

Fresha Website Terms of Use

Last Updated: February 2019

The following Terms of Use (this “**Agreement**”) govern and regulate your access to and use of www.fresha.com and all affiliated websites owned and operated by Fresha (as defined in the subsequent paragraph), including all subdomains, subdirectories, mobile sites, and mobile applications thereof (collectively, the “**Fresha Website**”). This Agreement is made between Fresha and you, whether you are an End User or a Partner (as defined in Section 1 of this Agreement).

In this Agreement, if you are located within the European Economic Area, “**we**” and “**Fresha**” means Fresha.com SV Ltd., a company incorporated under the Registrar of Companies of England and Wales with registered office address in 71-75 Shelton Street, London, Greater London, WC2H 9JQ, United Kingdom. For Consumers located outside of the European Economic Area, “**we**” and “**Fresha**” means Surge Ventures USA, Inc., a Delaware C Corporation.

If you are an End User, your use of the Fresha Website is also governed by the Fresha Bookings Terms of Use. If you are a Partner, your use of the Fresha Website is also governed by the Fresha Partner Terms of Use.

In order to use the Fresha Website, you must agree to these Terms of Use. They contain many legal disclosures that you should read carefully, including terms that specify permissible uses of the Fresha Website. By accessing the Fresha Website, you agree that you are authorized to accept the terms set forth below on behalf of yourself and agree to these Terms of Use, our Privacy Policy, the Fresha Booking Terms and Conditions, and any additional policies publicly available on the Fresha Website.

If you do not agree to be subject to these Terms of Use, your sole recourse is not to use the Fresha Website. By continuing to use the Fresha Website, you agree to be bound by this Agreement.

1. Definitions

Terms in the preamble and elsewhere in this document have their assigned meanings, and each of the following terms has the meaning assigned to it.

Consumer or **End User** means a user of the Fresha Website other than Partners; i.e. consumers whose intention is to discover Partners and book appointments through the Fresha Website.

Partner means a service provider using the Fresha Website, and whose business is listed on the Fresha Website.

2. Description of the Fresha Website

We provide the Fresha Website to make it easy for Consumers to book beauty services online with our participating Partners through the Fresha Website. The Fresha Website includes a consolidated

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list of Partners, which you may browse and book through the Fresha Website. The Fresha Website also provides notifications, alerts and confirmations.

3. Availability of the Fresha Website

You acknowledge that there may be interruptions in the delivery of the Fresha Website that are beyond our control. While we use reasonable efforts to keep the Fresha Website accessible, the Fresha Website may be unavailable from time to time for any reason including, without limitation, routine maintenance. You understand and acknowledge that due to circumstances both within and outside of our control, access to the Fresha Website may be interrupted, suspended or terminated.

Fresha retains the right at our sole discretion to deny access to the Fresha Website to any End User or Partner, at any time and for any reason. Fresha is not required to disclose the reason for denial of access to the Fresha Website to any party.

4. Operation of the Fresha Website

We reserve complete and sole discretion with respect to the operation of the Fresha Website. We may, among other things:

- (a) delete email or private messages if it has not been accessed by an End User within the time established by our policies;
- (b) make available to third parties information relating to the Fresha Website and End Users (subject to the limitations defined in our Privacy Policy);
- (c) withdraw, suspend or discontinue any functionality or feature of the Fresha Website; and
- (d) review uploaded files, forums, chats and user submissions and authorize restrictions on access thereto.

5. Ownership

Your access to the Fresha Website is not available for sale to any third parties. The content and information available on the Fresha Website, as well as the infrastructure used by the Fresha Website, and all materials therein or transferred thereby and all intellectual property rights related thereto, are the exclusive property of Fresha. Except as explicitly provided herein, nothing in these Terms of Use shall be deemed to create a license in or under any such intellectual property rights and you agree not to modify, adapt, edit, copy, distribute, transmit, display, perform, reproduce, publish, license, create derivative works from, transfer, or sell or resell any information, software, products or services obtained from or through the Fresha Website.

