

PayEm General Terms of Service

Last updated September 21, 2023

These PayEm General Terms of Service ("**ToS**") are between you ("**Customer**" or "**you**") and the PayEm entity listed in the signature block of the Order form ("**PayEm**" or "**we**"), and govern your use of our services. By executing an Order Form (as defined below and, together with these ToS, the "**Agreement**"), you accept and agree to be bound by these ToS.

1. Definitions

- a. "**Abusive Content**" means Content that (i) is defamatory; (ii) contains nudity or sexually explicit content; (iii) disparages any ethnic, racial, sexual or religious group by stereotypical portrayal or otherwise; or (iv) makes use of offensive language or images or which violates the rights of, harms, or threatens the safety of third parties or other users of the Platform.
- b. "**Account**" means an online account registered by you for the purpose of using the Platform, which, amongst other things, reflects the Charges.
- c. "**Administrator**" means any designated person authorized by you to administer the Account and associated PayEm Card(s) in connection with the Agreement.
- d. "**Authorized Users**" means all employees, agents, representatives of the Customer, and its affiliates who are authorized by the Administrator to use the PayEm Card(s) on the Customer's behalf and/or access the Platform.
- e. "**Card Network**" means the credit card network that authorizes, processes, and sets the terms and conditions of the PayEm Card transactions (e.g., the Visa, MasterCard, Discover, or American Express network).
- f. "**Card Processor**" means a third-party payment network card processor (e.g., Visa, MasterCard, Discover, Marqeta, or American Express).
- g. "**Card Program Agreement**" means the agreement between you and the applicable Issuing Bank for the use of your PayEm Card(s).

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- h. **"Charge"** means a payment for goods or services made to a merchant that accepts payments on the applicable Card Network using a PayEm Card.
- i. **"Chargeback"** means a dispute that you initiate against a merchant for an unresolved dispute with the merchant or where a Charge is unauthorized.
- j. **"Content"** means any text, photos, files, data, graphics, videos, material, and information submitted, uploaded, and stored by you through the Platform, such as invoices, employees' communications on the PayEm Platform, and information imported by Customer into the Platform from third party services.
- k. **"Cross Border Fees"** mean fees that will apply to any Charge made to a merchant located outside the U.S.
- l. **"DPA"** means PayEm Data Protection Addendum, as applicable to Customer, which is entered into between the parties hereto upon the execution of the Order Form, and, together with each DPA's respective annexes, form an integral part of this Agreement.
- m. **"Fee Schedule"** means PayEm's Fee Schedule.
- n. **"Issuing Bank"** means the bank that is a member of the Card Network indicated on your PayEm Cards and is responsible for issuing the PayEm Cards to you.
- o. **"Linked Account"** means any account that is held with a financial institution or that provides financial data and is linked to or authorized for use through the Account.
- p. **"Order Form"** means a certain PayEm form signed by Customer and PayEm describing the services and products to be provided to Customer by PayEm, and additional terms relating thereto.
- q. **"PayEm Card"** means a PayEm branded expense card for Authorized Users, whether virtual or physical, issued by an Issuing Bank and managed through the Account.
- r. **"Periodic Statement"** means the periodic statements identifying Charges, Cross Border Fees, refunds, rebates, cashback, applicable fees detailed in the Fee Schedule, or other amounts owed or credited to the Account during each billing cycle owed by the Customer to PayEm.
- s. **"Platform"** means PayEm's proprietary online solution to you for managing, controlling, and tracking the use of the Administrator and/or Authorized Users of the PayEm Cards and other related services thereof, as applicable.
- t. **"Subscription Fees"** means charges we impose on you for registering the Account and use of the Platform, as further detailed in the Order Form.
- u. **"Updates"** means any bug fixes, service packs or patches, or maintenance releases to the Platform.
- v. **"Upgrade"** means any release or version of the Platform or related products which includes new features or additional functionality.

