



EMERGENT PAYMENTS

TERMS OF SERVICE FOR END-USER CUSTOMERS

Date of Last Revision: June 5, 2015

WELCOME TO EMERGENT PAYMENTS! PLEASE READ THIS AGREEMENT CAREFULLY. IT CONTAINS IMPORTANT TERMS THAT AFFECT YOU AND YOUR USE OF EMERGENT PAYMENTS' SITE, SERVICES, AND SOFTWARE AS AN END-USER CUSTOMER. BY ACCESSING OR USING THE SITE, SERVICES, OR SOFTWARE, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS DESCRIBED HEREIN, ANY SOFTWARE END USER LICENSE AGREEMENT APPLICABLE TO THE SOFTWARE, AND ALL RULES, POLICIES, AND GUIDELINES INCORPORATED HEREIN BY REFERENCE (COLLECTIVELY, THE "**TERMS OF SERVICE**"). THIS INCLUDES THE PROVISIONS PERMITTING EMERGENT PAYMENTS TO SUSPEND OR TERMINATE YOUR USE OF AND ACCESS TO THE SITE, SERVICES, OR SOFTWARE AT ANY TIME AND FOR ANY REASON (SEE, FOR EXAMPLE, SECTION 24 ENTITLED "TERM AND TERMINATION") AND THOSE REQUIRING ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THESE TERMS OF SERVICE OR YOUR USE OF THE SITE, SERVICES, OR SOFTWARE TO BE SETTLED BY MANDATORY BINDING ARBITRATION (SEE SECTION 23 ENTITLED "DISPUTE RESOLUTION AND BINDING ARBITRATION"). IF YOU DO NOT AGREE TO ALL OF THESE TERMS AND CONDITIONS, DO NOT USE OR ACCESS THE SITE, SERVICES, OR SOFTWARE.

1. INTRODUCTION

These Terms of Service apply to your access to, and use of, the Emergent Payments' web site at www.emergentpayments.net and any related or successor web sites or other online access points made available to you by Emergent Payments on various devices (collectively, the "**Site**"); together with any and all Emergent Payments software related to, downloadable at, or otherwise accessible in connection with the Site, including widgets and mobile applications (the "**Software**"); and all services offered to you by Emergent Payments through the Site and the Software (the "**Services**"). References in these Terms of Service to "**Emergent Payments**," "**we**," "**us**," and "**our**" refer to Emergent Payments, Inc., its subsidiaries, and its affiliates.

Emergent Payments provides you with a convenient way, using the Site, Software, and/or Services, to purchase certain products and services (collectively, "**Products**") from our merchant business partners (each, a "**Merchant**"), each of which is in the business of selling, licensing, distributing, or otherwise providing such Products to end-user customers, like you. In order for us to provide that service to you, we need your commitment to abide by these Terms of Service, along with any agreement by and between you and the applicable Merchant, or Merchants, from which you purchase Products (each, a "**Merchant Agreement**").

These Terms of Service constitute a binding legal agreement between you and Emergent Payments. Please read them carefully before accessing or using the Site, Services, and Software. These Terms of Service do not alter in any way the terms or conditions of any other agreement you may have with Emergent Payments for products, services, software, or otherwise nor do they alter in any way the terms or conditions of any Merchant Agreement.

2. MODIFICATION OF THESE TERMS OF SERVICE

Emergent Payments reserves the right to change or modify any of the terms and conditions contained in these Terms of Service or any policy or guideline governing use of the Site, Services, or Software, at any time and in its sole discretion. If Emergent Payments changes or modifies these Terms of Service, it will provide you with notice either by e-mail (to the e-mail address that you have provided to Emergent Payments in connection with your Emergent Payments account, if any); by posting a notice within the Software or Services themselves; or by posting the updated Terms of Service on the Site with the date of

the last revision at the top. Your continued use of the Site, Services, or Software after your receipt of such notice or the posting of such changes or modifications will constitute your acceptance of such changes or modifications and such changes and modifications will apply to any transactions that you conduct using the Site, Services, or Software any time thereafter. You hereby waive any right you may have to receive other notice of such changes or modifications. Therefore, in connection with each transaction that you conduct using the Site, Services, or Software, you should review the Terms of Service (in particular, the date of the latest revision) and applicable policies in order to understand the terms and conditions that apply to each transaction that you conduct using the Site, Services, and Software. If you do not agree to any changes or modifications in these Terms of Service as they may occur, you must immediately discontinue your access to and use of the Site, Services, or Software.

3. ELIGIBILITY; USING THE SITE, SERVICES, AND SOFTWARE

In order to access and use the Site, Services, and Software, you must (a) be at least 18 years of age (or the age of majority in the jurisdiction where you reside); (b) be a resident of the United States or another location or foreign jurisdiction in which Emergent Payments expressly authorizes access to and use of the Site, Services, and Software, (c) submit accurate and complete information about yourself; and (d) comply with these Terms of Service.

Emergent Payments reserves the right to deny, limit, suspend, or terminate access to and/or use of the Site, Services, and Software, including any portion or feature or functionality thereof, by any individual or entity at any time for any reason or for no reason at all, except as required by law. Further, Emergent Payments reserves the right to determine the locations and jurisdictions in which the Site, Services, and Software may be accessed and used. Authorized locations and jurisdictions are subject to change without prior notice.

In order to purchase a Product using the Site, Services, or Software, you must, in addition to the requirements in the first paragraph of this Section 4, (a) provide Emergent Payments with your valid credit card information, or information associated with another authorized payment method; (b) have not been previously terminated or suspended from using any Emergent Payments products or services, including, but not limited to, the Site, Services, or Software; and (c) in the case of a purchase of a Product that is a digital or other intangible Product offered by a Merchant as part of that Merchant's digital media properties, have an active registered user account in good standing in the applicable digital media property. When you use the Site, Services, and Software to conduct a transaction, an account is created for you. In certain cases, your account may be accessed via the user name and password provided to you by the Merchant or the operator or controller of a third-party web site or other third-party operated or controlled access point (such as the operator of a social networking site) (each, a "**Third-Party Site**").

When accessing or using the Site, Services, or Software you agree to (a) provide accurate, current, and complete information about you as may be prompted by Emergent Payments, the Merchant, or a Third-Party Site during the transaction process ("**Transaction Information**"), including e-mail address, phone number and billing address, as may be applicable and required; (b) maintain the security of your account names, user IDs, and passwords with the applicable Merchants or Third-Party Sites; (c) maintain and promptly update the Transaction Information, and any other information you provide to Emergent Payments, to keep it accurate, current, and complete; and (d) accept all risks of unauthorized access to the Transaction Information and any other information you provide to Emergent Payments. The collection, use, and disclosure of Transaction Information is governed by these Terms of Service and our Privacy Policy, available at http://www.emergentpayments.net/privacy_policy.pdf. See, also, Section 7 below.

You are responsible for your account names, passwords, and user IDs, as applicable, and you acknowledge that it is solely your responsibility to maintain the confidentiality of your account names, passwords, and user IDs and keep track of who is using your accounts. You are solely responsible for any transaction or other activity related to your accounts. KEEP YOUR ACCOUNT NAMES, PASSWORDS, AND USER IDS PRIVATE AND NEVER SHARE THEM WITH ANYONE. No employee of Emergent Payments will ever ask you for your password in written correspondence or any other form of communication. Any distribution by you of such account names, password, or user IDs may result in cancellation of the Services and termination of your access to the Site and Software without refund and the imposition of additional charges based on such unauthorized use. If you suspect any unauthorized use of your account, or if you believe that any of your account names, passwords, or user IDs have been compromised, please notify the applicable Merchant or Third-Party Site immediately.