6. Fresha Code of Conduct

All interactions with the Fresha Website must be lawful and must comply with these Terms of Use. To the extent your conduct (as judged by us in our sole discretion), restricts or inhibits any other user from using or enjoying any part of the Fresha Website, we may limit your privileges on the Fresha Website and seek other remedies. Please do not engage in the following activities, as they are prohibited on the Fresha Website and constitute express violations of the Agreement:

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- Submitting any inaccurate information, committing fraud or falsifying information in connection with your account on the Fresha Website;
- Attempting to, or actually accessing data not intended for you, such as logging into a server or an account which you are not authorized to access;
- Attempting to scan, or test the security or configuration of the Fresha Website or to breach security or authentication measures without proper authorization;
- Tampering or interfering with the proper functioning of any part, page or area of the Fresha Website and any and all functions and services provided by Fresha;
- Attempting to interfere with service to any user in any manner, including, without limitation, by means of submitting a virus to the Fresha Website, or attempts at overloading, "flooding", "spamming", "mail bombing" or "crashing" the Fresha Website;
- Disseminating or transmitting material that, to a reasonable person, may be considered abusive, obscene, pornographic, defamatory, harassing, grossly offensive, vulgar, threatening or malicious;
- Disseminating, storing or transmitting files, graphics, software or other material that actually or potentially infringes the copyright, trademark, patent, trade secret or other intellectual property right of any third party;
- Using the Fresha Website or any of its contents to advertise or solicit, for any other commercial, political or religious purpose, or to compete, directly or indirectly with the Fresha Website;
- Reselling or repurposing your access to the Fresha Website or any purchases made through the Fresha Website;
- Using the Fresha Website or any of its resources to solicit End Users, Partners or other business partners of Fresha to become users or partners of other online or offline services directly or indirectly competitive or potentially competitive with Fresha, including without limitation, aggregating the services offered from Partners;
- Using any End User or Partner information from the Fresha Website for any commercial purpose, including, but not limited to, marketing;
- Using any Fresha account to purchase vouchers for resale, or for speculative, false, fraudulent or any other purpose not expressly permitted by these Terms of Use and the terms of a specific offer on the Fresha Website;
- Accessing, monitoring or copying any content or information from the Fresha Website using any robot, spider, scraper or other automated means or any manual process for any purpose without our express written permission;
- Violating the restrictions in any robot exclusion headers or bypassing or circumventing other measures employed to prevent or limit access to the Fresha Website;
- Taking any action that places excessive demand on the Fresha Website, or imposes, or may impose an unreasonable or disproportionately large load on our servers or other portion of our infrastructure (as determined in our sole discretion);
- Aggregating any live or post-feature content or other information from the Fresha Website with material from other sources or on a secondary website or medium without our express written permission;

- Acting illegally or maliciously against the business interests or reputation of Fresha or our Partners;
- Hyperlinking to the Fresha Website from any other website without our initial and ongoing consent; or
- Engaging in any other activity deemed by us to be in conflict with the spirit or intent of these Terms of Use.

7. Fresha Account

7.1 Creating a Fresha Account

If you create an account for the Fresha Website, you may only create and hold one (1) account that you are solely responsible for managing. Your account is non-transferrable and may not be sold, combined or otherwise shared with any other Consumer or Partner. If you violate any of these limitations, we may terminate your account and, without limitation, you may forfeit any pending, current or future promotional account credits and any unredeemed vouchers in your account. If we terminate your account, you may not re-enroll or join under a new account unless if we formally invite you to do so. If you commit fraud or falsify information in connection with your use of the Fresha Website or in connection with your account on the Fresha Website, your account will be terminated immediately and we reserve the right to hold you liable for any and all damages caused by your conduct, to pursue legal action through relevant local and national law enforcement authorities and to notify your Internet Service Provider of any fraudulent activity we associate with you or your use of the Fresha Website.

7.2 Account Communications

By creating an End User account, you expressly consent and agree to accept and receive communications from us, including via e-mail, text message, calls, and push notifications to the cellular telephone number you provided to us. By consenting to being contacted by Fresha, you understand and agree that you may receive automated SMS or MMS messages or communications generated by automatic telephone dialing systems and/or communications containing prerecorded messages sent by or on behalf of Fresha, or its Partners, including but not limited to: appointment confirmations or notifications, communications concerning your End User account or use of the Fresha Website, updates concerning new and existing features, communications concerning promotions run by us or our Partners, and news concerning Fresha and industry developments. IF YOU WISH TO OPT-OUT OF EMAIL, TEXT, OR OTHER COMMUNICATIONS, PLEASE CONTACT US DIRECTLY AT hello@fresha.com. However, you acknowledge that opting out of texts may lead to missed appointment notifications or other important notifications or updates, and in general impact your use of the Fresha Website as an End User. Standard messaging charges applied by your cell phone carrier will apply to the messages we send.