2. The Platform

- a. Subject to the terms and conditions of the Agreement, PayEm will provide the Administrator and Authorized Users with access to the Platform.
- b. During the term of this Agreement and subject to Customer's compliance with the terms and conditions of the Agreement, PayEm grants Customer a non-exclusive, non-transferable, non-sublicensable, limited, revocable right to access and use the Platform for Customer's internal business needs by the Administrator and/or Authorized Users.
- c. We may use third-party assistance in operating our Platform and performing our obligations ("**Third Party Providers**"), including, but not limited to, cloud infrastructure, payment processing and hosting services. In addition, we may allow you to opt-in to additional services integrated with the Platform, and provided by Third Party Providers. Some such additional services by Third Party Providers may require you to accept additional terms or sign documentation related to such services. PayEm is not a party to your agreement with any Third Party Providers integrated with the Platform and is not liable for any breach of such terms by Customer or by the applicable Third Party Provider. We may share relevant information with Third Party Providers in order to provide you with the services related to the Platform. Note that your engagement with the applicable Issuing Bank for use of your PayEm Cards is subject to Card Program Agreement.

3. Customer's Obligations and Restrictions.

- a. Customer hereby undertakes to:
 - i. Implement the necessary requests and measures provided by PayEm to allow PayEm to provide you with access to and use of the Platform;
 - ii. Cooperate with PayEm, the Issuing Bank, the Card Processor, and any Third Party Provider associated with the Platform, as needed. Customer acknowledges and agrees that the PayEm Card will be provided subject to Customer successfully completing and meeting PayEm's KYC and due diligence requirements. Customer shall provide all information required to perform such KYC and due diligence requirements, and such additional information as may be required by PayEm, the Issuing Bank, or the Card Processor. If Customer fails to provide accurate and up to date credentials and information or successfully complete and meet such KYC, the Customer may not be provided with a PayEm Card and the Customer's use of the Platform may be negatively impacted, or may not be provided at all;
 - iii. Promptly notify PayEm of any change in the contact information associated with your Account or the Administrator's information.
 - iv. Use the Platform and all related services, software and documentation in compliance with all applicable laws and regulations, including, but not

limited to, applicable data security and privacy laws. Customer represents and warrants that no third party agreement prevents Customer or anyone on Customer's behalf from using the Platform;

- v. Manage and secure all login credentials used by Administrators and/or Authorized Users in connection with their use of the Platform, and protect the same against unauthorized use or disclosure. Customer understands that Customer is solely and fully responsible for maintaining the confidentiality of the Account usernames and passwords, and all activities occurring in the Account. Customer assumes responsibility for any fees charged with respect to the use of the PayEm Cards, and any transactions performed on the Account; and
 - vi. Promptly install any Update provided by PayEm, and any Upgrade that PayEm makes available to Customer, at no additional charge. PayEm may make other Upgrades available to Customer that are subject to additional fees.
- b. You must not misuse the Platform. For example, you may not, whether by yourself or anyone on your behalf, (i) sell, resell, or lease the Platform or access or attempt to access the Platform by any means other than the interface we provided or authorized; (ii) circumvent any access or use restrictions put into place to prevent certain uses of the Platform; (iii) use the Platform to store, share or transmit Content which is unlawful, infringing, harmful or which violates any person's rights, including privacy rights and intellectual property rights; (iv) attempt to disable, impair, or destroy the Platform; (v) reverse engineer or decompile the Platform, attempt to do so, or assist anyone in doing so; (vi) engage in debt-collection activities; (vii) instruct us to send or receive what we reasonably believe to be potentially fraudulent funds on your behalf; (viii) refuse to cooperate in an investigation or provide confirmation of your identity or any information you provide to us; (ix) use the Account or the Platform in a manner that PayEm, any Card Network, or any other electronic funds transfer network reasonably believes to be an abuse of the card system or a violation of card association or network rules; (x) take any action that imposes an unreasonable or disproportionately large load on our infrastructure; facilitate any viruses, Trojan horses, worms or other computer programming routines that may damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or information; use an anonymizing proxy; use any robot, spider, scraper, other automatic device, or manual process to monitor or copy our website without our prior written permission; or interfere or attempt to interfere with the Platform; (xi) use the Platform to test card behaviors; (xii) use the Platform to fund or remit payroll or payroll deposits or (xiii) use the Platform or the PayEm Cards in connection with any money laundering or terror financing.
- c. When using the Platform, you must act responsibly and exercise good judgment. This means, among other things, that Content uploaded, written, or submitted