4. PAYMENT OPTIONS AND AUTHORIZATION; PAYMENT TERMS; CANCELLATION AND REFUNDS; TAXES

All purchases of Products require a valid credit card or your authorized use of another payment method accepted by the applicable Merchant and Emergent Payments. At the time of your purchase of Products, you will be provided with a list of acceptable payment methods. Acceptable payment methods may be updated from time-to-time.

For purchases of Products using the Services, you authorize Emergent Payments, or its designated third-party payment processor, to charge or otherwise process the credit card or other authorized payment method you designate during the transaction process in the amount specified in connection with the transaction. Your credit card number may be stored by Emergent Payments for use in purchasing Products. If you desire to designate a different form of payment, or if there is a change in your payment information, you must update your Emergent Payments record to reflect such change. You may experience temporary disruption of your access to or use of the Service while Emergent Payments is verifying new payment information. If you transmit to Emergent Payments, or one of our designated third-party payment processors, a transaction request, you warrant that your use of the particular credit card or other acceptable payment method is authorized and that all information that you submit to Emergent Payments, or our designated third-party payment processor, is true and accurate (including, without limitation, your credit card number, expiration date, and other account information), and you agree to pay all fees you incur.

ALL TRANSACTIONS ARE FINAL, AND THERE ARE NO REFUNDS, REVERSALS, OR CANCELLATIONS OF ANY PAYMENTS MADE TO EMERGENT PAYMENTS, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THESE TERMS OF SERVICES OR AS REQUIRED BY LAW. However, in order to ensure the integrity of the Site, Software, Services, Emergent Payments reserves the right to refuse or cancel any transactions or attempted transactions at any time in our sole discretion. Further, Emergent Payments may reverse certain transactions if we or a Merchant have a reasonable, good-faith belief that such transactions, alone or together with other transactions, are illicit, fraudulent, abusive, unlawful, or otherwise conducted in bad faith or are part of any form of illegal conduct or unfair dealing (which could include, but are not necessarily limited to, such things as cheating, hacking, illegal gambling, money laundering, or other unlawful or prohibited activity). EXCEPT AS OTHERWISE STATED IN THESE TERMS OF SERVICE OR REQUIRED BY APPLICABLE LAW, ALL TRANSACTIONS ARE FINAL.

Unless otherwise stated at the time that you purchase Products, all fees and charges for use of the Site, Services, and Software are quoted and must be paid in U.S. Dollars. Transactions that, subject to Emergent Payments' and the applicable Merchant's approval, are conducted in currency other than U.S. Dollars may be subject to a foreign currency exchange rate applied by Emergent Payments or our bank partners.

The payment methods that we elect to accept for purchase of Products may include one or more payment methods offered by a Third-Party Site (such as the operator of a social networking site), in which case your payment may be made directly to a Third-Party Site and not to us. In such cases, the Third-Party Site will be responsible for your payment, including cancellations, refunds, and reversals, and the terms and conditions associated with your payment will be as set forth in the agreement between you and the applicable Third-Party Site. The terms and conditions set forth in these Terms of Service will not apply to such payment or transaction.

The transactions that you conduct may be subject to applicable sales tax, use tax, value added tax, or other similar taxes, duties, or tariffs (collectively, "**Sales Taxes**"). In the event that Sales Taxes apply, we (or, if applicable, a Third-Party Site) will collect the required Sales Taxes from you and remit it to the applicable tax authorities. Under most circumstances, the applicability of Sales Taxes will be determined by the residency of the person or entity making the purchase. WE WILL NOT BE RESPONSIBLE FOR ANY TAXES ON NET INCOME, OR OTHER TAXES, DUTIES, OR TARIFFS ASSOCIATED WITH YOUR ACQUISITION, PURCHASE, TRANSFER, EXCHANGE, POSSESSION, LICENSE OF, OR ACCESS TO PRODUCTS, EXCEPT FOR SALES TAXES AS DESCRIBED IN THIS SECTION OR AS REQUIRED BY APPLICABLE LAW. TAXES DESCRIBED IN THE PRECEDING SENTENCE SHALL BE YOUR SOLE RESPONSIBILITY. In the event that you make a purchase from Emergent Payments in return for redemption of prepaid card balance or similar prepaid instruments under circumstances in which Sales Taxes do apply, we may deduct the required Sales Taxes from the amount of such instruments that you redeem, and we will remit the required monetary amounts to the applicable taxing authority.

5. RECURRING CHARGES

In some cases, your licensed use of or access to Products may require you to pay the applicable Merchant a subscription, premium subscription, or other form of recurring payment ("**Recurring Charges**"). Most Recurring Charges will consist of an initial period, for which there is a one-time payment, followed by periodic, recurring payments as agreed to by you. By entering into these Terms of Service, you acknowledge that the Recurring Charges to which you agree, if any, will have an initial and recurring payment feature and you accept responsibility for all Recurring Charges prior to your cancellation. EMERGENT PAYMENTS MAY SUBMIT RECURRING CHARGES (E.G., ON A MONTHLY, QUARTERLY, OR ANNUAL BASIS) WITHOUT FURTHER AUTHORIZATION FROM YOU, UNTIL YOU PROVIDE PRIOR NOTICE TO THE APPLICABLE MERCHANT (CONFIRMED IN WRITING TO EMERGENT PAYMENTS, IF REQUESTED) THAT YOU HAVE TERMINATED THIS AUTHORIZATION OR WISH TO CHANGE YOUR PAYMENT METHOD. SUCH NOTICE WILL NOT AFFECT RECURRING CHARGES SUBMITTED BEFORE EMERGENT PAYMENTS REASONABLY COULD ACT. TO TERMINATE YOUR AUTHORIZATION OR CHANGE YOUR PAYMENT METHOD, FOLLOW THE PROCEDURE SET FORTH IN THE APPLICABLE MERCHANT AGREEMENT OR OTHER PROCEDURE ESTABLISHED BY THE APPLICABLE MERCHANT OR CONTACT EMERGENT PAYMENTS' CUSTOMER SERVICE PERSONNEL (SEE CONTACT INFORMATION IN SECTION 29, BELOW).

If the amount to be charged to you varies from the amount you previously authorized (other than due to the imposition or change in the amount of Sales Taxes (as defined in Section 4 above)), Emergent Payments or the Merchant will provide notice of the amount to be charged and the date of the charge at least 10 days before the scheduled date of the next Recurring Charge. You agree that Emergent Payments may accumulate charges incurred and submit them as one or more aggregate charges during or at the end of each billing cycle.

Your Recurring Charges, if any, will be automatically extended for successive renewal periods of the same duration as the term originally selected by you, at the then-current, non-promotional rate. You may change or cancel your Recurring Charges at any time during the applicable term, including any

renewal period, by following the procedure set forth in the applicable Merchant Agreement or other procedure established by the applicable Merchant. If you cancel, your Recurring Charges will not be renewed at the end of the then-current period; however, you will not be eligible for a pro-rated refund of any portion of the Recurring Charges paid by you for the then-current period. If you change your Recurring Charges (by, for example, upgrading your subscription), you may receive a pro-rated refund of the Recurring Charges paid by you for the then-current period. If you receive a pro-rated refund in connection with your election to change your Recurring Charges, it is likely that a new term will begin (for example, a new monthly or annual term) as of the effective date of such change.