8. Intellectual Property

8.1 Ownership

(a) Everything located on or in the Fresha Website is the exclusive property of Fresha or is being used with permission. Any copying, distributing, transmitting, posting, linking, deep linking, or otherwise modifying of the Fresha Website without the express written permission of Fresha is prohibited. Any violation of this requirement may result in a copyright, trademark or other intellectual property right infringement that may subject you to civil and/or criminal penalties.

(b) The Fresha Website contains copyrighted material, trademarks and other proprietary information, including, but not limited to, text, software, photos, video, graphics, music and sound, and the entire contents of the Fresha Website are protected by copyright as a collective work under the copyright laws. Fresha owns a copyright in the selection, coordination, arrangement and enhancement of such content, as well as in the content original to it. You may not modify, publish, transmit, participate in the transfer or sale, create derivative works, or in any way exploit any of the content, in whole or in part. You may download, print, and/or save copyrighted material for your personal use only. Except as otherwise expressly stated under copyright law, no copying, redistribution, retransmission, publication or commercial exploitation of downloaded material without the express written permission of Fresha or the copyright owner is permitted. If copying, redistribution or publication of copyrighted material is permitted, you will make independent attribution and/or agree to make no changes in or deletion of any author attribution, trademark legend or copyright notice. You acknowledge that you do not acquire any ownership rights by downloading copyrighted material from the Fresha Website.

(c) Fresha is a trademark owned by Surge Ventures USA, Inc. This trademark, together with other trademarks that are located within or on the Fresha Website otherwise owned or operated in conjunction with Fresha shall not be deemed to be in the public domain but rather the exclusive property of Fresha, unless such mark is under license from the trademark owner thereof, in which case such license is for the exclusive benefit and use of Fresha unless otherwise stated.

(d) You will not upload, post or otherwise make available on the Fresha Website any material protected by copyright, trademark or other proprietary right without the express permission of the owner of the copyright, trademark or other proprietary right. Fresha does not have any express burden or responsibility to provide you with indications, markings or anything else that may aid you in determining whether the material in question is copyrighted or trademarked. You will be solely liable for any damage resulting from any infringement of copyrights, trademarks, proprietary rights or any other harm resulting from such a submission. By submitting material to any public area of the Fresha Website, you warrant that the owner of such material has expressly granted Fresha the royalty-free, perpetual, irrevocable, non-exclusive right and license to use, reproduce, modify, adapt, publish, translate and distribute such material (in whole or in part) worldwide and/or to incorporate it in other works in any form, media or technology now known or hereafter developed for the full term of any copyright that may exist in such material. You also permit any other end user to access, view, store or reproduce the material for that End User's personal use. You also grant Fresha the right to edit, copy, publish and distribute any material that you make available on the Fresha Website.

8.2 Copyright Policy

Fresha reserves the right to terminate its agreement with you or any other End User who infringes third-party copyrights. If you believe that any material has been posted via the Fresha Website in a way that constitutes copyright infringement, you shall provide Fresha with the following information: (a) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyrighted work; (b) an identification of the copyrighted work and the location on the Fresha Website of the allegedly infringing work; (c) a written statement that you have a good faith belief that the disputed use is not authorized by the owner, its agent, or the law; (d) your name and contact information, including telephone number and e-mail address; and (e) a statement by you that the above information in your notice is accurate and, under penalty of perjury, that you are the copyright owner or authorized to act on the copyright owner's behalf. (e) Contact information for notice of claims of copyright infringement is: info@shedul.com. IF YOU KNOWINGLY MISREPRESENT THAT ONLINE MATERIAL IS INFRINGING, YOU MAY BE SUBJECT TO CRIMINAL PROSECUTION FOR PERJURY AND CIVIL PENALTIES, INCLUDING MONETARY DAMAGES, COURT COSTS, AND ATTORNEYS' FEES.

Please note that this procedure is exclusively for notifying Fresha and its affiliates that your copyrighted material has been infringed. The preceding requirements are intended to comply with Fresha's rights and obligations, but do not constitute legal advice. It may be advisable to contact an attorney regarding your rights and obligations. Fresha has adopted a policy of terminating, in appropriate circumstances, Users who are deemed to be repeat infringers. Fresha may also at its sole discretion limit access to the Fresha Website and/or terminate the accounts of any Users who infringe any intellectual property rights of others, whether or not there is any repeat infringement.