by you may not: (i) violate the Agreement and/or any applicable law or regulation; (ii) infringe the rights of any third party, including, but not limited to, intellectual property, privacy, publicity or contractual rights; (iii) except as expressly permitted herein, use the Platform for any commercial purpose whatsoever; (iv) impersonate any person or entity, or falsify or otherwise misrepresent yourself or your association with any person or entity, whether by providing or omitting to provide information; (v) interfere or damage the Platform by, inter alia, the use of viruses, cancel bots, Trojan horses, harmful codes, flood pings, denial-of-service attacks or similar methods or technologies; or (vi) contain Abusive Content. You understand and agree that PayEm may (however is not obligated to) review and remove or block any Abusive Content of any kind.

- d. Customer acknowledges that Customer is solely responsible and liable for any actions or failure to act on the part of Administrators, Authorized Users, and any other person using the Account or the PayEm Cards, including, without limitation:
- i. Ensuring that all Administrators and Authorized Users are aware of, accept, and comply with these ToS and the Card Program Agreement, as such documents may be amended and updated from time to time, and any applicable law in connection with their use of the Platform and the PayEm Cards; and
 - ii. Providing the necessary notices, and obtaining and maintaining any consents, required from Administrators and Authorized Users, to provide PayEm with Administrators' and Authorized Users' personal information and to allow PayEm to perform its contractual obligations to Customer.
- e. Customer is liable for any breach or violation by its Authorized Users and Administrators of these ToS.
- f. The PayEm Cards, the Platform, and all services that PayEm may provide or make available to Customer are subject to U.S. export control and economic sanctions laws as administered and enforced by the Office of Foreign Assets and Control of the United States Department of Treasury and to the Israeli export control regulations. Customer will not access or use the Platform or the PayEm Cards if Customer or any Authorized Users are located in any jurisdiction in which the provision of the services, Platform, software, or other components is prohibited under U.S. or Israel or other applicable laws or regulations (a "**Prohibited Jurisdiction**") and Customer will not provide access to the services or Platform to any government, entity, or individual located in any Prohibited Jurisdiction. Customer represents and warrants that (a) it is not named on any U.S. government list of persons or entities prohibited from receiving U.S. exports, or transacting with any U.S. person; (b) it is not a national of, or a company registered in, any Prohibited Jurisdiction; (c) it will not permit any individuals under its control to access or use the services or the Platform in violation of any U.S. or Israel or other applicable export embargoes, prohibitions

or restrictions; and (d) it will comply with all applicable laws regarding the transmission of technical data exported from the United States or Israel and the countries in which it and Authorized Users are located.

4. Payment Methods

a. PayEm Cards

- i. PayEm Cards will be issued by the Issuing Bank. The Card Program Agreement together with the Agreement govern the use of the PayEm Cards. The use of the PayEm Cards is subject to authorization from the Administrators, and is governed by the Card Program Agreement. Issuing Banks may update the Card Program Agreement by providing you with prior notice through the Platform. Continued use of the PayEm Cards constitutes acceptance of the updated Card Program Agreement.
- ii. The use of the PayEm Cards is subject to the PayEm Card limit amount set forth in the Order Form, if applicable. If Customer pre-funded the Account, the use of the PayEm Cards is subject to the then outstanding amount held by PayEm for Customer on account of pre-paid Charges.
- iii. PayEm Cards may be denied or canceled due to changes in the Issuing Bank(s) policies, as required by law, or for other reasons we determine at our reasonable discretion.
- iv. Customer will promptly notify PayEm when a PayEm card is lost, stolen, breached, or needs to be replaced, and take appropriate measures to prevent unauthorized transactions. Replacement cards may have a new account number that will require you to update your PayEm Card on file for any scheduled or recurring payments. You are solely responsible for updating your PayEm Cards.
- v. PayEm Cards may only be used for bona fide business-related Charges and may not be used for personal, family, or household purposes. The responsibility of selecting the Administrators and Authorized Users is solely the Customer's responsibility. PayEm and/or any of the Third Party Providers may deny Charges for a reasonable reason. PayEm will make commercially reasonable efforts to notify Customer of such a denial. Customer understands and agrees that PayEm will not be responsible for any loss, damage, or harm caused by such denial.
- vi. Charge disputes between Customer and a given merchant regarding a Charge on the Periodic Statement should first be attempted to be resolved between the two parties. If the dispute is not satisfactorily resolved, Customer may initiate a Chargeback through the Account. Chargebacks will be administered in accordance with the [PayEm Card Transaction Dispute Policy](#), and if resolved in your favor, will be credited to the Account.