Any free trial or other promotion offered by a Merchant must be used within the specified time of the free trial or promotion. PLEASE BE AWARE THAT THE APPLICABLE MERCHANT MAY REQUIRE YOU TO CANCEL BEFORE THE END OF THE FREE-TRIAL PERIOD OR PROMOTIONAL PERIOD IN ORDER TO AVOID RECURRING CHARGES AT THE THEN-CURRENT, NON-PROMOTIONAL RATE. PLEASE REVIEW THE TERMS OF ANY SUCH FREE TRIAL OR PROMOTION CAREFULLY. If you cancel prior to the end of the free-trial period or promotional period and inadvertently incur a Recurring Charge, please contact the applicable Merchant immediately.

6. A SPECIAL NOTE ABOUT DIGITAL AND OTHER INTANGIBLE PRODUCTS

Except as otherwise set forth in the applicable Merchant Agreement, all right, title, and interest in digital and other intangible Products that you purchase using the Site, Services, and Software, including all intellectual property rights therein, is held by the applicable Merchant. In all likelihood, you are granted by the applicable Merchant only a limited license to access and use such digital and other intangible Products for a limited purpose and a limited period of time, in each case, in accordance with the terms and conditions, if any, set forth in the applicable Merchant Agreement. Accordingly, regardless of Emergent Payments' or Merchants' short-hand use of the words like "buy," "purchase," or "sell," unless explicitly set forth in an applicable Merchant Agreement, neither the Merchant nor Emergent Payments has granted, is not granting, and will not grant you ownership of any digital or other intangible Products or any of the intellectual property rights therein. You acknowledge that your right to access and use digital and other intangible Products is governed exclusively by the applicable Merchant Agreements. You acknowledge that you have read and understood such Merchant Agreements and are accessing and using such digital and intangible Products with full knowledge of the manner in which your rights to such Products may be limited by such Merchant Agreements and by applicable law. As described further in Sections 8 and 24, if Emergent Payments has a reasonable belief that you have violated, or are violating, an applicable Merchant Agreement, Emergent Payments can take any action that it believes is appropriate, including, but not limited to, (a) suspending or terminating your use of the Services or Software and/or (b) suspending or terminating your access to the Site.

You understand that each Merchant retains the discretion to modify its digital media properties and the Products that it makes available for access and use in such digital media properties, including, but not limited to, managing the virtual economies of such digital media properties in whatever way such Merchants see fit, suspending or cancelling such digital media properties, temporarily or permanently eliminating the ability of you or others to purchase, access, use, or, in some cases, transfer certain Products, or limiting the amount of certain Products that may be purchased, accessed, used, or transferred during any given period. You also understand that each Merchant retains the discretion to modify the Merchant Agreement that governs your use of, access to, and transfer of the Merchant's digital media properties. You should participate in the purchase of digital and other intangible Products knowing that Merchants will be actively managing their virtual economies, modifying their Merchant Agreements, and modifying the features, functions, abilities, and other elements of their digital media

properties, including, among other things, making certain Products more or less effective or functional, more or less common, or entirely unavailable.

You understand that, except in those cases where Emergent Payments has agreed to act as the “seller of record” or “merchant of record” (as described further below in this Section 6), the Site, Services, and Software allow you to purchase, access, and/or use digital and other intangible Products offered by Merchants. Although Emergent Payments authorizes Merchants to participate in the sale of digital and other intangible Products to users using the Site, Services, and Software, Emergent Payments makes no representations or warranties regarding Merchants, their digital media properties, or the Products such Merchants make available for purchase, access, and use. As such, Emergent Payments does not endorse any Products that are available for purchase, access, or use via the Site, Services, or Software, including digital and other intangible Products, and we take no responsibility for the safety, quality, accuracy, reliability, integrity, legality, or delivery of any Products purchased, accessed, or used via the Site, Services, or Software, the truth or accuracy of the description of such Products, or any advice, opinion, offer, proposal, statement, data, or other information displayed, distributed, or purchased through the Site, Services, or Software, other than Products that are offered for sale out of Emergent Payments’ own inventory in cases where Emergent Payments acts as the seller of record or merchant of record for such Products. You are solely responsible for evaluating each Merchant, digital media property, and Product. AS BETWEEN YOU AND EMERGENT PAYMENTS, YOUR PURCHASE OF, ACCESS TO, AND USE OF DIGITAL AND OTHER INTANGIBLE PRODUCTS FROM A MERCHANT IS FINAL AND SHALL UNDER NO CIRCUMSTANCES BE REFUNDABLE, TRANSFERABLE, EXCHANGEABLE, OR REVERSIBLE BY YOU OR AT YOUR REQUEST, INCLUDING, WITHOUT LIMITATION, UPON TERMINATION OF YOUR ACCOUNT WITH THE APPLICABLE MERCHANT, TERMINATION OF THE AGREEMENT SET FORTH IN THESE TERMS OF SERVICE, OR THE DISCONTINUATION OF THE SITE, SERVICES, OR SOFTWARE, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THESE TERMS OF SERVICES OR AS REQUIRED BY LAW.

From time-to-time, Emergent Payments will act as the “seller of record” or “merchant of record” in connection with offers to sell certain Products to you. In instances where Emergent Payments acts as the seller of record, Emergent Payments takes inventory of the Products and acts as the merchant selling the Products directly to you.

7. PRIVACY POLICY

Please refer to our Privacy Policy, available at http://www.emergentpayments.net/privacy_policy.pdf, for additional information on how Emergent Payments collects, preserves, uses, and discloses personally identifiable information collected from or submitted by users of the Site, Services, and Software.

You acknowledge and agree that Emergent Payments may access and preserve any information and may also disclose any information, including, without limitation, user profile information (i.e. name, e-mail address, etc.), internet protocol addressing and traffic information, usage history, and user content that you may create, post, or store on the Site, such as messages, opinions, advice, statements, reviews, comments, materials, media, data, information, text, music, sound, photos, video, graphics, software, code, or other items, materials, or information (collectively, “**User Content**”), if required to do so in order to cooperate with legitimate governmental requests, subpoenas, or court orders or if we have a good-faith belief that such access, preservation, or disclosure is reasonably necessary or appropriate in order to: (a) comply with legal process; (b) enforce these Terms of Service, including your compliance with the terms and conditions of any Merchant Agreement; (c) respond to claims that any User Content violates the rights of third parties, including the legal rights of any partner of Emergent Payments, including any Merchant or Third-Party Site (each, an “**Emergent Payments Partner**”); (d) protect the rights, property, or personal safety of Emergent Payments, Emergent Payments’ employees, Emergent Payments’ business, Emergent Payments’ users, Merchants or other Emergent Payments Partners, or

the public; or (e) prevent and protect Emergent Payments and our users from fraudulent, abusive, unlawful, or unauthorized use of the Site, Services, or Software. In connection with the foregoing, Emergent Payments may disclose relevant information to law enforcement or other appropriate authorities and/or partners of Emergent Payments, including Merchants and other Emergent Payments Partners, as determined by Emergent Payments to be reasonable necessary to fulfill the objectives described herein. EMERGENT PAYMENTS' RIGHT TO ACCESS, PRESERVE, USE, OR DISCLOSE ANY SUCH INFORMATION IN ACCORDANCE WITH THIS PARAGRAPH SHALL GOVERN OVER ANY TERMS OF EMERGENT PAYMENTS' PRIVACY POLICY.

