

**LOVD**  
**TERMS OF SERVICE AGREEMENT**  
**Last Updated: 30 December 2021**

PLEASE READ THIS TERMS OF SERVICE AGREEMENT (THE “**TERMS OF SERVICE**”) CAREFULLY. THE WEBSITE LOCATED AT [HTTPS://WWW.LOVD.COM/](https://www.lovd.com/) (“**WEBSITE**”) AND THE INFORMATION ON IT ARE COPYRIGHTED WORKS BELONGING TO LOVD.COM, INC. (“**LOVD**,” “**COMPANY**,” “**OUR**,” “**WE**,” OR “**US**”). THESE TERMS OF SERVICE SET FORTH THE LEGALLY BINDING TERMS AND CONDITIONS THAT GOVERN YOUR USE OF THE WEBSITE AND COMPANY’S MOBILE APPLICATION (“**APP**”), INCLUDING YOUR USE OF THE SERVICES AND RESOURCES AVAILABLE OR ENABLED VIA THE WEBSITE AND APP (EACH A “**SERVICE**” AND COLLECTIVELY, THE “**SERVICES**,” TOGETHER WITH THE WEBSITE AND APP, THE “**COMPANY PROPERTIES**”) AND ALL OTHER INTERNET USERS VISITING THE WEBSITE OR APP (“**USERS**”). THE SERVICES PROVIDE A MARKETPLACE TO ALLOW USERS TO OFFER TO SELL, SELL AND BUY ITEMS.

BY CLICKING ON THE “I ACCEPT” BUTTON, COMPLETING THE REGISTRATION PROCESS, AND/OR BROWSING THE WEBSITE OR DOWNLOADING THE APP, YOU REPRESENT THAT (1) YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY THE TERMS OF SERVICE, (2) YOU ARE OF LEGAL AGE TO FORM A BINDING CONTRACT WITH COMPANY, AND (3) YOU HAVE THE AUTHORITY TO ENTER INTO THE TERMS OF SERVICE PERSONALLY OR ON BEHALF OF COMPANY YOU HAVE NAMED AS THE USER, AND TO BIND THAT COMPANY TO THE TERMS OF USE. THE TERM “**YOU**” REFERS TO THE INDIVIDUAL OR LEGAL ENTITY, AS APPLICABLE, IDENTIFIED AS THE USER WHEN YOU REGISTERED ON THE WEBSITE OR APP. **IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS OF SERVICE, YOU MAY NOT ACCESS OR USE THIS WEBSITE, THE APP OR THE SERVICES.**

THE TERMS OF SERVICE INCLUDE (1) YOUR AGREEMENT THAT COMPANY HAS NO LIABILITY REGARDING THE SERVICES (SECTION 2 (COMPANY ONLY PROVIDES A VENUE)); (2) YOUR AGREEMENT THAT THE SERVICES ARE PROVIDED “AS IS” AND WITHOUT WARRANTY (SECTION 19 (DISCLAIMER OF WARRANTIES)); (3) YOUR CONSENT TO RELEASE COMPANY FROM LIABILITY (SECTION 17 (RELEASE)); AND (4) YOUR AGREEMENT TO INDEMNIFY COMPANY FOR YOUR USE OF, OR INABILITY TO USE, THE SERVICES (SECTION 18 (INDEMNIFICATION)).

PLEASE BE AWARE THAT SECTION 24 (DISPUTE RESOLUTION) OF THIS AGREEMENT, BELOW, CONTAINS PROVISIONS GOVERNING HOW TO RESOLVE DISPUTES BETWEEN YOU AND THE COMPANY, INCLUDING, WITHOUT LIMITATION, ANY DISPUTES THAT AROSE OR WERE ASSERTED PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT. IN PARTICULAR, IT CONTAINS AN ARBITRATION AGREEMENT WHICH WILL, WITH LIMITED EXCEPTIONS, REQUIRE DISPUTES BETWEEN US TO BE SUBMITTED TO BINDING AND FINAL ARBITRATION. UNLESS YOU OPT OUT OF THE ARBITRATION AGREEMENT: (1) YOU WILL ONLY BE PERMITTED TO PURSUE DISPUTES OR CLAIMS AND SEEK RELIEF AGAINST US ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR

**CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING; AND (2) YOU ARE WAIVING YOUR RIGHT TO PURSUE DISPUTES OR CLAIMS AND SEEK RELIEF IN A COURT OF LAW AND TO HAVE A JURY TRIAL.**

**ANY DISPUTE, CLAIM OR REQUEST FOR RELIEF RELATING IN ANY WAY TO YOUR USE OF THE COMPANY PROPERTIES WILL BE GOVERNED AND INTERPRETED BY AND UNDER THE LAWS OF THE STATE OF NEW YORK, CONSISTENT WITH THE FEDERAL ARBITRATION ACT, WITHOUT GIVING EFFECT TO ANY PRINCIPLES THAT PROVIDE FOR THE APPLICATION OF THE LAW OF ANY OTHER JURISDICTION. THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS IS EXPRESSLY EXCLUDED FROM THIS AGREEMENT.**

**PLEASE BE AWARE THAT SECTION 3.4 OF THIS AGREEMENT, BELOW, CONTAINS YOUR OPT-IN CONSENT TO RECEIVE COMMUNICATIONS FROM US, INCLUDING VIA E-MAIL, TEXT MESSAGE, CALLS, AND PUSH NOTIFICATIONS.**

Your use of, and participation in, certain services on the Website or App may be subject to additional terms (“**Supplemental Terms**”) and such Supplemental Terms will either be listed in these Terms of Service or will be presented to you for your acceptance when you sign up to use the supplemental service. If these Terms of Service are inconsistent with the Supplemental Terms, the Supplemental Terms shall control with respect to such service. These Terms of Service and any applicable Supplemental Terms are referred to herein as the “**Agreement.**”

PLEASE NOTE THAT THE AGREEMENT IS SUBJECT TO CHANGE BY THE COMPANY IN ITS SOLE DISCRETION AT ANY TIME. When changes are made, the Company will make a new copy of the Terms of Service Agreement available at the Website and within the App, and any new Supplemental Terms will be made available from within, or through, the affected service on the Website or within the App. We will also update the “Last Updated” date at the top of the Terms of Service Agreement. If we make any material changes, and you have registered with us to create an Account (as defined in Section 4.1 below), we will also send an e-mail to you at the last e-mail address you provided to us pursuant to the Agreement. Any changes to the Agreement will be effective immediately for new Users of the Company Properties and will be effective thirty (30) days after posting notice of such changes on the Website for existing Registered Users, provided that any material changes shall be effective for Registered Users who have an Account on the earlier of thirty (30) days after posting notice of such changes on the Website or thirty (30) days after dispatch of an e-mail notice of such changes to Registered Users (defined in Section 4.1 below). The Company may require you to provide consent to the updated Agreement in a specified manner before further use of the Company Properties is permitted. If you do not agree to any change(s) after receiving a notice of such change(s), you shall stop using the Company Properties. Otherwise, your continued use of the Company Properties constitutes your acceptance of such change(s). PLEASE REGULARLY CHECK THE WEBSITE TO VIEW THE THEN-CURRENT TERMS.

**1. SERVICES CONNECT BUYERS AND SELLERS.** Company provides a marketplace that allows Users to offer, sell and buy items. As a marketplace, unless stated otherwise in the Product listing, we do not own or sell the items listed or otherwise offered on the Website or App (the “**Products**”), so the actual contract for sale is directly between the individuals seeking to sell items (“**Sellers**”) and individuals seeking to buy items (“**Buyers**”). While we may, in our discretion, help facilitate the resolution of disputes through various programs, Company has no control over and does not guarantee the existence, quality, safety or legality of the Products; the truth or accuracy of Users’ content or listings; the ability of Sellers to sell items; the ability of Buyers to pay for items; or that a Buyer and Seller will actually complete a transaction or return an item.

**2. COMPANY ONLY PROVIDES A VENUE.** While the Company may provide pricing and guidance on our Website or App, such information is solely informational. We do not take part in the interaction between Users. We do not have control over the quality, timing, legality, failure to provide, or any aspect whatsoever of the Products or services provided by Sellers (other than delivery of Products to Buyer upon pick-up from the Seller), any ratings provided by Users, or of the integrity, responsibility, or any actions of any Users. The Company makes no representations about the suitability, reliability, timeliness or accuracy in public, private or offline interactions. The Company cannot confirm that each User is who they claim to be. The Company does not assume any responsibility for the accuracy or reliability of third-party information, including any information posted by other Users, provided through the Services.