- vii. If you make a purchase using your PayEm Card in a currency other than in U.S. dollars, the amount due for such purchase under your Periodic Statement will be converted into U.S. dollars in accordance with PayEm's applicable exchange rate, which may vary from the rate that was in effect on the date you performed the transaction. When you pay in a non-U.S. dollar currency, the amount stated in the Periodic Statement will include any currency conversion fees and Cross Border Fees.
- b. **Check Payments** Check Payments are only available in the U.S. and are provided by Checkbook.io. To enable Check Payment, Customer hereby accepts Checkbook.io Terms and Conditions:
<https://www.checkbook.io/company/terms-business/>.
- c. **ACH/Wire Transfers** Vendor payments or employee reimbursement payments via wire/ACH are provided by Corpay. To enable payments via wire/ACH, Customer hereby accepts Addendum for Cross Border Payments:
<https://www.payem.co/legal/payment-addendum-for-cross-border-payments>.
- d. **Masav (מס"ב)** The Masav feature is applicable only for ILS payments to vendors based in Israel and allows you to export vendor bills in Masav format ("**Masav File**"). Payment to vendors is then done through Customer's Masav online account or other Masav associated services and not through the Platform. By exporting a Masav File Customer acknowledges that:
 - i. PayEm is not responsible for any payment issued in accordance with Customer's usage of the Masav File. Any Masav File is made available 'as is' at your own risk;
 - ii. No warranty or representation of any kind is made by PayEm as to the accuracy or completeness of a Masav File; and
 - iii. It is responsible for reviewing the Masav File prior to uploading it to Customer's Masav account or using it for any other purpose.

5. Payment

- a. All Subscription Fees will be due by Customer to PayEm subject to the payment terms set forth in the Order Form.
- b. The total amount stated in the Periodic Statements will be due by the Customer to PayEm, in accordance with the payment terms set forth in the Order Form. All Charges and other amounts owed under the Periodic Statement not paid when due, will be subject to a late charge of 1.5% per month compounded annually. Any failure by Customer to pay any amounts owed to PayEm under the Periodic Statement when required is a material breach of the Agreement and will result in the nullity of Customer's cashback benefits, if any.
- c. If authorized by the Administrator through the Account, Customer authorizes PayEm or any related Third Party Provider to debit funds from the Linked Accounts at depository institutions (including banks and credit unions) using the

Automated Clearinghouse (ACH) network governed by the rules established by the National Automated Clearinghouse Association (NACHA). These debits are bound by NACHA rules for business-related ACH debits.

- d. To unlink the Linked Account, you must provide us with thirty-(30)-day advanced notice and pay all amounts owed under the Account immediately, including Charges and other amounts that may be included in future Periodic Statements. Withdrawal of a debit authorization does not terminate the Agreement or your obligation to pay all amounts owed under the Agreement or the Card Program Agreement.
- e. All Subscription Fees and all fees listed in the Fee Schedule are exclusive of all taxes, VAT, levies, or duties imposed by any tax authorities.

