

## GROUPON GOODS MARKETPLACE MERCHANT AGREEMENT

This Groupon Goods Marketplace Merchant Agreement (this “**Agreement**”) is an agreement between you (as defined below) and Groupon Goods Global GmbH (“**Groupon**,” “**we**,” “**our**,” or “**us**”) and contains the terms and conditions that govern your access to and use of the Marketplace Service (as defined below). You and Groupon may each be referred to individually as a “**Party**”, and together as the “**Parties**”. Groupon Goods Global GmbH is a Swiss limited liability company with its registered address at c/o Bovadis Partner Treuhand AG, Oberstadt 3, 8200 Schaffhausen, Switzerland and a share capital of CHF 20,000. Any postal correspondence should be sent to its registered UK branch at Floors 11-12, Aldgate Tower, 2 Leaman Street, London E1 8FA, United Kingdom.

By using the Marketplace Service to sell Products you are indicating that you agree to all of the terms and conditions of this Agreement. You additionally represent that you lawfully are able to enter into this Agreement on your own behalf or if you are entering into this Agreement on behalf of a legal entity, that you have the authority to bind such entity and that this Agreement is fully binding upon the entity. Groupon, subject to the provisions of this paragraph, may amend the Agreement in its sole discretion and at any time. The most recent version of this Agreement (as may be amended by Groupon from time to time) will be available: (i) at <https://www.groupon.com/legal/EMEA-Marketplace-Agreement> and/or (ii) as part of a Groupon Goods Marketplace merchant newsletter and/or any similar email communication sent by Groupon to Groupon Goods Marketplace merchants (including you). You agree that either or both of these notification methods constitute adequate notice to inform you of any amendments to this Agreement, and you further agree to be bound by any such amendments to this Agreement upon such notification.

**1. Defined Terms.** As used in this Agreement, the following terms have the following meanings:

**1.1. “Affiliate”** means any Entity that, directly or indirectly, controls, is controlled by, or is under common control with, a specified Entity.

**1.2. “Applicable Law”** means any national, regional or local laws, rules, regulations, and orders applicable to a Party.

**1.3. “Business Days”** means all days other than Saturday, Sunday or a public holiday in the territory where you are based.

**1.4. “Chargebacks”** are Your Transactions for which Groupon does not receive payment from the credit card company or has such payment reversed by the credit card company due to a dispute of the payment by a Purchaser.

**1.5. “CommerceInterface”** means the online portal and tools made available by Groupon to you for your use in managing customer orders and Product tracking.

**1.6. “Deal Centre”** means the Groupon Deal Centre online portal and tools made available by Groupon to you for your use in managing your inventory, Your Transactions, and your presence on the Marketplace Service.

**1.7. “Entity”** means an individual or a partnership, corporation, limited liability company, trust, joint venture, association, unincorporated organization, government agency or political subdivision thereof, or other entity.

**1.8. “Expected Ship Date”** means the date by which an order for your Products should be shipped as set out in Deal Centre.

**1.9. “Expected Delivery Date”** means the date by which an order for your Products should be delivered to the Purchaser (or other designated recipient) as set out on the related Feature Page.

**1.10. “Groupon Channels”** means the Groupon Website and/or other platforms or distribution channels owned, controlled or operated by Groupon, Groupon’s Affiliates or third party business partners, including emails, mobile applications, or other types of electronic offerings.

**1.11. “Groupon Website”** means Groupon’s online platform and/or any other websites owned, controlled, or operated by Groupon or its Affiliates, and their mobile applications.

**1.12. “Net Refunds”** means the amount Groupon had originally paid you for the applicable Your Transaction being refunded to a Purchaser (i.e. Sales Proceeds less Fees).

**1.13. “Offer Value”** means the actual, regular value of the Product.

**1.14. “Order Information”** means, with respect to any of your Products ordered through the Groupon Marketplace Service, the Purchaser contact information and shipping information that we provide or make available to you.

**1.15. “Personal Data”** has the same meaning as is set out in European Union Regulation (EU) 2016/679 and includes Purchasers’ Order Information and any other data or information about a Purchaser or other person acquired by you or your Affiliates from Groupon, its Affiliates, or otherwise as a result of this Agreement.

**1.16. “Product”** means any product or service (including warranties, extended service plans, and any other related offerings) that you offer through the Marketplace Service.

**1.17. “Purchaser”** means a person who has purchased a Product and fully paid the Sales Proceeds.

**1.18. “Sales Proceeds”** means the gross proceeds from any of Your Transactions, including Value Added Tax.

**1.19. “Shipment Tracking Information”** means an accurate, valid, and verifiable, tracking number that can be used to determine where the applicable shipment for any of Your Transactions (as defined below) is in transit and the estimated delivery date.

**1.20. “Third Party Merchant”** means any third-party service provider that you engage to assist you with fulfilling your obligations under this Agreement.

**1.21. “you” and “your”** means the applicant (if registering for or using the Marketplace Service as an individual), or the business employing the applicant (if registering for or using the Marketplace Service as a business) and any of its Affiliates.

**1.22. “Your Transaction”** means any sale of your Product(s) through the Marketplace Service.

**1.23. “Value Added Tax” or “VAT”** means value added, sales or goods/services tax, or any similar tax imposed in any jurisdiction.

