

TERMS AND CONDITIONS FOR USING THE VENDO ECOMMERCE PLATFORM & AND OTHER RELATED SERVICES

Last Updated: November 20, 2023

These Terms and Conditions (“**Terms**”), represent a legal agreement between you (“**You**”) and Vendo, governing the use of the Vendo eCommerce Platform provided in the SaaS model by Vendo, the Vendo Website and any other websites or mobile applications that Vendo may develop in the future, and any of the other Services offered by Vendo.

THESE TERMS GOVERN YOUR ACCESS TO AND USE OF VENDO’S WEBSITE AND SERVICES. BY USING THE WEBSITE AND/OR ANY OF THE SERVICES, YOU EXPRESSLY AGREE TO BE BOUND BY THESE TERMS. IF YOU DO NOT AGREE TO THESE TERMS, DO NOT ACCESS OR USE THE WEBSITE OR THE SERVICES.

We may revise or otherwise change or update these Terms. Please check the “Last Updated” legend at the top of this page to see when these Terms were last revised. Changes will become effective immediately after they are posted. A current version of these Terms showing the effective date is always available at the Website. We encourage You to periodically review these Terms to see if there have been any changes that may affect You. If You do not agree to these Terms as modified, then You must discontinue your use of the Website and the Services. Your continued use of the Website and/or Services will signify your continued agreement to these Terms as they may be revised from time to time.

1. GENERAL PROVISIONS

- 1.1 Vendo created the Vendo eCommerce Platform to which it owns all rights, title and interests, including without limitation copyrights. Vendo intends to provide the Services in the SaaS model to the Vendo Community Members who conclude an agreement with it by accepting these Terms when completing the Sign Up. Vendo is the developer of the Software and holds all copyrights to such Software. The Terms define the rules for the provisioning by Vendo of the Services to make them available to the Vendo Community Members.
- 1.2 In addition to the Vendo eCommerce Platform referred to in Section 1.1. above and any Supplemental Services, Vendo also offers the Vendo Community Members services regarding the Matchmaking, the Promoting, the Vendo Forum and the Vendo Updates, together referred to as Services.
- 1.3 The use of the Services is conditional on the Vendo Community Member accepting the terms of these Terms and respecting both the Terms and the Relevant Laws. Expressing consent to comply with these Terms when completing the Sign Up constitutes full acceptance of the Terms.
- 1.4 Certain portions of our Website are accessible only to Vendo Community Members who have completed the Sign Up and obtained login credentials. As a Vendo Community Member, when You create an account to access any part of the Website and/or Services, You must treat your account information (including, but not limited to, your username, password, payment information and any other piece of information required as part of our security procedures) as confidential, and You must not disclose the foregoing to any other person or entity and must otherwise comply with Section 8 of these Terms. Additionally, as a Vendo Community Member, You agree to accurately maintain accurate information and update any information about yourself and your account. You further agree that You are responsible for all activities that occur under your account. Any unauthorized access to your account by third parties could result in the loss or theft of funds held in your account and any associated accounts, including linked, credit card(s) and bank account(s). You understand and agree that You will not hold us responsible for managing and maintaining the security of your account. You also agree to notify us promptly at the email provided in Section 16 of any unauthorized use of your login credentials or any other breach of security that You become aware of involving or relating to the Sign Up to access our Services.
- 1.5 Vendo reserves the right to take any and all action, as it deems necessary or reasonable, to maintain the security of the Website and your account, including without limitation, terminating or disabling your account, changing your

username, password, or other identifier, or requesting information to authorize or disable transactions on your account, at any time, including if You have violated any provision of these Terms.

- 1.6 You acknowledge and agree that, in using the Services, each Vendo Community Member and Authorized User is using the Services for commercial purposes, and shall not be considered to be a consumer within the meaning of the Relevant Laws.
- 1.7 These Terms apply to and are addressed only to the Marketplace Customers and the Creators from the United States of America. Moreover, the Marketplace Customers and the Creators are obliged to use Services, especially Vendo eCommerce Platform, only to offer services and products that may legally be sold and shipped in all U.S. states. The Marketplace Customer and the Creator will not provide any services or products to End Users outside the United States of America.
- 1.8 The territorial limitation referred to in the previous paragraph does not apply to the Vendors who may also be from outside the United States. However, such Vendors who interact with our Website or Services shall not operate in any Restricted Country listed in Section 25 of these Terms.
- 1.9 The Terms are made available to the Vendo Community Members free of charge via the Website in a form that allows them to be downloaded, saved, and printed. The Terms can be downloaded here <https://www.getvendo.com/>

2. DEFINITIONS AND INTERPRETATION

- 2.1 Unless the context otherwise requires, each capitalized word or phrase in these Terms shall have the following meaning:

'Agreement' – an agreement between Vendo and the Vendo Community Member, the conclusion of which takes place through the Vendo Community Member's acceptance of the Terms and completing the Sign Up, including the Privacy Policy and Cookie Policy that are expressly incorporated herein by reference. The entire Agreement consists of the Terms, as well as Appendixes thereto;

'Appendix' – means each appendix to these Terms, which forms an integral part of it;

'Authorized Users' means employees, agents, and independent contractors of the Vendo Community Member who are authorized by the Vendo Community Member to use the Services;

'Business Day' means a day other than a Saturday, Sunday, or public holiday in the United States when banks in the United States are open for business;

'CCPA' means the California Consumer Privacy Act of 2018;

'Confidential Information' means the terms of cooperation under the Agreement together with all information whether in written or any other form which has been or may be disclosed in the course of the discussions leading up to the entering into or performance of the Agreement and which may reasonably be considered confidential by its nature, including information relating to the Agreement or the Services, information of a technical nature and/or any information relating in any manner to the business, operations, processes or affairs of the other Party, in particular (but without limitation): (a) concerning persons and entities working for or cooperating with one of the Parties as well as persons and entities that plan or planned work or cooperation with one of the Parties, regardless of the legal form of association or work; (b) information on remuneration received by persons cooperating with one of the Parties, regardless of the form of cooperation; (c) the workflows and toolset of one of the Parties and persons and entities working for or cooperating with one of the Parties; (d) completed, ongoing and planned projects of the one of the Parties; (e) financial data of one of the Parties; (f) details of contracts concluded by one of the Parties; (g) the plans and strategies of the Parties; (h) the identity of the customers and contractors of one of the Parties and any information relating to them; (i) details of the Agreement; (j) details of projects carried out by one of the Parties;

'Content' means any material or content uploaded, transferred, posted or made available or otherwise distributed by the Vendo Community Member when using the Services, including any textual, graphic, visual, or audio content;

'CPRA' means the California Privacy Rights Act of 2020;

'Creator' means influencers and creators (including content creators) who will complete the Sign Up in order to use the Services. The Creator could be an individual or entity (especially a company and entrepreneur);

'Criminal Offence Data' means your Personal Data or Personal Information relating to criminal convictions and offences or related security measures;

'Data Protection Arrangements' means those arrangements as identified in Appendix 1 of these Terms;

'Data Protection Legislation' means all applicable data protection and privacy legislation in force from time to time including the CCPA, the CPRA, the Virginia Consumer Data Protection Act, the Colorado Privacy Act, the Connecticut Data Privacy Act, the Utah Consumer Privacy Act as amended, any other applicable legislation relating to Personal Data or Personal Information and all other legislation and regulatory requirements in force from time to time which applies to You relating to the use of Personal Data or Personal Information (including the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to You. The terms Business, Controller, Consumer, Personal Data, Personal Information, Processor, Process or Processing, Sell, and Service Provider shall have the meanings given to them in the applicable Data Protection Legislation, and the Process shall be construed accordingly;

'DMCA' means the Digital Millennium Copyright Act;

'End User' means an individual consumer who accesses the Creator's or Marketplace Customer's website running on Vendo;

'Fee(s)' means all amounts due to Vendo from the Vendo Community Member in connection with the performance of the Agreement (in particular for the Software and the Supplemental Services), including the Transaction Fees, the Subscription Fees and fees for Supplemental Services;