9. Disclaimer of Warranty

9.1 Interpretation

You expressly agree that use of the Fresha Website is at your own risk. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE FRESHA WEBSITE IS PROVIDED WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. Without limiting the foregoing, neither Fresha, its subsidiaries, affiliates or any of their respective staff members, agents, Partners, third-party content providers or licensors, or any of their officers, directors, staff members or agents, warrant that use of the Fresha Website will be uninterrupted or error free. The Fresha Website is made accessible on an "as is" and "as available" basis. Fresha hereby disclaims any representations, warranties and conditions, whether express or implied, including those to title non-infringement, merchantability, and fitness for a particular purpose. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU. THIS AGREEMENT GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE. THE DISCLAIMERS AND EXCLUSIONS UNDER THIS AGREEMENT WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

9.2 No Implicit Warranties

The information presented or contained in the Fresha Website is presented for informational purposes only. No information, whether oral or written, obtained by an End User from a Partner, a Partner from an End User, or from the Fresha Website will create any warranty not expressly stated in this Agreement.

10. End User Communication

Fresha in some instances allows you and other End Users to use the Fresha Website to express opinions and communicate through forums, bulletin boards, discussion groups, chat rooms, reviews, or other communication facilities that may be offered on or through the Fresha Website from time to time (collectively "**Communities**"). Fresha shall have the right, but not the obligation, to monitor the content within the Communities at any time, for any reason, including to determine compliance with this Agreement and any operating rules established by Fresha, as well as to satisfy any applicable law, regulation or authorized government request. Without limiting the foregoing, Fresha shall have the right, but not the obligation, to remove any material from the Communities that Fresha, in its sole discretion, finds to be in violation of this Agreement or otherwise objectionable. Any opinions, advice, ratings, discussions, comments, and/or other messages or postings of any kind made by you or any other End User to the Communities (collectively, "**Statements**"), are those of the respective author(s) or distributor(s) and not of Fresha.

11. Websites of Others

The Fresha Website, may contain links to websites maintained by third parties. These links are provided solely as a convenience to you and not because we endorse or have an opinion about the contents on such websites. We expressly disclaim any representations regarding the content or accuracy of materials on such websites or the privacy practices of those websites. Fresha also takes no responsibility nor liability for the content presented on those websites. If you decide to access websites maintained by other parties, you do so at your own risk and you understand that this Agreement and Fresha Privacy Policy do not apply to your use of such websites or links.

12. Public Nature of Your Statements

You understand and agree that all Statements, any comments or reviews you post on the Fresha Website, and any information contained in a Consumer's information profile on the Fresha Website are public and not private. Any other person (whether or not a user of the Fresha Website) may read your Statements without your knowledge. Please do not include any Personal Information (as defined in our Privacy Policy or otherwise) in your Statements. Fresha does not control or endorse any Statement found in any part of the Communities, and we specifically disclaim any liability concerning the Statements and the Communities and any actions resulting from your participation in any part of the Communities, including any objectionable content. Any Statements you post to in connection with the Fresha Website are not confidential.

By placing any information or other material in Communities (including but not limited to posting messages, uploading files, inputting data or engaging in any other form of communication), you

automatically grant (or warrant that the owner of such content has expressly granted) to Fresha a perpetual, royalty-free, non-exclusive, irrevocable, unrestricted, worldwide license to use, copy, sublicense, reproduce, distribute, redistribute, modify, adapt, publish, edit, translate, transmit, create derivative works of, publish and/or broadcast, publicly perform or display any materials or other information (including without limitation, ideas contained therein for new or improved products or services) you submit to the Communities alone or as part of other works in any form, media, or technology whether by any means and in any media now known or hereafter developed and to sublicense such rights through multiple tiers of sublicenses.

13. Feedback

You may choose to or we may invite you to submit comments or ideas about the Fresha Website, including without limitation about how to improve the Fresha Website or other products ("**Idea(s)**"). By submitting any Idea, you agree that your disclosure is gratuitous, unsolicited and without restriction and will not place Fresha under any fiduciary or other obligation to you, and that we are free to use or publish the Idea without any compensation to you, and/or to disclose the Idea on a non-confidential basis or otherwise to anyone. You further acknowledge that, by reviewing or accepting your submission, Fresha does not waive any rights to use similar or related ideas previously known to Fresha, or developed by its staff members, or obtained from sources other than you.