8. PROHIBITED ACTIVITY

In connection with your use of the Site, Services, and Software, you agree that you will not engage in any act, or series of acts, either alone or concert with others, that constitutes Prohibited Activity. "**Prohibited Activity**" means the following:

- a. Breach of any term, condition, or obligation set forth in these Terms of Service; other agreement between you and Emergent Payments; or any Emergent Payments rule, policy, or guideline.
- b. Breach of any term, condition, or obligation in any agreement between you and an Emergent Payments Partner, or any Emergent Payments Partner's rules, policies, or guidelines.
- c. Violation of the intellectual property rights, privacy rights, or other rights of Emergent Payments or any third party, including, but not limited to, such rights of any Emergent Payments Partner.
- d. Commission of any crime or violation of any applicable local, state, national, or international law, regulation, ordinance, or treaty including, but not limited to, any fraud, misrepresentation, money laundering, or illegal gambling.
- e. Using, or attempting to use, any invalid or unauthorized credit card or other payment method in connection with the Site, Services, or Software or any digital media property offered by an Emergent Payments Partner.
- f. Engaging in any commercial activities using the Site, Services, or Software or using the Site, Services, or Software for the purpose of profiting or for the purpose of preparing for profiting, except as otherwise expressly authorized in writing by the applicable Emergent Payments Partners and then only for the limited purpose expressly authorized thereby.
- g. Providing any false, misleading, or inaccurate information to Emergent Payments or an Emergent Payments Partner, or otherwise concealing any relevant information, in connection with your registration for use of the Site, Services, or Software or any digital media property offered by an Emergent Payments Partner.
- h. Interfering with, in any way, any transaction involving any Product, including by any means of fraud, misrepresentation, deception, or manipulation. Any use of the Site, Services, or Software for any fraudulent or deceptive act or practice is strictly prohibited.
- i. If you are under the age of 18 or otherwise unable to form legally binding contracts in the jurisdiction in which you reside, using the Site, Services, or Software without the express consent of your parent or legal guardian in each instance.
- j. Harassing, tormenting, intimidating, pestering, obstructing, or taking advantage of, or in any way harming Emergent Payments, Emergent Payments' employees, an Emergent Payments Partner, other users, or any other third party.

k. Using any discussion forums or other interactive areas or services made available on the Site to post, upload, transmit, distribute, store, create, or otherwise publish any User Content that Emergent Payments reasonably deems to constitute Prohibited Activity, as that term is defined in this Section 8.

l. Discriminating against, insulting, or defaming Emergent Payments, Emergent Payments' employees, an Emergent Payments Partner, another user, or any other third party or otherwise causing harm to Emergent Payments' credibility, reputation, or relationship with any third party.

m. Accessing, or attempting to access, facilities, networks, equipment, or systems of Emergent Payments, an Emergent Payments Partner, another user, or any other third party without authorization.

n. Harvesting or collecting personal information, or engaging in activity designed to harvest or collect personal information, of any third party by any fraudulent, deceptive, manipulative, unlawful, or other unauthorized means.

o. Obstructing or interfering with, or creating the possibility of obstruction or interference with, the operation of the Site, Service, or Software.

p. Altering or deleting, or attempting to alter or delete, information of Emergent Payments or any third party without authorization.

q. Impersonating any person or entity in order to use or gain access to the Site, Services, or Software, including, without limitation, use of any accounts that are not your own.

r. Impersonating a manager, employee, agent, or other representative of Emergent Payments or an Emergent Payments Partner, past or present.

s. Modifying, reverse engineering, decompiling, or analyzing the Site, Services, Software, or other products, software, or equipment belonging to Emergent Payments, an Emergent Payments Partner, or any third party, including any web site, forum, or message board; or creating, distributing, publishing, or otherwise making available any tools, code sets, or utilities for the performance of any of the foregoing.

t. Using, or attempting to use, any automated method of accessing or searching Products; taking any action that imposes, or may impose, an unreasonable load on the Site, Services, Software, or any infrastructure associated with an applicable digital media property offered by an Emergent Payments Partner; taking any action that interferes, or attempts to interfere, in any manner whatsoever with the operation of the Site, Services, or Software; or bypassing, or attempting to bypass, methods Emergent Payments may use to prevent or restrict access to the Site, Services, or Software.

u. Failing to comply with the instructions of any authorized personnel of Emergent Payments during your use of the Site, Services, or Software, including any customer support personnel of Emergent Payments or an Emergent Payments Partner.

v. Using, or attempting to use, the Site, Services, or Software despite the fact that Emergent Payments has previously suspended or revoked your privileges to use the Site, Services, or Software.

w. Engaging in any other conduct determined by Emergent Payments, in its sole discretion, to be inappropriate or harmful, including, but not limited to, any other false, misleading, manipulative, unfair, or deceptive act or practice. Engaging in any deceptive practices of any kind is strictly prohibited.

x. Using the Site, Services, or Software to receive cash advances or to purchase cash equivalents such as money orders or prepaid cards or other similar prepaid instruments, except as otherwise expressly authorized in writing by Emergent Payments and each applicable Emergent Payments Partner and then only for the limited purpose expressly authorized thereby.

Any use of the Site, Services, or Software in violation of the foregoing violates these Terms of Service and may result in, among other things, suspension or termination of your rights to use the Site, Services, and Software in accordance with Section 24 below at Emergent Payments' sole discretion. You agree that Emergent Payments has the right to take any action it deems advisable, including, but not limited to, the issuance of warnings; the suspension or termination of your access to or use of the Site, Services, or Software; the removal of materials from the Site, Services, and Software; and the reporting of any activity Emergent Payments suspects violates any law, rule, or regulation to law enforcement or other appropriate authorities, as further described in Section 7.

Further, you understand that engaging in Prohibited Activity may constitute a breach of one or more applicable agreements between you and an Emergent Payments Partner, including Merchant Agreements, and that, as a result, the applicable Emergent Payments Partner may have the right to exercise certain remedies, as set forth in the agreement between you and such Emergent Payments Partner. The right of each Emergent Payments Partner to take the steps that such Emergent Payments Partner deems necessary or advisable to enforce the terms of any applicable agreements between you and such Emergent Payments Partner shall not be limited in any way by these Terms of Service.