6. Content; Intellectual Property Rights; Confidentiality

- a. PayEm may enable you to add, create, submit, distribute, or post Content through the Platform. During the term of this Agreement and for any retention period required by law or by the Issuing Bank or Card Network policies, You grant us a worldwide, royalty-free, non-exclusive license to host, copy, and use the Content as required in order to provide you with our services through the Platform. Subject to this limited license we do not acquire any right in the Content and you or your licensors retain all rights and ownership to the Content. You warrant that you have full rights to provide us with the license stated above.
- b. We have policies in place to limit the access of our personnel to Content. Where policies permit access to the Content, it is only for the purpose of providing the services through the Platform and supporting you in your use of the Platform.
- c. The Platform is not intended to be used as storage, backup, or archiving services. It is your responsibility to back up the Content.
- d. All intellectual property rights in the Platform and any part thereof, including any and all derivatives, changes, and improvements thereof lie exclusively with PayEm. Customer will (i) not attempt to infiltrate, hack, reverse engineer, decompile, or disassemble the Platform or any part thereof for any purpose or use it to build a competitive service or product; (ii) not directly or indirectly, take any action to contest PayEm's intellectual property rights or infringe them in any way; (iii) except as specifically permitted in writing by PayEm, not use the name, trademarks, trade-names, and logos of PayEm; (iv) except as specifically permitted herein, not copy any part or content of the Platform, reports, or documentation other than for Customer's own internal business purposes; (vi) not copy any features, functions or graphics of the Platform or use the Platform to build a competitive product or service; and (vii) not remove the copyright, trademark, and other proprietary notices contained on or in the Platform and/or any related products, services, or documentation. Customer will take no action, directly or indirectly, to register PayEm trademarks (or their variation), domain names, or copyrights in its own name and will provide commercially reasonable

assistance to PayEm to prevent the occurrence of such activity by any third parties at PayEm's expense.

- e. Any services, technology, processes, methods, software and/or enhancements to the Platform used or developed for purposes of delivering the services under this Agreement (collectively, the **"Developments"**), whether developed solely by PayEm or jointly by PayEm and Customer or any other party, including any Developments requested, suggested, or paid for by Customer, shall be the sole property of PayEm and shall not be considered "works made for hire". Customer will not acquire any ownership right, intellectual property right, claim or interest in the Platform or in any Developments, or any modifications or updates thereto. If Customer provides PayEm with any feedback on PayEm's products and services, Customer grants PayEm and its affiliates the right to use it to develop their services and products and to create and own derivative works based on such feedback.
- f. All intellectual property rights in the data stored on the Accounts and in any modifications, enhancements and derivatives thereof lie exclusively with Customer or its licensors (collectively, **"Customer IPR"**).
- g. Customer hereby grants to PayEm a worldwide, royalty-free, non-exclusive, revocable license during the term of this Agreement to use, reproduce, and prepare derivative works of all data provided to PayEm by Customer in connection with the Agreement to: (i) permit PayEm to offer the Platform and its related services to Customer as set forth in the Agreement, and (ii) to analyze anonymized data obtained through the Platform in order to provide Customer with analytics and reports and for other purposes, such as to test, develop, improve and enhance its products and services. PayEm may also collect and use information related to Customer's use of the services for customer and technical support, to monitor compliance with the terms of this Agreement or any applicable rules and regulations, and to recommend additional products or services.
- h. If Customer chooses to associate a Linked Account with the Account, Customer acknowledges and agrees that PayEm may have access to certain information regarding such Linked Account, including data regarding transactions executed in such Linked Account other than through the Services (**"Linked Account Data"**, for the avoidance of doubt, Linked Account Data shall be considered Customer Content). PayEm may use Linked Account Data to determine the risk associated with the Customer and determine payment terms offered to Customer for the Services, as well as to offer additional Services to Customer, and otherwise in connection with providing the Services.
- i. Any receiving party agrees (i) not to disclose the disclosing party's Confidential Information to any third parties other than to its directors, employees, advisors, or consultants (collectively, its **"Representatives"**) on a "need to know" basis for the performance of this Agreement and provided that such Representatives are

bound by confidentiality obligations not less restrictive than those contained herein; (ii) not to use or reproduce any of the disclosing party's Confidential Information for any purposes except to carry out its rights and responsibilities under the Agreement; (iii) to keep the disclosing party's Confidential Information confidential using at least the same degree of care it uses to protect its own confidential information, which will in any event not be less than a reasonable degree of care. The receiving party shall remain liable at all times for any acts or omissions of its Representatives with respect to the disclosing party's Confidential Information. Notwithstanding the foregoing, if the receiving party is required by legal process or applicable law, rule, or regulation to disclose any of the disclosing party's Confidential Information, then prior to such disclosure, if legally allowed, receiving party will give prompt notice to the disclosing party so that it may seek a protective order or other appropriate relief. The confidentiality obligations will expire five years from the date of termination or expiration of the Agreement (and with respect to trade secrets- in perpetuity) and will supersede any previous confidentiality undertakings between the parties.

