

## BIG LICK BOOMERANG

### USER TERMS AND CONDITIONS

Effective: September 1, 2016 2016

Last Updated: September 1, 2016

#### 1. The Agreement.

The following terms and conditions govern your access to and use of the website and Services of Big Lick Boomerang, LLC, a Virginia limited liability company ("Boomerang"). By visiting the website, using the Services, or registering as a user of Boomerang, you agree to be bound by these Terms and acknowledge that you are entering a binding contract with Boomerang. This contract may be referred to as the "Contract," "Terms," or "Agreement." Additionally, any reference to "you" or "your" will refer to you, the user of Boomerang's website and services. Any reference to "we," "us," "our," or "Boomerang" shall mean Big Lick Boomerang, LLC.

Boomerang may change these Terms at any time without notice to you by publishing the amended terms on Boomerang's website. Your continued use of the Services will constitute your agreement to the Terms as amended.

#### 2. Services.

The "Services" are transportation coordination services that enable users to arrange and schedule driving services with ride providers ("Drivers"). The Drivers are independent contractors of Boomerang and not employees of Boomerang. The Drivers shall have no authority to bind Boomerang to any agreements other than those specified in this Contract.

We agree to coordinate the Drivers to provide the Services. All Services must be coordinated by Boomerang and you agree not to contact the Drivers directly to arrange Services. Depending on the nature of the Services, the Services may be provided by two Drivers, one of whom will be available to drive your vehicle, and you and your guests in your vehicle, if necessary, from one specified location to another. The Services are made available solely for your personal use, and may not be used for commercial uses.

The Services will be provided to you using your own vehicle or a vehicle you have a lawful right to possess and operate. You agree to maintain your vehicle in a safe, operable condition in compliance with all applicable laws and regulations. Neither you nor your guests will be permitted in the Driver's vehicle. Boomerang and the Drivers may require that you provide proof that you have a lawful right to possess the vehicle and that you have appropriate insurance on the vehicle. The Drivers also reserve the right to refuse Services if in the sole discretion of the Driver, your vehicle does not appear safe to operate. If a vehicle is rented from a third-party, you represent and warrant that insurance for the vehicle has been purchased from that third-party or another third-party covering the vehicle during the duration of the rental.

The Services will be available Thursday through Saturday from 9pm to 1am, or other hours as determined by the Company. During peak usage periods, you may have a wait for the Services or Drivers may not be available. All Services are available on a "first come, first serve" basis, and subject to the availability of Drivers. All Services must be confirmed by Boomerang.

#### 3. Registration.

Boomerang may require that you register with Boomerang online or by telephone before receiving the Services. You must be at least 18 years old to register, and must provide certain personal information to Boomerang, such as your name, address, email address, mobile phone number, age, and a minimum of one valid payment method (e.g. credit, debit card, or other form of payment accepted by Boomerang.) You warrant that all information you provide Boomerang to gain access to the Services is accurate and truthful. If you fail to provide current, accurate, and complete information for registration, your failure may result in a denial of access or use of Services. You acknowledge, consent and agree that Boomerang may utilize or disclose your registration information if, in its sole discretion, Boomerang believes such utilization or disclosure is necessary to: (a) abide with legal process; or (b) enforce these Terms.

#### 4. Payment.

All prices for Services will be provided by Boomerang prior to departure. Prices for Services are in U.S. Dollars. All payments for our Services are expected to be paid prior to departure online through Pay-pal or in person using our Driver's Square swipe readers. Our Drivers do not carry cash and cash payments are not accepted. Please notify us immediately if you are requested to pay by cash. An invoice will be sent to your email if you choose. Please notify your Driver at the time of your payment transaction.

Tips are appreciated by the Drivers and may be paid in cash or by tipping option at the time of your payment transaction.

If, upon arriving at the designated location, the Driver waits for over 15 minutes, you will be assessed a fee of \$1 per minute the Driver must wait. You will be responsible for paying any tolls or parking fees required during your use of the Services, and will be responsible for any tolls required for the Drivers to travel to your location prior to commencing the Services.

If your form of payment is invalid or unauthorized for any reason, your access to the Services may be suspended or cancelled immediately, without notice. If Boomerang is required to collect past due amounts from you, you will be responsible for Boomerang's collection costs, including attorneys' fees.

#### 5. Cancellations/Revisions.

Any cancellations/revisions to a reservation must be made by calling Boomerang. If you need to cancel or are running behind please call us and let us know or you may be billed accordingly. Generally, as long as a Driver has not been dispatched to your location, no cancellation fees will be billed. No shows will be flagged in our system for future reference.

#### 6. Conduct of You and Your Guests.

You agree that you and your guests will:

- i. Must be fastened in an operational seat belt, booster seat, or child car seat, as required by law;
- ii. Upon request, provide proof of identity to access or use the Services;
- iii. Notify Boomerang as soon as possible if you will be more than 15 minutes late to the scheduled pick-up time;
- iv. Not make any disparaging comments about Boomerang, its employees, Drivers, or customers;
- v. Not physically or verbally abuse any other person in connection with the Services or driving services (e.g. Drivers, guests, etc.);
- vi. Not smoke in your vehicle while the Driver is in your vehicle;

- vii. Not to disrupt the Website or interfere with or compromise the security of the website or its related hardware;
- viii. Not to disrupt or interfere with any other person's use of the Website or Services;
- ix. Not to attempt to gain access to any portion of the Website, any computer, server, account, network, software and/or hardware associated with the Website, except those parts of the Website intended for user interface; and
- x. Comply with all applicable local, state, federal laws, rules and regulations applicable to the Website and Services.