14. License for Statements

By posting Statements or other information on or through the Communities or in connection with the Fresha Website, you grant Fresha a royalty-free, perpetual, irrevocable, non-exclusive license to use, reproduce, modify, publish, edit, translate, distribute, perform, and display the Statements alone or as part of other works in any form, media, or technology whether now known or hereafter developed without territorial or time limitations, and to sublicense such rights through multiple tiers of sublicensees. Your license of any Statements or information submitted above extends to use for promotions, advertising, market research or any other lawful purpose, without limitation.

15. Indemnity

You agree to defend, indemnify and hold harmless Fresha and its subsidiaries, agents, licensors, managers, and other affiliated companies, and their staff members, contractors, agents, officers and directors, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising out of or related to:

- (i) your use of and access to the Fresha Website, including any data or content transmitted or received by you;
- (ii) your violation of any term of this Agreement, including without limitation your breach of any of the representations and warranties above, or other representation or warranty;
- (iii) your violation of any third-party right, including without limitation any right of privacy or Intellectual Property Rights;
- (iv) your violation of any applicable law, rule or regulation;

- (v) personal information or any other information or content that is submitted via your account on the Fresha Website, including without limitation misleading, false or inaccurate information;
- (vi) negligent or willful misconduct; or
- (vii) any other party's access and use of the Service with your unique username, password or other appropriate security code.

16. Termination

Fresha may terminate or update these Terms of Use at any time, or suspend access to the Fresha Website immediately, without prior notice or liability, if you breach any terms of these Terms of Use or for any other reason. Without limiting the foregoing, Fresha shall have the right to immediately terminate or suspend any of your passwords or accounts in the event Fresha considers, in its sole discretion, any of your conduct to be unacceptable, or in the event you breach this Agreement. Notwithstanding the above, these Terms of Use will survive termination of this Agreement.

17. Governing Law

Any disputes arising out of or related to these Terms of Use and/or any use by you of the Fresha Website shall be governed by the laws of England and Wales, without regard to its choice of law rules and without regard to conflicts of laws principles.

18. Additional Disclosures

No waiver by either you or Fresha of any breach or default or failure to exercise any right allowed under this Agreement is a waiver of any preceding or subsequent breach or default or a waiver or forfeiture of any similar or future rights under our Agreement. The section headings used herein are for convenience only and shall be of no legal force or effect. The provisions of these Terms of Use apply equally to and are for the benefit of Fresha, its subsidiaries, affiliates, Partners and its third-party content providers and licensors, and each shall have the right to assert and enforce such provisions directly or on its own behalf.

19. Miscellaneous

- (a) **Reservation of Rights.** The failure of either party to exercise in any respect any right provided in these Terms of Use will not be deemed a waiver of such rights.
- (b) **Severability.** If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable.
- (c) **Assignability.** These Terms of Use, and any rights and licenses granted hereunder, are not assignable, transferable or sublicensable by you except with Fresha's prior written consent, but may be assigned by Fresha without restriction. Any attempted transfer or assignment in violation hereof shall be null and void.

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(d) **Merger.** Both parties agree that these Terms of Use, along with Fresha's Privacy Policy, Partner Agreement and any other legal notices published by Fresha on the Fresha Website, are the complete and exclusive statements of the mutual understanding of the parties and supersede and cancel all previous written and oral agreements, communications and other understandings relating to the subject matter hereof, and that all modifications must be in a writing signed by Fresha, except as otherwise provided herein.

(e) **Independent Contractors.** No agency, partnership, joint venture, or employment is created as a result of this Agreement and you do not have any authority of any kind to bind Fresha in any respect whatsoever.

(f) **Causes of Action.** Any cause of action or claim you may have with respect to Fresha must be commenced within one (1) year after the claim or cause of action arises. If any action in law or in equity is necessary to enforce the terms of this Agreement, and Fresha Privacy Policy, the prevailing party will be entitled to reasonable fees of attorneys, accountants, and other professionals, and costs and expenses in addition to any other relief to which such prevailing party may be entitled.

BY ACCESSING THE FRESHA WEBSITE, YOU UNDERSTAND, ACKNOWLEDGE AND AGREE THAT YOU WILL ABIDE BY THESE TERMS OF USE. IF YOU DO NOT AGREE TO THESE TERMS, IMMEDIATELY STOP ACCESSING THE FRESHA WEBSITE