- j. For the purposes hereof, "**Confidential Information**" means any proprietary or trade secret information disclosed by one party to the other which can be reasonably understood under the circumstances to be confidential, but excluding any information that: (i) is now or subsequently becomes generally available in the public domain through no fault or breach on the part of receiving party; (ii) the receiving party can demonstrate in its records to have had rightfully in its possession prior to disclosure of the Confidential Information by the disclosing party; (iii) the receiving party rightfully obtains from a third party who has the right to transfer or disclose it, without default or breach of the Agreement; (iv) the receiving party can demonstrate in its records to have independently developed, without breach of the Agreement and/or any use of or reference to the Confidential Information.

7. **Warranties; Disclaimer; Limitation of Liability**

- a. EXCEPT AS EXPLICITLY SET FORTH IN THE AGREEMENT, PAYEM PROVIDES THE PLATFORM, RELATED SERVICES, AND PAYEM CARDS TO CUSTOMER ON AN "AS IS" BASIS, WITHOUT WARRANTIES OR REPRESENTATION OF ANY KIND, AND PAYEM EXPRESSLY DISCLAIMS ALL WARRANTIES - STATUTORY, EXPRESS, IMPLIED, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ACCURACY. PAYEM FURTHER DISCLAIMS ANY WARRANTY THAT THE OPERATION OF THE PLATFORM OR ANY RELATED SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.
- b. Customer acknowledges that the quality and accuracy of the services provided through the Platform are dependent on the accuracy and completeness of the information provided. CUSTOMER ACKNOWLEDGES THAT PAYEM WILL NOT BEAR ANY LIABILITY OR RESPONSIBILITY FOR FAULTS, ERRORS, OR

ERRONEOUS RECOMMENDATIONS PROVIDED ON THE BASIS OF UNTIMELY, INCOMPLETE, INACCURATE, FALSE OR MISLEADING INFORMATION PROVIDED INTENTIONALLY BY CUSTOMER OR THE AUTHORIZED USERS.

- c. EXCEPT FOR WILLFUL MISCONDUCT, FRAUD, BREACH OF CONFIDENTIALITY OR THE PARTIES' RESPECTIVE OBLIGATIONS UNDER SECTIONS 7.d-7.e OF 1 AGREEMENT, CUSTOMER'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH PARTY'S MAXIMUM AGGREGATE LIABILITY UNDER, ARISING OUT OF, OR RELATING TO THE AGREEMENT WILL NOT EXCEED THE GREATER OF (I) 0.5% OF THE AGGREGATE VALUE OF TRANSACTIONS PROCESSED BY CUSTOMER THROUGH THE PLATFORM DURING THE 12 MONTHS PRECEDING THE DATE THE LIABILITY FIRST ARISES AND (II) THE TOTAL AMOUNT OF SUBSCRIPTION FEES PAID BY CUSTOMER DURING THE 12 MONTHS PRECEDING THE DATE THE LIABILITY FIRST ARISES. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR LOST PROFITS, LOSS OF USE, LOSS OF DATA, OR FOR SPECIAL, PUNITIVE, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, WHETHER FOR BREACH OF AGREEMENT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- d. Customer will defend, indemnify, and hold harmless PayEm, affiliates, resellers, employees and agents from and against any claims, damages, costs, liabilities, and/or expenses (including reasonable attorneys' fees) arising out of or related to any third party claim that Content infringes or misappropriates a third-party's intellectual property rights, violates third-party's privacy rights or violates any applicable law, or that Customer's use of the Platform is in violation of the Agreement.
- e. PayEm will defend, indemnify, and hold Customer harmless from and against any claims, damages, costs, liabilities, and/or expenses (including reasonable attorneys' fees) arising out of or related to any third party claim that the Platform infringes or misappropriates a third-party's intellectual property rights.
- f. The indemnification obligations hereunder shall be conditioned upon indemnified party: (i) providing indemnifying party with prompt written notice of the claim; (ii) allowing indemnifying party to assume full control of the defense and settlement of the claim; and (iii) reasonably cooperating with indemnifying party in the defense and settlement of the claim.