'Effective Date' means the date from which the Agreement is considered concluded and effective, which takes place through the Vendo Community Member's acceptance of the Terms and completing the Sign Up. It is also the date from which Vendo undertakes to grant the Vendo Community Member access to the Services;

'HIPAA' means Health Insurance Portability and Accountability Act of 1996;

'Intellectual Property Rights' means all intellectual property rights, including patents, utility models, trademarks, trade names, domain names, social media handles, database rights, rights in designs, copyrights (including rights in computer software), and topography rights (whether or not any of these rights are registered, and including applications and the right to apply for registration of any such rights) and all rights and forms of protection of a similar nature or having an equivalent or similar effect to any of these which may exist anywhere in the world, in each case for their full term, and together with any renewals or extensions;

'Liability(ies)' means any action, award, claim, cost (including legal costs), damage, loss, demand, expense, interest, fine, penalty, taxation or proceeding;

'Marketplace Customer' means an individual or entity (especially a company and entrepreneur) other than the Creator who will complete the Sign Up in order to use the Services;

'Matchmaking' means a service consisting of associating the Vendo Community Members with other Vendo Community Members, mainly in the configuration: (a) the Creators with the Vendors; (b) the Marketplace Customers with the Vendors and enabling them to establish business relationships, communicate with each other through the Website, and exchange experiences;

'Sign Up' means creating an account on the Website in order to use the Services, mainly the Software or the Supplemental Services provided by Vendo. Sign Up is complete by submitting a dedicated form available on the Website and accepting these Terms. The Sign Up forms are different for the Creators, the Marketplace Customers and the Vendors;

'Party' means Vendo or the Vendo Community Member as appropriate;

'Parties' means Vendo and the Vendo Community Member jointly;

'Pre-existing Materials' means all documents, information, software, brand assets and any other materials provided by the Vendo Community Member to Vendo, which existed before the commencement of the Services;

'Promoting' means a service consisting of publicly promoting the Vendo Community Members in such a way that information about their activities, profile, photos, bio, social media links reaches an unlimited group of recipients;

'Relevant Laws' means any statute, enactment, ordinance, order, regulation, guidance, or another similar instrument in any jurisdiction, including any jurisdiction from which the Services are provided or in which any Services are received (or both), which relate to the performance of the Agreement;

'Terms' means these terms and conditions for the provision of the Services by Vendo, including any rights, obligations, representations, warranties and other agreements expressly referenced herein;

'SaaS' means the software as a service model provision of the Software and the Supplemental Services by Vendo;

'Sensitive Data' means the categories of Personal Data/Personal Information which are generally considered to be particularly private to be read, especially in accordance with the CCPA or the Virginia Consumer Data Protection Act, e.g. racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation;

'Service(s)' means all services provided by Vendo under the Agreement, including providing the Matchmaking, the Promoting, the Software (and functions(s) of the Software), the Supplemental Services, the Vendo Forum and the Vendo Updates.

'Software' means software, and other branded offerings made available by Vendo, including but not limited to the Vendo eCommerce Platform;

'Subscription Fees' means a fixed amount payable for a subscription to a plan chosen by the Creator or the Marketplace Customer;

'Supplemental Services' means additional capacity, functionality, storage and/or other elements that the Vendo Community Member may procure in addition to the Software. Such Supplemental Services may be purchased by contacting Vendo. For the avoidance of doubt, the Supplemental Services are not part of the Software, but rather, are provided in addition to the Software and the Supplemental Services shall be subject to the terms and conditions of these Terms. Additional remuneration is due for the Supplemental Services;

'Tax(es)' means all applicable federal, state, local or other governmental taxes, fees or charges now in force or enacted in the future;

'Transaction Fees' means fees related to the value of sales of the Vendor's products made by the Creator or the Marketplace Customer using the Software;

'Use' means to use, load, execute, transmit and display;

'Website' means Vendo's website located at getvendo.com and all subdomains (like <https://community.getvendo.com/>), and all content, services and documentation provided on the Website;

'Vendo' means VENDO CONNECT INC Delaware corporation, with correspondence address: 3500 S DuPont Highway, Dover, County of Kent, Delaware 19901, US, entered into register under file No. 7005612;

'Vendo Community Member' or **'You'** means each time and accordingly the Creator or the Marketplace Customer or the Vendor which is a party to these Terms;

'Vendo Forum' means a service provided by Vendo in the form of access to a public forum available at <https://community.getvendo.com/home>;

'Vendo eCommerce Platform' means a SaaS dropshipping eCommerce marketplace platform that enables the Creators and the Marketplace Customers (which are marketplace operators) to sell third-party inventory with orders fulfilled by the Vendors on Shopify, WooCommerce, and other platforms, or fulfilling orders manually. Among other features, this platform includes a range of tools for the Creators and the Marketplace Customers (marketplace operators) and the Vendors to manage products, inventory, payments, fulfilment, shipping and business operations, and engage with existing and potential customers (the End Users);

'Vendo Personnel' means any employee of Vendo and any subcontractor, agent, or any other individual who may perform the Services on behalf of Vendo;

'Vendo Updates' means services provisioned to the Vendo Community Member containing information on technical functionalities regarding the Vendo eCommerce Platform, educational materials on how to make the most of the Vendo eCommerce Platform, data-driven general eCommerce insights and recommendations, as well as suggestions on how the Vendo Community Member may improve its business outcomes;

'Vendor' means a trader whose products are or will be made available for purchase by the End Users on the Creator's or the Marketplace Customer's website. The Vendor could be an individual or entity (especially a company and entrepreneur);

- 2.2 Headings are included in these Terms for ease of reference only and shall not affect the interpretation or construction of the Terms.
- 2.3 Words such as 'include', 'including' and 'in particular' shall not be interpreted as limiting the generality of any foregoing words.
- 2.4 If a conflict arises between the clauses of these Terms and any of the Appendixes, the Appendix shall prevail.

3. SCOPE OF AGREEMENT – TYPES AND SCOPE OF SERVICES PROVIDED BY VENDO

- 3.1 These Terms establish a framework that will enable Vendo to provide the Vendo Community Members with the following Services: the Matchmaking, the Promoting, the Software, any Supplemental Services, the Vendo Forum and the Vendo Updates.
- 3.2 These Terms apply only to the Services within the meaning of the definition given in Section 2.1. above. Any other services provided by Vendo or other cooperation between Vendo and the Vendo Community Member (such as cooperation in the field of promoting Vendo's services and goods in the form of, for example, recording videos by the Vendo Community Member) will be subject to separate agreements and terms and conditions thereto.
- 3.3 The Software is the main Service provided under these Terms. All other Services provided in connection with the Software, i.e. the Matchmaking, the Promoting, the Supplemental Services, the Vendo Forum and the Vendo Updates, are Services related to the Software and constitute their integral part, thus they cannot be provided separately without the Software.
- 3.4 The Software provided to the Vendo Community Member by Vendo includes the provision of the Software in the SaaS model, providing the Vendo Community Member with the so-called subscription license, that is, the right to use the Software.

