

## **NEWK'S REWARDS PROGRAM TERMS**

Please read this Newk's Rewards Program Terms (this "Agreement") carefully. The terms of this Agreement may have changed since you last read them. By (i) clicking a button or taking another action to signify your acceptance of this Agreement, (ii) registering for an account using the App, (iii) agreeing to the Newk's Terms of Use Agreement, or (iv) participating in Newk's Rewards Program, you agree to the terms and conditions of this Agreement. If you do not agree to be bound by this Agreement, you may not participate in Newk's Rewards Program.

**These Newk's Rewards Program Terms should be read together with the Newk's Terms of Use Agreement (<https://newks.com/terms-of-use>) and is incorporated herein. To the extent there is a conflict between the Newk's Rewards Program Terms and the Newk's Terms of Use Agreement, the Newk's Terms of Use Agreement shall govern.**

### **1. MEMBERSHIP**

The Newk's Rewards Program (the "Program") is offered by Newk's Franchise Company, LLC and its affiliated entities and franchisees ("Newk's," "we," "us," or "our") to eligible individuals who enroll in the Program ("Members," "you," or "your"). To earn Points (as defined below) and receive Benefits (as defined below), you must be a Member.

Individuals who are 13 years or older and residents of the 50 United States and the District of Columbia may enroll to become Members. If you are a minor in your state of residence you must have your parent or legal guardian's permission before becoming a Member. For the avoidance of doubt, only natural persons transacting in their personal capacity and for their own account are eligible to participate in the Program; third party aggregators, groups, organizations, and business entities are not eligible to become Members or earn Points or Benefits.

If you would like to become a new Member, you must enroll in the Program by (a) registering for the Program by submitting the requested information, and (b) accepting this Agreement pursuant to one of the methods set forth in the introductory paragraph above. Newk's reserves the right to delay enrollment until your membership eligibility is confirmed.

Your membership is non-transferable and you may only have one (1) membership at a time. If we discover that you have multiple memberships in the Program, you will be deemed to be in violation of this Agreement and we reserve the right to terminate all such accounts.

### **2. QUALIFYING ORDERS AND SPEND**

Once enrolled in the Program, if you place an order for food and/or beverages from a Newk's Eatery restaurant with your account details ("Qualifying Order"), you will earn Points based on the U.S. dollar amount that you pay for such order at Newk's, excluding catering orders, tax, tips, alcohol, gift cards, discounts, delivery fees, or other promotional credit or forms of Newk's provided compensation ("Qualifying Spend"). You shall be limited to one Qualifying Order per day.

Newk's reserves the right to exclude the purchases of merchandise, alcohol and any other non-food or beverage products or services offered by Newk's from Qualifying Spend.

Orders made directly through third party food delivery platforms (e.g. Doordash, GrubHub, UberEats, Postmates, etc.) are not Qualifying Orders and will not generate Qualifying Spend or count towards Points.

Orders placed by or on behalf of third party aggregators, groups, organizations, and business entities will not count towards Points. Newk's reserves the right to delay, suspend, recalculate, reduce or revoke any Qualifying Spend or Points that Newk's suspects are connected with such orders.

All purchases made through a Member's account will be treated as activity of the Member, regardless of any other name listed on the order (e.g. different name on the method of payment, delivery recipient, etc.). Your Qualifying Spend is non-transferable and cannot be combined with the Qualifying Spend of other Members. Purchases made before becoming a Member will not be counted as Qualifying Spend.

### **3. POINTS**

For every U.S. Dollar spent on a Qualifying Order you will receive ten (10) Points. Qualifying Spend will not be rounded up. If your Qualifying Spend was \$13.98 you will receive 130 Points.

Members can use Points to purchase Newk's products ("Rewards"). Newk's will display the number of Points that must be redeemed for each Reward. The number of Points that must be redeemed for a particular Reward can change at anytime in Newk's sole discretion. Newk's may add or remove specific products as Rewards at anytime in Newk's sole discretion.