8. Term; Termination

- a. The Agreement will commence on the Effective Date (as defined in the Order Form) and will continue for the term set forth in the Order Form; thereafter, the Agreement will renew for additional successive twelve (12) month periods,

unless either party provides notice of termination in writing at least 30 days prior to the end of the then current term.

- b. Each party may terminate the Agreement immediately by giving written notice to the other party if: (i) the other party breaches a material provision of the Agreement and fails to cure the breach within seven days after being given written notice thereof; (ii) the other party is judged bankrupt or insolvent, makes a general assignment for the benefit of its creditors, a trustee or receiver is appointed for the other party or any petition by or on behalf of the other party is filed under any bankruptcy or similar laws; or (iii) the Customer's financial situation deteriorates to such an extent that, in PayEm's sole discretion, the Customer's ability to comply with Sections 5.a and 5.b of this Agreement becomes doubtful.
- c. Upon termination of the Agreement, each party will return to the other party or destroy (at disclosing party's option) all of the other party's Confidential Information in its possession and Customer will immediately cease use of the Platform and any outstanding undisputed Subscription Fees will become due and payable, and any amount held by PayEm for Customer on account of pre-paid Charges or as a guarantee for Customer's obligations hereunder, which are remaining at the termination of the Agreement shall be refunded to the Customer within 30 days of such termination however arising, less any amounts deducted by PayEm on account of unpaid Subscription Fees, Charges and other fees applied to the Account under the Fee Schedule. Without limiting the generality of the foregoing, Sections 6, 7, 8.c, and 11.g will survive the termination or expiration of the Agreement. Notwithstanding, PayEm may retain all information required under Card Network rules or applicable law regarding transactions made using PayEm Cards.

9. Notices

You agree to receive notices from PayEm to you under this Agreement electronically and understand that this consent has the same legal effect as a physical signature. We will provide notices regarding activity and alerts to your Account electronically through your Account, email, and via text or SMS to the contact information provided to PayEm by Administrators and Authorized Users. Notices affecting payments and these ToS will be sent to Administrators through your Account or email and will be deemed received within twenty-four (24) hours.

10. Publicity

PayEm may issue publicity or general marketing communications concerning its involvement with the Customer.

11. General.

- a. The Agreement, including any addendums, schedules and exhibits attached, constitutes the entire agreement between PayEm and Customer and

supersedes any previous agreements or representations, either oral or written, with respect to the subject matter of the Agreement.

- b. PayEm may change the provisions of these ToS at any time by posting a new version of these ToS on the Platform. To the extent possible, PayEm will notify Customer of any material change that could be prejudicial to your rights or increase your responsibilities, at least 30 days before such change takes effect; provided that in the event of any such material change to the Agreement, Customer shall be entitled to terminate the Agreement by written notice to PayEm within such 30 day period. Any continued use of the Account or any PayEm Cards, after any change to these ToS becomes effective, constitutes acceptance of the amended ToS.
- c. If any part of the Agreement is deemed unlawful, void or for any reason unenforceable, then that provision will be deemed to be severable from the rest of the Agreement and will not affect the validity and enforceability of any of the remaining provisions of the Agreement. In such cases, the part deemed invalid or unenforceable will be construed in a manner consistent with applicable law to reflect, as closely as possible, the original intent of the parties.
- d. Nothing in the Agreement will be construed as creating any agency, partnership, trust arrangement, fiduciary relationship, or any other form of joint enterprise between you and PayEm.
- e. Customer may not assign rights or delegate obligations under the Agreement without PayEm's prior written consent. Any purported assignment contrary to this Section 11.e will be null and void and without effect. PayEm may assign its rights and obligations among the various PayEm entities within the PayEm group, including in the event of a change of control.
- f. Any failure by a party to insist upon or enforce performance by the other of any of the provisions of the Agreement or to exercise any rights or remedies under the Agreement or otherwise by law will not be construed as a waiver or relinquishment of any right to assert or rely upon the provision, right or remedy in that or any other instance.
- g. The Agreement is governed by the laws of the State of New York excluding rules as to choice and conflicts of law and the eligible courts in New York City, New York, will have exclusive jurisdiction over all disputes between the parties related to the Agreement; however, PayEm may bring suit for payment in the country where the Customer's entity is located. Customer and PayEm agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply.