

Preamble

- (1) LaterPay Inc. ("LaterPay") is a payment service provider. Client is a provider of Materials and makes such Materials available via the internet to Users.
- (2) In accordance with these General Terms and Conditions for LaterPay for Contributions Clients (alternatively referred to herein as this "Agreement"), LaterPay has developed a LaterPay Service comprising the LaterPay Application and API. The LaterPay Application can be used by Clients for voluntary monetary contributions ("Contributions") made via the internet using the API. The LaterPay Service enables: a) determination of the Device, and b) potential delay in the registration and/or payment to such time as when the Threshold Amount of Contributions and/or purchases of Materials from other clients have been made or exceeded.
- (3) The Client may request Contributions via the LaterPay Service to support its operations so long as such Contributions are strictly optional for users. (For Client's information only, Clients who desire to make payments mandatory in exchange for Materials may register for LaterPay's separate paid-for service.) The Threshold Amount is five dollars (\$5.00) for each Device and User registered with LaterPay within the United States. For other currencies, LaterPay determines thresholds, approximately equivalent to the applicable Threshold Amount including any foreign transaction fee payable to LaterPay. Further, in its sole and exclusive discretion, LaterPay may reasonably define a different Threshold Amount for any Device and User registered with LaterPay to avoid payment defaults and encourage the generation of User charges, depending on the specific risk situation and the requirements of integrated payment methods.
- (4) Client understands that, in executing this Agreement, Client makes an offer to LaterPay to enter into a contractual relationship. Client affirms that Client has submitted all requested Know Your Customer information to LaterPay, and understands that LaterPay may accept or decline Client's offer in LaterPay's sole discretion. LaterPay will communicate acceptance by sending the Client a confirmation via e-mail that their live account can now be used to request Contributions using LaterPay. This Agreement enters into force from the moment of receipt by the Client of the e-mail confirming the account is live.
- (5) Capitalized terms used herein and not defined in the section in which first used shall have the meaning ascribed to them in Section 15 of this Agreement.

§ 1 Object of the Agreement, Provision of Service

- (1) The object of this Agreement between the Client and LaterPay is for the provision of the LaterPay Service to the

Client by LaterPay in accordance with LaterPay-provided or accessible Documentation. The LaterPay Service is associated with the Client's website, which website includes a LaterPay Section marked with the LaterPay logo. Within the LaterPay Section, a User or Users may request LaterPay to arrange a payment transaction initiated by the Client. LaterPay is solely responsible for the LaterPay Section, its content, design and functionality, completeness and legal terms of use.

- (2) The Client is responsible for its terms and conditions for the User's use of the Client website, any sale, access or use of the Materials, and the Materials themselves.
- (3) The LaterPay Service supports the collection of Contributions. A third-party Payment Service Provider provides the payment services in connection with the LaterPay Service. LaterPay reserves the right in its sole and exclusive discretion to change the initial or subsequent Payment Service Provider or add additional Payment Service Providers for any payment transaction initiated by Client using the LaterPay Service. The Client shall have certain obligations to the Payment Service Provider including, but not limited to, the obligations set out in Section 9 herein and Exhibit A hereof.
- (4) The connection of the data processing systems used by the Client to connect to the internet and to the API is not part of the services provided by LaterPay. The Client shall arrange a connection of its data processing systems to the internet and to the API that meet its requirements at its own expense and liability.
- (5) LaterPay is entitled to change the LaterPay Service, including the technology and/or operation to provide the LaterPay Service. LaterPay will inform the Client about all planned changes and upgrades in accordance with this section by electronic mail at least thirty (30) days in advance.
- (6) LaterPay shall endeavor to enter into a relationship with the User concerning the use of the LaterPay Service. However, LaterPay shall have no responsibility to Users with regard to any and all claims related to the Materials. The Client shall defend, indemnify and hold LaterPay, its owners, executives and employees harmless against any allegation, action, suit or proceeding ("Claim") to the extent such Claim is based upon an allegation concerning the offering, accessing and/or content of Materials.
- (7) LaterPay via the LaterPay Service will endeavor not to enter into any relationship with attempted Users who are individuals on the Denied Persons List and/or that are located in the Embargoed Countries. Nevertheless, as specified in Section 1(6), the Client is solely responsible for the offering of Materials, and therefore LaterPay has no obligation to the Client to make or enforce any geographic restrictions with regard to the individuals or countries to which Materials are provided. Client is solely and exclusively responsible for imposing any geographic

restrictions for the providing of Materials to individuals in any country. However, Client hereby agrees, represents and warrants that it will not knowingly supply any Materials to individuals on the Denied Persons List and/or located in Embargoed Countries, and that it employs software and services associated with the website owned or provided on behalf of the Client, that prevent such supply of Materials. The Client shall defend, indemnify and hold LaterPay, its owners, executives and employees harmless against any allegation, action, suit or proceeding to the extent such is based upon an allegation concerning the supply of Materials to any individual on the Denied Persons List and/or located in Embargoed Countries.