- 3.5 The scope of the Services also includes granting the Vendo Community Member a non-exclusive, non-transferable license to use the Services, including the Software and documentation in the version current at the time of concluding the Agreement and subsequent versions to be developed until the end of the Agreement. Vendo also hereby grants to the Vendo Community Member a non-exclusive right to permit its Authorized Users to use the Services only during the term of the Agreement solely for the Vendo Community Member's business purposes.
- 3.6 The Supplemental Services are optional and cost extra to use. The Supplemental Services are ordered upon request (each time by e-mail or via the contact form on the Website).
- 3.7 Depending on the type of Services provided, Vendo will use and make available a different range of data and information about the Vendo Community Member to different recipients:
- 3.7.1 in order to provide the Promoting, it might be necessary for the Vendo Community Member to upload its photo or logo. The photo or logo, along with information in the form of the name of the Vendo Community Member, and links to websites or social media profiles and information about the number of followers, will be made available on the Website in such a way that anyone who enters it will have access to this information. Thus, through the linked social media, contact with the Vendo Community Member will also be possible for persons/entities not being the Vendo Community Members;
 - 3.7.2 in order to provide the Matchmaking, in addition to the information indicated in Section 3.7.1. above, product categories of interest of the Vendo Community Member be additionally displayed. However, information regarding the Vendo Community Member in connection with the Matchmaking will only be available to other Vendo Community Members who log into their account;
 - 3.7.3 in order to provide the Vendo Forum, the Vendo Community Member's reactions and comments will be publicly available, also for individuals or entities who are not the Vendo Community Members. Vendo Community Members acknowledge and agree that the Vendo Forum is a public space and that participating in the Vendo Forum creates no expectation of privacy. Further, Vendo Community Members acknowledge that any personal information communicated or disclosed in the Vendo Forum may be seen and used by others. Vendo is not responsible for information that Vendo Community Members or others choose to communicate in the Vendo Forum, or for the actions of other Vendo Community Members. Vendo may remove or alter any information or Content posted or otherwise disclosed in the Vendo Forum at any time for any reason. IF YOU CHOOSE TO MAKE ANY OF YOUR PERSONALLY IDENTIFIABLE OR OTHER INFORMATION PUBLICLY AVAILABLE IN THE VENDO FORUM, YOU DO SO AT YOUR OWN RISK;
 - 3.7.4 in order to provide other Services, i.e. the Software, the Supplemental Services and the Vendo Updates, the Vendo Community Member data will not, as a rule, be made public (including to the other the Vendo Community Members).
- 3.8 In the scope of providing the Vendo Updates, Vendo stipulates that the information presented to the Vendo Community Member is based on analyses held by Vendo and Vendo cannot guarantee their usefulness. The Vendo Community Member should always treat Vendo Updates as suggestions and decide on their own regarding their use during their business.
- 3.9 If the Vendo Community Member decides to post a reaction or comment on the Vendo Forum, such reactions and comments fall within the definition of the Content and will be licensed as set forth in Section 9.11. below except for the duration - in the case of comments, the right to use and display them by Vendo will also last after the end of the Agreement (then both the content of the comment/reaction and the name of the given Vendo Community Member will be displayed).
- 3.10 The Agreement does not cover the provision of tax advisory and legal services, financial services and accounting services.

- 3.11 The Software and the Supplemental Services are only intended to support the Vendo Community Member by providing auxiliary IT tools. It is the Vendo Community Member's responsibility to verify the results and outputs of the Software and the Supplemental Services activities on their own before using them in its operations.
- 3.12 Vendo may provide the Services from any facility and may from time to time transfer any or all of the Services being provided hereunder to any new facility(ies) or relocate the personnel, including the Vendo Personnel equipment and other resources used in providing those Services.
- 3.13 Vendo shall provide the Services to the Vendo Community Member as an independent supplier and not as an employee, worker, agent or partner of the Vendo Community Member. Nothing contained in the Agreement shall be construed or have effect as constituting any relationship of employer and employee between the Vendo Community Member and Vendo or between the Vendo Community Member and the Vendo Personnel.
- 3.14 Vendo Community Member understands and accepts that in a situation where, on its initiative or recommendation, other persons or entities (e.g. previously cooperating contractors or brands) start using the Services offered by Vendo, Vendo Community Member cannot demand exclusive cooperation with such person or entity as part of the use of the Software and other Services. Such a person or entity who, on the recommendation of an actual Vendo Community Member, becomes interested in the Services provided by Vendo, after Sign Up and acceptance of the Terms, becomes a full party to the Terms and may freely establish relationships with other Vendo Community Members. This provision applies in particular to situations when Creators and Marketplace Customers encourage cooperating brands to use the Software and other Services. After Sign Up and acceptance of the Terms, such brands will become Vendors within the meaning of the Terms and the data of such brands as Vendors will be publicly available (as part of the Promoting) or available to other Vendo Community Members (as part of the Matchmaking), which means that these brands as Vendors will be able to enter into relationships and cooperation with other entities, including Vendo Community Members.

4. THE FEES

- 4.1 For the provision of the Services in the form of the Matchmaking, the Promoting, the Vendo Updates and the Vendo Forum, Vendo does not receive any additional remuneration. The fees associated with the Services mentioned in the previous sentence are already included in the fees for the Software (according to the selected plan).
- 4.2 The Fees for the Services in the form of the Software are determined by the pricing plan selected by the Vendo Community Member.
- 4.3 All Fees shall be due and payable immediately.
- 4.4 The Vendo Community Member will pay Vendo the applicable Fees without any right of set-off or deduction.
- 4.5 The Creator and the Marketplace Customer (depending on the selected plan) are obliged to pay the Transaction Fees and/or the Subscription Fees. The Vendor (also depending on the selected plan) could only be obliged to pay the Transaction Fees. The Subscription Fee is not charged to the Vendor regardless of which plan it chooses.
- 4.6 Current plans with an indication of the Subscription Fee or the Transaction Fees are available on the website in the Vendo Community Member's account.
- 4.7 Supplemental Services require an additional fee which is not included in either the Transaction Fee or the Subscription Fee. Therefore, the Vendo Community Member who decides to use the Supplemental Services will be charged an additional Fee.
- 4.8 The Vendo Community Member may be required to provide a valid and up to date payment method that will allow Vendo to receive the relevant Fees. At the same time, the Vendo Community Member authorizes Vendo to automatically charge the valid payment method provided, as billed. The payment method indicated by the Vendo Community Member may be provided by Vendo to the payment processor whose services Vendo uses.

- 4.9 Vendo may use the services of external payment processor to collect and settle Fees. Such payment processors operate under their terms and conditions, independently from Vendo. The Vendo Community Member understands and accepts the above and is also aware that due to the independent policies of third-party payment processors certain payment processing fees resulting from the original transaction may not be returned or refunded.
- 4.10 Vendo may rely on credit card issuers to process payments. Such credit card issuers operate independently from Vendo. The Vendo Community Member understands and accepts that in case of any chargeback Vendo will be entitled to recover the chargeback amount and any other costs from the Vendo Community Member. The Vendo Community Member's obligation to pay any chargeback and related fees shall survive the termination or expiration of the Agreement.
- 4.11 Vendo is not responsible for the services provided by other third parties, including but not limited to external payment processors and credit card issuers. Vendo does not make any warranty or representation regarding, or endorse or otherwise sponsor, any linked third-party websites or the information appearing thereon regarding any of the products or services offered by such third-party.
- 4.12 Payment processing fees from the End User's original transaction will not be returned in case of a refund due to the payment processors policy in that regard.
- 4.13 The Transaction Fee and any additional Fees for the Supplemental Services will be charged automatically on dates determined by Vendo at its sole discretion. The Subscription Fee will be due and payable in advance at monthly or yearly intervals. Vendo issues invoices to the Vendo Community Member and sends them to the e-mail address provided - unless the Parties have agreed otherwise. The Vendo Community Member agrees to be sent invoices electronically to the e-mail address provided.
- 4.14 Vendo reserves the right to increase the Fees at its sole discretion by providing at least thirty (30) days' notice to the Vendo Community Members. At the same time, the Vendo Community Member agrees that to comply with the above notification it is sufficient to place information on the current Fees on the Website.
- 4.15 Vendo does not provide any refunds. All Fees paid or due hereunder (including prepaid amounts) are non-refundable, including without limitation if the Agreement is terminated or suspended in accordance with Section 5 or Section 13. In the event of termination of the Agreement before the expiry of the period for which it was concluded or in a situation where a Vendo Community Member has not used all the Services, including Supplemental Services, the Vendo Community Member shall not be entitled to demand reimbursement of remuneration for the unused Services.
- 4.16 If a Vendo Community member provides an invalid payment method or otherwise fails to pay for the Services, Vendo is authorized to refuse, suspend or discontinue the Services to such Vendo Community Member. Vendo may restore the Services after the Vendo Community Member has settled all Fees owed to Vendo.
- 4.17 All transactions contemplated under the Agreement will be in U.S. Dollars.
- 4.18 All Fees are exclusive of Taxes. If Vendo is responsible for the payment of any Tax for the provision the Services to the Vendo Community Member, the appropriate amount of Tax will be added to the Fee so that Vendo actually receives the full amount of the Fee from the Vendo Community Member.
- 4.19 The Vendo Community Member is also obliged to:
 - 4.19.1 provide Vendo with all information and, if necessary, provide relevant documentation that may affect the determination or payment of Taxes on the Services provided;
 - 4.19.2 determining whether the Vendo Community Member is not required to pay any Tax for using the Services offered by Vendo.