A Member may only redeem one Reward per transaction. Use of Points and receiving rewards may not be stacked (used with any other coupon or offer).

### **4. EXPIRATION OR POINTS**

Members must make a Qualifying Order or redeem Points once every 12 months in order to retain their Points and Benefits. If your account has no qualifying activity in any 12-month period, all Points and Benefits in your account will expire. Qualifying activity (making a Qualifying Order or redeem Points) extends the expiration date of all unexpired Points in your account for 12 months from the date of the qualifying activity.

### **5. BENEFITS**

As a Member you will receive certain Benefits. Benefits may change from time to time without advance notice. Each Benefit may have its own expiration. Benefits may include such items as:

- A free drink just for signing up (14-day expiration period)
- Exclusive offers and deals
- Be the first to know: exclusive news and first look previews for new menu items
- Celebrate your birthday with a FREE slice of cake (30-day expiration period)
- Double points promotions to help you get to your Reward even faster
- A free slice of cake for referring your friends to Rewards (14-day expiration period)
- Earn points and redeem Rewards in a Newk's Eatery restaurant or online anytime
- Easy access to your points and Rewards by downloading the Newk's app or giving your phone number in a Newk's Eatery restaurant

Expiration periods listed above may change without notice.

### **6. ADDITIONAL TERMS**

Points and certain Benefits can only be redeemed while logged into your Newk's account. Rewards and Benefit credits cannot be redeemed through any third party platforms. Points and Benefit credits may

only be used to pay for Newk's food and/or beverage items and cannot be used to pay for merchandise, tips, gift certificates, or delivery fees.

If you elect not to apply Points and Benefit credits in a particular transaction, no Points or Benefit credits will be used in your order and they will remain in your account until they are used or they expire. Newk's reserves the right to restrict the use of Points and Benefit credits in combination with other discounts and promotions.

The Points and Benefit credit amount redeemed may not exceed the amount of the order purchase price. If a full Point credit is not used when redeemed, the remaining balance will be available for use in a future order, subject to the expiration periods described herein. Once fully redeemed, the Points or Benefit credit will be recorded as a redeemed Point or Benefit credit.

Points and Benefit credits cannot be applied to prior purchases. Redeemed Points and Benefit credits are non-refundable and under no circumstances are Points and Benefit credits redeemable for cash or cash-equivalents.

Qualifying Spend, Points and Benefits are automatically tracked and allocated to each Member's account by Newk's or our service providers and our decisions and records regarding such calculations and benefits will be final and binding in all respects. Qualifying Spend, Points, and Benefits are subject to verification. Any Qualifying Spend, Points, Benefit that cannot be verified to the satisfaction of Newk's is subject to adjustment, cancellation or disqualification at our sole discretion.

Newk's will not be liable for the failure of any Qualifying Spend, Points, or Benefits to be accurately credited or awarded for any reason, including, but not limited to, (i) any technical malfunction or other problems relating to any network, computer system, servers, access providers, computer equipment or software, (ii) your failure to timely claim any Points or credit prior to the end of any expiration periods described herein and/or (iii) any combination of the foregoing. Newk's does not issue retroactive Qualifying Spend for any reason (e.g. if you forget to login to your account, you will not earn Qualifying Spend for your order).

Points and Benefits are promotional in nature and have no cash value and are not exchangeable for cash or any cash equivalent under any circumstances. Points and Benefits have no value outside of this Program. Points are not redeemable for cash.

Points and Benefits cannot be assigned, exchanged, sold, traded, bartered, purchased, given by gift or otherwise transferred. Any Points and Benefits so acquired are void. Points cannot be redeemed for gift cards, cash, or gift certificates. The accumulation of Points or Benefits does not entitle the Member to any vested rights, and Newk's does not guarantee in any way the continued availability of any Points or Benefit.

Please allow up to three (3) business days for Qualifying Spend, Points, and Benefits to update in your account. If more than three (3) business days have passed, please contact us.

Newk's reserves the right, in our sole and absolute discretion, to (i) suspend or terminate a Member's account at any time for any reason or (ii) invalidate any Qualifying Spend, Points and Benefit we deem to have been awarded in error, or as the result of the use of an account to make orders by or on behalf of a third party aggregator, group, organization, or business entity or any actual or suspected fraudulent or

dishonest activity (including without limitation, the use of any system, macro, script, or bot to manipulate the Program). Reasons for account suspension or termination or benefit invalidation may include, without limitation, disorderly personal conduct at a Newk's event which actually or potentially harms any Newk's or any third party, violations of law, or any other activity not in keeping with the letter and/or spirit of this Agreement, as interpreted by us in our sole and absolute discretion. If your account has been suspended or terminated, you forfeit any accumulated Points and Benefit and are prohibited from registering for a new account without the prior written permission of Newk's.

Newk's is not liable for Points or Benefits sent to suspended or terminated accounts.

## **7. E-MAIL AND SMS COMMUNICATIONS**

By participating in the Program and providing your email address, you agree that Newk's will periodically send you administrative e-mails, free newsletters, and e-mails. You may opt-out of marketing-related emails by following the unsubscribe instructions provided at the bottom of any e-mail you receive from Newk's or by contacting Newk's directly at [rewards@newks.com](mailto:rewards@newks.com). Despite opting out of marketing-related emails, Newk's may continue to send you service-related and other non-marketing communications, including notices of any updates to this Agreement, the Newk's Terms of Use Agreement or Privacy Policy.

By participating in the Program, Newk's may offer communications via SMS texts or similar technology (including via automatic telephone dialing equipment, if we received the appropriate consents from you in accordance with applicable law) sent by Newk's or any of its service providers, such as when Newk's sends you text messages to confirm, process and notify you about the status and pickup location of an order you place with us, or for any customer service, account-related or marketing purpose. To stop receiving text messages from a short code operated by Newk's, reply STOP to any message you receive from such short code. Note that we may send you a message to confirm receipt of your STOP request. Message and data rates may apply for this service. You can also opt-out of Newk's marketing texts by emailing us your request and mobile telephone number to [rewards@newks.com](mailto:rewards@newks.com)

Data obtained through the short code program will not be shared with any third parties for their marketing reasons/purposes.

## **8. PROGRAM TERMINATION/MODIFICATION**

Newk's may terminate the Program at any time, with or without notice, which may result in loss of accumulated Points, Rewards, Benefits and other privileges associated with the Program. Newk's reserves the right to modify any of the rules, terms, conditions, and benefits of the Program at its sole discretion, with or without notice. Interpretation of this Agreement shall be at the sole discretion of Newk's, whose decision will be final.

## **9. CHANGE TO YOUR ACCOUNT INFORMATION**

You must advise Newk's of any change in your name or the address, phone number and/or email address associated with your account. Name, address, email and phone number changes can be made by email [rewards@newks.com](mailto:rewards@newks.com). Newk's is not liable for information sent to outdated contact information.

## **10. MISCELLANEOUS**

Any disputes related to this Agreement and the subject matter herein will be resolved pursuant to the terms of Newk's Terms of Use Agreement. If any provision of this Agreement is, for any reason, held to

be invalid or unenforceable, the other provisions of this Agreement will remain enforceable and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. You may not assign or transfer this Agreement, or its rights or obligations herein, in whole or in part without the written consent of Newk's. Newk's may freely assign or transfer this Agreement. Any assignment or transfer in violation of the foregoing is void. This Agreement is the final, complete and exclusive agreement between you and Newk's with respect to the subject matters hereof and supersedes and merges any discussions between you and Newk's with respect to such subject matters.

Last Updated: April 27, 2022.