- (8) LaterPay shall be entitled to employ third parties as agents.
- (9) In addition to these General Terms and Conditions of LaterPay for Contributions Clients, Special Terms and Conditions apply to Clients' use of [LaterPay "Pay Later"](#) and [LaterPay "Pay Now"](#) Services (the "Special Services"). Such Special Terms and Conditions are incorporated into this Agreement by reference where applicable, and may be accessed by clicking on the above respective hyperlinks. In the event of a conflict between the Special Terms and Conditions and this Agreement, the Special Terms and Conditions take precedence, but only to the extent of the conflict.
- (10) If Client wishes to select a Special Service after execution of this Agreement, a written request (including an email to LaterPay at sales-usa@laterpay.net) is sufficient. LaterPay will accept such request only under the condition that no subsidiary agreements are demanded or other changes or additions relating to this Agreement or the Special Terms are made. If LaterPay accepts the request, LaterPay will activate the corresponding Special Service.

§ 2 Collection of Contribution Payments

- (1) The Fees payable by Client for Client's use of the LaterPay Services are set forth in Appendix A attached hereto. LaterPay reserves the right to revise Appendix A and the fees listed therein at any time with sixty (60) days' notice to Client.
- (2) LaterPay shall communicate the amounts contained in Client's invoices to the Payment Service Provider and the Payment Service Provider shall forward corresponding payment to the Client subject to the terms of this Agreement including, but not limited to, the below subsection (5).
- (3) For your information only, if Contributions are made in currencies other than the currency of Client's home country (the "Currency"), LaterPay will use a currency conversion rate into such Currency determined by an associated financial institution of LaterPay. All conversion rates applied will appear in the LaterPay credit note for Client's information purposes only. In addition to the

currency conversion into the Currency for such Contributions, LaterPay may impose on Users a surcharge of two and one-half percent (2.5%) ("Foreign Transaction Fee") of the Contribution amount. The Client shall have no obligation to pay this Foreign Transaction Fee. LaterPay reserves the right to change the Foreign Transaction Fee by providing notice on its Site and/or by providing written notice to Users.

- (4) When available, LaterPay may provide notification to Client of the option to accept more than one currency as a Contribution. The Client may take advantage of such option by responding to LaterPay's notification identifying the respective currencies that it wishes to accept. LaterPay shall confirm acceptance of Client's response by (a) setting up the acceptance of Contributions for Client in the respective currencies through the LaterPay Service, or (b) written confirmation that it will setup the acceptance of Contributions for Client in the respective currencies. Client understands and agrees that to the extent that LaterPay does not confirm acceptance of Client's response, LaterPay shall not make available to Users the option of making Contributions in multiple currencies.
- (5) The Client is aware that it may be possible for a variety of reasons that the Payment Service Provider does not receive or does not fully receive payment from a respective User for the Contribution. This is, for example, the case if the User refuses the necessary registration under the LaterPay Service, or if Payment Service Provider does not receive payment from the User for any other reason. The Client is aware of the associated risk of non-payment, and understands and agrees that it may not receive payment for such Contributions from the User, Payment Service Provider or LaterPay.

§ 3 Right of Use

- (1) During the term of this Agreement, LaterPay grants to Client a non-exclusive, non-assignable and non-transferable right to use the internet-accessible LaterPay Application through the API in the United States and to use the features connected with the LaterPay Service as specified in Section 1 herein. The Client has and receives no other rights in and to the LaterPay Service or the LaterPay Software.
- (2) In accordance with Section 3(1) herein, the Client has no right to and shall not use the LaterPay Service beyond the use permitted in accordance with these terms and conditions, or to allow third parties to use it or to make the LaterPay Service available to third parties, including no right to reverse engineer, revise decompile, reproduce, to sell, to permit the temporary use or to let or to lend the LaterPay Service or parts of it to third parties. The Client represents and warrants that, during the term of this Agreement and for two (2) years thereafter, it will not develop or offer any service in the United States that

provides a payment process similar to the LaterPay Service.