- 4.20 Vendo is not responsible for any Taxes, including their determination, collection and payment, that arise from any sale of the Vendor's products on the Creator's or the Marketplace Customer's website or as a result of the Vendo Community Member's use of the Services. Vendo is not a party to any contracts that are concluded by: (a) the Creator with the Vendor; (b) the Marketplace Customer with the Vendor; (c) the Creator with the End User; (d) by the Marketplace Customer with the End User and therefore Vendo has no obligations related to the sale of goods offered on the Creator's or the Marketplace Customer's website (including tax obligations).

5. TERM AND TERMINATION - CONDITIONS FOR TERMINATING AGREEMENT

- 5.1 The Agreement commences on the Effective Date and continues until it is terminated in accordance with this Section 5.
- 5.2 Either party may terminate the Agreement upon thirty (30) days' notice (termination for convenience).
- 5.3 Vendo may also, at its sole discretion and at any time, immediately terminate the Agreement if:
- 5.3.1 it believes that the Vendo Community Member is not using the Services strictly in accordance with these Terms, or if the Vendo Community Member is engaging in spam (sending an e-mail or any other type of unauthorized electronic message to carry out unsolicited advertising, or for any other purpose, which may give rise to a complaint by its recipients);
 - 5.3.2 the Vendo Community Member fails to make payment in accordance with the Agreement; or
 - 5.3.3 the Vendo Community Member challenges, directly or indirectly, itself or in collaboration with third parties, Vendo's Intellectual Property Rights.
- 5.4 The rights of each Party to terminate the Agreement under this Section 5 are in addition and without prejudice to any other right or remedy of that Party.
- 5.5 Unless otherwise stated herein, termination of the Agreement will affect and will result in termination of any Services currently provided.
- 5.6 The Vendo Community Member shall cease use of the Services from the date upon which termination will become effective.
- 5.7 The Parties shall have no further obligations or rights under these Terms after expiry or termination except that Sections 1, 2, 8, 9.3, 9.8, 9.11, 10, 11, 12, 14, 21.3, and 22, together with those other Sections and appendices, the survival or coming into force of which is necessary for the interpretation or enforcement of the Agreement or which are expressly or by implication intended to survive expiry or termination, shall continue to have an effect.

6. THE VENDO COMMUNITY MEMBER'S OBLIGATIONS

- 6.1 The Vendo Community Member undertakes to:
- 6.1.1 make any and all payments due to Vendo under the Agreement in a timely manner, in accordance with the provisions of Section 4;
 - 6.1.2 manage the operation of the Software and the Supplemental Services provided by Vendo for e-commerce solutions through the administrative module provided by Vendo;
 - 6.1.3 use the Software in accordance with its intended purpose and available functionalities;
 - 6.1.4 observe and ensure compliance with the provisions of the Agreement by the Authorized Users;
 - 6.1.5 ensure that the data of the Vendo Community Member and persons representing Vendo Community Member are up to date (including a photo/logo and e-mail address and other contact details). The Vendo Community Member is solely responsible for the lack of up-to-date data under the pain of

recognizing that all notifications, including e-mails, delivered to data not updated by the Vendo Community Member, have been delivered effectively;

- 6.1.6 provide support to the Authorized Users and the End Users, website developers, administrators and/or by any person who may have access to the Services, including the Software and any other service, as well as being liable, with exclusivity, for their acts;
- 6.1.7 only use the Services in compliance with the market standard and the Relevant Laws;
- 6.1.8 secure own access to devices and equipment that are used to use the Services;
- 6.1.9 respect the Intellectual Property Rights of Vendo and third parties;
- 6.1.10 cooperate in good faith with Vendo in the performance of the Agreement;
- 6.1.11 provide Vendo with all necessary information and other data at the request of Vendo.

7. RESTRICTIONS AND RESPONSIBILITIES

- 7.1 You may not use the Website or Services for any fraudulent or unlawful purpose, and You may not take any action, use any device, software, or routine to interfere with the Website or Services or any other Vendo Community Member's use of the Website or Services. While using the Website and Services, You are required to comply with all applicable statutes, orders, regulations, rules, and other laws. In addition, all Vendo Community Members shall respect the rights and dignity of others. By way of example and not of limitation, You may not, nor will permit a third party to do any of the following, which violate these Terms:
 - 7.1.1 use the Services for any purpose other than its intended use;
 - 7.1.2 use the Services in such a manner that would enable any third party to access the Services, especially the Software;
 - 7.1.3 use the Services for time sharing or service bureau purposes (including without limitation, sublicensing, distributing, selling, or reselling any Services, especially the Software);
 - 7.1.4 use the Services for any purpose other than as specifically authorized in these Terms;
 - 7.1.5 use the Services other than in compliance with the Relevant Laws;
 - 7.1.6 use the Services in any manner that:
 - 7.1.6.1 is harmful, fraudulent, deceptive, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, or libelous (including without limitation, accessing any computer, computer system, network, software, or data without authorization, breaching the security of another user or system, and/or attempting to circumvent any user authentication or security process);
 - 7.1.6.2 impersonates any person or entity, including without limitation any employee or representative of Vendo;
 - 7.1.6.3 includes content, concerning the use of Services, especially the Software which is illegal or violates the Creator's or Marketplace Customer's code of conduct; or
 - 7.1.6.4 contains a virus, trojan horse, worm, time bomb, unsolicited bulk, commercial, or "spam" message, or other harmful computer code, file, or program (including without limitation, password guessing programs, decoders, password gatherers, keystroke loggers, cracking tools, packet sniffers, and/or encryption circumvention programs).

- 7.1.7 use the Services in any manner that, except to the extent permitted by the Relevant Laws, disassemble, reverse engineer, or decompile the Services, including the Software, or attempt to find the underlying code of the Services or access it to:
 - 7.1.7.1 build a competitive product or service;
 - 7.1.7.2 build a product or service using similar ideas, features, functions or graphics of the Services;
 - 7.1.7.3 copy any ideas, features, functions or graphics of the Services; or
 - 7.1.7.4 determine whether the Services are within the scope of any patent.
- 7.1.8 modify the Services (including without limitation the Software) other than as permitted by Vendo, or circumvent any security or access control measures of the Services;
- 7.1.9 use the Services (including without limitation the Software) to access any third-party computer system, network, software, or data without authorization, or to breach the security of a third-party user or system, and/or to circumvent any Vendo user authentication or security process;
- 7.1.10 use the Services (including without limitation the Software) to post or make available any Content that is illegal or pornographic.
- 7.2 Nothing in these Terms shall prohibit the Vendo Community Member from using the Services, including the Software, for benchmark testing or comparative analysis. The Vendo Community Member will comply with all applicable Data Protection Legislation and security laws and shall have appropriate technological, administrative, and physical controls in place to ensure such compliance.
- 7.3 The Vendo Community Member will be responsible for the following:
 - 7.3.1 maintaining the security of the Vendo Community Member's account, passwords (including, but not limited to, administrative and the Authorized Users or also, in the case of the Creator or the Marketplace Customer - the End User's passwords) and files, and for all uses of the Vendo Community Member account with or without the Vendo Community Member's knowledge or consent; and
 - 7.3.2 any acts or omissions carried out by the Authorized Users on the Vendo Community Member's behalf. The Vendo Community Member shall ensure that Authorized Users are subject to terms no less stringent than those stated herein.
- 7.4 The Creator and the Marketplace Customer will also be responsible for any acts or omissions carried out by the End Users.
- 7.5 The Vendo Community Member acknowledges and agrees that:
 - 7.5.1 account names are administered by Vendo on a "first come, first serve" basis;
 - 7.5.2 intentional name squatting, or purchasing, soliciting, or selling, of an account name is prohibited; and
 - 7.5.3 Vendo reserves the right to remove, rename, or close inactive accounts at its discretion.
- 7.6 The Vendo Community Member is solely responsible for any improper use of the Services that occurs as a direct or indirect result of any act or omission of the Vendo Community Member or the Authorized Users. The Vendo Community Member will notify Vendo immediately of any unauthorized use of the Services or any other breach of security that is known or suspected by the Vendo Community Member.
- 7.7 The Vendo Community Member shall not attempt to:
 - 7.7.1 gain unauthorized access to Vendo's network or the Services;

- 7.7.2 interfere with the Services;
 - 7.7.3 interfere with another Vendo Marketplace Customer's use of the Services;
 - 7.7.4 impair the functioning or operation of Services.
- 7.8 The Vendo Community Member warrants that the Authorized Users will not use the Services (including the Software) for their purposes (i.e., other than for the business purposes of the Vendo Community Member). If any Authorized Users use or access the Services (including the Software) for purposes other than the business purposes of the Vendo Community Member, the Vendo Community Member shall be responsible for losses caused by such use.

8. CONFIDENTIALITY

- 8.1 Each party (the '**Receiving Party**') understands that the other party (the '**Disclosing Party**') has disclosed or may disclose information relating to the Disclosing Party's technology or business which may be Confidential Information. Without limiting the foregoing, and subject to applicable open source license(s), the Software is considered as Vendo Confidential Information.
- 8.2 The Receiving Party agrees:
 - 8.2.1 not to divulge to any third person any such Confidential Information;
 - 8.2.2 to give access to such Confidential Information solely to those employees or associates with a need to have access thereto for purposes of these Terms; and
 - 8.2.3 to take the same security precautions to protect against disclosure or unauthorized use of such Confidential Information that the Party takes with its confidential information, but in no event will a Party apply less than reasonable precautions to protect such Confidential Information.
- 8.3 The Disclosing Party agrees that Section 8 will not apply concerning any information for which the Receiving Party can document:
 - 8.3.1 is or becomes generally available to the public without any action by or involvement of the Receiving Party;
 - 8.3.2 was in its possession or known by it before receipt from the Disclosing Party;
 - 8.3.3 was rightfully disclosed to it without restriction by a third party;
 - 8.3.4 was independently developed without the use of any Confidential Information of the Disclosing Party;
 - 8.3.5 is or was made available or becomes available to the Receiving Party otherwise than under these Terms and free of any duty of confidence or other restrictions as to its use or disclosure.
- 8.4 The Parties' obligations concerning the protection of Confidential Information shall remain in force for a period of three (3) years following the receipt of such Confidential Information and shall survive any termination or expiration of these Terms.
- 8.5 Nothing in these Terms will prevent the Receiving Party from disclosing Confidential Information under any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party, when legally possible, reasonable prior notice of such disclosure.
- 8.6 Each Party acknowledges and agrees that the other may suffer irreparable damage in the event of a breach of the terms of this Section 8 and that such party will be entitled to seek injunctive relief (without the necessity of posting a bond) in the event of any such breach.
- 8.7 Both Parties will have the right to disclose Confidential Information in connection with,

- 8.7.1 a required filing to a governmental authority (provided such party will use reasonable efforts to obtain confidential treatment or protective order);
 - 8.7.2 disclosures made to potential investors or acquirers provided that at all times the Confidential Information shall be protected in a manner no less stringent as set forth in this Section 8.
- 8.8 Each Party hereby undertakes to the other to use the Confidential Information disclosed to it by or on behalf of the other Party solely in connection with the performance of these Terms and not otherwise for its benefit or the benefit of any third party.
- 8.9 Each Party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of these Terms.
- 8.10 Neither Party shall make any announcement relating to these Terms or its subject matter without the prior written approval of the other Party except as required by the Relevant Laws, by any legal or regulatory authority and with exceptions specified in the Agreement.
- 8.11 The Vendo Community Member grants Vendo a non-exclusive, transferable, perpetual, sub-licensable, free and worldwide license to use the Vendo Community Member's name(s), image, likeness, trademarks, service marks and logos (collectively, the **"Licensed Rights"**) to perform Vendo's rights and obligations under the Agreement, including in furtherance of providing and promoting the Services. Such license shall continue after the expiration or termination of the Agreement, unless and until revoked by Vendo Community Member. Moreover, the Vendo Community Member agrees that Vendo may use and display Vendo Community Member's Licensed Rights on Vendo's website to identify Vendo Community Member as a past or present customer, provided that Vendo complies with any branding requirements supplied by the Vendo Community Member regarding use of such Licensed Rights.
- 8.12 The above provisions of this Section 8 shall survive termination of the Agreement, however arising.

9. LICENCE AND INTELLECTUAL PROPERTY RIGHTS

- 9.1 You will not infringe on any Intellectual Property Rights belonging to Vendo or any third party, or violate any other rights held by us or any third party.
- 9.2 You acknowledge and agree that Vendo owns and shall retain all rights, title and interests, including all Intellectual Property Rights, in and to the Services (including the Software to the extent that such Software is not derived from open source software). For example, some elements of our Software are derived from open-source software. Open source libraries have been attached to the Services and are distributed as part of the Services in accordance with the terms of the license specifying the rules of their use.
- 9.3 The Vendo Community Member acknowledges that a breach of this Section 9 would cause irreparable harm to Vendo and that Vendo would be entitled to seek any and all available remedies, including without limitation injunctive relief and monetary relief, against such a breach.
- 9.4 Vendo grants to the Vendo Community Member, solely during the term of this Agreement (**"Term"**), a limited, non-exclusive, worldwide, non-transferable, sub-licensable (only to Authorized Users), revocable license (the **"License"**) to use the Services (including the Software) solely for the Vendo Community Member's lawful business purposes in compliance with these Terms. The Vendo Community Member has no right to grant sublicenses to third parties other than those indicated above.
- 9.5 The Services (including the Software) may only be used by the Vendo Community Member and its Authorized Users or otherwise in accordance with these Terms.
- 9.6 Notwithstanding the License granted herein, neither Vendo Community Member nor any Authorized Users, without the prior written approval of Vendo, may use the Software, Services or any Intellectual Property Rights:

- 9.6.1 to reproduce them in whole or in part by any means and in any form;
 - 9.6.2 to distribute, publicly display, or publicly perform them;
 - 9.6.3 to make any corrections, modifications of sources or changes to them;
 - 9.6.4 to create or use derivative works based on them;
 - 9.6.5 to create software similar to the Software that could constitute developing the Software;
 - 9.6.6 to recreate, decompile, disassemble or any engage in any other activities which would result in obtaining the source code of the Software;
 - 9.6.7 to interfere with or circumvent any feature of the Services (including the Software), including any security or access control mechanism.
- 9.7 In case of any copyright concerns, and the scope of the License granted, the Vendo Community Member should immediately contact Vendo at the email address provided in Section 16.
- 9.8 The Vendo Community Member is aware and agrees that if the Vendo Community Member or the Authorized Users provide any suggestions, comments or other feedback to Vendo related to the Services, including the use of the Software ("**Feedback**"), Vendo shall own all rights, including Intellectual Property Rights, to such Feedback. The Vendo Community Member hereby irrevocably and unconditionally transfers and assigns to Vendo all Intellectual Property Rights to the Feedback and waives any moral rights thereto. Vendo shall have all rights to use the Feedback, including to reproduce, distribute, and create derivative works based on the Feedback and to improve the Services, and to use the Feedback to create other products and services. The Feedback shall not constitute Confidential Information and does not create any confidentiality obligations for Vendo under Section 8. Vendo shall be entitled to use the Feedback in its sole discretion.
- 9.9 The Vendo Community Member shall not remove, alter or obscure any copyright notices, proprietary legends, trademark or service mark attributions, patent markings or other contributions of Vendo's (or its licensors) ownership or contribution from the Software or another material provided through the Services.
- 9.10 As indicated in Section 9.2. above, portions of the Software are governed by underlying open source licenses, such as but not limited to <https://github.com/spree/spree/blob/main/license.md>. These Terms establish the rights and obligations associated with the Services and are not intended to limit the Vendo Community Member's right to use open source code under the terms of an open source license.
- 9.11 Each Party shall retain all rights, title and interests with respect to its respective Pre-existing Materials. The Vendo Community Member grants to Vendo a non-exclusive, transferable, irrevocable, perpetual, sub-licensable, free and worldwide license during the Term to host, use, modify, copy, store, distribute, reproduce, publicly display, translate, and create derivative works of the Content and any Pre-existing Material provided to Vendo in connection with Vendo's provision and/or the Vendo Community Member's use of the Services, including without limitation to create and use aggregated and anonymous statistical data ("**Anonymous Data**"). The Vendo Community Member agrees that Vendo shall own all Intellectual Property Rights in and to the Anonymous Data and will be able to use such Anonymous Data for any and all purposes, including without limitation to improve the Services and for promotional and marketing purposes; provided, however, that Vendo shall use the Anonymous Data in a form to protect the anonymity of the Vendo Community Member or other specific entity or individual in which the Anonymous Data was derived. The Vendo Community Member agrees that it has full rights and title to grant the license provided herein.

10. REPRESENTATIONS AND WARRANTIES

- 10.1 Each Party warrants, represents and undertakes that:
 - 10.1.1 it has full capacity and authority to enter into and to perform the Agreement; and

- 10.1.2 the Agreement is accepted by a duly authorized representative of that Party.
- 10.2 The Vendo Community Member acknowledges and agrees that Vendo has the right to provide the Services to anyone, including competitors of the Vendo Community Member, and that Vendo Community Member has no exclusive rights to the Services. In addition, the Vendo Community Member acknowledges and agrees that the Vendo Personnel may also act as a Vendo Community Member, or as the End User (in such a case, they may not use any Confidential Information about the Vendo Community Member for their own, private or professional needs).
- 10.3 EXCEPT AS SPECIFICALLY OUTLINED IN THESE TERMS, THE SERVICES, INCLUDING THE SOFTWARE AND ANYTHING PROVIDED IN CONNECTION WITH THE AGREEMENT ARE PROVIDED "AS-IS" AND "AS AVAILABLE" AND ARE WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES IMPLIED BY ANY COURSE OF PERFORMANCE, USAGE OF TRADE, OR COURSE OF DEALING, ALL OF WHICH ARE EXPRESSLY DISCLAIMED, AND VENDO DOES NOT GUARANTEE THAT THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES BY THE VENDO COMMUNITY MEMBER WILL BE ACCURATE OR RELIABLE.
- 10.4 The Vendo Community Member acknowledges and agrees that the Services consist of a wide range of different features and functionalities and that such Services will not always be available to all customers at all times and thus Vendo does not warrant that the Services will be uninterrupted, timely, secure, or error-free. With the exceptions clearly and explicitly specified in this Agreement, Vendo reserves the right to modify the Services, without notice and at any time in its sole discretion.
- 10.5 Vendo does not pre-screen the Content and has the right, at its sole discretion and at any time, to review and delete any or all of the Content submitted by Vendo Community Members, especially if Vendo considers such Content violates the Relevant Laws or these Terms.
- 10.6 Each Vendo Community Member acknowledges and agrees that Vendo is not a party to any contracts entered into by the Vendo Community Member in connection with the Vendo Community Member's use of the Services (except for these Terms). Vendo is not a party to any contracts or agreements entered into between: (a) the Creator and the Vendor; (b) the Marketplace Customer and the Vendor; (c) the Creator and the End User; (d) the Marketplace Customer and the End User. Vendo also is not a party to any sales made to the End User. The Creator and the Marketplace Customer are responsible for the appearance and functionality of the Creator's or the Marketplace Customer's website, mobile app and the Content, as well as for the goods and services that the Creator's or the Marketplace Customer sell using the Services. EACH VENDO COMMUNITY MEMBER AGREES THAT VENDO IS NOT RESPONSIBLE AND HAS NO OBLIGATIONS WITH RESPECT TO TRANSACTIONS BETWEEN THE CREATOR OR THE MARKETPLACE CUSTOMER AND THE VENDOR OR THE END USER, INCLUDING BUT NOT LIMITED TO REFUNDS, RETURNS, PAYMENT PROCESSORS FEES, FULFILLING ANY SALES OR CUSTOMER SERVICE, FRAUDULENT TRANSACTIONS, REQUIRED LEGAL DISCLOSURES, REGULATORY COMPLIANCE, CONSUMER PROTECTION LAWS.
- 10.7 The Vendo Community Member represents and warrants that the Creator's and the Marketplace Customer's website, Content, and the goods and services the Creator or the Marketplace Customer sells through the Services are true, accurate, and complete, and will not violate any Relevant Laws, regulations or the rights of Vendo or other third parties, including the End Users. The Creator and the Marketplace Customer represent and warrant that the Creator's or the Marketplace Customer's website contains all the necessary information required by the Relevant Laws, such as contact details, refund policy, information on the manner and dates of order fulfillment, description, price, fees, Tax, defects, required legal disclosures and regulatory compliance.
- 10.8 Regarding Section 3.7.1. above and the provision of the Promoting, the Vendo Community Member acknowledges and agrees that Vendo is not a party to any agreements or understandings between the Vendo Community

Member and other persons/entities, and therefore Vendo has no contractual obligations stemming from such agreements.

11. INDEMNIFICATION

- 11.1 Vendo is not responsible for any claim, demand, suit or proceeding made or brought against the Vendo Community Member by a third party (**'Third Party Claim'**), especially when the Third Party Claim results from the Vendo Community Member's breach of these Terms.
- 11.2 In addition to Section 11.1. above, Vendo is not responsible for a Third Party Claim against the Vendo Community Member, when:
 - 11.2.1 the Third Party Claim arises from the Software or the Supplemental Services or any part thereof that is modified by the Vendo Community Member, or at Vendo Community Member's direction, after delivery by Vendo;
 - 11.2.2 the Third Party Claim arises from the use or combination of the Software or the Supplemental Services or any part thereof with other products, processes or materials not provided by Vendo where the alleged infringement relates to such combination;
 - 11.2.3 the Vendo Community Member continues any material breach of these Terms or allegedly infringing activity after being notified thereof or after being informed of modifications that would have cured or avoided the material breach or alleged infringement;
 - 11.2.4 the Third Party Claim arises from software not created by Vendo.
- 11.3 The Vendo Community Member will defend Vendo against any claim, demand, suit or proceeding made or brought against Vendo by a third party alleging:
 - 11.3.1 that the Content or the Vendo Community Member's use of Content infringes or misappropriates such third party's Intellectual Property Rights,
 - 11.3.2 arising from the Vendo Community Member's use of the Services in an unlawful manner or in violation of the Agreement or the applicable documentation.
- 11.4 In addition to Section 11.3. above, the Creator and the Marketplace Customer will also defend Vendo against any claim, demand, suit or proceeding made or brought against Vendo by a third party alleging any aspect of the transaction between the Creator or the Marketplace Customer with the End User.

12. LIABILITY

- 12.1 The Vendo Community Member shall be liable to Vendo for any breach of the Agreement, including for any unauthorized use of the Services.
- 12.2 NEITHER VENDO NOR ANY VENDO PERSONNEL OR THEIR HEIRS, SUCCESSORS AND ASSIGNS SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR LOST PROFITS WHATSOEVER ARISING OUT OF, RESULTING FROM, OR IN CONNECTION WITH THE AGREEMENT, WHETHER ARISING FROM TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT OR STATUTORY DUTY, INCLUDING WITHOUT LIMITED FOR:
 - 12.2.1 the unsuitability of the Services for the purposes assumed by the Vendo Community Member;
 - 12.2.2 inability to achieve all goals envisaged in the use of the Services;
 - 12.2.3 malfunction of the Services caused by the Vendo Community Member's infrastructure;
 - 12.2.4 making business, management, financial, legal or tax decisions based on the Agreement or the Services;

- 12.2.5 incomplete performance of the subject of the Agreement for reasons attributable to the Vendo Community Member or a third party, e.g. failure to adapt equipment to any technical requirements, failure to secure the computer of the Vendo Community Member or the Authorized User or the End User, etc.;
 - 12.2.6 the effects of unauthorized interference in the Services by the Vendo Community Member, the Authorized User, the End User or any third party;
 - 12.2.7 loss of data stored in the Vendo Community Member's ICT systems not caused by Vendo;
 - 12.2.8 consequences of non-compliance by the Vendo Community Member, the Authorized User, the End User with the Terms or any instructions or guidance provided by Vendo;
 - 12.2.9 providing false, incomplete, or inaccurate personal data to Vendo, including contact details;
 - 12.2.10 the effects of force majeure (detailed in section 13 below);
 - 12.2.11 termination or expiry of the Agreement due to the fault of the Vendo Community Member or in cases for which Vendo is not at fault.
- 12.3 Vendo is not responsible for damages caused by the defectiveness of the Software due to faults of external software vendors that are used in the Software and as part of Vendo's infrastructure, including without limitation application providers for cloud computing.
- 12.4 The Vendo Community Member hereby understands and agrees that it shall be solely and exclusively responsible for its use and operation of the Services, including, without limitation, any customizations, features and/or functionalities it adds to the Software. The Vendo Community Member further agrees that Vendo shall not be liable for any breaches of the Agreement caused due to the implementation and operation of such functionalities, features and/or customizations unless they were previously agreed by Vendo in writing.
- 12.5 The Creator or the Marketplace Customer assume the sole responsibility for the products and/or services it offers on the Vendo eCommerce Platform, as well as for compliance with consumer protection rules, and agree that under no circumstances will Vendo be liable for any damages or claims made by third parties harmed in the reason for the activities carried out on the Vendo eCommerce Platform, and undertake to take all necessary measures to exclude Vendo from the liability of eventual actions, being responsible for all costs and expenses, including attorney's fees, and the payment of eventual judicial determination.

13. FORCE MAJEURE

- 13.1 Vendo will not be liable for any default or delay in the performance of its respective obligations, to the extent that such default or delay is caused, directly or indirectly, by fire, flood, earthquake, explosions, storms, lighting, elements of nature, acts of God, acts or regulations of government bodies, nuclear, chemical or biological contamination, court orders arising out of circumstances other than a breach of these Terms, acts of war, terrorism, riots, civil disorders, civil commotion, rebellions or revolutions, strikes, lockouts or labor difficulties, epidemics, pandemics or by any other event or circumstance that is beyond the reasonable control of Vendo. Such events or circumstances giving rise to the default or delay are collectively referred to as a “**Force Majeure Event**”).
- 13.2 Vendo will be excused from any further performance of the obligations affected by such Force Majeure Event for as long as such Force Majeure Event continues and Vendo continues to use commercially reasonable efforts to resume performance.
- 13.3 Except as expressly excused in this Section 13, each Party will continue to perform its respective obligations under these Terms during the Force Majeure Event.

14. SECURITY/ DATA PROTECTION

- 14.1 The Vendo Community Member shall use commercially reasonable security and anti-malware measures when accessing and using the Services, including the Software, and shall undertake to prevent unauthorized access to or use of the Software, and shall notify Vendo promptly of any such unauthorized access or use of which it becomes aware.
- 14.2 Each Party undertakes to comply with the Data Protection Legislation.
- 14.3 Your use of our Website and Services shall be subject to our [Privacy Policy](#) (as amended from time to time) which is hereby incorporated and made a part of this Agreement by reference. Please read our Privacy Policy carefully to ensure you understand how we handle personal data and to allow You to make appropriate choices before using our Website and Services. By using the Website or the Services, You are aware of our practices regarding personal information and agree to be bound by Vendo's Privacy Policy.
- 14.4 If and when the Creator or the Marketplace Customer uses the Services, Vendo processes Personal Information governed by CCPA or CPRA on behalf of the Creator or the Marketplace Customer, the provisions of Appendix 1 (Data Protection Arrangements) shall apply. In such cases, the Creator or the Marketplace Customer is the Business and Vendo is the Service Provider.
- 14.5 If Vendo, the Creator or the Marketplace Customer is required to apply the provisions of the Virginia's Consumer Data Protection Act during the performance of the Agreement, Appendix 1 shall apply accordingly. In such cases, the Creator or the Marketplace Customer is the Controller and Vendo is the Processor.
- 14.6 If Vendo or the Creator or the Marketplace Customer is obliged to apply other Data Protection Legislation than those listed in Sections 14.4 and 14.5. above, Vendo and the Creator or the Marketplace Customer agree that Appendix 1 (Data Protection Arrangements) will also apply, and the terms and definitions used therein will be interpreted accordingly in such a way as to reflect the obligations arising from the Data Protection Legislation. In order to fulfill the obligations imposed by the Data Protection Legislation, the Creator or the Marketplace Customer and Vendo may also modify Appendix 1 (Data Protection Arrangements) and adapt it in such a way that it can have the widest possible scope of application to implement Data Protection Legislation.
- 14.7 The Vendo Community Member acknowledges and agrees that:
 - 14.7.1 the Software is not designed for the purpose(s) of storing, processing, compiling or transmitting Sensitive Data and Criminal Offence Data;
 - 14.7.2 the Vendo Community Member represents and warrants that when using the Software or the Supplemental Services, neither the Vendo Community Member nor the End User will collect or process in any way Sensitive Data and Criminal Offence Data; and any patient, medical or other protected health information regulated by HIPAA. The Vendo Community Member is aware that the Software and the Supplemental Services may not be HIPPA compliant.

15. COPYRIGHT POLICY

- 15.1 If you believe that any content on the Website or in connection with the Services infringes any copyright which you own or control, you may send a written notification to Vendo's designated copyright agent, as provided in Section 15.2, with the following information ("**DMCA Notice**"):
- 15.1.1 a description of the copyrighted work or other intellectual property that you claim has been infringed, with sufficient detail so that Vendo can identify the alleged infringing content;
- 15.1.2 the URL or other specific location on the Website that contains the alleged infringing content described in Section 15.1.1, above, with reasonably sufficient information to enable us to locate the alleged infringing content;
- 15.1.3 your name, mailing address, telephone number and email address;

- 15.1.4 the electronic or physical signature of the owner of the copyright or a person authorized to act on the owner's behalf;
 - 15.1.5 a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and
 - 15.1.6 a statement by you that the information contained in your notice is accurate and that you attest under penalty of perjury that you are the copyright owner or that you are authorized to act on the copyright owner's behalf.
- 15.2 Vendo's designated copyright agent to receive DMCA Notices is:
- Copyright Agent
c/o Vendo Connect
email: dmca@getvendo.com
- 15.3 If you fail to comply with all of the requirements of Section 512(c)(3) of the DMCA, your DMCA Notice may not be effective.
- 15.4 If Vendo receives a complete DMCA Notice that adequately provides the information listed above, Vendo will undertake to expeditiously remove such allegedly infringing content, subject to the user responsible for posting the content having the opportunity to file a counter-notification after receiving the DMCA notice.
- 15.5 If any user of the Website or Services is deemed to be a repeat copyright infringer, Vendo will terminate such user's license to use the Website and Services.

16. NOTICE

Any notice or other communication to be given hereunder will be in writing and given by You via email to support@getvendo.com. The date of receipt shall be deemed the date on which such notice is transmitted.

17. ASSIGNMENT AND SUBCONTRACTING

Except as expressly set out in these Terms, You may not assign your rights or obligations under the Agreement without Vendo's prior written consent. You acknowledge and agree that Vendo may assign, transfer, license or sub-contract all or any part of its rights and obligations under the Agreement in its sole discretion.

18. ENTIRE AGREEMENT

The Agreement constitutes the entire agreement and understanding of the Parties relating to the subject matter hereof and supersedes any previous agreement or understanding between the Parties in relation to such subject matter.

19. WAIVERS AND REMEDY

In no event will any delay, failure or omission (in whole or in part) by Vendo in enforcing, exercising or pursuing any right, power, privilege, claim or remedy conferred by or arising under the Agreement or by law be deemed to be or construed as a waiver of that or any other right, power, privilege, claim or remedy Vendo may have in respect of the circumstances in question, or operate so as to bar the enforcement of that, or any other right, power, privilege, claim or remedy, in any other instance at any time or times subsequently.

20. SEVERABILITY

If any provision of the Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of these Terms which shall remain in full force and effect.

21. MISCELLANEOUS

- 21.1 Vendo reserves the right to unilaterally amend the Terms.
- 21.2 No agency, partnership, joint venture, or employment is created as a result of these Terms and neither Party has any authority of any kind to bind the other in any respect whatsoever.
- 21.3 These Terms and any disputes under or in relation to its subject matter (including non-contractual disputes) shall be governed by and construed in accordance with the laws of the State of Delaware, United States.

22. DISPUTE RESOLUTION

To the maximum extent permitted by applicable law, any dispute, controversy or claim arising out of or relating to the Agreement, including the formation, interpretation, breach or termination thereof, including whether the claims asserted are arbitrable, will be referred to and finally determined by arbitration in accordance with the JAMS International Arbitration Rules. The Tribunal will consist of one arbitrator. Ultimately, the selected arbitrator must have expertise in the subject matter of the dispute. The place of arbitration will be in Santa Clara County, California. The language to be used in the arbitral proceedings will be English. The arbitrator's award shall be binding and may be entered as a judgment entered in any court having jurisdiction thereof.

The Parties shall maintain the confidential nature of the arbitration proceeding, including any testimony, evidence, award, ruling, and all documentation regarding the arbitration, except as may be necessary to prepare for or conduct the arbitration hearing on the merits, or except as may be necessary in connection with a court application for a preliminary remedy, a judicial challenge to an award or its enforcement, or unless otherwise required by law or judicial decision.

In any arbitration arising out of or related to this Agreement, the arbitrator shall award to the prevailing party, if any, the costs and attorneys' fees reasonably incurred by the prevailing party in connection with the arbitration. If the arbitrator determines a Party to be the prevailing party under circumstances where the prevailing party won on some, but not all, of the claims and counterclaims, the arbitrator may award the prevailing party an appropriate percentage of the costs and attorneys' fees reasonably incurred by the prevailing party in connection with the arbitration.

To the fullest extent permitted by applicable law, no arbitration under the Agreement shall be joined to an arbitration involving any other party subject to the Agreement, whether through class arbitration proceedings or otherwise. You agree to an arbitration on an individual basis. IN ANY DISPUTE, NEITHER YOU NOR VENDO (INCLUDING OUR AFFILIATES) WILL BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS BY OR AGAINST OTHER USERS IN COURT OR IN ARBITRATION OR OTHERWISE PARTICIPATE IN ANY CLAIM AS A CLASS REPRESENTATIVE, CLASS MEMBER, OR IN A PRIVATE ATTORNEY GENERAL CAPACITY. The arbitral tribunal may not consolidate more than one (1) person's claims, and may not otherwise preside over any form of a representative or class proceeding. The arbitral tribunal has no power to consider the enforceability of this class arbitration waiver and any challenge to the class arbitration waiver may only be raised in a court of competent jurisdiction.

23. NOTICE FOR CALIFORNIA USERS

Under California Civil Code Section 1789.3, California users of the Website are entitled to the following specific consumer rights notice: The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 1625 North Market Blvd., Suite N. 112, Sacramento, CA 95834, or by telephone at (916) 445-1254 or (800) 952-5210.

24. AGE REQUIREMENT

This Website and the Services are intended for use only by persons over the age of 18. We do not seek to collect information about children under the age of 18, and we will not knowingly do so. If You are under the age of 18, please do not use or access the Website or Services. By using the Website or Services, You affirm that You are over the age of 18. Vendo

Community Members must be at least the age of majority in their respective place of residence, and fully able and competent to enter into and abide by the terms and conditions of this Agreement, in order to access and use the Website and/or the Services. Individuals under the age of majority are not eligible to use the Website or the Services and may not submit any personal information to us. By accessing or using the Website and/or the Services, or by clicking to accept this Agreement when the option is made available to Vendo Community Members, Vendo Community Members represent and warrant that they are at least the age of majority in their place of residence, are legally entitled to enter into this Agreement, are legally able to enter into any and all Agreements with us and our partners, vendors, agents, and service providers.

25. RESTRICTED COUNTRIES

In order to interact with the Website and Services, a Vendors must not (a) be currently located in, ordinarily resident in, organized in or based in Cuba, Iran, North Korea, Syria, the Crimea, Donetsk People's Republic or Luhansk People's Republic regions of Ukraine, or any other territory that is subject to a U.S. government embargo, or that has been designated by the U.S. government as a "terrorist-supporting" country ("**Restricted Countries**"); (b) be subject to sanctions designation as a Specially Designated National (SDN), financial restrictions as a person or entity on the Sectoral Sanctions Identifications (SSI) List, or blocking under U.S. law, or an asset freeze under UK, EU or Canadian law; or (c) act on behalf of or at the instruction of, or be under 50% or more ownership, directly or indirectly, by one or more individual or entity that is described in clauses (a) and (b) above.

Appendixes:

APPENDIX 1: Data processing arrangements

APPENDIX 1: Data processing arrangements

1. The Creator/the Marketplace Customer is responsible for compliance with the requirements of the CCPA or CPRA applicable to the Businesses.
2. Vendo will process Personal Information consistent with the Creator's/the Marketplace Customer's documented instructions (including those set out in the Data Protection Arrangements).
3. Vendo will not retain, use or disclose Personal Information for any purpose other than specified in the Agreement, including providing the Services to the Creator/the Marketplace Customer. Vendo will not retain, use or disclose the Personal Information for a commercial purpose other than providing the Services to the Creator/the Marketplace Customer.
4. To avoid any doubt, Vendo may combine the Personal Information received from one or more Marketplace Customers to the extent necessary to detect data security incidents, or protect against fraudulent or illegal activity.
5. Vendo will not sell or share any Personal Information to any third party without the prior written consent of the Creator/the Marketplace Customer except as described in Section 6 to this Appendix below.
6. Vendo may transfer the Personal Information to other persons and entities (including subcontractors), if it is necessary to perform the Agreement and provide Services to the Creator/the Marketplace Customer. In this case, Vendo ensures that the persons or entities (including subcontractors) that provided the Personal Information committed themselves to an obligation of confidentiality or are under an appropriate statutory obligation of confidentiality.
7. Where required by applicable laws, the Creator/the Marketplace Customer will ensure that it has obtained all necessary consents, and has given all necessary notices, for the processing of the Personal Information by Vendo. The Creator/the Marketplace Customer shall indemnify, defend and hold Vendo harmless against any Liabilities arising out of the Creator's/the Marketplace Customer's violation of this provision.
8. Vendo uses commercially reasonable efforts to assist the Creator/the Marketplace Customer, at Creator's/the Marketplace Customer's expense, in fulfilment of the Creator's/the Marketplace Customer's obligation to respond to California residents' requests to exercise rights under the CCPA or the CPRA.

9. Vendo uses commercially reasonable efforts to assist the Creator/the Marketplace Customer in meeting its other obligations under the CCPA or the CPRA at the Marketplace Customer's expense.