

## Designer Agreement

This Designer Agreement (the “Agreement”) is made and entered between This is CALA, Inc. (hereafter referred to as “Company”, “we”, “us”, “our” or “CALA”) and you, the Designer (hereafter referred to as “Contractor”, “you”, “your” or “yours”). In general, this Agreement sets forth the following terms:

- The services provided by CALA and our production and other partners;
- The process and responsibility of getting your designs developed, produced and shipped to you (*see* Section 1);
- Your responsibility for payment of fees (*see* Section 3); and
- Your responsibilities and conduct in using CALA’s services and technology platform, including, but not limited to, your compliance with applicable laws (*see* Section 5), your representations and warranties (*see* Section 8), your indemnification obligations (*see* Section 9) and your obligations of non-solicitation and non-circumvent (*see* Section 12).

In consideration of the covenants and conditions described below, Company and Contractor agree as follows:

**BY CLICKING ON THE “ACCEPT” OR SIMILAR BUTTON, YOU (1) ARE CONSENTING AND EXPRESSLY AGREE TO BE BOUND BY AND ARE BECOMING A PARTY TO (A) THE TERMS OF THIS AGREEMENT, AND (B) THE TERMS OF THE TERMS OF USE LOCATED AT <https://ca.la/terms> (THE “TERMS OF USE”); AND (2) YOU REPRESENT AND ACKNOWLEDGE THAT YOU HAVE READ AND REVIEWED THIS AGREEMENT AND THE TERMS OF USE.**

PLEASE NOTE THAT TO BE A DESIGNER WITH CALA AND TO USE THE CALA PLATFORM (AS DEFINED HEREIN) AND THE ASSOCIATED SOFTWARE (AS DEFINED HEREIN), YOU MUST AGREE TO THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT AND THE TERMS OF USE. WE MAY MODIFY THIS AGREEMENT AT ANY TIME, AND SUCH MODIFICATION SHALL BE EFFECTIVE IMMEDIATELY UPON EITHER POSTING OF THE MODIFIED AGREEMENT OR NOTIFYING YOU. YOU AGREE TO REVIEW THIS AGREEMENT PERIODICALLY TO ENSURE THAT YOU ARE AWARE OF ANY MODIFICATIONS. YOUR CONTINUED ACCESS OR USE OF THE PLATFORM SHALL BE DEEMED YOUR CONCLUSIVE ACCEPTANCE OF THE MODIFIED AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT AND/OR THE TERMS OF USE, YOU DO NOT HAVE OUR AUTHORIZATION TO USE ANY OF THE SERVICES AND

YOU MAY NOT ACCESS OR USE ANY PORTION OF THE SITE (AS DEFINED HEREIN), PLATFORM, APP OR SOFTWARE.

Terms not defined herein shall have the meaning as provided in our Terms of Use and incorporated herein by this reference. In the event of any conflict between the terms of this Agreement and the Terms of Use, the terms of this Agreement shall supersede and control to the extent of any such conflict. This Agreement is effective as of September 1, 2019.

## 1. Production Services

- (a) **General.** Through our technology platform (the “Platform”), which includes our proprietary software and content (the “Software”) on our online website (including all content and functionality available through the <https://ca.la/> domain name, the “Site”) and mobile application (the “App”), we will provide you with the CALA services selected by you according to your Subscription (as defined herein) (the “Services”) in order to connect you with our production and other partners (“Partners”) for the production, financing, marketing and/or fulfillment of garments and/or accessories (collectively, the “Garments”) in your design project (“Design Project”). Our Partners can provide you with certain production services selected by you according to your Subscription, including, but not limited to, fabric manufacturing, trim vendors, technical designers, pattern makers, sourcing services, sample makers, packaging, marketing, production and/or fulfillment services (collectively, the “Production Services”). For avoidance of doubt, the specific Services and Production Services provided to you are dependent upon the subscription model selected by you, as more fully described on the subscription pricing page located at <https://ca.la/access> (“Subscription”).
- (b) **Production Services.** Once you design and submit a proposed Design Project through the Platform, we will review the Design Project to determine the estimated total costs of Production Services. You will then be given a quote (the “Quote”) for all costs and fees (dependent upon your Subscription, including without limitation, pattern-making, material sourcing, prototypes, product development, custom labels, a sample for final approval, bulk units, a keep sample for Company, packaging and marketing), required for the completion of your Design Project based on compatibility of your Design Project to an available Partner’s Production Services. You understand and agree that (i) Company, in its sole discretion, may match and connect you with a Partner based the compatibility of the Production Services offered by such Partner to your Design Project; (ii) you agree to pay or finance the Quote prior to a Partner’s commencement of Production Services; (iii) no Production Services will begin if your payment is declined (*e.g.*, if your credit card is declined or financing is denied); (iv) prior to full production of the Garments of your Design Project,