If you lose consciousness while using the Services, or become ill or appear to be unable to walk to your residence independently, we reserve the right to call your emergency contact information if deemed necessary, or 911 if the Driver decides in his/her own discretion that emergency services are necessary. We are not responsible for any fees or bills you may incur from this action.

## 7. Insurance Requirements

Boomerang and the Drivers may obtain insurance coverage in such types and amounts as Boomerang and the Drivers determine in their sole discretion. Boomerang reserves the right to modify or terminate its insurance or the insurance it requires of its Drivers, at any time, in its sole discretion, and without prior notice.

As a condition of using the Services, you are required to maintain and carry proof of Virginia's (or your applicable state of residency) minimum motor vehicle insurance. Such insurance must cover the vehicle that you will be transported in by a Driver. You agree that the Driver shall be considered a permissive driver of your vehicle under your insurance policy.

You are at risk of any content loss or physical damage that occurs during your use of the Services through no fault of Driver. All incidents arising from the Services shall be reported to Boomerang immediately. After Boomerang has received notice of the incident, Boomerang will provide you with the information necessary to contact the Driver and his/her insurance carrier. You and your guests will be solely responsible for pursuing any claim against the Driver, his/her insurance carrier, or your insurance carrier. You also agree to fully and timely cooperate in any investigation by Boomerang of any incident reported by you, a Driver, or any other person, in any lawsuit or binding arbitration brought by a third party. You agree that your cooperation will include, when relevant, signing a release of any insurance information and medical information and/or tests, including your medical and law enforcement records, related to any accident, injury, violation of law, or violation of the terms and conditions of these Terms. Either you or your Driver may be personally liable for damages that either the insurers of you, your Driver, or Boomerang do not cover.

## 8. Indemnification; Waiver.

You agree to indemnify, defend, and hold harmless Boomerang and its members, officers, directors, employees, agents and other representatives and its Drivers from and against any third party claims, allegations, lawsuits, or other proceedings for any injury, loss, or damage resulting from the Services, including costs of litigation, settlement, award, and attorney fees to the extent injuries, losses, or damages are caused by: (i) breach of any provision of these Terms by you or one of your guests; (ii) your misrepresentation of any information or breach of any representation herein; (iii) negligent or willful acts by you or your guests; or (iv) the violation or non-compliance of any applicable law, rule or regulation by you or your guests.

In the event of any litigation or proceeding brought against Boomerang and arising out of or in any way connected with any of the above events or claims, you agree, upon notice from Boomerang, to vigorously defend such actions or proceedings in consultation with Boomerang through legal counsel reasonably satisfactory to Boomerang.

You hereby agree that, should Boomerang submit any claim to its insurance carrier on your behalf, such submission does not constitute a waiver of any of the terms in this section. Any failure by Boomerang to exercise its rights or obligations in this Agreement will not constitute a waiver of such right or obligation unless such waiver is in a writing signed by Boomerang.

#### 9. Disclaimer of Warranties.

BOOMERANG MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, EXCEPT AS EXPRESSLY STATED IN THESE TERMS, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, ANY IMPLIED WARRANTY THAT THE SERVICES ARE FIT FOR A PARTICULAR PURPOSE, AND ANY WARRANTY OF NON-INFRINGEMENT OF THE CONTENT PROVIDED ON BIGCLICKBOOMERANG.COM.

BOOMERANG DOES NOT GUARANTEE THE ACCURACY, ADEQUACY OR COMPLETENESS OF ANY INFORMATION PROVIDED AT OR THROUGH THE WEBSITE AND IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS, OR FOR THE RESULTS OBTAINED FROM USE OF SUCH INFORMATION.

BOOMERANG MAY TEMPORARILY OR PERMANENTLY SUSPEND ACCESS TO OR DISCONTINUE THE WEBSITE AT ITS SOLE DISCRETION, AT ANY TIME, WITHOUT NOTICE.

#### 10. Limitation of Liability.

IN NO EVENT SHALL BOOMERANG IN PROVIDING SERVICES HEREUNDER BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, AND/OR CONSEQUENTIAL DAMAGES ARISING FROM HARM INCLUDING, BUT NOT LIMITED TO INJURY TO PROPERTY OR PERSON AND DEATH. Boomerang will not be responsible for any issues, expenses, or future costs related to where a vehicle was placed at the direction of you in providing the Services.

#### 11. Intellectual Property.

Boomerang owns and retains all proprietary rights to biglickboomerang.com, its trademarks and copyrights. Except for any information that is in the public domain, you are not authorized to reproduce, transmit or distribute the proprietary information of biglickboomerang.com and Boomerang.

#### 12. Miscellaneous.

- i. These Terms constitute the entire agreement between both parties.
- ii. Boomerang may without your consent assign its rights to an acquirer of Boomerang's assets or equity, a successor by merger, or to a subsidiary or affiliate.
- iii. Neither this Agreement nor the provision of services to you create a joint venture, partnership, employment, or agency relationship between you and Boomerang or any of its Drivers.
- iv. If any provision of these Terms is found to be invalid or unenforceable, such provision shall be struck and the remaining provisions will not be affected and will remain in full force and effect.

v. These Terms are governed by and shall be construed in accordance with the laws of the Commonwealth of Virginia without giving effect to any conflict of law principles.

vi. Any dispute or claim between the parties arising out of this Agreement or the Services shall be determined by binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association to be conducted in the City of Roanoke, Virginia with an arbitrator to be selected by Boomerang. Each party shall bear its own expenses of preparing for and participating in connection with the arbitration, including legal fees and the parties shall equally share all legal fees of the arbitrator.

vii. You understand and agree that by entering your registration information at [biglickboomerang.com](http://biglickboomerang.com) is the electronic equivalent of a written signature on this Contract.