## **2. Groupon Goods Marketplace Service; Marketplace Policies; Your Terms of Sale.**

**2.1.** Groupon, under the brand “Groupon Goods Marketplace”, is offering a service that allows you, as a merchant, to offer certain products for sale to consumers through certain Groupon Channels (the **“Marketplace Service”**). During the term of this Agreement, you irrevocably appoint and authorise Groupon to act as your agent for the purpose of concluding contracts for the sale, supply or provision of the Products between you and the customer.

**2.2.** Use of the Marketplace Service is subject to all applicable Groupon Goods Marketplace requirements and policies, as such may be updated or modified from time to time, that can be found here: <https://goods-international.groupon.com/support/solutions/19000103983> (collectively, **“Marketplace Policies”**). Marketplace Policies include requirements regarding return policies and shipping and handling charges. If at any time you are not in compliance with any of the Marketplace Policies, Groupon may, in addition to all other rights and remedies available under this Agreement or Applicable Law, impose limitations or revoke privileges that may have been granted to you with respect to your Account, Deal Centre, or the Marketplace Service in general, including your eligibility to sell certain Products.

**2.3.** All Products shall be sold in accordance with your terms of sale (**“Your Terms”**). You must provide Groupon with a link to Your Terms for inclusion on the Groupon Website where your Products will be offered.

## **3. Product Offerings.**

**3.1. Feature Pages and Store Page.** As part of the Marketplace Service, you will be able to create listings for each Product you offer for sale through the Marketplace Service which Groupon may, in its sole discretion, turn into a webpage presented by Groupon in various potential formats offering your Product(s) (each a **“Feature Page”**). In addition, if made available, in Groupon’s sole discretion, you or Groupon may also create a landing page that contains all Products you currently offer for sale through the Marketplace Service (**“Store Page”**). Groupon reserves the continuing right, subject to Section 21, to: (a) reject, revise, suppress or discontinue any Feature Page or Store Page, including any Product listings thereon; (b) terminate any Product listings and to remove all references to the Product listings, Feature Page, or Store Page from the Groupon Channels; and (c) redirect or delete any URL used in connection with the Product listings, Feature Page, or Store Page.

**3.2. Product Information.** There is certain information about your Products that we require you to provide as part of the listing process. You are responsible for promptly informing Groupon of any changes to Product information to ensure your Product listings at all times remain accurate and complete.

**3.3. Prohibitions on Sale.** You shall not provide any information for, or otherwise seek to offer for sale through the Marketplace Service, any and all illegal or counterfeit products and at all times must comply with Marketplace Policies regarding restricted and prohibited products. Your Products, including packaging, and your offer and subsequent sale of any of the same through the Marketplace Service shall not violate Applicable Law. You shall not provide or include any website links for use, or request that any website link be used, on any Feature Page or a Store Page. Furthermore, Groupon may at any time, in its sole discretion, prohibit you from listing any Products.

#### **4. Orders.**

**4.1. Shipping and Handling Charges.** For every Product, any shipping and handling charges must be included in the price of your Product. You will be solely liable for all costs related to any duplicate or inaccurate shipments sent by you, including any such shipments based upon your retransmission of files related to your orders through Deal Centre.

**4.2. Order Processing.** We will process all sales of your Products made through the Marketplace Service and collect the applicable Sales Proceeds on your behalf. After a sale, we will provide you with the applicable Order Information so you can fulfill the order. You agree that, if requested by Groupon, you will use all commercially reasonable efforts to stop or cancel pending orders of your Products. Neither Purchasers nor Groupon shall be charged, or otherwise responsible for payment, for stopped or canceled orders, regardless of whether you shipped such order to the Purchaser after the date of stoppage or cancellation.

#### **5. Operations and Customer Service.**

**5.1. Sale and Fulfillment.** You understand that, except for payment processing, you, and not Groupon, are responsible for, and bear all risks of loss associated with, all aspects of the sale of your Products and fulfillment of Your Transactions. At no point in time shall the title to, or risk of loss for, the Product transfer to Groupon.

**5.2. Delivery Tracking.** For each of Your Transactions you ship to a Purchaser, you must ship the Product(s) by the Expected Ship Date and deliver the Product by the Expected Delivery Dates. You must provide to Groupon the shipping information for each of the Products, including the Shipment Tracking Information and a return address. Groupon may, in its sole discretion, choose to display the Shipment Tracking Information to Purchasers. The Shipment Tracking Information for each of Your Transactions must be uploaded to CommerceInterface within the time limit set out in Deal Centre, provided, however, that you may only send a shipment confirmation notice to a Purchaser after the applicable shipment has been delivered to the applicable carrier for shipment. If the applicable Shipment Tracking Information is not uploaded to CommerceInterface within the agreed time limit, Groupon may cancel Your Transaction on behalf of the Purchaser, and refund any amounts paid by such Purchaser. Such cancellations and refunds shall be in addition to, and not in place of, any other remedy Groupon or the affected Purchaser may have under this Agreement (or any other agreement between such parties) or Applicable Law, including, assessing Non-Compliance Cost Recovery Charges (as defined below).

**5.3. Cancellations, Returns and Refunds.** For all of Your Transactions, you will accept and process cancellations, returns, refunds, and adjustments in accordance with this Agreement, the Marketplace Policies, Your Terms, Applicable Law and the policies stated on the Feature Page published at the time of the applicable order, including the "Fine Print". You will route all refund payments to Purchasers in connection with Your Transactions through Groupon. We will provide those payments to the Purchaser (which may be in the same payment form originally used to purchase your Product). We will either hold back all amounts we pay for such refunds from your next payment or claim the amounts from you. You will promptly pay any requests for refunds and adjustments within thirty (30) days of the obligation arising.

**5.4.** If a Purchaser chooses to return a Product within the return policy, or as otherwise allowed or required under this Agreement, Marketplace Policies or Applicable Law, you shall be responsible for providing such Purchaser with a prepaid return label for such Product at your sole cost and expense within one (1) Business Day after receiving such request. The applicable refund for such return must be processed immediately following your receipt of the returned Product. Furthermore, you shall be responsible for all risk of loss and damage to Products being shipped for return.

**5.5. Delivery Errors and Nonconformities; Recalls.** You are solely responsible for correcting, via refund or replacement, any delivery error or non-conformity of your Products, including non-performance, non-delivery, mis-delivery, theft, mistakes in picking and/or packing your Product, or other mistake or act in connection with the fulfillment

of Your Transactions. You are also solely responsible for any and all legal notifications, refunds, replacements, or similar obligations, for defects in your Product, including any public or private recalls thereof, and will notify us as soon as you have knowledge of any such defects and/or potential recalls. You will also make all reasonable efforts to work with any governmental agency to issue any notifications, refunds, replacements, or undertake any similar obligations, to the extent required by Applicable Law, and to notify customers of the same in a timely manner.

**5.6. Customer Service.** You are solely responsible for all customer service related to the Products and your performance, or non-performance, of any of your obligations related thereto or under this Agreement. You shall use all commercially reasonable efforts to respond to all customer complaints or inquiries submitted through the Marketplace Service within one (1) Business Day and fully resolve the same within seven (7) Business Days. Groupon must be able to contact you during normal business hours to discuss your customer service, Your Transactions, or any other matter related to the Marketplace Service or your Account (as defined below).

**5.7. Your Performance; Non-Compliance Cost Recovery Charges.** You acknowledge and agree that any breach of your obligations under this Agreement or any Marketplace Policy may expose Groupon to losses, for which the potential damages are difficult to calculate. As a result, in the event you fail to fulfill any of your obligations under this Agreement and/or the Marketplace Policies for any reason, Groupon will either deduct from your payments or claim from you the amounts specified at <https://www.groupon.com/legal/EMEA-Marketplace-NCCR> for the identified action (each a “**Non-Compliance Cost Recovery Charge**”). Non-Compliance Cost Recovery Charges will be based on Groupon’s audit and monitoring of your performance. You acknowledge and agree that any Non-Compliance Cost Recovery Charge is intended as a liquidated damage and not as a penalty. The provisions of this section are in addition to any other rights or remedies Groupon may have under this Agreement or Applicable Law.

**5.8. Third-Party Services.** As a requirement for using the Marketplace Service generally, Groupon may require, or otherwise allow, you to access or use certain third-party services through, or otherwise in connection with the Marketplace Service. Your access to, and use of, such services shall be governed solely by the terms and conditions of such service as entered into directly between you and the provider of such service and you are solely responsible for your interactions with such services and/or the provider(s) thereof; provided, however, by enabling any such services to be used in connection with the Marketplace Service, you acknowledge and agree that you expressly permit Groupon to use or disclose any of your information or data as necessary to facilitate your access to, or use of, such services. Groupon is not responsible or liable for any aspects of such services.

## **6. Product Pricing.**

**6.1. Your Product Pricing.** You are free to determine the initial price at which to offer your Products for sale through the Marketplace Service; provided, however, that: (i) all Products you list must be at your lowest available price and must be lower than the Offer Value; (ii) You shall disclose all, and not charge or impose any extra or additional, fees; and (iii) you comply with all Marketplace Policies regarding pricing. If the Products are available through other sales channels at the same or a lower price, Groupon reserves the right to remove the Product listing. For the avoidance of doubt, all references to prices herein are references to the price of the Products to be paid by Purchasers.

**6.2. Price Bands.** You acknowledge that Groupon, in its capacity as your agent, may opt to increase and/or decrease the price of your Products by up to 30% (hereinafter the “**Price Band**”). In accordance with [Section 14.1](#), any VAT due will apply to the final sale price of your Products after any such increase or decrease.

**6.3. Price Suggestions.** If Groupon believes revenue could be increased by your Products being sold at a price outside of the Price Band, Groupon may send you a suggested price through Deal Centre for review. You will then have the ability, if you choose, to update the price for your Product in Deal Centre to reflect the suggested price. This will impact the value of the payments you receive. For the sake of clarity, any price suggestions you approve will then be used for calculating new Price Bands in accordance with [Section 6.2](#).

## **7. Fees; Payment Terms.**

**7.1. Fees.** In exchange for the services provided by Groupon under this Agreement, you agree to pay to Groupon a fee based on Your Transactions, which shall be specified in CommerceInterface, (the “**Commission Fees**”) and any other fees that may be specified by Groupon in CommerceInterface (“**Other Fees**”, collectively with Commission Fees, “**Fees**”). All Fees are exclusive of VAT. You authorize Groupon to withhold all Fees plus any applicable VAT from any and all Sales Proceeds Groupon may owe to you, as calculated under [Section 7.2](#) below.

### **7.2. Payment Terms.**

7.2.1. Payments which may be due to you will be calculated weekly on Saturdays (each, a “**Pay Period**”). Groupon will process payment in accordance with the payment terms set out in CommerceInterface; provided that you understand that such payment may be delayed if you change your bank account. Notwithstanding anything to the contrary, if any payment-processing date falls on a holiday or weekend, the payment will be processed on the next business day; and, if any payment-processing date falls within the last five (5) business days of a calendar month, the payment will be processed on the first business day of the following calendar month.

7.2.2. Only once you upload the applicable Shipment Tracking Information into CommerceInterface (or as otherwise required by Groupon) for the Product(s) for Your Transaction(s), Groupon has verified such Shipment Tracking Information to Groupon’s reasonable satisfaction, and such verified Shipment Tracking Information confirms active movement of the applicable shipment for such Product(s), such of Your Transaction(s) will become a “**Payment Eligible Transaction**”.

7.2.3. Payments will be calculated as follows: Sales Proceeds from Your Transactions that became Payment Eligible Transactions during the Pay Period less: Net Refunds issued during the Pay Period for Your Transactions; Fees for all of Your Transactions during the Pay Period; Chargebacks; and any other amounts that, under this Agreement or Applicable Law, Groupon is required, or authorized, to withhold or deduct from your payments, including, any taxes or penalties and interest as described in Section 14.

**7.3. Payment Method.** All payments to you will be remitted to your bank account through a banking network or by other means specified by us. All amounts contemplated under this Agreement shall be the payment currency agreed in Deal Centre.

**7.4. Other.** Groupon reserves the right to obtain credit reports and/or background checks about you from time to time and you will provide Groupon with any requested documentation for Groupon to do so. In addition to any other rights that may be available to Groupon under this Agreement or Applicable Law, for any amounts you owe to Groupon (including if erroneous or duplicate transactions are discovered), you agree that Groupon may setoff such amount from payments that are due to you under any current or future contract between the parties and/or their affiliates. Groupon reserves the right to withhold payments to you at any time if Groupon determines, in its sole discretion, that your action, inaction, performance, or non-performance may result in claims (including returns, refunds, or Chargebacks) or disputes involving Groupon. Furthermore, Groupon shall have no obligation to advance amounts that have been paid to Groupon by a Purchaser until you have complied with your obligations under this Agreement. If Groupon reasonably believes that you have breached, or will breach, any provision of this Agreement, Groupon may cancel purchases for your Products and issue refunds to the Purchasers thereof, and may offset, delay, withhold, or suspend future payments to you, in Groupon’s sole discretion, and including, without limitation, to recoup any amounts you may owe to Groupon for such cancellations and refunds. In addition, if you are unwilling, or in Groupon’s reasonable discretion appear unable, to perform your obligations under this Agreement, Groupon is authorised to cancel purchases for your Products and issue refunds to the Purchasers thereof, and offset, delay, withhold, or suspend future payments to you in addition to such other remedies as may be available under this Agreement or Applicable Law, to secure payment from you for any refunds and/or other amounts payable by you under this Agreement.

## **8. Term; Termination; Effect of Termination.**

**8.1. Term; Termination.** This Agreement shall commence on the date you complete registration for use of the Marketplace Service and will end when terminated in accordance with this Agreement (the “**Term**”). Groupon may terminate this Agreement subject to Section 21. You may terminate this Agreement at any time for any reason by contacting Groupon’s merchant services team or your Groupon account manager.

**8.2. Effect of Termination.** Termination of this Agreement or suspension of the Marketplace Service shall not affect your obligations hereunder pertaining to Your Transactions, including fulfillment, delivery, returns, refunds, and/or recalls. Termination or suspension of the Marketplace Service will not terminate or suspend any other service provided by Groupon unless explicitly provided. Upon termination, all provisions of this Agreement intended or required to survive the termination or expiration of this Agreement in order to achieve its full effect, shall survive termination, including Sections 1, 5.5, 5.6, 5.7, 5.8, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20 and 21.

**9. License.** You grant to Groupon a non-exclusive, royalty-free, worldwide, perpetual, irrevocable, transferable and fully sublicensable license and right to use your registered and un-registered intellectual property rights (collectively, “**Your IP**”); and (b) any third party’s intellectual property rights provided or specified by you (collectively, “**Third Party IP**”) in any and all media or formats now known or hereinafter developed, including the Groupon Channels (the “**License**”). Such licence shall be granted for the purpose of (a) enabling Groupon to offer and sell the Products; and (b) including in Groupon’s general marketing materials.



**10. Representations, Warranties and Covenants.** You represent, warrant and covenant to Groupon now and throughout the Term that:

**10.1.** You hold all required and up-to-date regulatory authorisation, licenses, test reports and certifications relating to any Products and any of your activities related to this Agreement;

**10.2.** You: (a) will have in stock a number of units of Products sufficient to fulfill your obligations for so long as you offer the Product for sale; and (b) are able to and will ship the purchased Products to each Purchaser by the Expected Ship Date and Expected Delivery Dates;

**10.3.** The Products: (a) are free from defects in workmanship, materials and design; (b) are genuine, bona fide products as described in this Agreement; and (c) do not violate the rights of any third party;

**10.4.** You have the full right, power, and authority to offer, promote, and sell, and authorise Groupon to offer and promote, the Products as set forth in this Agreement;

**10.5.** This Agreement, the Products, including any marketing or promotion of the Products contemplated hereunder, and any of the information you provide to Groupon, including your name, Your IP, and any Third Party IP, shall not violate any rights of any third party, including the manufacturer of the Products (if applicable) or any other third party which you have entered into a prior agreement, or any other agreements to which you are a party;

**10.6.** With respect to the Offer Value: (a) the amount represented by you as the Offer Value of the Product is the actual, regular value of the Product and is an accurate valuation of the regular retail price of the Product; (b) you have not inflated or increased the Offer Value; and (c) you will not otherwise manipulate pricing or values in any way that is unfair, deceptive, misleading, and/or outside the ordinary course of business;

**10.7.** Your Terms of Sale do not and will not violate any, Applicable Law;

**10.8.** You and all of your subcontractors, agents, suppliers, and Third Party Merchants shall comply with all Applicable Law and the [Groupon Vendor Code of Conduct](#) (which is incorporated herein by this reference) in your performance of your obligations and exercise of your rights under this Agreement, and with respect to the Products generally;

**10.9.** Any information provided or made available by you or your Affiliates to Groupon or its Affiliates is at all times accurate and complete, including, Shipment Tracking Information, the description of and any information relating to the Products, and any information relating to Your Bank Account;

**10.10.** Any advertising or promotion of the Products contemplated hereunder will not constitute false, deceptive, or unfair advertising or disparagement under any Applicable Law;

**10.11.** You own all right, title and interest in and to Your IP, have licensing rights in (with the right to sublicense to Groupon) the Third Party IP, and have the right to grant the licenses set forth in this Agreement;

**10.12.** Your IP and the Third Party IP, and Groupon's use thereof, do not violate any copyright, trademark, service mark, trade name, or other intellectual property right, or right of privacy or publicity, of any third party or any Applicable Law;

**10.13.** Neither Your IP nor the Third Party IP includes any material that is unlawful, threatening, abusive, defamatory, vulgar, obscene, profane, or otherwise objectionable, or that encourages conduct that constitutes a criminal offense, gives rise to civil liability, or otherwise violates any Applicable Law;

**10.14.** You are familiar with and shall comply with: (a) any Applicable Law which prohibits providing a payment of money or anything of value to a foreign government official, public international organization official, foreign political party, foreign political party official or candidates for such offices, either directly or indirectly, for the purpose of influencing official acts and decisions (including failures to act and decide) in order to assist in obtaining or retaining business or directing business to any entity, and any provisions of local law and Groupon's policies and procedures related thereto; and (b) all Applicable Law regarding imports and exports;

**10.15.** You are compliant with all Applicable Laws regarding modern slavery or human trafficking, and take reasonable steps to ensure that there is no modern slavery or human trafficking in your supply chains or in any part of your business; and

**10.16.** You shall implement and maintain at all times reasonable prevention procedures as required by Applicable Law to counter the risk of facilitating tax evasion by any taxpayer, and you have acted and will act in compliance with all Applicable Laws and regulations relating to the criminal facilitation of tax evasion.

**11. Indemnification.** You agree to defend, indemnify on demand and keep indemnified, and hold Groupon, its Affiliates, and their respective officers, directors, agents and employees, harmless from and against any claims, lawsuits, investigations, penalties, damages, losses, or expenses (including reasonable attorney's fees and costs) arising out of or relating to any of the following: (a) any breach or alleged breach by you of this Agreement, including the representations, warranties, and covenants set forth in this Agreement; (b) your fraud, negligence, or willful misconduct; (c) any claim for taxes, including any taxes, penalties, or interest for which Groupon is required to comply with Online Marketplace VAT Collection Rules (as defined in [Section 14](#) below); (d) the materials you provide, or otherwise recommend or direct, to Groupon in connection with the Products, including Your IP and the Third Party IP; (e) any infringement, misappropriation, or other violation of any patent, trademark, copyright, publicity, privacy, trade secret, or other right of any third party by you, including in connection with Your IP or the Third Party IP, or Groupon's use thereof; (f) your provision of incomplete or inaccurate information applicable to the Feature Page, Store Page or Products; (g) the Feature Page, Store Page, or Products, or your services or obligations related thereto or otherwise related to this Agreement, including any claims for false advertising, product defects, personal injury, death, or property damages; (h) any violation of Applicable by you or governing your Products and/or services; (i) any violation by you of any law or regulation governing the use, sale, and distribution of alcohol; (j) any claim by a Purchaser for the Sales Proceeds; (h) your misuse of Personal Data, or any violation of an applicable data privacy or security law by you. Groupon maintains the right to control its own defense and to choose and appoint its own defense counsel, regardless of the presence or absence of a conflict of interest between Groupon and you. Your duty to defend and indemnify Groupon includes the duty to pay Groupon's reasonable attorneys' fees and costs, including any expert fees. Without limiting the foregoing, you shall pay any monies owed to any party, as well as all reasonable attorneys' fees, related to any action or determination against Groupon in connection with any action to pursue Groupon for taxes.

**12. LIMITATION OF LIABILITY.** In no event shall Groupon have liability in respect of any:

- (a) indirect or consequential losses, damages, costs or expenses;
- (b) loss of actual or anticipated profits;
- (c) loss of contracts;
- (d) loss of use of money;
- (e) loss of anticipated savings;
- (f) loss of revenue;
- (g) loss of goodwill;
- (h) loss of reputation;
- (i) loss of business;
- (j) loss of operation time;
- (k) loss of opportunity; or
- (l) loss of, damage to or corruption of data;

whether or not such losses were reasonably foreseeable or Groupon or its agents had been advised of the possibility of the other incurring such losses. For the avoidance of doubt, Clauses (b) to (l) apply whether such losses are direct, indirect, consequential or otherwise. Groupon does not limit liability for: (a) death or personal injury including to the extent that such injury results from negligence; (b) any fraudulent misrepresentation on the part of Groupon; or (c) any other liability that cannot be excluded by law. Groupon's total liability under this Agreement shall not exceed the total value of the Commission Fees.

IN ADDITION, ANY CLAIM BY YOU, OR ON YOUR BEHALF, IN CONNECTION WITH ANY PAYMENT MADE BY GROUPON, INCLUDING CLAIMS ALLEGING THAT YOU WERE UNDERPAID, MUST BE MADE IN WRITING TO GROUPON WITHIN NINETY (90) DAYS FROM THE DATE OF PURCHASE FOR YOUR TRANSACTION AT ISSUE. ALL CLAIMS NOT MADE IN ACCORDANCE WITH THE FOREGOING SHALL BE DEEMED WAIVED, RELEASED, AND DISCHARGED BY YOU.

**13. Product Documentation.** To ensure the Products sold via the Marketplace Service are compliant with Applicable Law, Groupon may request that you provide test reports or other documentation evidencing the safety, provenance or other aspects of the Products. You shall provide such documentation upon request and be liable to Groupon for any losses incurred by Groupon arising from your failure to do so.

**14. Taxes.**

**14.1. Generally.** Aside from the limited circumstances set out below, you are responsible for calculating, reporting and paying VAT and any other taxes associated with using and making sales through the Marketplace Service, on the sales proceeds received from Purchasers, including when Groupon varies the price in accordance with [Section 6.2](#).

**14.2. Online Marketplace VAT Collection.** Under local laws in the European Union and United Kingdom, as Groupon is considered an electronic interface (or national equivalent) facilitating the online supply of product by third party suppliers, Groupon is responsible for the calculation, collection, remittance and reporting of VAT to local tax authorities on certain products sold via its Marketplace Service (the “**Online Marketplace VAT Collection Rules**”). Please note you continue to be responsible for any other taxes and charges which may arise on import of Products into the UK or EU including any possible customs duties. This is regardless of whether the Online Marketplace VAT Collection Rules apply.

**14.3.** You agree to reasonably cooperate with Groupon and timely provide all information necessary for Groupon to accurately account for, collect and remit such VAT due. Groupon shall have sole discretion to specify the VAT rate applied to the Products sold regardless of whether the Online Marketplace VAT Collection Rules apply. For all Products offered for sale through the Marketplace Service, the VAT rate will be added by Groupon to the price of Products set out in Deal Centre and be varied accordingly if the price changes. The price for Products set out in Deal Centre should include all other costs and taxes including customs duties. Notwithstanding any other provision of this Agreement, you understand and agree that Groupon will not remit to you any VAT collected as part of the Online Marketplace VAT Collection Rules. Without limiting your obligations or liability under any other provision of this Agreement, you agree to indemnify and hold harmless Groupon for any VAT, penalties, or interest on Your Transactions asserted against Groupon by a jurisdiction with respect to the Online Marketplace VAT Collection Rules.

**14.4.** Groupon shall determine when the Online Marketplace VAT Collection Rules apply. Groupon will deduct the necessary VAT amount from the payment received from the Purchaser and pay it to the relevant tax authority, and you will not have to take any further action. Your Transactions on which VAT has been collected and paid to the relevant tax authority by Groupon will be made available to you via CommerceInterface. As above, for all Your Transactions not coming within the Online Marketplace VAT Collection Rules, you (and not the Purchaser) are responsible for reporting and paying the VAT (plus other taxes including customs duties) to the relevant tax authority

**14.5. Tax on Groupon Commission Fees.** Unless otherwise set forth in this Agreement, all Commission Fees and other amounts due to Groupon under this Agreement are exclusive of VAT. If and to the extent any VAT becomes legally payable due to any supplies rendered under this Agreement, you shall pay an amount equal to such VAT to Groupon. Groupon will issue you with a valid VAT invoice. Each party is responsible for paying any other taxes, duties, or fees for which such party is legally responsible for.

**14.6. Joint & Several liability.** Where applicable, you will provide to the details of your VAT registration, tax certificate (specifically, USt 1 TI Certificate for Germany) or other necessary information in response to local joint and several liability VAT rules, for the jurisdiction where the Products will be marketed to. To the extent possible under local laws, you shall pay to Groupon as a debt on demand all costs incurred by Groupon, including but not limited to tax, penalties and interest, levied by any competent tax authority due to your failure to provide information and documentation as outlined in this section and/or your failure to pay any such tax, penalties or interest due by you to the local tax authority.

**14.7. Invoices.** Where Groupon is responsible for reporting and paying VAT for Products sold by you as a result of the Online Marketplace VAT Collection Rules, Groupon will issue an invoice to the Purchaser where required by local laws. In all other circumstances it is your responsibility to determine whether an invoice to the Purchaser is required and if so, issued in line with local laws.

**14.8. Cooperation.** You and Groupon agree to reasonably and in good faith cooperate and assist each other in determining and administering each party's collection and remittance responsibilities in connection with this Agreement and with any and all audits and/or reviews administered by taxing authorities that may arise in connection with this Agreement.

**15. Confidentiality.** You agree to keep confidential (a) the terms of this Agreement (including the Commission Fee), (b) any materials, documents, or information designated by Groupon as “confidential” or with a similar designation, (c) all Personal Data, and (d) any materials, documents, or information that you should reasonably expect to be confidential



or proprietary under the circumstances and/or given the nature of the materials, documents or information (collectively, "**Confidential Information**"). You shall take reasonable precautions to protect all Confidential Information and will only disclose Confidential Information to Third Party Merchants, subject to [Section 20.6](#) below, and your employees on a need-to-know basis. If you become aware of any unauthorized use or disclosure of Confidential Information, you shall promptly and fully notify Groupon of all facts known to you concerning such unauthorized use or disclosure and shall cooperate with Groupon so that Groupon may seek a protective order or other appropriate remedy to protect such Confidential Information. You will bear all associated expenses incurred by Groupon to comply with Applicable Law (including any data breach laws) or arising from any unauthorized access or acquisition of Confidential Information while the same is in your possession. Upon Groupon's written request, you shall return to Groupon or destroy, at Groupon's option, all Confidential Information in your possession or control. You acknowledge and agree that a breach of your confidentiality obligations under this Agreement will entitle Groupon to injunctive relief and a decree for specific performance and any other relief allowed under Applicable Law. ***Without limiting the foregoing, you agree that you shall not issue any press release or other public statement or make any social media posting relating to your relationship with Groupon or this Agreement without the express prior written consent of Groupon.***

**16. Groupon IP.** The Merchant shall not use or permit any Affiliate or third party to use any of Groupon's intellectual property rights or prepare any derivative work based thereon.

**17. Personal Data.**

**17.1.** Within this [Section 17](#), the terms "**Controller**", "**Personal Data Breach**" and "**Supervisory Authority**" shall have the same meanings as are set out in European Union Regulation (EU) 2016/679. Groupon, its Affiliates and you are each a separate Controller of all Personal Data about Purchasers. Subject to [Section 17.2](#) below, where Groupon (or an Affiliate) makes Personal Data available to you, you may use such Personal Data for the sole purpose of fulfilling your obligations under this Agreement (including shipping Products to Purchasers). You expressly agree that any Personal Data that may be provided hereunder is being provided solely to fulfill your obligations hereunder and may not be used to enhance a file or list owned by you, any Third Party Merchant, or any third party. You represent, warrant, and covenant that you will not, nor will you permit any Third Party Merchant to, resell, broker, or otherwise disclose any Personal Data to any third party, in whole or in part, for any purpose whatsoever. You agree that you will not copy or otherwise reproduce any Personal Data other than for the purpose of fulfilling your obligations hereunder.

**17.2.** For purposes of this Agreement, the restrictions set forth in [Section 17.1](#) on your use of Personal Data do not apply to: (a) data from any Purchaser who is already your customer prior to the effective date of this Agreement, to the extent such data was previously provided to you by such Purchaser independent of this Agreement or any transaction hereunder; or (b) data supplied by a Purchaser directly to you who becomes your customer in connection with such Purchaser explicitly opting in to receive communications from you for the purposes for which such Personal Data will be used by you; provided that you handle and use such Personal Data in compliance with Applicable Law and your posted privacy policy.

**17.3.** You shall ensure that at all times you comply in full with all Applicable Law related to data protection and privacy (including but not limited to European Union Regulation (EU) 2016/679), and that you implement and comply with reasonable security measures, including, but not limited to, such security measures as prescribed by Applicable Law, in the handling of any Personal Data of Purchasers. In the event of a Personal Data Breach affecting any Personal Data of Purchasers on your systems, you will inform Groupon without undue delay, and in any event within 48 hours, of such Personal Data Breach, complaint or communication, shall take all steps necessary to mitigate the effects of such Personal Data Breach on affected Purchasers, and shall comply with any reasonable instructions from Groupon which relate to your response to the Personal Data Breach. In the event that Groupon or you receives a complaint from a Purchaser about your use of their Personal Data, or in the event that Groupon or you receives a communication from a Supervisory Authority regarding its/your use of Personal Data relating to a Purchaser, you will inform Groupon before responding to such complaint or request, or will take all reasonable steps to assist Groupon in responding to that request, as appropriate.

**17.4.** You acknowledge that you have read and understood Groupon's merchant privacy statement at <https://www.groupon.co.uk/merchant/data-privacy>.

**18. Password Security.** You must safeguard your password and supervise your use of the Marketplace Service, including, without limitation, Deal Centre, and all information concerning Your Transactions and use of the Marketplace Service, including, without limitation, Deal Centre (together your "**Account**"). You are solely responsible for maintaining the security of your Account and maintaining settings that reflect your preferences. We will assume that anyone using your Account is you. You agree that you are solely responsible for any activity that occurs under your Account.

**19. Dispute Resolution.** This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of England. Each party hereby submits to the exclusive jurisdiction of the English courts.

**20. Miscellaneous.**

**20.1. Relationship of the Parties.** Nothing in this Agreement shall be construed to create a joint venture, partnership, or franchise relationship between the parties. Neither party has the authority, without the other party's prior written approval, to bind or commit the other party in any way.

**20.2. Force Majeure.** Whenever a period of time is prescribed for action to be taken by Groupon, Groupon shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays (including an allowance for Business Days) due to strikes, riots, acts of God, war, governmental laws, regulations, or restrictions, or any other causes of any kind whatsoever which are beyond the reasonable control of Groupon.

**20.3. Waiver; Severability.** No waiver by Groupon of any violation or default in performance of the provisions of this Agreement shall be deemed a waiver of such provisions or the right of Groupon to thereafter enforce such provisions, or any other provisions, of this Agreement.

**20.4. Entire Agreement.** This Agreement constitutes the entire agreement between the Parties relating to its subject matter and supersedes all prior or contemporaneous oral or written agreements concerning such subject matter.

**20.5. Assignment.** You are not authorized to transfer or assign any rights or obligations under this Agreement, whether by operation of law or otherwise, without Groupon's prior written consent. Groupon is authorised to transfer or assign this Agreement to a present or future affiliate or pursuant to a merger, consolidation, reorganization, or sale of all or substantially all of the assets or business to which this Agreement relates, or by operation of law, without notice to you.

**20.6. Delegation.** If you delegate any obligation under this Agreement to a Third Party Merchant, you shall ensure that such Third Party Merchant has reviewed and agreed to uphold each term of this Agreement in full, including confidentiality obligations. You acknowledge and agree that you shall be fully liable for any non-compliance on the part of a Third Party Merchant. Before you disclose Confidential Information to a Third Party Merchant, such Third Party Merchant must sign a confidentiality agreement that requires it to protect the Confidential Information in at least the same manner specified in this Agreement.

**21. Additional Information.** Groupon is required to provide you with certain additional information as follows:

1. Groupon may opt to suspend or terminate Product listings, Feature Pages and/or Store Pages. This may be due to any of the following factors:
  - (a) Your business closure;
  - (b) High rate of refunds;
  - (c) High rate of customer complaints;
  - (d) Low customer satisfaction;
  - (e) Your refusing to honour orders;
  - (f) Your breaching this Agreement;
  - (g) Very serious customer complaints;
  - (h) Accusations of intellectual property infringement;
  - (i) Products not selling as expected; or
  - (j) Groupon believes the promotion is no longer commercially viable.
2. Groupon or its affiliates may promote the Products through third party publishers signed up to Groupon's network or a third party network. This may include exposure on:
  - (a) Cashback websites;
  - (b) Coupon websites;
  - (c) Blogs and other content websites focussed on specific topics;
  - (d) Emails sent to third party databases;
  - (e) "Influencers" on platforms such as Instagram; and/or
  - (f) price comparison websites.
3. The main factors that determine the ranking of Feature Pages on the Groupon Website are as follows:
  - (a) Predicted quality of a Product, based on category, price, discount and performance of similar products by other merchants;
  - (b) Quality of a Product, based on views and sales;

- (c) Personalisation based on customer-specific data including past purchases, search history and other behavioural data, which helps determine the relevance of the Product to the customer; and
- (d) Strategies on whether to maximise promotion of Products expected to convert well or test Products for performance.

Groupon determined that these would be the main factors because of their relevance in ensuring customers would be most exposed to Products they would be interested in.

- 4. Personal data: Groupon has access to Purchaser Personal Data in accordance with the Groupon International Limited privacy statement at <https://www.groupon.co.uk/legal/privacy-policy>, which also sets out the conditions under which Purchaser Personal Data can be provided to you. Groupon has access to your Personal Data, and you have the right to access that data, in accordance with the privacy statement referred to in Section 17.4 above. Both privacy statements set out the scenarios in which Groupon may provide Personal Data of Purchasers and you to third parties.
- 5. Non-personal data: Non-personal data collected by Groupon from you consists of business-specific contact details. You may request a copy of such information from Groupon.
- 6. If you wish to raise a complaint with Groupon you may do so by e-mailing one of the following addresses based on your preferred language:  
French: [goods.pm.fr@groupon.com](mailto:goods.pm.fr@groupon.com)  
German: [pmgoods-cer@groupon.com](mailto:pmgoods-cer@groupon.com)  
English: [goodspartnermgmt@groupon.com](mailto:goodspartnermgmt@groupon.com)  
Italian: [ecommerce.it@groupon.com](mailto:ecommerce.it@groupon.com)  
Spanish: [ecommerce.es@groupon.com](mailto:ecommerce.es@groupon.com)  
The complaint will be dealt with by Groupon's merchant services team or passed to another team to handle if appropriate. A Groupon representative will respond to you and attempt to resolve the complaint if possible.
- 7. In the event you are unable to resolve a dispute with Groupon, Groupon is willing to use the following mediation service: <https://e-pom.eu/>.