post before or after it has been published other than in accordance with these Terms of Use;
- parody, disparage, give any adverse comment or make fun of the Brand or its products or services generally in any way;
- create any contextual or surrounding posts or other material on a Channel that in any way detracts from, dilutes the effect of, or undermines a Post or the Brand or its products or services; and
- grant any further rights in a Post to a Brand without the written permission of FLUU.IO and appropriate fees being negotiated on a reasonable basis.

#### Brand Lover/ Influencer Relationship with FLUU.IO and the Brand

As a Brand Lover and Influencer, you will at all times perform your obligations and provide Posts to FLUU.IO and the Brand as an independent contractor and not in the capacity of an employee, partner or agent or in any other capacity. You agree that neither FLUU.IO nor the Brand will be obliged to pay to you or recover from you any amount as a result of you being deemed to be an employee of either FLUU.IO or the Brand, including in respect of annual leave, superannuation, withholding tax, income tax, workers compensation contributions or any similar payments or deductions.

You acknowledge that FLUU.IO has not made any guarantees in respect of the success of a Post or that a Post will be approved by a Brand or in respect of your business or commercial performance or otherwise.

You agree that you will not enter into any negotiations or agreement with Brands outside the FLUU.IO Platform with respect to any post for any Brand on any Channel. Any attempt to circumvent the FLUU.IO Platform in this respect may result in your removal from the FLUU.IO Platform in FLUU.IO's sole discretion and exposes you to liability towards FLUU.IO for any damages FLUU.IO incurs as a result of non-compliance, including loss of future profits.

#### **ADDITIONAL TERMS FOR BRANDS/ AGENCIES**

FLUU.IO may, at its sole discretion, implement a minimum Influencer Budget for Brand Accounts. You will be notified in writing of any such minimum Influencer Budget.

Brand agrees to grant in respect of all Content uploaded to the FLUU.IO Platform as part of a Campaign:

1. to grant to FLUU.IO (and its agents), a royalty-free, perpetual, worldwide, irrevocable, unconditional, non-exclusive, transferable licence to use the Content for the purpose of marketing and promoting FLUU.IO (and its products and services) in any manner, without further notification to or consent of the Brand or any compensation payable to the Brand; and

2. to grant to the relevant Brandlover / Influencer, a royalty-free, non-exclusive licence to post, share, comment upon and re-post the relevant Content across their Channels as part of any approved Post in accordance with these Terms of Use and the FLUU.IO Regulations.

FLUU.IO has the right to cancel, suspend, restrict services to and/or terminate a Brand's account if FLUU.IO believes (in its sole discretion) that the Brand is not using the FLUU.IO Platform in a fair and reasonable way, or are attempting to use the FLUU.IO Platform in a way which does not treat the Brand Lover / Influencers or the FLUU.IO Platform in a fair and reasonable way and/or in accordance with the purposes for which the FLUU.IO Platform were intended.

### Terms for Campaigns

FLUU.IO in its sole discretion reserves the right to reject Content that does not comply with these Terms of Use.

You agree that you will not enter into any negotiations or agreement with Brands outside the FLUU.IO Platform with respect to any post for any Brand on any Channel. Any attempt to circumvent the FLUU.IO Platform in this respect may result in your removal from the FLUU.IO Platform in FLUU.IO's sole discretion and exposes you to liability towards FLUU.IO for any damages FLUU.IO incurs as a result of non-compliance, including loss of future profits.

For each Post the Brand must pay an Influencer Fee or Post Fee. Brands, Brand Lovers and Influencers may not circumvent any of these Fees by negotiating or attempting to negotiate multiple Posts for single Influencer Fee or Post Fee.

You must not attempt to instruct Influencer to hide the commercial relationship between you and the Influencer. Such attempts may result in Brand being immediately removed from the FLUU.IO Platform.

You warrant that:

- you own the intellectual property rights in Content you upload to the FLUU.IO Platform and have the right to licence the Content to FLUU.IO and Brand Lovers / Influencers in the manner set out in these Terms of Use or you have the right to licence the Content to FLUU.IO and Brand Lovers /Influencers in the manner set out in these Terms of Use;
- you will not encourage or facilitate any misrepresentation or suggestion that the Brand or any entity has the approval or sponsorship of any other entity which the Brand or entity does not have; and
- any Content you upload to the FLUU.IO Platform does not contain any representations or material which you know or suspect (or ought reasonably

to have known or suspected) to be false, misleading or deceptive.

In the event a Brand Lover / Influencer meets the requirements outlined in the Content and you approve the Post and the Post is maintained for the required period, the Influencer Fee becomes payable upon expiry of such a period unless the Influencer has otherwise breached these Terms of Use or the FLUU.IO Regulations. The payment is processed by FLUU.IO. FLUU.IO is not responsible for identifying any breach of these Terms of Use or the FLUU.IO Regulations by a Brand Lover / Influencer.

Brand agrees that FLUU.IO is not responsible for any aspect of the Brand's Content to be reviewed, shared, sponsored or advertised by Brand Lovers / Influencers. Brand acknowledges and agrees that FLUU.IO is not responsible or liable for the content of any Post.

Brand acknowledges that Brand Lovers and Influencers are independent third parties and not controlled by FLUU.IO. As a consequence, any Post will inherently risk negative or unflattering comments about Brand's content, products or services. Brand specifically acknowledges and agrees that FLUU.IO has no control over any Post that may be published and that Brand is solely responsible (and assumes all liability and risk) for determining whether such Post are acceptable and appropriate to the Brand.

FLUU.IO expressly points out that providers of "social media channels" ("Providers"), in their terms and conditions of use, reserve the right to reject or remove advertisements or promotional appearances for any reason whatsoever. Accordingly, Providers are not obliged to forward content or information to users. Thus, there is a risk, which cannot be calculated by FLUU.IO, that advertisements or promotional appearances are removed for no reason. Although in the case of a complaint of a different user Providers do offer an opportunity to reply, the content will be immediately removed also in that case. In that case restoring the original, lawful condition may take some time. Brand Lovers and Influencers work on the basis of the Providers' terms and conditions of use, on which they have no influence.

You acknowledge that FLUU.IO has not made any warranties or guarantees in respect of the success of any Content or Post, Channel or other media, marketing communications channel, marketing or advertising campaign, promotion or advertisement.

#### Payment Terms for Brands

You agree to pay FLUU.IO all fees and charges, e.g., Influencer Fees and Post Fees,

in accordance with these Terms of Use or as otherwise advised by FLUU.IO in writing from time to time. If no manner for payment is stated, the payment must be made by Pay Pal or invoice. Such payment must be made and received by us prior to the publication of any Content.

All Fees shall be exclusive of value added tax, which shall be charged separately if applicable. The Brand shall pay all fees, taxes or other imposts levied in connection with the transfer of the respective Fee.

You authorise us to process and pay on your behalf the Influencer Fee to the respective Brand Lover or Influencer upon expiry of the period within which the Post must be maintained on the respective Channel.

In the case of payment default of the Brand statutory default interest at the rate applicable to business-to-business transactions will be charged and the Brand may also be responsible for all reasonable expenses incurred by us as a result of such late payment (including but not limited to costs incurred by us to recover any unpaid amounts). Without limiting our rights, in the event you fail to pay any charges within the timeframe and in the manner required, we reserve the right to suspend or terminate your access to the FLUU.IO Platform or to suspend or terminate any current Content.

## **FLUU.IO'S INTELLECTUAL PROPERTY RIGHTS & TRADEMARK**

FLUU.IO has the right to indicate FLUU.IO and if necessary, the copyright holder, on all advertising material and for all promotional activities on FLUU.IO without the client being entitled to claim any compensation for this purpose.

All FLUU.IO Materials on the FLUU.IO Platform are protected by all applicable laws including copyright and trade mark laws unless otherwise specifically noted and may not be used except as permitted in these Terms of Use. Nothing in these Terms of Use will be taken to constitute a transfer, assignment or grant of any ownership rights in any intellectual property rights in the FLUU.IO Materials to a Brand or Influencer.

All right, title and interest in all intellectual property rights in all of FLUU.IO's brands, logos, images, buttons, codes, layout, text, content and products and services as displayed on the FLUU.IO Platform (the "Brand Features") are the property of FLUU.IO and will remain or be vested in FLUU.IO at all times. Your use of the FLUU.IO Platform will not under any circumstances be taken to constitute a transfer, assignment or grant of any ownership rights in any of the Brand Features or the FLUU.IO Platform.

## ACKNOWLEDGEMENTS

The Brand and the Brand Lover / Influencer acknowledge that:

- neither the Brand Lover / Influencer nor FLUU.IO is required to purchase any of the Brand's products or services;
- Brand may, in its sole discretion, arrange to send a Brand Lover / Influencer a sample product. Brand Lover / Influencer may request a Brand to send a sample product, but Brand is under no obligation to do so;
- FLUU.IO will not be responsible or liable in any way for late delivery or non-arrival or any products sent from a Brand to a Brand Lover / Influencer. Address provided by Influencer through the FLUU.IO Platform is not verified by FLUU.IO;
- if Brand sends a sample product to a Brand Lover / Influencer, there is no guarantee that the Influencer will submit a Post about the product or that any post submitted will be positive. All product reviews must reflect the Influencer's genuinely held beliefs;
- if a Brand Lover / Influencer chooses to purchase a product, there is no guarantee that Brand Lover / Influencer's Post(s) about the product will be approved by the Brand;
- a product, service or other non-monetary arrangement cannot be offered or used as partial or full payment by a Brand for a Brand Lover / Influencer's Post;
- nothing in these Terms of Use grants to the Brand any ownership rights in the intellectual property rights in the Posts or the Brand Lover / Influencer's identity;
- nothing in these Terms of Use grants to the Brand Lover / Influencer any ownership rights in the intellectual property rights of the Brand; and
- nothing in these Terms of Use requires the Brand to make use of any of the rights granted to the Brand by the Brand Lover / Influencer.

## IDMENIFICATION

You agree to indemnify, and must defend and hold harmless, FLUU.IO and its related bodies corporate, personnel, servants and agent, from and against any claims, liabilities, damages, losses and expenses (including reasonable legal fees) arising out of or in any way connected with any of the following (including as a result of your direct activities on the FLUU.IO Platform):

- your Content or access to the FLUU.IO Platform;
- your breach of these Terms of Use, the FLUU.IO Regulations or any of the warranties or covenants given or made by you;
- your claim against a Brand for any reason;
- your claim against an Influencer for any reason;

- any claim by any third party (including any other brand or influencer) arising directly or indirectly from your breach of any of the provisions of these Terms of Use or FLUU.IO Regulations;
- any claim or allegation that your Content infringes a third party's rights, including intellectual property rights.
- your violation of any applicable laws, rules or regulations; and
- any misrepresentation made by you.

## LIMITATION OF LIABILITY

Under no circumstances will FLUU.IO be liable in any way for any Content, including but not limited to any errors or omissions in such Content or any loss or damage of any kind incurred as a result of any use of Content posted, transmitted or otherwise made available via the FLUU.IO Platform.

FLUU.IO shall within the limits of the statutory provisions only be liable for damages proved to be due to intentional acts or gross negligence.

Liability for slight negligence and the compensation of consequential damage, purely financial losses, indirect damage, loss of production, financing costs, costs for replacement energy, loss of energy, data or information, lost profit, lost savings, loss of interest and damage arising from third-party claims against the Users shall be excluded.

The limitation of liability shall apply conclusively to any and all claims of the User against FLUU.IO, irrespective of the legal reason and the legal title (e.g. *culpa in contrahendo*, *Gewährleistung*, *Irrtum*) and shall also apply to all employees, subcontractors and sub-suppliers of FLUU.IO.

Any liability of FLUU.IO to a User in connection with these Terms of Use, the FLUU.IO Regulations or the User's use of the FLUU.IO Platform, regardless of the form or cause of action, shall be limited to the amount actually paid by the Brand to FLUU.IO for the services.

Claims of Users for damages shall be forfeited six months after knowledge of the damage and in any case three years after the FLUU.IO's infringement.

## MISCELLANEOUS

Our failure to enforce any right or provision of these Terms of Use will not be considered a waiver of those rights.



If any provisions of these Terms of Use are or become invalid, such invalidity shall not impair the validity of the remaining provisions. In this event, any invalid provision shall be replaced with a valid provision reflecting the spirit and serving the economic purposes of these Terms of Use.

These Terms of Use shall be governed and construed in accordance with the laws of Austria, without regard to its conflict of law provisions and under express preclusion of the United Nations Convention on Contracts for the International Sale of Goods.

Any disputes arising from this Terms of Use, including disputes about its existence or non-existence, shall fall under the exclusive jurisdiction of the court having jurisdiction over the area designated as Innere Stadt.