- (3) The Client represents and warrants that it will not enable or permit an unauthorized third party to use the LaterPay Service. To the extent that the Client breaches this representation and warranty, and upon request by LaterPay, the Client, at its own expense, shall promptly supply LaterPay with all information necessary and assist LaterPay with any claim, action, suit or proceeding against such unauthorized third parties at Client's expense.

§ 4 LaterPay Services

LaterPay is free to supply all or a portion of the LaterPay Service from within the United States or elsewhere as applicable law permits using its own or third party computer systems.

§ 5 Obligations of the Client, Granting of Trademark Rights

- (1) In order to use the LaterPay Service, the Client, at its own expense, will provide the technical requirements for use of the LaterPay Service as described in the LaterPay Documentation. For example, at a minimum and in order to use the LaterPay Service as described in the Documentation, the Client will provide access to the LaterPay Application through the API from its own computer system. The Client is responsible for resolving any errors that occur in its computer systems. The current version of the Documentation is available on the internet at docs.laterpay.net.
- (2) For the purpose of testing and administration of the LaterPay Service, as well as for the performance of the LaterPay Service in the information technology (IT) environment of the Client, the Client shall:
- (i.) be responsible for the establishment of the data link to the LaterPay computer center necessary for the LaterPay Service;
 - (ii.) use the LaterPay-provided API key to convey its intent to use the LaterPay Service;
 - (iii.) provide LaterPay with Client's Federal Tax Identification Number (as known as the Employer Identification Number) and hereby represents and warrants that such number is accurate and correct;
 - (iv.) ensure that access data including, but not limited to, user name (per User) and password be kept confidential and not accessible to third parties;
 - (v.) transmit to LaterPay the names of all designated administrators for Client for the communication with regard to the LaterPay Service;
 - (vi.) use all features that are made available to it through the LaterPay Service exclusively for the intended use and for its own purposes; and

- (vii.) inform LaterPay without undue delay about any known defects or damages, which could possibly affect the safety or the operation of the LaterPay Service. The Client agrees to cooperate with LaterPay and take all reasonable measures to enable LaterPay to determine the defect or damage and its cause and correction. In the event of an incorrect error report or notice of defect, the Client will pay LaterPay an inspection fee specified by LaterPay.

- (3) The Client shall provide LaterPay without undue delay and at its own cost with all information about itself and the business that is necessary for the performance of this Agreement. The Client shall promptly inform LaterPay about any changes of its company name, address or bank details.
- (4) The Client represents and warrants that the Materials are provided in accordance with any contracts entered into with the Users. The Client further represents and warrants that the Materials comply with all requirements of the applicable federal and state laws, and that the Client is solely and exclusively responsible for such compliance. LaterPay assumes no responsibility for compliance for any Materials with applicable federal and state law.
- (5) The Client shall not offer access to Materials in exchange for, or in consideration of, Contributions. The Client shall clearly communicate to its users that Contributions are voluntary and are under no circumstances required in exchange for, or in consideration of, access to the Materials. The Client shall use Contributions in a way that complies with applicable federal and state laws and is consistent with Client's publicly stated mission. The Client will indemnify, defend and hold harmless LaterPay and its representatives for any losses or expenses arising out of Client's breach of this Section 5(5). The Client acknowledges that, as a Contributions Client, Client may not collect revenue in exchange for access to Materials; i.e., Client may not collect revenue from "paid content." A separate account with LaterPay is required for such activity.
- (6) The Client shall review all payments issued to it by the Payment Service Provider settlements without undue delay and shall raise any objections without undue delay, but no later than four (4) weeks after the respective day of payment of an invoiced amount. Any objections to settlements not raised within such four-week period are waived by Client.
- (7) Upon request by a User, the Client shall inform the User that its invoicing for Contributions is carried out by the LaterPay Service using the specific Payment Service Provider for such invoice.
- (8) By way of a separate agreement or guidelines, if requested by LaterPay or Client, the Client shall grant (or, to the extent that the Client does not request such a

separate agreement or instrument, hereby grants) LaterPay a non-exclusive right to use during the term of this Agreement, trademarks owned and/or controlled by Client (hereinafter, "Client's Trademarks"). LaterPay may use the Client's Trademarks for the LaterPay Service in unmodified form in accordance with the agreed conditions in the applicable separate agreement, guidelines or this Agreement.

§ 6 Misuse of the LaterPay Service

- (1) LaterPay may terminate this Agreement for breach by the Client. In accordance with any such termination, LaterPay will terminate Client's access to the LaterPay Service and the data stored by LaterPay with respect to the Client. Client's obligation to pay the agreed fees in accordance with this Agreement, shall survive such termination by LaterPay.
- (2) If the Materials provided by the Client violate any federal or state law or regulation, LaterPay may, in its sole and exclusive discretion, either terminate this Agreement or delete the affected data to the extent required to ensure compliance with the law.
- (3) LaterPay reserves all of its claims and rights against Client in addition to such termination or deletion.

§ 7 Property Rights

- (1) Absent other express arrangements in this Agreement, LaterPay or its licensors exclusively own the LaterPay Intellectual Property in and to the LaterPay Service and Documentation. Client is only granted a license or right to use such LaterPay Intellectual Property as explicitly provided by this Agreement or other agreements with LaterPay. LaterPay reserves all other rights in and to the LaterPay Intellectual Property.
- (2) Client owns or has rights to distribute any Materials, and has the right to use its associated other intellectual property including, but not limited to its trademarks.

§ 8 Liability

- (1) LaterPay's sole and exclusive obligation to Client is to provide Client's payment claims to the Payment Service Provider. LaterPay's sole and exclusive liability to the Client shall be in cases of willful misconduct and gross negligence in connection with this obligation.
- (2) Other than as provided in Section 8, subsection 1 herein, LaterPay shall have no other liability to the Client including, but not limited to, satisfaction of any invoiced amount by Client. Further, LaterPay uses a third-party vendor for the determination of sales tax owed by clients to respective state tax authorities. LaterPay hereby disclaims any liability that may arise for Client from a state tax authority or otherwise, based on the determination, collection and payment of any applicable sales or other

taxes. Client will defend, at its expense, a third-party action, suit or proceeding against LaterPay ("Tax Claim") to the extent such Tax Claim is based upon an allegation that sales tax collection by LaterPay on behalf of Client is erroneous or deficient in any manner.

- (3) LaterPay is not liable for any damages that the Client may incur due to interruptions of internet access, restrictions on the business by force majeure or by other events for which LaterPay is not responsible.
- (4) LaterPay makes no warranties express or implied, with respect to the LaterPay Service, LaterPay Application, API or Documentation. Specifically, all implied warranties are disclaimed, including any warranties of merchantability, fitness for a particular purpose, use, or non-infringement. No one is authorized to make any warranty on LaterPay's behalf, and Client cannot rely on any statement of warranty.
- (5) NEITHER THE CLIENT NOR LATERPAY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF THEIR OBLIGATIONS UNDER THIS AGREEMENT, OR DAMAGES RELATED TO THE LOSS OF DATA, PROFIT OR REVENUE OR THE INTERRUPTION OF ACTIVITIES OR ANY OTHER FINANCIAL LOSS.
- (6) Limitation of Liability. The sole and exclusive remedies of the parties are those expressly set forth in this Agreement. In no event shall LaterPay's liability exceed fees actually received from Contributions to Client over the prior twelve (12) months from the date of notice of any claim or claims by Client to LaterPay.

§ 9 Client Obligations to Payment Service Provider

The Payment Service Provider has required in its separate agreement(s) with LaterPay that LaterPay include in its agreement with Clients, i.e., this Agreement, certain obligations that the Client will have to Payment Service Provider with respect to processing and providing payment to Client for invoiced amounts based on Contributions made by Users. Accordingly, Client understands and hereby agrees that in order to use the LaterPay Service, Client shall comply with all obligations to the Payment Service Provider that are required by such Payment Service Provider pursuant to contractual obligations imposed on LaterPay under the separate agreements as set forth in Exhibit A, Client Obligations to Payment Service Provider, attached hereto.

§ 10 Remuneration, Reimbursement of Expenses

The Client shall reimburse any expenses or payments made by LaterPay to third parties including, but not limited to, all Claims

of third parties against LaterPay in connection with the Materials offered or distributed by the Client including, but not limited to, in regard to illegal or counterfeit Materials.

§ 11 Infringement Indemnification

Client will defend, at its expense, indemnify and hold harmless LaterPay and its owners, directors, employees, contractors and representatives from losses arising out of a third-party claim, action, suit or proceeding (“Infringement Claim”) based upon an allegation that any Materials infringe any patent, trademark or copyright or any other intellectual property right of a third party.

§ 12 Term; Termination

- (1) This Agreement shall remain in force until otherwise agreed between the parties or terminated in accordance with this Section 12.
- (2) Each of the Client and LaterPay shall have the right to terminate this Agreement for material breach by the other party. LaterPay may also terminate this Agreement if the Client does not completely fulfill its payment obligations for two (2) or more consecutive months.
- (3) Either party may terminate this Agreement for convenience with two (2) months’ written notice to the other party.
- (4) In order to terminate this Agreement, a party shall provide written notice of such termination to the other party. Neither party may terminate this Agreement by electronic mail.
- (5) Notwithstanding the foregoing, terms and notice periods may vary for the Special Services, as specified in the Special Terms and Conditions. Where applicable, such terms take precedence over this Section 12.
- (6) Subject to the applicable provisions of the Special Terms and Conditions, if Client terminates one of the Special Services, this Agreement shall otherwise continue to remain in force. If a Special Service depends on other Special Services, such Special Services may only be terminated together. In this case, the respective longer minimum term or the termination date specified in the termination notice applies.

§ 13 Confidentiality, Data Protection

- (1) The parties mutually commit to maintain complete confidentiality regarding all business processes and other trade secrets of the other party that become known to such party in the performance of this Agreement. The parties will obtain corresponding confidentiality commitments from their employees and representatives, but each party shall be responsible for any breach of this section 13(1) caused by its employee(s) or representatives.

- (2) Each party shall comply with all applicable federal and state data protection laws and regulations in relation to the other party and Users.
- (3) The scope of data transmitted shall, in each case, depend upon the scope of the statutory permission or the User’s consent.
- (4) LaterPay shall obtain consent from Users at its own discretion with regard to any information associated with Users that will be disclosed to Client. LaterPay may at any time obtain updated consent and/or update its privacy policy at its own discretion. The Client shall have no right to require LaterPay to revise any terms or conditions, or other content of LaterPay’s privacy policy.
- (5) LaterPay shall send Client data strictly for the specific purpose intended and in accordance with applicable law or a User’s consent. Both LaterPay and Client understand that LaterPay will not communicate to Client any information regarding Users (including, but not limited to, User’s identity or billing address). Notwithstanding the foregoing, LaterPay shall provide Client with certain User information (i) as required by federal or state law or regulation, and (ii) in LaterPay’s sole and exclusive discretion and only to the extent that consent is provided by the Users. The Client shall be liable for any and all damages in the event that it breaches its obligations under this Agreement with regard to Users’ PII, or when otherwise using PII originating from LaterPay.
- (6) The contents and terms of this Agreement are confidential to the parties. Neither party may publish or disclose to any third party any terms or conditions of this Agreement without prior written consent of the other party.

§ 14 Miscellaneous Provisions

- (1) Any amendments to the terms and conditions of this Agreement by LaterPay shall be communicated to the Client in writing at least two (2) months before the proposed effective date. The Client’s consent shall be deemed given if it has not objected in writing to LaterPay before the proposed effective date of the changes. Additionally, the Client may terminate this Agreement by written notice to LaterPay to the extent that Client has objected to all or part of an amendment to this Agreement for which resolution cannot be reached by the parties and prior to the proposed effective date of such amendment.
- (2) Any communication between the parties in connection with the performance of this contract shall be sent to the designated contact person of the other party.
- (3) This Agreement will be construed, and the rights and obligations of the parties determined, exclusively in accordance with:
 - (i.) the substantive law of the state of New York, excluding provisions of New York law concerning

choice-of-law that would result in the law of any state other than New York being applied; and

- (ii.) the exclusive place of jurisdiction for all disputes arising out of or in connection with this contract shall be in the courts of New York, New York.

- (4) Amendments or addendums to this Agreement, including the appendices, shall be in writing, excluding means of telecommunication. This also applies to a waiver of this requirement.
- (5) In the event that any sections of this Agreement, including the appendices, are determined to be unenforceable, such determination shall not affect the remaining sections of the Agreement. The parties hereby agree that to the extent possible, if any section of this Agreement is determined to be unenforceable, such section shall be canceled and replaced by the parties with terms and conditions that are enforceable, and which come as close as possible to the economic intent of the parties.
- (6) Any failure by any party to this Agreement to enforce at any time any term or condition under this Agreement will not be considered a waiver of that party's right thereafter to enforce each and every term and condition of this Agreement.
- (7) This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior agreements, oral and written, made with respect to the subject matter hereof.

§ 15 Definitions

In this Agreement, the following terms shall have the following meanings.

"Agreement" means these General Terms and Conditions of LaterPay for Contributions Clients.

"API" shall mean the LaterPay application programming interface.

"Card Association" means Visa U.S.A., Inc., Visa International, Inc., MasterCard International, Inc., Discover, or any other Card Issuers that provide Cards accepted by agreement with the Payment Service Provider.

"Claim" has the meaning ascribed to such term as in Section 1(5) of this Agreement.

"Client" has the meaning ascribed to such term as in the Preamble, (1).

"Client's Trademarks" has the meaning ascribed to it in Section 5(7) of this Agreement.

"Contributions" has the meaning ascribed to it in the Preamble, (2), of this Agreement.

"Damages" has the meaning as ascribed to it in Clause 2 of the Client Obligations to the Payment Service Provider of Exhibit A to this Agreement.

"Denied Persons List" means the U.S. Department of Commerce, Bureau of Industry and Security's Denied Persons List.

"Device" shall mean the data processing unit used by a User to receive Materials and make a Contribution using the LaterPay Service. The Device may be, for example, a mobile phone, tablet or other mobile internet connected device, laptop or computer.

"Digital Content" means particular information stored as, for example, files, illustrations, videos and sheet music that can either be downloaded over the internet to data storage of the User or can be accessed and viewed directly through a web browser by the User.

"Documentation" means the written instructions and specification regarding the LaterPay Service provided by or available from LaterPay.

"Embargoed Countries" means the U.S. Department of Commerce, Bureau of Industry and Security's specified Embargoed Countries.

"Infringement Claim" has the meaning ascribed to it in Section 11(1) of this Agreement.

"LaterPay" has the meaning ascribed to it in the Preamble of this Agreement.

"LaterPay Application" means the software application developed by LaterPay for the purpose of this Agreement.

"LaterPay Intellectual Property" means all intellectual property rights including, but not limited to, patents, trademarks, copyrights, trade secrets and other intellectual property rights in and to the relevant software providing the LaterPay Service, LaterPay Application, API and Documentation.

"LaterPay Pay Later" means the specific LaterPay Service described in the Special Additional Terms and Conditions for LaterPay Pay Later to this Agreement.

"LaterPay Pay Now" means the specific LaterPay Service described in the Special Additional Terms and Conditions for LaterPay Pay Now to this Agreement.

"LaterPay Section" means the visually separated website area on a Client's webpage bearing the LaterPay logo, including but not limited to overlays.

"LaterPay Service" means collectively and individually, the LaterPay Application and the API.

"Material(s)" means materials offered by Client including, but not limited to, Digital Content, products and/or services.

"Party" or **"Parties"** means LaterPay and the Client, individually or collectively, as the case may be.

"Payment Service Provider" means a payment processor, such as a bank or credit card processor contracted by the Client.

“**PII**” means the personal identifying information of User(s), including zip or postal code information.

“**Special Terms and Conditions**” means the terms and conditions applicable to each of the Special Services.

“**Special Services**” has the meaning ascribed to it in Section 1(8) of this Agreement.

“**Tax Claim**” has the meaning ascribed to it in Section 8(2) of this Agreement.

“**Threshold Amount**” means the cumulative threshold amount in dollars as set out in the preamble to this Agreement.

“**User(s)**” means internet user(s) who make Contributions to Client using the LaterPay Service.

Exhibit A: Client Obligations to Payment Service Provider

(1) The Client understands and hereby agrees that as a condition to using the LaterPay Service and in addition to its rights and obligations under the General Terms and Conditions of LaterPay for Contributions Clients, it shall have all of the obligations to Payment Service Provider required by such Payment Service Provider pursuant to contractual obligations imposed on LaterPay in separate agreement(s) between LaterPay and the Payment Service Provider, including the following obligations:

- (i.) Adhering to all applicable Card Association regulations.
- (ii.) Submitting no transaction to LaterPay or Payment Service Provider for the purpose of obtaining or providing a cash advance either for User or any other party.
- (iii.) Preparing and submitting no invoice to LaterPay or Payment Service Provider for duplicate transactions.
- (iv.) Accepting or submitting no fraudulent transaction to LaterPay or Payment Service Provider; and not under any circumstances presenting for processing or credit, directly or indirectly, a transaction which originated with any other merchant or any other source other than transactions arising from bona fide Contributions to Client for which Client has been approved under this Agreement. If Client breaches its obligations under this Section, LaterPay may: (a) immediately terminate this Agreement, (b) have Payment Service Provider withhold funds and demand an escrow, or (c) report Client to Visa, MasterCard, AMEX and Discover (Client’s employees’ actions are chargeable to Client under this Agreement).
- (v.) Preparing and submitting no transaction representing the refinancing of an existing User obligation including, but not limited to, obligations: (a) previously owed to Client; (b) relating to a

chargeback; or (c) representing the collection of any other pre-existing indebtedness (other than prior Contributions by Client not previously included in a transaction), including collection of delinquent accounts on behalf of third parties.

- (vi.) Imposing no requirement on Users to provide any PII or personal information as a condition for the transaction unless such information is required for the processing of the transaction, or Client has reason to believe the identity of the User is different from the party attempting to enter a transaction with the Client. Client will not, under any circumstances, release, sell or otherwise disclose any User PII or other personal information to any person, except as expressly authorized in writing by the User, or as required or permitted by law.
- (vii.) Maintaining appropriate administrative, technical and physical safeguards for all User PII for which Client has access to or that is in its possession. Client will maintain all such safeguards applicable to Client in accordance with applicable federal and state laws, rules, regulations and guidance.
- (viii.) Making no claim against Payment Service Provider nor holding Payment Service Provider liable for the acts or omissions of other merchants, service providers, Card Associations, financial institutions or others that do not have a written contractual relationship with Payment Service Provider or over which Payment Service Provider has no control. These provisions supplement, augment and are in addition to obligations of indemnification, audit, confidentiality and other similar provisions contained in this Agreement. This Exhibit A and each of its subsections will survive this Agreement’s termination.
- (ix.) Complying with and conducting its activities in accordance with all applicable Card Association rules and regulations.
- (x.) Representing and warranting that Client: (a) holds all licenses, if any, required to conduct its business and is qualified to do business in every jurisdiction where it is required to do so; (b) there is no action, suit or proceeding at law or in equity now pending or to Client’s knowledge, threatened by or against or affecting Client which would substantially impair its right to carry on its business as now conducted or adversely affect its financial condition or operations; (c) each invoice presented by Client to LaterPay for collection is genuine and is not the result of any fraudulent or prohibited transaction, or is not being submitted on behalf of any business other than Client as authorized by this Agreement; (d) each invoice submitted by Client is the result of a bona fide Contributions transaction by the User in the total amount stated on the invoice.

- (xi.) Accepting for chargeback any transaction for which a User disputes the validity of the transaction according to prevailing Card Association regulations, or LaterPay or Payment Service Provider determines that Client has in any way failed to comply with Card Association regulations or LaterPay's or Payment Service Provider's procedures.
- (xii.) Responding and complying with Payment Service Provider's or LaterPay's credit inquiries which it may consider necessary to accept or review acceptance of this Agreement or investigate Client's invoice activities subsequent to acceptance of this Agreement. Such inquiries may include, but are not limited to, a credit and/or criminal check of the business including its proprietor, partners, principal owners or shareholders or officers.
- (2) Client will defend, indemnify and hold LaterPay and Payment Service Provider and their officers, directors, members, shareholders, partners, employees, agents, subcontractors and representatives harmless from and against any and all fines, penalties, claims, damages, expenses, liabilities or fees of any nature whatsoever, including attorneys' fees and costs ("**Damages**"), asserted against or incurred by LaterPay and Payment Service Provider arising out of, relating to or resulting from, either directly or indirectly: (i) the negligence, gross negligence or willful misconduct of Client in the performance of its obligations under this Agreement, including, but not limited to, the data security provisions; (ii) any violation of applicable federal and state laws, rules, regulations and guidance and Card Association rules by Client; and (iii) all third party claims arising from the foregoing.
- (3) Notwithstanding the preceding, Client is not liable to LaterPay and Payment Service Provider if Damages are caused by, related to or arise out of LaterPay's and Payment Service Provider's gross negligence or willful misconduct, or LaterPay's and Payment Service Provider's breach of this Agreement or agreements between LaterPay and Payment Service Provider. Client will promptly reimburse LaterPay and Payment Service Provider for any assessments, fines, fees or penalties imposed by the Card Association in connection with this Agreement and authorizes LaterPay or Payment Service Provider to deduct any such sums from amounts to be cleared and settled with Client.
- (4) The Client understands and hereby agrees that as a condition to using the LaterPay Service, it shall have additional responsibilities to the Payment Service Provider as required by the Payment Service Provider pursuant to contractual obligations imposed on LaterPay in separate agreement(s) between LaterPay and Payment Service Provider, including that Client shall name Payment Service Provider as a third party beneficiary under this Agreement and shall accept and agree that Payment Service Provider shall be entitled to enforce all of the rights of LaterPay under this Agreement against Client arising from transactions by Payment Service Provider.
- (5) Client agrees that: PAYMENT SERVICE PROVIDER, ITS AFFILIATES, ITS OWN SUPPLIERS AND ITS SUBCONTRACTORS OR THEIR MANAGERS, EMPLOYEES AND SUBSIDIARIES CANNOT UNDER ANY CIRCUMSTANCE BE HELD LIABLE TO CLIENT PURSUANT TO THIS AGREEMENT FOR: (I) SPECIAL, INDIRECT OR PUNITIVE DAMAGES, CONTRACTUAL OR TORTIOUS IN NATURE, (II) DAMAGES RELATED TO THE LOSS OF DATA, PROFIT OR REVENUE OR THE INTERRUPTION OF ACTIVITIES OR ANY OTHER FINANCIAL LOSS, EVEN IF PAYMENT SERVICE PROVIDER HAS BEEN NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES; AND (III) ANY DAMAGE OR ANY LOSS OR INJURY TO CLIENT, REGARDLESS OF THE CAUSE AND REGARDLESS OF THE FORM OF THE ACTION UNDERTAKEN, THIS AGREEMENT, AND OR ANY AGREEMENT BETWEEN LATERPAY AND PAYMENT SERVICE PROVIDER, AND THAT WILL HOLD PAYMENT SERVICE PROVIDER LIABLE FOR A TOTAL AMOUNT EXCEEDING THE VALUE OF THE FEES PAID UNDER THE AGREEMENT DURING THE THREE (3) MONTHS PRECEDING THE CLAIM.
- (6) Neither Payment Service Provider, nor its affiliates, suppliers and its subcontractors shall be held liable for the Client's or Users' actions that might cause damages or losses. More precisely and without in any way limiting the scope of the foregoing but subject to a fault attributable to Payment Service Provider or its suppliers, Client assumes all liability related to the Client's services, the Client, and releases Payment Service Provider from any liability. Client shall defend and indemnify Payment Service Provider and LaterPay, their affiliates, respective directors, officers, employees, and agents harmless from any and all actions, proceedings, claims, demands, losses, debts, costs and expenses (including reasonable legal fees and expenses) that may be brought against or suffered by Payment Service Provider or LaterPay or that such entities may sustain, pay or incur, that are attributable to: (i) Client's misuse of the services; and (ii) any liability claim by Client and/or a User or any third party claim related in any way to Client's services or this Agreement.

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Appendix A

1. Fees – LaterPay Contributions

- 1.1. The following fees are payable by the LaterPay Contributions Client to LaterPay for the specified LaterPay services, including 'Pay Later' and 'Pay Now':
 - 25% of the total revenue up to \$500,000 generated by Merchant in a calendar month through the LaterPay Service (inclusive of any sales taxes)
 - 22.5% of the total revenue in excess of \$500,000 up to \$1,000,000 generated by Merchant in a calendar month through the LaterPay Service (inclusive of any sales taxes)
 - 20% of the total revenue in excess of \$1,000,000 generated by Merchant in a calendar month through the LaterPay Service (inclusive of any sales taxes)
- 1.2. No LaterPay Service setup fees are charged.
- 1.3. For 'LaterPay Pay Later' and 'LaterPay Pay Now' the minimum and maximum transaction volumes stated in the [Special Additional Terms and Conditions for 'LaterPay Pay Later'](#) and the [Special Additional Terms and Conditions for 'LaterPay Pay Now'](#) shall apply.