When interacting with other Users you should exercise caution and common sense to protect your personal safety and property, just as you would when interacting with other persons whom you don’t know. NEITHER THE COMPANY NOR ITS AFFILIATES OR LICENSORS IS RESPONSIBLE FOR THE CONDUCT, WHETHER ONLINE OR OFFLINE, OF ANY USER OF THE COMPANY PROPERTIES. THE COMPANY AND ITS AFFILIATES AND LICENSORS WILL NOT BE LIABLE FOR ANY CLAIM, INJURY OR DAMAGE ARISING IN CONNECTION WITH YOUR USE OF THE COMPANY PROPERTIES.

**3. USE OF THE COMPANY PROPERTIES.** Subject to the Agreement, the Company grants you a limited license to reproduce portions of the Company Properties for the sole purpose of using the Company Properties to procure or sell listed Products or solicit the procurement or sale of certain products through the Company Website or App. Unless otherwise specified by the Company in a separate license, your right to use any and all Company Properties is subject to the Agreement.

**3.1 App License.** Subject to your compliance with the Agreement, Company grants you a limited non-exclusive, non-transferable, non-sublicensable, revocable license to download, install and use a copy of the App on a single mobile device or computer that you own or control and to run such copy of the App solely for your own personal or internal business purposes. Furthermore, with respect to any Application accessed through or downloaded from the Apple App Store (an “**App Store Sourced Application**”), you will only use the App Store Sourced Application (a) on an Apple-branded product that runs the iOS (Apple’s

proprietary operating system) and (b) as permitted by the “Usage Rules” set forth in the Apple App Store Terms of Service. Notwithstanding the first sentence in this section, with respect to any App accessed through or downloaded from the Google Play store (a “**Google Play Sourced Application**”), you may have additional license rights with respect to use of the App on a shared basis within your designated family group.

**3.2 Updates.** You understand that Company Properties are evolving. As a result, Company may require you to accept updates to Company Properties that you have installed on your computer or mobile device. You acknowledge and agree that Company may update Company Properties with or without notifying you. You may need to update third-party software from time to time in order to use Company Properties.

**3.3 Certain Restrictions.** The rights granted to you in the Agreement are subject to the following restrictions: (a) you shall not license, sell, rent, lease, transfer, assign, reproduce, distribute, host or otherwise commercially exploit Company Properties or any portion of Company Properties, including the Website and App; (b) you shall not frame or utilize framing techniques to enclose any trademark, logo, or other Company Properties (including images, text, page layout or form) of Company; (c) you shall not use any metatags or other “hidden text” using Company’s name or trademarks; (d) you shall not modify, translate, adapt, merge, make derivative works of, disassemble, decompile, reverse compile or reverse engineer any part of Company Properties except to the extent the foregoing restrictions are expressly prohibited by applicable law; (e) you shall not use any manual or automated software, devices or other processes (including but not limited to spiders, robots, scrapers, crawlers, avatars, data mining tools or the like) to “scrape” or download data from any web pages contained in the Website (except that we grant the operators of public search engines revocable permission to use spiders to copy materials from the Website for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials); (f) except as expressly stated herein, no part of Company Properties may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means; and (g) you shall not remove or destroy any copyright notices or other proprietary markings contained on or in Company Properties. Any future release, update or other addition to Company Properties shall be subject to the Agreement. Company, its suppliers and service providers reserve all rights not granted in the Agreement. Any unauthorized use of any Company Property terminates the licenses granted by Company pursuant to the Agreement.

**3.4 Company Communications.** By entering into this Agreement or using the Company Properties, you agree to receive communications from the Company and our affiliates and representatives, which may include, without limitation, emails, push notifications, and SMS, MMS and other text messages (“**Communications**”). Text messages and emails may be directed to any telephone number and email address that you supply to us in connection with your creation of an Account or use of the Company Properties or that you otherwise agree we may use to communicate with you. Communications may include but are not limited to: informational, transactional, operational

and customer service communications concerning your Account, product orders, pick-ups and deliveries, payments, appointments and/or use of the Company Properties. In addition, if you provide us with your email address, you agree we may use it to send you offers, promotions and news about our company, products and services. Message frequency will vary. You also agree that carrier Message and Data Rates may apply to any text messages that you send or receive from us. IF YOU WISH TO OPT OUT OF PROMOTIONAL EMAILS, YOU CAN UNSUBSCRIBE FROM OUR PROMOTIONAL EMAIL LIST BY FOLLOWING THE UNSUBSCRIBE OPTIONS IN THE PROMOTIONAL EMAIL. TO OPT OUT OF TEXT MESSAGES, YOU CAN REPLY WITH THE WORD "STOP" TO ANY TEXT MESSAGE YOU RECEIVE FROM US. HOWEVER, YOU ACKNOWLEDGE THAT OPTING OUT OF RECEIVING TEXT MESSAGES MAY IMPACT YOUR USE OF THE SERVICES. YOU ACKNOWLEDGE THAT YOU ARE NOT REQUIRED TO CONSENT TO RECEIVE PROMOTIONAL TEXTS OR CALLS AS A CONDITION OF USING THE COMPANY PROPERTIES OR RELATED SERVICES.

#### **4. REGISTRATION.**

**4.1 Registering Your Account.** In order to access certain features of Company Properties you may be required to become a Registered User. For purposes of the Agreement, a "**Registered User**" is a user who has registered an account on the Website ("**Account**") or has an account with the provider of the App for the user's mobile device.

**4.2 Access Through a SNS.** If you access the Company Properties through a SNS as part of the functionality of the Website, the Application and/or the Services, you may link your Account with Third-Party Accounts, by allowing Company to access your Third-Party Account, as is permitted under the applicable terms and conditions that govern your use of each Third-Party Account. You represent that you are entitled to disclose your Third-Party Account login information to Company and/or grant Company access to your Third-Party Account (including, but not limited to, for use for the purposes described herein) without breach by you of any of the terms and conditions that govern your use of the applicable Third-Party Account and without obligating Company to pay any fees or making Company subject to any usage limitations imposed by such third-party service providers. By granting Company access to any Third-Party Accounts, you understand that Company may access, make available and store (if applicable) any information, data, text, software, music, sound, photographs, graphics, video, messages, tags and/or other materials accessible through Company Properties (collectively, "**Content**") that you have provided to and stored in your Third-Party Account ("**SNS Content**") so that it is available on and through Company Properties via your Account. Unless otherwise specified in the Agreement, all SNS Content shall be considered to be Your Content (as defined in Section 5.1 (Types of Content)) for all purposes of the Agreement. Depending on the Third-Party Accounts you choose and subject to the privacy settings that you have set in such Third-Party Accounts, personally identifiable information that you post to your Third-Party Accounts may be available on and through your Account on Company Properties. Please note that if a Third-Party Account or associated service becomes unavailable, or Company's access to such Third-Party Account is terminated by the third-party service provider, then SNS Content will no longer be

available on and through Company Properties. You have the ability to disable the connection between your Account and your Third-Party Accounts at any time by accessing the “Settings” section of the Website. PLEASE NOTE THAT YOUR RELATIONSHIP WITH THE THIRD-PARTY SERVICE PROVIDERS ASSOCIATED WITH YOUR THIRD-PARTY ACCOUNTS IS GOVERNED SOLELY BY YOUR AGREEMENT(S) WITH SUCH THIRD-PARTY SERVICE PROVIDERS, AND COMPANY DISCLAIMS ANY LIABILITY FOR PERSONALLY IDENTIFIABLE INFORMATION THAT MAY BE PROVIDED TO IT BY SUCH THIRD-PARTY SERVICE PROVIDERS IN VIOLATION OF THE PRIVACY SETTINGS THAT YOU HAVE SET IN SUCH THIRD-PARTY ACCOUNTS.

**4.3 Registration Data.** In registering an account on the Website or App, you agree to (a) provide true, accurate, current and complete information about yourself as prompted by the registration form (the “**Registration Data**”); and (b) maintain and promptly update the Registration Data to keep it true, accurate, current and complete. You represent that you are (i) at least thirteen (13) years old; (ii) of legal age to form a binding contract; and (iii) not a person barred from using Company Properties under the laws of the United States, your place of residence or any other applicable jurisdiction. You are responsible for all activities that occur under your Account. You agree that you shall monitor your Account to restrict use by minors, and you will accept full responsibility for any unauthorized use of Company Properties by minors. You may not share your Account or password with anyone, and you agree to (y) notify Company immediately of any unauthorized use of your password or any other breach of security; and (z) exit from your Account at the end of each session. If you provide any information that is untrue, inaccurate, not current or incomplete, or Company has reasonable grounds to suspect that any information you provide is untrue, inaccurate, not current or incomplete, Company has the right to suspend or terminate your Account and refuse any and all current or future use of Company Properties (or any portion thereof). You agree not to create an Account using a false identity or information, or on behalf of someone other than yourself. You agree that you shall not have more than one Account per platform at any given time. Company reserves the right to remove or reclaim any usernames at any time and for any reason, including but not limited to, claims by a third party that a username violates the third party’s rights. You agree not to create an Account or use Company Properties if you have been previously removed by Company, or if you have been previously banned from any of Company Properties.

**4.4 Your Account.** Notwithstanding anything to the contrary herein, you acknowledge and agree that you shall have no ownership or other property interest in your Account, and you further acknowledge and agree that all rights in and to your Account are and shall forever be owned by and inure to the benefit of Company.

**4.5 Necessary Equipment and Software.** You must provide all equipment and software necessary to connect to Company Properties, including but not limited to, a mobile device that is suitable to connect with and use Company Properties, in cases where the Services offer a mobile component. You are solely responsible for any fees, including Internet connection or mobile fees, that you incur when accessing Company Properties.

## **5. RESPONSIBILITY FOR CONTENT.**

**5.1 No Obligation to Pre-Screen Content.** You acknowledge that Company has no obligation to pre-screen Content (including, but not limited to, User Content), although Company reserves the right in its sole discretion to pre-screen, refuse or remove any Content. By entering into the Agreement, you hereby provide your irrevocable consent to such monitoring. You acknowledge and agree that you have no expectation of privacy concerning the transmission of Your Content, including without limitation chat, text, or voice communications. In the event that Company pre-screens, refuses or removes any Content, you acknowledge that Company will do so for Company's benefit, not yours. Without limiting the foregoing, Company shall have the right to remove any Content that violates the Agreement or is otherwise objectionable.

**5.2 Storage.** Unless expressly agreed to by Company in writing elsewhere, Company has no obligation to store any of Your Content that you Make Available on Company Properties. Company has no responsibility or liability for the deletion or accuracy of any Content, including Your Content; the failure to store, transmit or receive transmission of Content; or the security, privacy, storage, or transmission of other communications originating with or involving use of Company Properties. Certain Services may enable you to specify the level at which such Services restrict access to Your Content. You are solely responsible for applying the appropriate level of access to Your Content. If you do not choose, the system may default to its most permissive setting. You agree that Company retains the right to create reasonable limits on Company's use and storage of the Content, including Your Content, such as limits on file size, storage space, processing capacity, and similar limits described on the Website and as otherwise determined by Company in its sole discretion.

**6. MONITORING AND ENFORCEMENT.** Company reserves the right to: (a) remove or refuse to post any of your Content for any or no reason in our sole discretion; (b) take any action with respect to any of your Content that we deem necessary or appropriate in our sole discretion, including if we believe that such Content violates this Agreement, infringes any intellectual property right or other right of any person or entity, threatens the personal safety of users of the Company Properties or the public, or could create liability for the Company; (c) disclose your identity or other information about you to any third party who claims that material posted by you violates their rights, including their intellectual property rights or their right to privacy; (d) take appropriate legal action, including without limitation, referral to law enforcement, for any illegal or unauthorized use of the Company Properties; and/or (e) terminate or suspend your access to all or part of the Company Properties for any or no reason, including without limitation, any violation of this Agreement.

## **7. OWNERSHIP.**

**7.1 Company Properties.** Except with respect to Your Content and User Content, you agree that Company and its suppliers own all rights, title and interest in Company Properties. You will not remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying any Company Properties.

**7.2 Trademarks.** Lovd.com and all related graphics, logos, service marks and trade names used on or in connection with any Company Properties or in connection with the Services are the trademarks of Company and may not be used without permission in connection with your, or any third-party, products or services. Other trademarks, service marks and trade names that may appear on or in Company Properties are the property of their respective owners.

**7.3 Your Content.** Company does not claim ownership of Your Content. However, when you as a Registered User post or publish Your Content on or in Company Properties, you represent that you own and/or have a royalty-free, perpetual, irrevocable, worldwide, non-exclusive right (including any moral rights) and license to use, license, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, derive revenue or other remuneration from, and communicate to the public, perform and display Your Content (in whole or in part) worldwide and/or to incorporate it in other works in any form, media or technology now known or later developed, for the full term of any worldwide intellectual property right that may exist in Your Content.

**7.4 License to Your Content.** Subject to any applicable account settings that you select, you grant Company a fully paid, royalty-free, perpetual, irrevocable, worldwide, royalty-free, non-exclusive and fully sublicensable right (including any moral rights) and license to use, license, distribute, reproduce, modify, adapt, publicly perform, and publicly display Your Content (in whole or in part) for the purposes of operating and providing Company Properties to you and to our other Registered Users. Please remember that other Registered Users may search for, see, use, modify and reproduce any of Your Content that you submit to any “public” area of Company Properties. You warrant that the holder of any worldwide intellectual property right, including moral rights, in Your Content, has completely and effectively waived all such rights and validly and irrevocably granted to you the right to grant the license stated above. You agree that you, not Company, are responsible for all of Your Content that you Make Available on or in Company Properties. Any Content posted by you in the Company Properties may not contain nudity, violence, sexually explicit, or offensive subject matter as determined by Company in its sole discretion. You may not post or submit for print services a photograph of another person without that person’s permission.

**7.5 Username.** Notwithstanding anything contained herein to the contrary, by submitting Your Content to any forums, comments, or any other area on Company Properties, you hereby expressly permit Company to identify you by your username (which may be a pseudonym) as the contributor of Your Content in any publication in any form, media or technology now known or later developed in connection with Your Content.

**7.6 Feedback.** You agree that submission of any ideas, suggestions, documents, and/or proposals to Company through its suggestion, feedback, wiki, forum, or similar pages (“**Feedback**”) is at your own risk and that Company has no obligations (including without limitation obligations of confidentiality) with respect to such Feedback. You represent and warrant that you have all rights necessary to submit the Feedback. You hereby grant to Company a fully paid, royalty-free, perpetual, irrevocable, worldwide, non-exclusive, and fully sublicensable right and license to use, reproduce, perform, display, distribute, adapt, modify,



re-format, create derivative works of, and otherwise commercially or non-commercially exploit in any manner, any and all Feedback, and to sublicense the foregoing rights, in connection with the operation and maintenance of Company Properties and/or Company's business.

**8. USER CONDUCT.** As a condition of use, you agree not to use Company Properties for any purpose that is prohibited by this Agreement or by applicable law. You shall not (and shall not permit any third party) to either (a) take any action or (b) Make Available any Content on or through Company Properties that: (i) infringes any patent, trademark, trade secret, copyright, right of publicity or other right of any person or entity; (ii) is unlawful, threatening, abusive, harassing, misleading, false, defamatory, libelous, pornographic, deceptive, fraudulent, invasive of another's privacy, tortious, obscene, offensive, profane or racially, ethnically, or otherwise discriminatory; (iii) constitutes unauthorized or unsolicited advertising, junk or bulk e-mail; (iv) involves commercial activities and/or sales, such as contests, sweepstakes, barter, advertising, or pyramid schemes without Company's prior written consent; (v) impersonates any person or entity, including any employee or representative of Company; (vi) interferes with or attempt to interfere with the proper functioning of Company Properties or uses Company Properties in any way not expressly permitted by this Agreement; (vii) manipulates the price of any listed item or interferes with a User profile or Seller listings; (ix) transfers your account and username to another party without our consent; (x) bypasses our robot exclusion hardware, interferes with the working of the Company Properties, or imposes an unreasonable or disproportionately large load on our infrastructure; (xi) uses the Company Properties to collect, harvest, transmit, distribute or submit any information concerning any other person or entity, including without limitation photographs of others, personal contact information or credit card, debit or calling card or account numbers without their permission; (xii) takes any action that may undermine our feedback or ratings systems; (xiii) breaches or circumvents any laws, third party rights or our systems, policies, or determinations of your account status; or (xiv) attempts to engage in or engages in, any potentially harmful acts that are directed against Company Properties, including but not limited to violating or attempting to violate any security features of Company Properties, using manual or automated software or other means to access, "scrape," "crawl" or "spider" any pages contained in Company Properties, introducing viruses, worms, or similar harmful code into Company Properties, or interfering or attempting to interfere with use of Company Properties by any other user, host or network, including by means of overloading, "flooding," "spamming," "mail bombing," or "crashing" Company Properties.

**9. NO SOLICITATION.** The Company Properties may not be used to solicit for any other business, website or services. You may not solicit, advertise for, or contact in any form Users for employment, contracting, or any other purpose not related to the Services facilitated through the Company Properties. You may not use the Company Properties to collect usernames and/or email addresses of Users by electronic or other means without the express prior written consent of Company.

**10. INVESTIGATIONS.** Company may, but is not obligated to, monitor or review Company Properties and Content at any time. Without limiting the foregoing, Company shall have the

right, in its sole discretion, to remove any of Your Content for any reason (or no reason), including if such Content violates the Agreement or any applicable law. Although Company does not generally monitor user activity occurring in connection with Company Properties or Content, if Company becomes aware of any possible violations by you of any provision of the Agreement, Company reserves the right to investigate such violations, and Company may, at its sole discretion, immediately terminate your license to use Company Properties, or change, alter or remove Your Content, in whole or in part, without prior notice to you.

## **11. INTERACTIONS WITH OTHER USERS.**

**11.1 User Responsibility.** You are solely responsible for your interactions with other Registered Users and any other parties with whom you interact; provided, however, that Company reserves the right, but has no obligation, to intercede in such disputes. You agree that Company will not be responsible for any liability incurred as the result of such interactions.

**11.2 Content Provided by Other Users.** Company Properties may contain User Content provided by other Registered Users. Company is not responsible for and does not control User Content. Company has no obligation to review or monitor, and does not approve, endorse or make any representations or warranties with respect to, User Content. You use all User Content and interact with other Registered Users at your own risk.

**11.3 Subverting the Platform.** The value of the Platform rests in its thriving marketplace for Buyers and Sellers. It is a material breach of this Agreement to arrange for the sale of listed items from, or the payment of fees to, Sellers outside the context of the Company Properties for the purposes of circumventing the obligation to pay the Company's fee for items purchased through the Company Properties.

**11.4 User Responsibility and Disputes.** You are solely responsible for your interactions with other Users of the Company Properties and any other parties with whom you interact through the Company Properties; provided, however, if you are involved in any dispute (whether as Buyer or Service Provider) that relates solely to the correct Fee amount or whether Services were performed ("**Service Dispute**"), you must notify the Company of such Service Disputes and attempt to resolve such Service Dispute in accordance with the dispute resolution process set out in Section **Error! Reference source not found.** before taking any further action. Upon notification of a Service Dispute, the Company reserves the right, but has no obligation, to intercede in such disputes in accordance with Section **Error! Reference source not found.** and shall notify the parties to the Service Dispute within 7 days if it elects to intercede.

**11.5 Service Disputes.** If the Company elects to intercede in a Services Dispute between you and a Buyer or Seller, the Company will notify each party and give each party an opportunity to respond. The Company may request any information from either party in respect of the Service Dispute and you agree to cooperate with and assist the Company in good faith, and to provide the Company with such information and take such actions as may be reasonably requested by the Company, in connection with any Service Dispute. You

shall, upon the Company's reasonable request, participate in non-binding mediation or a similar resolution process with the other User, which process will be conducted by the Company or a third party selected by the Company, with respect to such Service Disputes. Following the conclusion of the resolution process, the Company or a third party selected by the Company, may provide a suggested resolution to the Service Dispute, and you agree to consider such proposal in good faith. The Company may terminate or suspend your right to use the Company Properties, including deactivating your Account, if the Company determines, in its sole discretion, that you have failed to adequately cooperate in the resolution of the Service Dispute or have otherwise failed to consider any proposed resolution in good faith.

**12. BUYER SPECIFIC TERMS.** The following terms apply to any Buyer using the Company Properties.

**12.1 Offers.** You agree and acknowledge that, in exchange for valuable consideration (including but not limited to the rights to use the Company Properties), all offers for Products placed by you are irrevocable offers to purchase a Product that may not be withdrawn by you at any time. By placing an offer, you expressly agree that if Seller accepts your offer, you are responsible for paying all amounts due to the Seller in connection with the purchase and delivery of the Product. It is your responsibility to read the full Product listing and to understand the costs associated with each Product before you submit an offer. You agree that all offers for sale are conducted with reserve from the Seller. The Seller has the authority to reject the Buyer's offer for any reason, in its sole discretion. If upon Seller's acceptance of your offer, you fail to pay Seller, LOVD may terminate your Account and/or suspend your right to use the Company Properties immediately upon notice to you.

**12.2 Returns.** All Products are final sale and non-returnable and non-refundable.

**12.3 Disclaimers.** Buyer acknowledges and agrees that LOVD does not independently authenticate any Products or evaluate or opine on the accuracy or completeness of Sellers' Product listings on the Company Properties.

BUYER IS SOLELY RESPONSIBLE FOR EVALUATING THE AUTHENTICITY, USEFULNESS, ACCURACY AND COMPLETENESS OF ANY PRODUCTS AND PRODUCT LISTINGS BY A SELLER. COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE AUTHENTICITY, USEFULNESS, ACCURACY OR COMPLETENESS OF ANY PRODUCTS OR PRODUCT LISTINGS. DESCRIPTIONS, IMAGES, REFERENCES, FEATURES, CONTENT, SPECIFICATIONS, PRODUCTS, PRICES, AND AVAILABILITY OF ANY PRODUCTS MAY NOT BE COMPLETE OR CURRENT AND ARE SUBJECT TO CHANGE WITHOUT NOTICE. THE ACTUAL IMAGES AND COLOR YOU SEE WILL DEPEND ON YOUR COMPUTER SYSTEM, AND COMPANY CANNOT GUARANTEE THAT YOUR COMPUTER WILL ACCURATELY DISPLAY SUCH IMAGES OR COLORS.

THE INCLUSION OF ANY PRODUCTS ON THE SERVICES AT A PARTICULAR TIME DOES NOT IMPLY OR WARRANT THAT THESE PRODUCTS WILL BE AVAILABLE AT ANY TIME.

REFERENCE TO ANY PRODUCTS BY TRADEMARK, SUPPLIER, MANUFACTURER, VENDOR, TRADE NAME OR OTHERWISE DOES NOT IMPLY ANY AFFILIATION, ENDORSEMENT, SPONSORSHIP, OR RECOMMENDATION OF THE COMPANY, ANY PRODUCT OR PRODUCT LISTING; AND IS INCLUDED FOR INFORMATIONAL, DESCRIPTIVE PURPOSES ONLY. USERS ACKNOWLEDGE AND AGREE THAT SUCH PRODUCTS MAY BE SOLD IN USED AND IMPERFECT CONDITION.

**13. SELLER SPECIFIC TERMS.** The following terms apply to any Seller using the Company Properties.

**13.1 Products.** Seller may not offer to sell or sell any item that is illegal to sell under applicable law, rule or regulation.

**13.2 Product Listings.** Sellers acknowledge and agree that they are solely responsible for the accuracy of Product descriptions on the Company Properties and setting the pricing for Products made available through the Services. Sellers, and not LOVD, are required to ensure that the Product matches the image and videos that are displayed on the Company Properties and that the described condition of the Product is a true and accurate description of the condition of the Product. Seller agrees that any videos posted within a Product listing are of sound quality and abide by the terms of this Agreement regarding User Content. LOVD has the right, but not the responsibility, to review any videos included in a Product listing to ensure the video is of adequate quality and does not otherwise breach this Agreement. LOVD may, in its sole discretion, request the removal, refuse to post, or remove any videos of Sellers from the Company Properties.

LOVD cannot guarantee the placement of Seller's Product listing or the appearance of such Product listing in a User's search results, as same shall depend on a number of factors outside the Company's control, including without limitation, by way of example only: Buyer's search query, Product description and price, Seller's history and ratings, etc.

**13.3 Representations and Warranties.** Seller warrants that (a) it has good and marketable title to the Products and full authority and rights to sell the Products; (b) the Products are not subject to any liens, encumbrances, or security interests; (c) none of the Products are stolen or counterfeit goods or other goods that are illegal to sell; (d) the Products and Product listings are accurate and complete and will not (i) infringe, misappropriate, or otherwise violate any third party rights, including without limitation any copyright, trademark, or other intellectual property or proprietary right or (ii) violate any applicable law, rule or regulation.

**13.4 Counterfeits.** Sellers acknowledge and agree that Company may cooperate with any third-party, including any governmental authority and/or law enforcement agency or

officials in the event that a Product is alleged to be infringing any third party's rights, a counterfeit or stolen goods, or otherwise violates any applicable laws, rules and regulations, including without limitation revealing Seller's contact information when required by court order or other law enforcement directive. Seller is responsible for ensuring the authenticity of all Products offered or sold on the Company Properties.

**14. DELIVERY TERMS.** LOVD shall provide pick-up and delivery services only within New York City in connection with the Products sold and purchased through the Services. LOVD shall only act as a bailee of the Products being delivered and shall not take any ownership of the Products at any time during the transaction between Seller and Buyer. Seller shall remain the owner of the Products until they are delivered to Buyer. LOVD may use a third-party service provider for the pick-up and delivery of Products. By ordering any Product through the Services, you acknowledge that Company has no responsibility or liability for any delays that may result from orders handled by such third-party service provider. LOVD shall have no liability to Seller, Buyer or any other party regarding the Products as a result of its provision of any delivery services.

**15. LOVD AS SELLER.** In certain circumstances, LOVD may be the seller of record of Products listed on the Company Properties. In the event LOVD is the seller of record, such Product listing will expressly state LOVD is the seller of such Product and the following terms shall apply:

**15.1 Order Acceptance.** Company's confirmation of receipt of your order does not constitute Company's acceptance of your order. Company is only deemed to have accepted your order once the Product(s) you ordered have been shipped.

**15.2 Order Issues.** Company reserves the right to deny any order for any reason, including if: (i) we discover an error in pricing and/or other information about the Product or receive insufficient or erroneous billing, payment, and/or shipping information, (ii) we suspect an order has been placed using stolen payment card information or otherwise appears to be connected to fraud, or (iii) the ordered Product is unavailable for any reason. We may also refuse any order that is connected with a previous payment dispute.

**15.3 Returns.** All Products are final sale and non-returnable and non-refundable.

**15.4 Order Cancellation.** If any Product becomes unavailable, Company reserves the right to cancel your order and provide you a refund for the amount paid for the Product, if applicable.

**15.5 Additional Disclaimers.** COMPANY MAKES REASONABLE EFFORTS TO ACCURATELY DESCRIBE AND DISPLAY THE ATTRIBUTES OF THE PRODUCTS, INCLUDING APPLICABLE COLORS, QUALITY AND SIZE; HOWEVER, THE ACTUAL IMAGES AND COLOR YOU SEE WILL DEPEND ON YOUR COMPUTER SYSTEM, AND COMPANY CANNOT GUARANTEE THAT YOUR COMPUTER WILL ACCURATELY DISPLAY SUCH IMAGES OR COLORS.

COMPANY RESERVES THE RIGHT TO MODIFY OR REMOVE ANY OF ITS PRODUCT LISTINGS ON THE WEBSITE OR APP AT ANY TIME WITHOUT NOTICE OR OBLIGATION TO YOU.

**16. FEES AND PAYMENT POLICY.** Company shall charge each Seller a fee per transaction (“**Transaction Fee**”). In addition, Company may charge each Buyer a delivery fee (“**Delivery Fee**,” together with the Transaction Fee, the “**Fees**”). Such Fees can be found on the Product purchase screen.

**16.1 Payment of Fees.** Unless explicitly stated otherwise, Buyers contract directly with Sellers for the purchase of Products on the Company Properties and the Company is not a party to any such sales. The Company facilitates these sales through hosting the Company Properties and by facilitating the processing of payments as described below. All payments must be made through the Company Properties. The Company’s Fee for each purchase on the Company Properties is deducted from the purchase price paid by the Buyer, with the remainder remitted to the Seller. You understand and agree that the Company itself does not process the transmission of funds and thus it is not a separate and discrete service that the Company provides in addition to the Company Properties.

**16.2 Third Party Service Provider.** The Company uses Stripe, Inc. and its affiliates (“**Stripe**”) as its third party service provider for payment services (e.g., card acceptance, merchant settlement, and related services). By buying or selling on any Company Property, you agree to be bound by Stripe’s Privacy Policy (currently accessible at <https://stripe.com/us/privacy>) and its Terms of Service (currently accessible at <https://stripe.com/us/terms>) and hereby consent and authorize the Company and Stripe to share any information and payment instructions you provide with each other to the minimum extent required to complete your transactions. By listing or selling item on the Company Properties, you also agree to be bound by the Stripe Connected Account Agreement that includes the Stripe Services Agreement, as may be modified by Stripe from time to time (collectively, the “**Payment Processor Agreement**”). As a condition of using Stripe’s payment processing, you must provide accurate and complete payment information. All bank and credit card information is sent directly to and stored with Stripe using its security protocols. The Company does not store your payment information on its systems and shall not have any responsibility for the safety or security of that information. As a Seller, your use of Stripe’s payment processing is conditioned upon your compliance with the Payment Processor Agreement, and if the Payment Processor Agreement is terminated by Stripe, you may not be able to use the Company Properties, or you may have your Account suspended or terminated. We may change or add other payment processing services at any time upon notice to you, which may be subject to additional terms or conditions.

**16.3 Refunds.** All Products are final sale and non-returnable and all Product fees and Fees are non-refundable.

**16.4 Appointment as Limited Payments Agent.** To the extent applicable, Seller hereby appoints Company as its limited payments agent for the sole purpose of receiving, holding and

settling payments to Seller for any purchase of a Product from Seller through the Company Properties. Company or Stripe (as third party payment processor), will settle payments that are actually or constructively received by Company to you, less any fees or other amounts owed to Company, including fees and other obligations, and subject to this Terms of Service. Seller agrees that a payment actually or constructively received by Company, on Seller's behalf, satisfies the buyer's obligation in the amount of the payment, regardless of whether Company or the third party payment processor actually settles such payment to Seller. If Company or the third party payment processor does not settle any such payments as described in this Terms of Service, Seller will have recourse only against Company or the third party payment processor, to the extent applicable, and not the buyer, as payment for the Product is deemed made by buyer to Seller upon constructive or actual receipt of funds by Company or its third party payment processor.

**16.5 Taxes.** The amounts paid under this Agreement do not include any Sales Tax that may be due in connection with any Services provided under this Agreement. If the Company determines it has a legal obligation to collect Sales Tax from a User in connection with this Agreement, the Company shall collect such Sales Tax in addition to the amounts required under this Agreement. If any Services, or payments for any Services, under the Agreement are subject to Sales Tax in any jurisdiction and you have not remitted the applicable Sales Tax to the Company, you will be responsible for the payment of such Sales Tax and any related penalties or interest to the relevant tax authority, and you will indemnify the Company for any liability or expense the Company may incur in connection with such Sales Taxes. Upon the Company's request, you will provide it with official receipts issued by the appropriate taxing authority, or such other evidence that you have paid all applicable taxes. For purposes of this section, "**Sales Tax**" shall mean any sales or use tax and any other tax measured by sales proceeds that is the functional equivalent of a sales tax where the applicable taxing jurisdiction does not otherwise impose a sales or use tax.

**17. RELEASE.** THE COMPANY EXPRESSLY DISCLAIMS ANY LIABILITY THAT MAY ARISE BETWEEN USERS OF ITS PLATFORM. THE COMPANY PROPERTIES ARE ONLY A VENUE FOR CONNECTING BUYERS WITH SELLERS. BECAUSE THE COMPANY IS NOT A PARTY TO THE ACTUAL CONTRACTS BETWEEN BUYERS AND SELLERS, IN THE EVENT THAT YOU HAVE A DISPUTE WITH ONE OR MORE USERS, YOU RELEASE THE COMPANY, ITS PARENTS, SUBSIDIARIES, AFFILIATES, OFFICERS, EMPLOYEES, INVESTORS, AGENTS, PARTNERS AND LICENSORS, BUT EXCLUDING ANY USERS (collectively, the "**COMPANY PARTIES**") (FROM ANY AND ALL CLAIMS, DEMANDS, OR DAMAGES (ACTUAL OR CONSEQUENTIAL) OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, SUSPECTED AND UNSUSPECTED, DISCLOSED AND UNDISCLOSED, ARISING OUT OF OR IN ANY WAY CONNECTED WITH SUCH DISPUTES.

**18. INDEMNIFICATION.** You agree to indemnify and hold the Company Parties harmless from any losses, costs, liabilities and expenses (including reasonable attorneys' fees) relating to or arising out of: (a) Your Content, including Product listings; (b) your use of, or inability to use, the Company Properties; (c) your violation of the Agreement, including a

breach of any representations and warranties herein; (d) your violation of any rights of another party, including any Users; or (e) your violation of any applicable laws, rules or regulations. The Company reserves the right, at its own cost, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will fully cooperate with the Company in asserting any available defenses. This provision does not require you to indemnify any of the Company Parties for any unconscionable commercial practice by such party or for such party's fraud, deception, false promise, misrepresentation or concealment, or suppression or omission of any material fact in connection with the Company Properties hereunder. You agree that the provisions in this section will survive any termination of your Account, the Agreement and/or your access to the Company Properties.

## **19. DISCLAIMER OF WARRANTIES AND CONDITIONS.**

**19.1 As Is.** YOU EXPRESSLY UNDERSTAND AND AGREE THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOUR USE OF THE COMPANY PROPERTIES IS AT YOUR SOLE RISK, AND THE COMPANY PROPERTIES ARE PROVIDED TO YOU ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS. THE COMPANY PARTIES EXPRESSLY DISCLAIM ALL WARRANTIES, REPRESENTATIONS, AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT RELATED TO THE COMPANY PROPERTIES.

**(a)** THE COMPANY PARTIES MAKE NO WARRANTY, REPRESENTATION OR CONDITION THAT: (1) THE COMPANY PROPERTIES WILL MEET YOUR REQUIREMENTS; (2) YOUR USE OF THE COMPANY PROPERTIES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; (3) THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE COMPANY PROPERTIES WILL BE ACCURATE OR RELIABLE; OR (4) ANY ERRORS IN THE COMPANY PROPERTIES WILL BE CORRECTED. COMPANY CANNOT GUARANTEE CONTINUOUS OR SECURE ACCESS TO THE COMPANY PROPERTIES, AND OPERATION OF THE COMPANY PROPERTIES MAY BE INTERFERED WITH BY NUMEROUS FACTORS OUTSIDE OF OUR CONTROL.

**(b)** ANY CONTENT DOWNLOADED FROM OR OTHERWISE ACCESSED THROUGH COMPANY PROPERTIES IS ACCESSED AT YOUR OWN RISK, AND YOU SHALL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY, INCLUDING, BUT NOT LIMITED TO, YOUR COMPUTER SYSTEM AND ANY DEVICE YOU USE TO ACCESS COMPANY PROPERTIES, OR ANY OTHER LOSS THAT RESULTS FROM ACCESSING SUCH CONTENT.

**(c)** THE SERVICES MAY BE SUBJECT TO DELAYS, CANCELLATIONS AND OTHER DISRUPTIONS. COMPANY MAKES NO WARRANTY, REPRESENTATION OR CONDITION WITH RESPECT TO SERVICES, INCLUDING BUT NOT LIMITED TO, THE



QUALITY, EFFECTIVENESS, REPUTATION AND OTHER CHARACTERISTICS OF SERVICES.

**(d)** NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM THE COMPANY OR THROUGH THE COMPANY PROPERTIES WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN.

**(e)** FROM TIME TO TIME, THE COMPANY MAY OFFER NEW “BETA” FEATURES OR TOOLS WITH WHICH ITS USERS MAY EXPERIMENT. SUCH FEATURES OR TOOLS ARE OFFERED SOLELY FOR EXPERIMENTAL PURPOSES AND WITHOUT ANY WARRANTY OF ANY KIND, AND MAY BE MODIFIED OR DISCONTINUED AT THE COMPANY’S SOLE DISCRETION. THE PROVISIONS OF THIS SECTION APPLY WITH FULL FORCE TO SUCH FEATURES OR TOOLS.

**19.2 No Liability for Conduct of Third Parties.** YOU ACKNOWLEDGE AND AGREE THAT THE COMPANY PARTIES ARE NOT LIABLE, AND YOU AGREE NOT TO SEEK TO HOLD THE COMPANY PARTIES LIABLE, FOR THE CONDUCT OF THIRD PARTIES, INCLUDING BUT NOT LIMITED TO SELLERS, BUYERS, OR OPERATORS OF EXTERNAL SITES, AND THAT THE RISK OF INJURY FROM SUCH THIRD PARTIES RESTS ENTIRELY WITH YOU.

**(a)** The Company makes no warranty that the Products or other services or goods provided by third parties, including Sellers, will meet your requirements or will be performed in a professional manner. The Company makes no warranty that the Buyers or Sellers will comply with the terms of their agreements with you. The Company makes no warranty regarding the quality of any Product, or the accuracy, timeliness, truthfulness, completeness or reliability of any User Content, including but not limited to the Product listings, obtained through the Company Properties.

**(b)** We are not involved in the actual transaction between Buyers and Sellers. While we may help facilitate the resolution of disputes through various programs, we have no control over and do not guarantee (i) the quality, safety or legality of Products advertised, (ii) the truth or accuracy of Users’ content or Product listings, (iii) the ability of Sellers to sell the Products, or that the Seller will provide the Products in accordance with a Buyer’s requirements, (iv) the ability of Buyers to pay for the Products, or (v) that the Buyer or Seller will actually complete a transaction or return any items.

**(c)** COMPANY PARTIES ARE NOT RESPONSIBLE AND HEREBY DISCLAIM ALL LIABILITY FOR, AND BUYER ACKNOWLEDGES AND AGREES THAT THE COMPANY PARTIES ARE NOT LIABLE AND AGREE NOT TO SEEK TO HOLD THE COMPANY PARTIES LIABLE FOR, THE SAFETY AND PERFORMANCE OF ANY PRODUCT LISTED BY A SELLER, INCLUDING ANY RECALLED OR DEFECTIVE ITEMS, ITEMS THAT ARE INHERENTLY DANGEROUS, OR ITEMS THAT BECOME MORE DANGEROUS OR RISKY WITH AGE, USE OR POOR MAINTENANCE. TO THE EXTENT ALLOWED UNDER APPLICABLE LAW, BUYER ACCEPTS ALL RISKS ASSOCIATED WITH THEIR USE OF

THE PRODUCTS. Seller shall be solely responsible and liable for any Products that may pose a risk to a user's health or safety, as determined by any governmental authority, and removing any Product listings for recalled Products.

(d) We do not transfer legal ownership of items from the Seller to the Buyer. Uniform Commercial Code § 2-401(2) applies to the transfer of ownership between the Buyer and the Seller, unless the Buyer and the Seller agree otherwise.

**19.3 No Liability for Conduct of Other Users.** YOU ARE SOLELY RESPONSIBLE FOR ALL OF YOUR COMMUNICATIONS AND INTERACTIONS WITH OTHER USERS OF THE COMPANY PROPERTIES. YOU UNDERSTAND THAT THE COMPANY DOES NOT MAKE ANY ATTEMPT TO VERIFY THE STATEMENTS OF USERS OF THE COMPANY PROPERTIES. THE COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE CONDUCT OF ANY USERS OF THE COMPANY PROPERTIES. YOU AGREE TO TAKE REASONABLE PRECAUTIONS IN ALL COMMUNICATIONS AND INTERACTIONS WITH OTHER USERS OF THE COMPANY PROPERTIES.

**19.4 Third-Party Materials.** As a part of Company Properties, you may have access to materials that are hosted by another party. You agree that it is impossible for Company to monitor such materials and that you access these materials at your own risk.

## **20. LIMITATION OF LIABILITY.**

**20.1 Disclaimer of Certain Damages.** YOU UNDERSTAND AND AGREE THAT, TO THE FULLEST EXTENT PROVIDED BY LAW, IN NO EVENT SHALL COMPANY PARTIES BE LIABLE FOR ANY LOSS OF PROFITS, REVENUE OR DATA, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, OR DAMAGES OR COSTS DUE TO LOSS OF PRODUCTION OR USE, BUSINESS INTERRUPTION, OR PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, IN EACH CASE, WHETHER OR NOT THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY DAMAGES FOR PERSONAL OR BODILY INJURY OR EMOTIONAL DISTRESS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, OR FROM ANY COMMUNICATIONS, INTERACTIONS OR MEETINGS WITH OTHER USERS OF THE COMPANY PROPERTIES, ON ANY THEORY OF LIABILITY, RESULTING FROM: (1) THE USE OR INABILITY TO USE THE COMPANY PROPERTIES; (2) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED; OR MESSAGES RECEIVED FOR TRANSACTIONS ENTERED INTO THROUGH COMPANY PROPERTIES; (3) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (4) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE COMPANY PROPERTIES; OR (5) ANY OTHER MATTER RELATED TO THE COMPANY PROPERTIES, WHETHER BASED ON WARRANTY, COPYRIGHT, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO LIABILITY OF A COMPANY PARTY FOR (i) DEATH OR

PERSONAL INJURY CAUSED BY A COMPANY PARTY'S NEGLIGENCE; OR FOR (ii) ANY INJURY CAUSED BY A COMPANY PARTY'S FRAUD OR FRAUDULENT MISREPRESENTATION.

**20.2 Cap on Liability.** TO THE FULLEST EXTENT PROVIDED BY LAW, THE COMPANY PARTIES WILL NOT BE LIABLE TO YOU FOR MORE THAN THE GREATER OF (A) THE TOTAL AMOUNT PAID TO THE COMPANY BY YOU DURING THE ONE-MONTH PERIOD PRIOR TO THE ACT, OMISSION OR OCCURRENCE GIVING RISE TO SUCH LIABILITY; (B) \$100; AND (C) THE REMEDY OR PENALTY IMPOSED BY THE STATUTE UNDER WHICH SUCH CLAIM ARISES. THE FOREGOING CAP ON LIABILITY SHALL NOT APPLY TO LIABILITY OF A COMPANY PARTY FOR (A) DEATH OR PERSONAL INJURY CAUSED BY A COMPANY PARTY'S NEGLIGENCE; OR FOR (B) ANY INJURY CAUSED BY A COMPANY PARTY'S FRAUD OR FRAUDULENT MISREPRESENTATION.

**20.3 User Content.** EXCEPT FOR COMPANY'S OBLIGATIONS TO PROTECT YOUR PERSONAL DATA AS SET FORTH IN THE COMPANY'S PRIVACY POLICY, COMPANY ASSUMES NO RESPONSIBILITY FOR THE TIMELINESS, DELETION, MIS-DELIVERY OR FAILURE TO STORE ANY CONTENT (INCLUDING, BUT NOT LIMITED TO, YOUR CONTENT AND USER CONTENT), USER COMMUNICATIONS OR PERSONALIZATION SETTINGS.

**20.4 Exclusion of Damages.** CERTAIN JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

**20.5 Basis of the Bargain.** THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN THE COMPANY AND YOU.

**21. PROCEDURE FOR MAKING CLAIMS OF COPYRIGHT INFRINGEMENT.** It is the Company's policy to terminate membership privileges of any Registered User who repeatedly infringes copyright upon prompt notification to the Company by the copyright owner or the copyright owner's legal agent. Without limiting the foregoing, if you believe that your work has been copied and posted on the Company Properties in a way that constitutes copyright infringement, please provide our Copyright Agent with the following information: (1) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; (2) a description of the copyrighted work that you claim has been infringed; (3) a description of the location on the Company Properties of the material that you claim is infringing; (4) your address, telephone number and e-mail address; (5) a written 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 (6) a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf. Contact information for the

Company's Copyright Agent for notice of claims of copyright infringement is as follows: [dmca@lovd.com](mailto:dmca@lovd.com).

## **22. REMEDIES.**

**22.1 Violations.** If the Company becomes aware of any possible violations by you of the Agreement, the Company reserves the right to investigate such violations. If, as a result of the investigation, the Company believes that criminal activity has occurred, the Company reserves the right to refer the matter to, and to cooperate with, any and all applicable legal authorities. The Company is entitled, except to the extent prohibited by applicable law, to disclose any information or materials on or in the Company Properties, including Your Content, in the Company's possession in connection with your use of the Company Properties, to (1) comply with applicable laws, legal process or governmental request; (2) enforce the Agreement, (3) respond to any claims that Your Content violates the rights of third parties, (4) respond to your requests for customer service, or (5) protect the rights, property or personal safety of the Company, its Users or the public, and all enforcement or other government officials, as the Company in its sole discretion believes to be necessary or appropriate.

**22.2 Term.** The Agreement commences on the date when you accept them (as described in the preamble above) and remain in full force and effect while you use Company Properties, unless terminated earlier in accordance with the Agreement. Notwithstanding the foregoing, you hereby acknowledge and agree that the Agreement commenced on the earlier to occur of (a) the date you first used Company Properties or (b) the date you accepted the Agreement, and that the Agreement will remain in full force and effect while you use any Company Properties, unless earlier terminated in accordance with the Agreement.

**22.3 Effect of Termination or Suspension of your Account and/or this Agreement.** You acknowledge and agree that the termination or suspension of your Account and/or this Agreement will not affect the transactions that you have entered into with other Users prior to the termination or suspension of your Account and/or this Agreement, and this Agreement will continue to apply with respect to those transactions and you are required to continue to perform your obligations in respect of those transactions. You acknowledge that the Company may notify any User that has entered into an agreement with you with respect to the sale or procurement of Products under the Company Properties of any termination or suspension of your Account or this Agreement.

**22.4 No Subsequent Registration.** If your registration(s) with or ability to access the Company Properties, or any other Company community is discontinued by the Company due to your violation of any portion of the Agreement or for conduct otherwise inappropriate for the community, then you agree that you shall not attempt to re-register with or access the Company Properties or any Company community through use of a different member name or otherwise, and you acknowledge that you will not be entitled to receive a refund for fees or other payments (including payments to Sellers) related to the Company Properties to

which your access has been terminated. In the event that you violate the immediately preceding sentence, the Company reserves the right, in its sole discretion, to immediately take any or all of the actions set forth herein without any notice or warning to you.

**23. USERS OUTSIDE NEW YORK CITY.** At this time, the Company is not able to offer Services or deliver Products outside the following zip codes in New York City, New York: [www.lovd.com/zip-codes](http://www.lovd.com/zip-codes). Such list to be updated from time to time in the sole discretion of Company. The Website and App may be accessed from cities, towns and states outside of these zip codes and countries around the world and may contain references to Services, Products, and Content that are not available in your city, town, state or country. These references do not imply that Company intends to announce such Services, Products, or Content in your city, town, state or country. Company makes no representations that Services, Products, or Content are appropriate or available for use in other locations. Those who access or use the Website or App from other cities, towns, states or countries do so at their own volition and are responsible for compliance with local law.

**24. ARBITRATION AGREEMENT.** *Please read the following arbitration agreement in this Section (“Arbitration Agreement”) carefully. It requires you to arbitrate with the Company any disputes you have directly with or against the Company and limits the manner in which you can seek relief from us.*

**24.1 Applicability of Arbitration Agreement.** You agree that any dispute, claim, or request for relief against the Company specifically, relating in any way to your access or use of the Company Properties, or to any other aspect of your relationship with the Company, will be resolved by binding arbitration, rather than in court, except that (1) you may assert claims or seek relief in small claims court if your claims qualify; and (2) you or the Company may seek equitable relief in court for infringement or other misuse of intellectual property rights (such as trademarks, trade dress, domain names, trade secrets, copyrights, and patents). **This Arbitration Agreement shall apply, without limitation, to all disputes or claims and requests for relief that arose or were asserted before the effective date of this Agreement or any prior version of this Agreement.** This Arbitration Agreement shall apply only with respect to Users based in the United States of America. **This Arbitration Agreement does not apply to claims solely against other Users of the Company Properties, which may be resolved in accordance with Sections Error! Reference source not found. and 11.5**

**24.2 Arbitration Rules and Forum.** The Federal Arbitration Act governs the interpretation and enforcement of this Arbitration Agreement. To begin an arbitration proceeding, you must send a letter requesting arbitration and describing your dispute or claim or request for relief to Company at 29 W 17<sup>th</sup> Street, Floor 4, New York, New York 10001. The arbitration will be conducted by JAMS, an established alternative dispute resolution provider. Disputes involving claims, counterclaims, or request for relief under \$250,000, not inclusive of attorneys’ fees and interest, shall be subject to JAMS’s most current version of the Streamlined Arbitration Rules and procedures available at <http://www.jamsadr.com/rules-streamlined-arbitration/>; all other disputes shall be subject to JAMS’s most current version of the Comprehensive Arbitration Rules and Procedures, available at <http://www.jamsadr.com/rules-comprehensive-arbitration/>.

JAMS's rules are also available at [www.jamsadr.com](http://www.jamsadr.com) or by calling JAMS at 800-352-5267. If JAMS is not available to arbitrate, the parties will select an alternative arbitral forum. If the arbitrator finds that you cannot afford to pay JAMS's filing, administrative, hearing and/or other fees and cannot obtain a waiver from JAMS, the Company will pay them for you. In addition, the Company will reimburse all such JAMS's filing, administrative, hearing and/or other fees for disputes, claims, or requests for relief totaling less than \$10,000 unless the arbitrator determines the claims are frivolous.

You may choose to have the arbitration conducted by telephone, based on written submissions, or in person where you live or at another mutually agreed location. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

**24.3 Authority of Arbitrator.** The arbitrator shall have exclusive authority to (a) determine the scope and enforceability of this Arbitration Agreement and (b) resolve any dispute related to the interpretation, applicability, enforceability or formation of this Arbitration Agreement including, but not limited to, any assertion that all or any part of this Arbitration Agreement is void or voidable. The arbitration will decide the rights and liabilities, if any, of you and the Company. The arbitration proceeding will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator shall have the authority to grant motions dispositive of all or part of any claim. The arbitrator shall have the authority to award monetary damages and to grant any non-monetary remedy or relief available to an individual under applicable law, the arbitral forum's rules, and the Agreement (including the Arbitration Agreement). The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon you and us.

**24.4 Waiver of Jury Trial.** YOU AND THE COMPANY HEREBY WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO SUE IN COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY. You and the Company are instead electing that all disputes, claims, or requests for relief shall be resolved by arbitration under this Arbitration Agreement, except as specified in Section 24.1 above. An arbitrator can award on an individual basis the same damages and relief as a court and must follow this Agreement as a court would. However, there is no judge or jury in arbitration, and court review of an arbitration award is subject to very limited review.

**24.5 Waiver of Class or Other Non-Individualized Relief.** ALL DISPUTES, CLAIMS, AND REQUESTS FOR RELIEF WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS OR COLLECTIVE BASIS, ONLY INDIVIDUAL RELIEF IS AVAILABLE, AND CLAIMS OF MORE THAN ONE USER CANNOT BE ARBITRATED OR CONSOLIDATED WITH THOSE OF ANY OTHER USER. If a decision is issued stating that applicable law precludes enforcement of any of this section's limitations as to a given dispute, claim, or request for relief, then such aspect must be

severed from the arbitration and brought into the State or Federal Courts located in the State of California. All other disputes, claims, or requests for relief shall be arbitrated.

**24.6 30-Day Right to Opt Out.** You have the right to opt out of the provisions of this Arbitration Agreement by sending written notice of your decision to opt out to: [support@lovd.com](mailto:support@lovd.com), within thirty (30) days after first becoming subject to this Arbitration Agreement. Your notice must include your name and address, your Company username (if any), the e-mail address you used to set up your Account (if you have one), and an unequivocal statement that you want to opt out of this Arbitration Agreement. If you opt out of this Arbitration Agreement, all other parts of this Agreement will continue to apply to you. Opting out of this Arbitration Agreement has no effect on any other arbitration agreements that you may currently have, or may enter in the future, with us.

**24.7 Severability.** Except as provided in subsection 24.5, if any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Arbitration Agreement shall continue in full force and effect.

**24.8 Survival of Agreement.** This Arbitration Agreement will survive the termination of your relationship with the Company.

**24.9 Modification.** Notwithstanding any provision in this Agreement to the contrary, we agree that if the Company makes any future material change to this Arbitration Agreement, you may reject that change within thirty (30) days of such change becoming effective by writing to the Company at the following address: 29 W 17<sup>th</sup> Street, Floor 4, New York, New York, 10011.

## **25. THIRD PARTY SERVICES.**

**25.1 Marketplace Exchange.** Company Properties can be used to facilitate the purchase and sale of services or merchandise through Company Properties from Sellers. All matters concerning the merchandise and services desired from a Seller, including but not limited to purchase terms, payment terms, warranties, guarantees, maintenance and delivery, are solely between you and the Seller. Company makes no warranties or representations whatsoever with regard to any goods or services provided by Sellers. Notwithstanding Company's role in facilitation of payments, as addressed in Section 16, you will not consider Company, nor will Company be construed as, a party to such transactions, whether or not Company may have received some form of revenue or other remuneration in connection with the transaction, nor will Company be liable for any costs or damages arising out of, either directly or indirectly, you or any other person involved or related to the transaction.

**25.2 Third-Party Websites, Applications and Ads.** Company Properties may contain links to third-party websites ("**Third-Party Websites**"), applications ("**Third-Party Applications**") and advertisements for third parties ("**Third-Party Ads**"). When you click on a link to a Third-Party Website, Third-Party Application or Third-Party Ad, we will not warn you that you have left Company Properties and are subject to the terms and conditions

(including privacy policies) of another website or destination. Such Third-Party Websites, Third-Party Applications and Third-Party Ads are not under the control of Company. Company is not responsible for any Third-Party Websites, Third-Party Applications or Third-Party Ads. Company provides these Third-Party Websites, Third-Party Applications and Third-Party Ads only as a convenience and does not review, approve, monitor, endorse, warrant, or make any representations with respect to Third-Party Websites, Third-Party Applications or Third-Party Ads, or any product or service provided in connection therewith. You use all links in Third-Party Websites, Third-Party Applications and Third-Party Ads at your own risk. When you leave our Website, this Agreement and our policies no longer govern. You should review applicable terms and policies, including privacy and data gathering practices, of any Third-Party Websites, Third-Party Applications, or Third-Party Ads, and make whatever investigation you feel necessary or appropriate before proceeding with any transaction with any third party.

**25.3 App Stores.** You acknowledge and agree that the availability of the App and the Services is dependent on the third party from whom you received the App license, e.g., the Apple App Store or Google Play (each, an “**App Store**”). You acknowledge that the Agreement is between you and Company and not with the App Store. Company, not the App Store, is solely responsible for Company Properties, including the App, the content thereof, maintenance, support services, and warranty therefor, and addressing any claims relating thereto (e.g., product liability, legal compliance or intellectual property infringement). In order to use the App, you must have access to a wireless network, and you agree to pay all fees associated with such access. You also agree to pay all fees (if any) charged by the App Store in connection with Company Properties, including the App. You agree to comply with, and your license to use the App is conditioned upon your compliance with all terms of agreement imposed by the applicable App Store when using any Company Property, including the App. You acknowledge that the App Store (and its subsidiaries) are third-party beneficiaries of the Agreement and will have the right to enforce it.

**25.4 Accessing and Downloading the App from iTunes.** The following applies to any App Store Sourced Application accessed through or downloaded from the Apple App Store:

**(a)** You acknowledge and agree that (i) the Agreement is concluded between you and Company only, and not Apple, and (ii) Company, not Apple, is solely responsible for the App Store Sourced Application and content thereof. Your use of the App Store Sourced Application must comply with the App Store Terms of Service.

**(b)** You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the App Store Sourced Application.

**(c)** In the event of any failure of the App Store Sourced Application to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the App Store Sourced Application to you and to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App Store Sourced Application. As between Company and Apple, any other claims, losses, liabilities,



damages, costs or expenses attributable to any failure to conform to any warranty will be the sole responsibility of Company.

**(d)** You and Company acknowledge that, as between Company and Apple, Apple is not responsible for addressing any claims you have or any claims of any third party relating to the App Store Sourced Application or your possession and use of the App Store Sourced Application, including, but not limited to: (i) product liability claims; (ii) any claim that the App Store Sourced Application fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.

**(e)** You and Company acknowledge that, in the event of any third-party claim that the App Store Sourced Application or your possession and use of that App Store Sourced Application infringes that third party's intellectual property rights, as between Company and Apple, Company, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by the Agreement.

**(f)** You and Company acknowledge and agree that Apple, and Apple's subsidiaries, are third-party beneficiaries of the Agreement as related to your license of the App Store Sourced Application, and that, upon your acceptance of the terms and conditions of the Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce the Agreement as related to your license of the App Store Sourced Application against you as a third-party beneficiary thereof.

**(g)** Without limiting any other terms of the Agreement, you must comply with all applicable third-party terms of agreement when using the App Store Sourced Application.

## **26. GENERAL PROVISIONS.**

**26.1 Electronic Communications.** The communications between you and the Company may take place via electronic means, whether you visit the Company Properties or send the Company e-mails, or whether the Company posts notices on the Company Properties or communicates with you via e-mail. For contractual purposes, you (1) consent to receive communications from the Company in an electronic form; and (2) agree that all terms and conditions, agreements, notices, disclosures, and other communications that the Company provides to you electronically satisfy any legal requirement that such communications would satisfy if it were to be in writing. The foregoing does not affect your statutory rights, including but not limited to the Electronic Signatures in Global and National Commerce Act at 15 U.S.C. §7001 et seq. ("**E-Sign**").

**26.2 Assignment.** The Agreement, and your rights and obligations hereunder, may not be assigned, subcontracted, delegated or otherwise transferred by you without the Company's prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void.

**26.3 Force Majeure.** The Company shall not be liable for any delay or failure to perform resulting from causes outside its reasonable control, including, but not limited to, acts of God, war, terrorism, riots, embargos, acts of civil or military authorities, fire, floods, accidents, strikes or shortages of transportation facilities, fuel, energy, labor or materials.

**26.4 Questions, Complaints, Claims.** If you have any questions, complaints or claims with respect to the Company Properties, please contact us at: support@lovd.com. We will do our best to address your concerns. If you feel that your concerns have been addressed incompletely, we invite you to let us know for further investigation.

**26.5 Governing Law.** The Agreement and any action related thereto will be governed and interpreted by and under the laws of the State of New York, without giving effect to any principles that provide for the application of the law of another jurisdiction.

**26.6 Exclusive Venue.** To the extent the parties are permitted under this Agreement to initiate litigation in a court, both you and Company agree that all claims and disputes arising out of or relating to the Agreement will be litigated exclusively in the state or federal courts located in New York County, New York.

**26.7 Notice.** Where the Company requires that you provide an e-mail address, you are responsible for providing the Company with your most current e-mail address. In the event that the last e-mail address you provided to the Company is not valid, or for any reason is not capable of delivering to you any notices required/ permitted by the Agreement, the Company's dispatch of the e-mail containing such notice will nonetheless constitute effective notice. You may give notice to the Company at the following address: 29 W 17<sup>th</sup> Street, Floor 4, New York, New York, 10011. Such notice shall be deemed given when received by the Company by letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail at the above address.

**26.8 Waiver.** Any waiver or failure to enforce any provision of the Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

**26.9 Severability.** If any provision of the Agreement is, for any reason, held to be invalid or unenforceable, the other provisions of the Agreement will remain enforceable, and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.

**26.10 Entire Agreement.** The Agreement is the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior discussions between the parties with respect to such subject matter.