9. COPYRIGHT AND LIMITED LICENSE

Unless otherwise indicated on the Site, the Site and all information, content, and other materials on the Site, including, without limitation, the Emergent Payments logo, trade names, trademarks, and service marks, and all designs, text, graphics, pictures, information, data, software, code, audio files, video files, other files and the selection and arrangement thereof (collectively, the "**Site Materials**") are owned by Emergent Payments or its licensors or users and are protected by United States and international copyright laws. You are granted a limited, personal, non-exclusive, non-transferable, non-sublicenseable, non-assignable license to access and use the Site and electronically copy (except where prohibited without a license) and print to hard copy portions of the Site Materials for your informational, non-commercial, and personal use only. Such license is subject to these Terms of Service and does not include: (a) any resale or commercial use of the Site or the Site Materials therein; (b) the collection and use of any Product, meta data, pictures, or descriptions; (c) the distribution, public performance, or public display of any Site Materials; (d) the modification, creation of derivative works, or other making of any derivative uses of the Site or the Site Materials, or any portion thereof; (e) the use of any data mining, robots, spiders, scripts, or similar data gathering or extraction methods (including, without limitation, scraping or other activities with the purpose of obtaining lists of users or extracting other information from the Site); (f) the download (other than the page caching) of any portion of the Site, the Site Materials, or any information contained therein, except as expressly permitted on the Site; or (g) any use of the Site or the Site Materials other than for its intended purpose. Any use of the Site or the Site Materials other than as specifically authorized herein, without the prior written permission of Emergent Payments, is strictly prohibited and may result in termination of the license granted herein. Such unauthorized use may also violate applicable laws, including, without limitation, copyright and trademark laws and applicable communications regulations and statutes. Unless explicitly stated herein, nothing in these Terms of Service shall be construed as conferring any license to intellectual property rights, whether by estoppel, implication, or otherwise. This limited license may be revoked at any time in Emergent Payments' sole discretion and without any further obligation.

10. TRADEMARKS

The EMERGENT PAYMENTS™ trade name, the Emergent Payments logo, the PAY+™ trademark, and any other product name or service name or slogan contained in the Site that is used by us to distinguish the source of goods and services are registered or unregistered trademarks of Emergent Payments and its suppliers or licensors, and may not be copied, imitated, or used, in whole or in part, without the express prior written permission of Emergent Payments or the applicable trademark holder. You may not use any metatags or any other “hidden text” utilizing “Emergent Payments” or any other name, trademark, or product name or service name of Emergent Payments without our prior written permission. In addition, the look and feel of the Site, Services, and Software, including all page headers, custom graphics, button icons, and scripts, is the service mark, trademark, and/or trade dress of Emergent Payments and may not be copied, imitated, or used, in whole or in part, without our prior written permission. All other trademarks, registered trademarks, product names, service names, and company names, or logos mentioned in the Site that are not the property of Emergent Payments are the property of their respective owners, who may or may not be affiliated with, connected to, or sponsored by Emergent Payments. Reference to any products, services, processes, or other information by trade name, trademark, service mark, product name, manufacturer, supplier, or otherwise does not constitute or imply endorsement, sponsorship, or recommendation thereof by us.

11. CLAIMS OF COPYRIGHT INFRINGEMENT

Emergent Payments respects intellectual property rights, requires our users to do the same, and has a mechanism in place to respond to the concerns of copyright holders. If you believe that your works have been copied and are accessible on the Site or in connection with the Services in a way that constitutes copyright infringement, you may file a notification of such infringement with our Designated Agent (see below). If we receive a claim of copyright infringement, we reserve the right to refuse or delete any User Content posted, or to be posted, on the Site and to terminate a user’s account. We may give notice of a claim of copyright infringement to our users by means of a general notice on the Site, electronic mail to a user’s e-mail address in our records, or by written communication sent by first-class mail to a user’s address in our records.

Our Designated Agent to receive notification of claimed infringement under the Digital Millennium Copyright Act of 1998 (“**DMCA**”) is the principal corporate officer with responsibility for Emergent Payments’ legal affairs. The address of our Designated Agent is Emergent Payments, Inc., 580 College Avenue, Second Floor, Palo Alto, California 94306, U.S.A. The e-mail address of our Designated Agent is DMCAagent@emergentpayments.net.

12. REPEAT INFRINGER POLICY

In accordance with the DMCA and other applicable laws, Emergent Payments has adopted a policy of terminating, in appropriate circumstances and at Emergent Payments’ sole discretion, the access to and use of the Site, Services, and Software by end user customers who are deemed to be repeat infringers. Emergent Payments may also, at its sole discretion, limit access to the Site, Services, and Software and/or terminate the accounts of any end user customers who infringe any intellectual property rights of others, whether or not there is any repeat infringement.

13. HYPERLINKS TO THE SITE

You are granted a limited, personal, non-exclusive, non-transferable, non-sublicenseable, non-assignable license to create a text hyperlink to the Site, Services, or Software for non-commercial purposes; provided that such link does not portray Emergent Payments or any of its products and services in a false, misleading, derogatory, or otherwise defamatory manner; provided, further, that the linking site

does not contain any adult or illegal material, any material related to illegal gambling, or any material that is offensive, obscene, harassing, or otherwise objectionable. This limited license may be revoked at any time in Emergent Payments' sole discretion and without any further obligation. You may not use an Emergent Payments logo or other proprietary graphic of Emergent Payments to link to this Site without the express prior written permission of Emergent Payments. Further, you may not use, frame, or utilize framing techniques to enclose any Emergent Payments trademark, service mark, trade name, logo, or other proprietary information, including the images found at the Site, the content of any text, or the layout/design of any page or form contained on a page on the Site without Emergent Payments' express prior written consent. Except as noted above, you are not conveyed any right or license by implication, estoppel or otherwise in or under any patent, trademark, copyright, or other proprietary right of Emergent Payments or any third party.

14. THIRD PARTY LINKS AND CONTENT

Emergent Payments may provide third-party content on the Site or as part of the Services or Software and may provide links to web pages and content of third parties (collectively, the "**Third-Party Content**") as a service to those interested in this information. Emergent Payments does not monitor or have any control over any Third-Party Content or third party web sites. Emergent Payments makes no claim or representation regarding, and accepts no responsibility for, the quality, content, nature, accuracy, completeness or reliability of Third-Party Content or third-party web sites accessible by hyperlink from the Site, Services, or Software, or web sites linking to the Site, Services, or Software, including any review, changes, or updates to such sites. Emergent Payments provides these links to you only as a convenience, and the inclusion of any link does not imply affiliation, endorsement, or adoption by Emergent Payments of any third-party site or any Third-Party Content. When you leave the Site and are no longer accessing or using the Site, Services, or Software, you should be aware that our terms and policies no longer govern. You should review the applicable terms and policies, including privacy and data gathering practices, of any site to which you navigate. Users use these links and Third-Party Content contained therein at their own risk.

15. ADVERTISEMENTS AND PROMOTIONS

Emergent Payments may run advertisements and promotions from third parties on the Site or as part of the Service or Software or may otherwise provide information about or links to third-party products and services on the Site. Your business dealings or correspondence with, or participation in promotions of such third parties, and any terms, conditions, warranties, or representations associated with such dealings, are solely between you and such third party. Emergent Payments is not responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or as the result of the presence of such non-Emergent Payments products, service, advertising, or promotions on the Site.

16. SUBMISSIONS

You acknowledge and agree that any materials, including but not limited to questions, comments, suggestions, ideas, plans, notes, drawings, original or creative materials, or other information, provided by you in the form of e-mail or other submissions to Emergent Payments, including but not limited to any feedback or suggestions regarding the Site, Software, Services, or any of Emergent Payments' other products or services, or any postings on the Site, are non-confidential and shall become the sole and exclusive property of Emergent Payments. Emergent Payments shall own exclusive rights, including all intellectual property rights, and shall be entitled to the unrestricted use and dissemination of these materials for any purpose, commercial, or otherwise, without acknowledgment or compensation to you.

17. INDEMNIFICATION

You agree to indemnify, defend, and hold harmless Emergent Payments; its independent contractors, service providers, and consultants; the Merchants and other Emergent Payments Partners; and each of their respective directors, officers, employees, and agents (collectively, "***Emergent Payments Parties***"), from and against any claims, damages, costs, liabilities, and expenses (including, but not limited to, reasonable attorneys' fees) arising out of or related to (a) any User Content you post, store, or otherwise transmit on or through the Site, Services, and Software; (b) your conduct, acts, and omissions; (c) your violation of these Terms of Service; (d) your violation of any applicable agreement between you and an Emergent Payments Partner, including any Merchant Agreement, and any of the applicable Emergent Payments Partner's rules, policies, and guidelines; (e) your violation of any applicable laws, regulations, ordinances, or treaties, whether foreign or domestic; (f) your violation of the rights of any third party, including Merchants, Third-Party Sites, or other Emergent Payments Partners; or (g) your use of or inability to use the Site, Services, and Software, including in each case, without limitation, any actual or threatened suit, demand, or claim made against the Emergent Payments Parties.

18. RELEASE AND WAIVER OF LIABILITY

YOU ACKNOWLEDGE THAT YOU HAVE READ SECTION 6 OF THESE TERMS OF SERVICE, AND YOU UNDERSTAND THE LIMITATIONS ASSOCIATED WITH DIGITAL AND OTHER INTANGIBLE PRODUCTS.

YOU AGREE THAT YOU WILL NOT ASSERT OR BRING ANY CLAIM OR SUIT AGAINST ANY EMERGENT PAYMENTS PARTY THAT IS RELATED, DIRECTLY OR INDIRECTLY, TO YOUR USE OF THE SITE, SOFTWARE, OR SERVICES TO BUY, PURCHASE, SELL, TRADE, ACQUIRE, TRANSFER, OR EXCHANGE PRODUCTS AND THAT ARISES OUT OF OR IS BASED ON A CLAIM FOR THE LOSS OF OR DAMAGE TO THE VALUE OF ONE OR MORE PRODUCTS, INCLUDING, BUT NOT LIMITED TO, ANY SUCH CLAIM OR SUIT ARISING OUT OF OR BASED ON (A) AN ACTION, OR ACTIONS, TAKEN BY EMERGENT PAYMENTS OR A MERCHANT THAT EMERGENT PAYMENTS OR SUCH MERCHANT ARE ENTITLED TO TAKE PURSUANT TO THESE TERMS OF SERVICES OR THE APPLICABLE MERCHANT AGREEMENT, INCLUDING ANY SUCH ACTION TAKEN AGAINST A THIRD PARTY THAT IS NOT YOU; (B) A TEMPORARY OR PERMANENT DISRUPTION, SUSPENSION, OR CANCELLATION OF AN OFFER, OR OFFERS, TO SELL ONE OR MORE PRODUCTS OR DIGITAL MEDIA PROPERTIES OFFERED BY ONE OR MORE EMERGENT PAYMENTS PARTNERS; (C) A TEMPORARY OR PERMANENT DISRUPTION, SUSPENSION, OR CANCELLATION OF YOUR USE OF OR ACCESS TO THE SITE, SERVICES, OR SOFTWARE, INCLUDING ANY DIGITAL MEDIA PROPERTIES OFFERED BY ONE OR MORE EMERGENT PAYMENTS PARTNERS AND INCLUDING AS A RESULT OF ANY MALFUNCTIONS, ERRORS, AND/OR "BUGS;" OR (D) A MERCHANT'S MANAGEMENT OF ITS VIRTUAL ECONOMIES, ANY MODIFICATION BY A MERCHANT OF ITS MERCHANT AGREEMENTS, OR ANY MERCHANT'S OR OTHER EMERGENT PAYMENT PARTNER'S MODIFICATION OF THE FEATURES, FUNCTIONALITY, ABILITIES, AND OTHER ELEMENTS OF ITS DIGITAL MEDIA PROPERTIES.

In the event that you have a dispute, altercation, or other interaction with one or more users of the Site, Services, or Software, you release the Emergent Payments Parties from claims, demands, and damages (actual and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with such disputes, altercations, or other interactions.

If you are a California resident, you waive California Civil Code § 1542, which says: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

19. DISCLAIMER

EXCEPT AS EXPRESSLY PROVIDED TO THE CONTRARY IN A WRITING BY EMERGENT PAYMENTS, THE SITE, SOFTWARE, SERVICES, SITE MATERIALS, USER CONTENT, AND ALL OTHER INFORMATION, CONTENT, AND MATERIALS ON OR ACCESSIBLE VIA THE SITE ARE PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER EMERGENT PAYMENTS NOR ANY EMERGENT PAYMENTS PARTNER ASSUMES ANY LIABILITY OR RESPONSIBILITY FOR ANY ERRORS, MISTAKES, INACCURACIES, OR OMISSIONS IN PROVIDING THE SITE, SOFTWARE, SERVICES, SITE MATERIALS, OR USER CONTENT, ANY LOSSES OR DAMAGES ARISING FROM THE USE OF THE USER CONTENT, OR ANY CONDUCT BY USERS OF THE SITE, SERVICES, OR SOFTWARE. EMERGENT PAYMENTS, ON BEHALF OF ITSELF AND EACH OF THE EMERGENT PAYMENTS PARTNERS, EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT AS TO THE SITE, SOFTWARE, SERVICES, SITE MATERIALS, USER CONTENT, AND ANY OTHER INFORMATION, CONTENT, OR MATERIALS ON OR ACCESSIBLE VIA THE SITE.

NEITHER EMERGENT PAYMENTS NOR ANY EMERGENT PAYMENTS PARTY ASSUMES ANY LIABILITY OR RESPONSIBILITY FOR ANY (A) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF THE SITE, SOFTWARE, SERVICES, SITE MATERIALS, USER CONTENT, OR THE INFORMATION, CONTENT, OR OTHER MATERIALS ON OR ACCESSIBLE VIA THE SITE, (B) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL AND/OR FINANCIAL INFORMATION STORED THEREIN, (C) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE SITE, (D) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE THAT MAY BE TRANSMITTED TO OR THROUGH THE SITE OR SOFTWARE BY ANY THIRD PARTY, AND/OR (E) ANY ERRORS OR OMISSIONS IN ANY USER CONTENT OR FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY USER CONTENT POSTED, E-MAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE SITE, SERVICES, AND SOFTWARE.

EMERGENT PAYMENTS DOES NOT WARRANT, ENDORSE, RECOMMEND, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE SITE OR ANY HYPERLINKED SITE OR FEATURED IN ANY BANNER OR OTHER ADVERTISING, AND EMERGENT PAYMENTS WILL NOT BE A PARTY TO OR IN ANY WAY RESPONSIBLE FOR MONITORING ANY TRANSACTION BETWEEN YOU AND A THIRD-PARTY PROVIDER OF PRODUCTS OR SERVICES, INCLUDING MERCHANTS AND OTHER EMERGENT PAYMENTS PARTNERS. AS WITH THE PURCHASE OF A PRODUCT OR SERVICE THROUGH ANY MEDIUM OR IN ANY ENVIRONMENT, YOU SHOULD USE YOUR BEST JUDGMENT AND EXERCISE CAUTION WHERE APPROPRIATE. NEITHER EMERGENT PAYMENTS NOR ANY EMERGENT PAYMENTS PARTY IS RESPONSIBLE FOR TYPOGRAPHICAL ERRORS OR OMISSIONS RELATING TO PRICING, TEXT, OR GRAPHICS. WHILE EMERGENT PAYMENTS ATTEMPTS TO MAKE YOUR ACCESS AND USE OF THE SITE, SERVICES, AND SOFTWARE SAFE, NEITHER EMERGENT PAYMENTS NOR ANY EMERGENT PAYMENTS PARTY CAN OR DOES REPRESENT OR WARRANT THAT THE SITE, SOFTWARE, OR ITS SERVER(S) ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; THEREFORE, YOU SHOULD USE INDUSTRY RECOGNIZED SOFTWARE TO DETECT AND DISINFECT VIRUSES FROM ANY DOWNLOAD.

THE WARRANTIES AND REMEDIES SET FORTH HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHERS, ORAL OR WRITTEN, EXPRESS OR IMPLIED. NO EMPLOYEE, AGENT, OR REPRESENTATIVE OF EMERGENT PAYMENTS OR OF ANY EMERGENT PAYMENTS PARTNER IS AUTHORIZED TO MAKE ANY MODIFICATION OR ADDITION TO THIS WARRANTY.

EMERGENT PAYMENTS RESERVES THE RIGHT TO CHANGE ANY AND ALL CONTENT CONTAINED IN THE SITE, SERVICES, AND SOFTWARE OFFERED THROUGH THE SITE, AT ANY TIME WITHOUT NOTICE.

20. SPECIAL NOTICE FOR PERSONS OUTSIDE THE UNITED STATES

You acknowledge that Emergent Payments operates in the United States and that the Site, Services, and Software are controlled and offered by Emergent Payments from its facilities in the United States. Emergent Payments makes no representations that the Site, Services, and Software are appropriate or available for use in other locations or jurisdictions. Those who access or use the Site, Services, or Software from other locations or jurisdictions do so at their own volition and are responsible for compliance with all applicable laws in such locations and jurisdictions.

21. LIMITATION OF LIABILITY

IN NO EVENT SHALL ANY OF THE EMERGENT PAYMENTS PARTIES BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOSS OF PROFITS, OR LOSS OF DATA, WHETHER IN AN ACTION IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE, WHETHER ACTIVE, PASSIVE, OR IMPUTED) OR OTHERWISE, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OF OR INABILITY TO USE THE SITE, SOFTWARE, SERVICES, SITE MATERIALS, USER CONTENT, OR OTHER INFORMATION, CONTENT, OR MATERIALS CONTAINED ON OR ACCESSIBLE VIA THE SITE, SERVICES, OR SOFTWARE, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES CAUSED BY OR RESULTING FROM RELIANCE BY ANY USER ON ANY INFORMATION OBTAINED FROM EMERGENT PAYMENTS, OR THAT RESULT FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES OR E-MAIL, ERRORS, DEFECTS, VIRUSES, DELAYS IN OPERATION OR TRANSMISSION, OR ANY FAILURE OF PERFORMANCE, WHETHER OR NOT RESULTING FROM ACTS OF GOD, COMMUNICATIONS FAILURE, THEFT, DESTRUCTION, OR UNAUTHORIZED ACCESS TO EMERGENT PAYMENTS' RECORDS, PROGRAMS OR SERVICES. IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EMERGENT PAYMENTS AND THE EMERGENT PAYMENTS PARTIES, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE, WHETHER ACTIVE, PASSIVE, OR IMPUTED), PRODUCT LIABILITY, STRICT LIABILITY, OR OTHER THEORY, ARISING OUT OF OR RELATING TO THE USE OF THE SITE, SERVICES, AND SOFTWARE EXCEED ANY COMPENSATION YOU PAY, IF ANY, TO EMERGENT PAYMENTS FOR ACCESS TO OR USE OF THE SITE, SERVICES, OR SOFTWARE.

IN THE EVENT OF A MATERIAL BREACH OF EMERGENT PAYMENTS' OBLIGATIONS TO PROVIDE ACCESS TO AND USE OF YOUR ACCOUNTS OR THE SITE, SOFTWARE, SERVICES, SITE MATERIALS, USER CONTENT, OR OTHER INFORMATION, CONTENT, OR MATERIALS CONTAINED ON OR ACCESSIBLE VIA THE SITE, INCLUDING ANY PRODUCTS, YOUR SOLE AND EXCLUSIVE REMEDY SHALL BE A REFUND OF ANY FEES PAID BY YOU TO EMERGENT PAYMENTS FOR SUCH ACCESS AND USE DURING THE PERIOD OF WRONGFUL DENIAL OF ACCESS AND USE, SUBJECT TO THE LIMITATIONS ON LIABILITY SET FORTH IN THE PRECEDING PARAGRAPH ABOVE.

YOU SPECIFICALLY ACKNOWLEDGE THAT THE EMERGENT PAYMENTS PARTIES SHALL NOT BE LIABLE FOR USER CONTENT OR THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY AND THAT THE RISK OF HARM OR DAMAGE FROM THE FOREGOING RESTS ENTIRELY WITH YOU.

IN THE EVENT THAT ANY OF THE FOREGOING DISCLAIMERS OR LIMITATIONS ON LIABILITY ARE DECLARED TO BE VOID OR UNENFORCEABLE, THEN THE EMERGENT PAYMENTS PARTIES' LIABILITY SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMISSIBLE UNDER APPLICABLE LAW.

22. GOVERNING LAW

These Terms of Service and your use of the Site, Services, and Software shall be governed by and construed in accordance with the laws of the State of California, applicable to agreements made and to be entirely performed within the State of California, without resort to its conflict of law provisions.

23. DISPUTE RESOLUTION AND BINDING ARBITRATION

In order to expedite and control the cost of disputes, you and Emergent Payments agree that any controversy or claim between you and Emergent Payments arising out of or related to these Terms of Service or the breach thereof or your authorized or unauthorized use of the Site, Services, or Software (referred to as a “*Claim*”) will be resolved, first, by informal negotiation. Accordingly, you and Emergent Payments agree that neither of us may start a formal proceeding (except for a Claim involving a request for injunctive relief) for at least 45 days after one of us notifies the other of a Claim in writing. Emergent Payments will send its notice to your billing address, with a copy via e-mail to your e-mail address on record. You will send your notice to Emergent Payments, Inc., 580 College Avenue, Second Floor, Palo Alto, California 94306, U.S.A., Attention: Legal Department.

IF YOU AND EMERGENT PAYMENTS ARE UNABLE TO RESOLVE A DISPUTE THROUGH INFORMAL NEGOTIATION, AS PROVIDED ABOVE, YOU AND EMERGENT PAYMENTS AGREE THAT ANY CONTROVERSY OR CLAIM BETWEEN YOU AND EMERGENT PAYMENTS ARISING OUT OF OR RELATING TO THESE TERMS OF SERVICE OR THE BREACH THEREOF OR YOUR AUTHORIZED OR UNAUTHORIZED USE OF THE SITE, SERVICES, OR SOFTWARE WILL BE SETTLED BY MANDATORY BINDING ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION IN ACCORDANCE WITH ITS COMMERCIAL ARBITRATION RULES (OR, IF YOU ARE NOT A RESIDENT OF THE UNITED STATES, IN ACCORDANCE WITH ITS INTERNATIONAL ARBITRATION RULES) AND ITS SUPPLEMENTARY PROCEDURES FOR ONLINE ARBITRATION. ANY SUCH CONTROVERSY OR CLAIM WILL BE ARBITRATED ON AN INDIVIDUAL BASIS, AND WILL NOT BE CONSOLIDATED IN ANY ARBITRATION WITH ANY CLAIM OR CONTROVERSY OF ANY OTHER PARTY. THE ARBITRATION WILL BE CONDUCTED IN THE ENGLISH LANGUAGE, AND THE SEAT, OR LEGAL PLACE, OF THE ARBITRATION WILL BE IN SANTA CLARA COUNTY, CALIFORNIA, U.S.A. IN ACCORDANCE WITH THE U.S. ARBITRATION ACT. JUDGMENT ON THE ARBITRATION AWARD MAY BE ENTERED INTO ANY COURT HAVING JURISDICTION THEREOF. THERE SHALL BE ONE ARBITRATOR, NAMED IN ACCORDANCE WITH SUCH RULES. THE AWARD OF THE ARBITRATOR WILL BE FINAL AND BINDING UPON THE PARTIES WITHOUT APPEAL OR REVIEW EXCEPT AS PERMITTED BY LAWS OF THE STATE OF CALIFORNIA. THE AWARD OF THE ARBITRATOR SHALL BE ACCOMPANIED BY A STATEMENT OF THE REASONS UPON WHICH THE AWARD IS BASED. NOTWITHSTANDING THE FOREGOING, EITHER PARTY MAY SEEK ANY INTERIM OR PRELIMINARY INJUNCTIVE RELIEF FROM ANY COURT OF COMPETENT JURISDICTION, AS NECESSARY TO PROTECT THE PARTY’S RIGHTS OR PROPERTY PENDING THE COMPLETION OF ARBITRATION. BY AGREEING TO ARBITRATE, AS SET FORTH HEREIN, YOU UNDERSTAND THAT YOU AND EMERGENT PAYMENTS ARE BOTH WAIVING OUR RIGHT TO SUE IN COURT AND HAVE A JURY TRIAL. FOR THE AVOIDANCE OF DOUBT, YOU AND EMERGENT PAYMENTS AGREE THAT THE TYPE OF ARBITRATION WE INTEND TO PARTICIPATE IN IS BETWEEN EMERGENT PAYMENTS AND YOU AS AN INDIVIDUAL. YOU AND EMERGENT PAYMENTS ARE AGREEING THAT NEITHER OF US WILL UTILIZE OR ATTEMPT TO UTILIZE CLASS ACTION ARBITRATION PROCEDURES IN ANY ARBITRATION. FOR MORE INFORMATION REGARDING THE AMERICAN ARBITRATION ASSOCIATION AND ITS ARBITRATION RULES AND PROCEDURES, GO TO <http://www.adr.org>.

FURTHER, BY USING THE SITE, SERVICES, OR SOFTWARE, YOU IRREVOCABLY AND UNCONDITIONALLY CONSENT AND SUBMIT TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE STATE AND FEDERAL COURTS LOCATED IN SANTA CLARA COUNTY, CALIFORNIA, U.S.A.

24. TERM AND TERMINATION

These Terms of Service will remain in full force and effect while you use the Site, Services, and Software, unless otherwise terminated as set forth in this Section 24. You agree that Emergent Payments, in its sole discretion, may suspend or terminate your access to or use of the Site, Services, and Software, or any part thereof, and temporarily or permanently remove and discard any User Content within the Site

or Services, at any time and for any reason, including, without limitation, for lack of use or if Emergent Payments has a reasonable belief that you have violated or acted inconsistently with the letter or spirit of these Terms of Service. For the avoidance of doubt, the right set forth in the previous sentence, includes the right to suspend or cancel any offers to sell a Product or cancel and reverse any transaction. Also, Emergent Payments, in its sole discretion and at any time, may modify or discontinue providing the Site, Services, and Software, or any part thereof, with or without notice. You agree that any modification or termination of your use of or access to the Site, Services, and Software may be effected without prior notice, and you acknowledge and agree that Emergent Payments may immediately limit or discontinue your access and use of the Site, Services, and Software and all related information and User Content associated with your activities and bar any further access to such information or to the Site, Software, and Services. Emergent Payments will not return any User Content or other information to you, and you agree that neither Emergent Payments nor the Emergent Payments Parties shall be liable to you or any third party for any modification or termination of your use of or access to the Site, Services, and Software, for your inability to recover any User Content or other information, or for your inability to use the Site, Services, and Software to purchase, or complete any transaction to acquire any Product, or Products.

YOU SPECIFICALLY ACKNOWLEDGE THAT, IF YOUR USE OF OR ACCESS TO THE SITE, SERVICES, AND SOFTWARE IS TERMINATED OR SUSPENDED FOR ANY OF THE REASONS SET FORTH HEREIN, INCLUDING, BUT NOT LIMITED TO, A DETERMINATION BY EMERGENT PAYMENTS THAT YOU HAVE ENGAGED IN PROHIBITED ACTIVITY, YOU WILL BE UNABLE TO TRANSFER, EXCHANGE, RETURN, OR PURCHASE, OR COMPLETE THE TRANSFER, EXCHANGE, RETURN, OR PURCHASE, OF PRODUCTS USING THE SITE, SERVICES, AND SOFTWARE. THE EMERGENT PAYMENTS PARTIES WILL NOT HAVE ANY LIABILITY TO YOU IN CONNECTION WITH SUCH TERMINATION OR SUSPENSION. THIS ACKNOWLEDGEMENT IS AN EXPRESS CONDITION OF YOUR USE AND ACCESS TO THE SITE, SERVICES, AND SOFTWARE.

25. U.S. EXPORT CONTROLS

Software that may be downloadable from the Site, including the Software, may be subject to U.S. export controls. No software may be downloaded from the Site, including the Software, or otherwise exported or re-exported (a) into (or to a national or resident of) those foreign countries and other jurisdictions to which the United States has embargoed goods (which may include, but are not necessarily limited to, Cuba, Iraq, Libya, North Korea, Iran, and Syria); or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders. By using the Site, Software, or Services, you represent and warrant that you are not located in, under the control of, or a national or resident of any such jurisdiction or on any such list.

26. BLOCKING OF INTERNET PROTOCOL ADDRESSES OR ACCESS FROM THIRD-PARTY SITES

In order to protect the integrity of the Site, Software, and Services, we reserve the right at any time in our sole discretion to block users from certain internet protocol (IP) addresses or block certain users from certain Third-Party Sites from accessing the Site or the Software.

27. SEVERABILITY

If any provision of these Terms of Service shall be deemed unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from these Terms of Service and shall not affect the validity and enforceability of any remaining provisions.

28. GENERAL

Emergent Payments' failure to act in a particular circumstance does not waive its ability to act with respect to that circumstance or similar circumstances. By using the Site, Services, and Software, you

consent to receiving electronic communications from Emergent Payments. These communications will include notices about your account and information concerning or related to the Site, Services, and Software. You agree that any notice, agreements, disclosure, or other communications that we send to you electronically will satisfy any legal communication requirements, including that such communications be in writing. Emergent Payments and the Emergent Payments Parties are excused for any failure to perform to the extent that their performance is prevented by any reason outside of their control.

29. QUESTIONS

Please contact our customer support personnel with any questions regarding the Site, Software, or Services or these Terms of Service. Please refer to <http://www.emergentpayments.net/about-us/>.

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