you agree to designate one (1) approver for the Design Project to promptly review, approve and/or provide comments on any Garment sample (the “Sample”) created by a Partner in connection with your Design Project; (v) if you make major changes, to be determined in our sole discretion, to a Sample, we may cancel the Design Project so it can be re-priced (for sake of example but not limitation, a major change may include changing the product type, changing major construction of a Garment by adding a hood or sleeve, changing the process type from print to embroidery or substantially changing materials (*i.e.*, from denim to leather)); (vi) once you approve a Sample (an “Approved Sample”) no changes of any kind can be made to a Garment or the Design Project; (vii) you cannot decrease the number of units, however you may be able to increase the number of units but up to the number of units included in the Approved Sample; (viii) you are solely responsible for payment of the Quote; and (vix) there is no guarantee that Company will be able to find a Partner to complete and fulfill your Design Project. All fees for Production Services shall be paid to Company based on the Quote, pursuant to Section 3 of this Agreement. For the avoidance of doubt, the Quote (and all information used to create the Quote) is considered Company Confidential Information (as defined herein) subject to all obligations and restrictions in Section 7 hereof, and Contractor agrees not to discuss the Quote with any Partner. **By accepting the terms of this Agreement, you expressly agree to the provisions of this Section 1 “Production Services”.**

- (c) **Shipping and Delivery.** Contractor understands and agrees that for the production and/or fulfillment of Garments (the “Produced Garments”) and dependent upon your Subscription, (i) shipping and delivery costs for references, samples and bulk shall be handled by Company or Partner; (ii) you will provide accurate, truthful and up to date shipping information through the Platform for the delivery of Produced Garments; (iii) Company or Partner may choose to store any Produced Garments at a warehouse or other fulfillment Partner; (iv) the method of shipping will be provided through a known courier or delivery service (“Courier”) chosen by Company or warehouse or other fulfillment Partner; (v) if you choose to receive the Produced Garments, you agree to be present on the expected delivery date or designate an authorized adult to accept delivery of the Produced Garments; (vi) if you choose to receive the Produced Garments, you will inspect all Produced Garments immediately upon delivery and, if Produced Garments are damaged, defective, or otherwise incomplete (the “Damaged Garments”), you will have thirty (30) days (the “Notification Period”) in which to notify and provide evidence to the Partner of such Damaged Garments and Partner shall work with you to remedy the damage, defect, or incompleteness (including without limitation, the cost to fix or replace the Damaged Garments) and return the Damaged Garments to Partner, all at Partner’s cost and expense; (vii) if you choose to receive the Produced Garments, you will bear and be responsible for all shipping

and delivery costs for the return of Damaged Garments to Partner if such damage is not reported to Partner within the Notification Period; (viii) CALA shall not be responsible for any damage caused by a warehouse or other fulfillment Partner or Courier to the Produced Garments and your sole recourse will be against such warehouse or other fulfillment Partner or Courier, as applicable, for such damage; (ix) you will direct all complaints in connection with any Damaged Garments to the warehouse or other fulfillment Partner and not CALA; and (x) you will fully pay for all Produced Garments that meet the requirements and criteria of the Approved Sample.

## 2. Term; Termination

- (a) **Term.** This Agreement shall commence on the date you first accept the terms herein and will continue in effect for the term of your Subscription period (the “Initial Term”). Following the Initial Term, this Agreement will automatically renew for successive renewal terms of the same term as the Initial Term (each, a “Renewal Term” and together with the Initial Term, the “Term”), unless either party gives the other party notice of non-renewal at least thirty (30) days prior to the end of the Initial Term or then-current Renewal Term, as applicable.
- (b) **Termination.** If either party materially breaches a provision of this Agreement, and fails to cure such breach within fifteen (15) business days after receiving written notice of such breach from the non-breaching party, the non-breaching party may terminate this Agreement immediately upon written notice to the breaching party. If Contractor is the terminating party under the foregoing sentence, Company will refund to Contractor any Subscription Fee (as defined herein) that was pre-paid for the then current Term, pro-rated for the remainder thereof; and if Company is the terminating party under the foregoing sentence, Contractor is not entitled to a refund of any non-cancelable or non-refundable Subscription Fees. Company may, without prejudice to any right or remedy it may have under this Agreement, immediately terminate this Agreement for convenience, upon written notice to Contractor. In the event of termination by Company under the foregoing sentence, Company will refund to Contractor any Subscription Fee that was pre-paid for the then current Term, pro-rated for the remainder thereof. For any termination of this Agreement, Company shall be entitled to payment for Services and Production Services performed and expenses paid or incurred prior to the effective date of termination, including without limitation, any Revenue Share Fee or Production Fee. Upon termination of this Agreement, the Receiving Party shall promptly return any Confidential Information of the Disclosing Party. All terms and conditions of this Agreement, by their sense and content, are intended to survive the expiration or termination of this

Agreement, shall survive, regardless of the reason of such expiration or termination.

### 3. Fees; Financing

- (a) **Subscription Fee.** You will pay Company the non-cancelable and non-refundable subscription fee based on your Subscription (“Subscription Fee”) for the Initial Term. At the end of the Initial Term, you will pay the then-current non-cancelable and non-refundable Subscription Fee for the Renewal Term, if any.
- (b) **Revenue Share Fee.** If revenue sharing is part of your Subscription, you will pay Company a Revenue (as defined herein) share fee for the percentage detailed in your Subscription (“Revenue Share Fee”). As used herein, the term “Revenue” means all income from the sales of the Garments. For avoidance of doubt, the Revenue Share Fee is used to calculate the percentage due Company, whereas the amount due to you is the Revenue Share fee less costs, fees and other expenses. For sake of example but not limitation, if the Revenue is \$1,000, and Company is entitled to fifteen percent (15%), Company shall be due \$150; however, you shall be due \$850 less the costs of production and fulfillment.
- (c) **Production Fee.** You will pay Company the Quote, for Production Services provided to you by a Partner and other fees associated with the costs of goods, fulfillment and/or marketing (collectively, “Production Fee”). For avoidance of doubt, the costs of goods and fulfillment **are not** included in the Subscription Fee or Revenue Share Fee, and will be quoted within the Platform based on design complexity and number of units. You understand and hereby agree that dependent upon on your Subscription (i) payment or financing for one-hundred percent (100%) of the Quote shall be submitted by you up front prior to a Partner’s commencement of Production Services; and (ii) neither Company nor Partner is required to release or deliver Produced Garments to you or any fulfillment Partner if you fail to make full payment or financing of the Quote.
- (d) **Financing.** If financing is part of your Subscription and you opt-in to financing, you understand and hereby agree that (i) you will promptly provide Company your bank statements for the past three (3) months, or a direct connection into your bank account and full access to your e-commerce platform so Company and/or Partner can review your sales history; (ii) Company determines your credit limit and financing rate in its sole discretion; (iii) Company can change your credit limit and financing rate in its sole discretion; (iv) our fulfillment Partner will fulfill the Produced Garments; (v) your e-commerce store will process the sales of the Produced Garments; (vi) our fulfillment Partner will be linked to your e-commerce store; (vii) the initial sales revenue, less the cost of fulfillment,

will be deposited directly into a Company account via your e-commerce store to pay down your credit balance; (viii) the Revenue Share Fee will be used to pay down your credit balance until such balance is zero; (vix) you will be fully and completely responsible and liable to repay any and all amounts advanced to you by Company; and (vx) in the event you do not timely pay down your credit debt, Company is allowed to use all means it deems necessary, in its sole discretion, to collect the credit debt from you, including without limitation, changing the Revenue Share Fee, collection of Produced Garments and other means.

- (e) **Access.** You will have access to available funds on the fifteenth (15<sup>th</sup>) day of the month for the previous month. You acknowledge and agree this delay is necessary to determine if Garments are returned and to resolve other issues.

For avoidance of doubt, the term “Fees” includes the Subscription Fee, the Revenue Share Fee and the Production Fee. **By accepting the terms of this Agreement, you expressly agree to the provisions of this Section 3 “Fees”.**

#### 4. CALA Deactivation Policy

CALA’s goal is providing reliable and long lasting partnerships with Partners and contractors. CALA does this by connecting the top designers with the top Partners in terms of design, quality, reliability, accountability, and transparency in communication. This is only possible when designers trust Partners and vice versa. If we determine, in our sole discretion, that you have breached the terms of this Agreement and/or the Terms of Use, you may be barred or suspended from using the Platform and/or App, either temporarily or permanently, depending on the seriousness of the breach.

#### 5. Compliance With The Law

You hereby acknowledge and agree that you will use the Services, Production Services, Site, Platform, App and/or Software in full compliance at all times with all relevant state, federal and local laws, statutes, rules, ordinances, regulations, policies and other requirements.

#### 6. Dispute Resolution

The parties agree that any controversy or dispute between the parties concerning this Agreement, including deactivation of Contractor’s access to the Platform and/or App or the construction or application of any of the terms, covenants,

or conditions of this Agreement, will first be subject to reasonable good faith efforts by the parties to resolve such dispute, and if such good faith efforts are not successful, shall be submitted to binding arbitration in New York County, New York, on the request of any party, and the arbitration shall comply with and be governed by the provisions of the New York Civil Practice Law & Rules, Article 75. Any cause of action or claim you may have with respect to this Agreement must be commenced within one (1) year after the claim or cause of action arises. Arbitration shall be conducted by three (3) arbitrators familiar with the commercial practices of Company and Contractor's industry. Each party shall be entitled to select one (1) arbitrator, which two (2) selected arbitrators shall in turn select a third arbitrator. Any award or decision obtained from any such arbitration proceeding shall be final and binding on the parties, and judgment upon any award thus obtained may be entered in any court having jurisdiction thereof. All parties to the arbitration shall as an initial matter share the costs of such proceeding, but the prevailing party may be awarded fees and costs, including reasonable attorney's fees. No action at law or in equity based upon any claim arising out of or related to this Agreement shall be instituted in any court by either party except (a) an action to compel arbitration pursuant to this Section 6, or (b) an action to enforce an award obtained in an arbitration proceeding in accordance with this Section 6.

## 7. Property Rights Of The Parties

- (a) **Confidential Information.** Each party recognizes and acknowledges that it may receive ("Receiving Party") Confidential Information (as defined herein) of the other party ("Disclosing Party") provided under this Agreement. The Receiving Party agrees to hold all such Confidential Information in confidence, not to disclose it to others or use it in any way, commercially or otherwise, except in performing or receiving the Services and/or Production Services and not to allow any unauthorized person access to it, either before or after termination of this Agreement; *provided, however,* that any such Confidential Information may be provided to the Receiving Party's employees, agents, subcontractors or contractors (specifically in the case of Company, Confidential Information may be provided to its Partners), who have a need to have such access in order to perform or receive the Services and/or Production Services pursuant to this Agreement. The Receiving Party shall not disassemble, reverse engineer, or otherwise decompile any of the Disclosing Party's Confidential Information. The Receiving Party shall promptly notify the Disclosing Party in the event of any unauthorized use or disclosure of any of the Disclosing Party's Confidential Information. As used herein, the term "Confidential Information" means all confidential and proprietary information (whether or not patentable and whether or not copyrightable), owned, possessed or used by the Disclosing Party hereunder, including without limitation, inventions, products, designs, formulas, vendor information, customer in-

formation, apparatus, equipment, processes, research, reports, technical data, know-how, computer programs, software, software documentation, hardware design, technology, marketing or business plans, forecasts, unpublished financial statements, budgets, licenses, prices, costs and employee lists that are communicated to, learned of, developed or otherwise acquired by the Receiving Party under this Agreement. For avoidance of doubt: (i) Company Confidential Information includes confidential and proprietary information related to the Services, Production Services, Site, App, Platform, Software, Partners, Quotes and/or Fees; and (ii) Contractor Confidential Information includes confidential and proprietary information related to your Design Project. For purposes of this Agreement, Confidential Information shall not include information the Receiving Party can document: (iii) was or has become readily available to the public without restriction through no fault of the Receiving Party; (iv) was received without restriction from a third party lawfully entitled to possess and disclose such information; or (v) was rightfully in possession of the Receiving Party without restriction prior to the Disclosing Party's disclosure of such information to the Receiving Party.

- (b) **Contractor License.** Contractor hereby grants to Company a limited, non-exclusive, sublicenseable (to Company's Partners), royalty-free, right and license to reproduce, modify, distribute, make derivatives, publicly perform, publicly display, use and otherwise exploit all intellectual property and proprietary rights, to Contractor Confidential Information, Design Project, products, Garments, software, technology, know-how and other materials (collectively, "Contractor Materials") to perform the Services and Production Services, including without limitation, use with the Platform, App and Software.
- (c) **Ownership.** The Receiving Party agrees that the Disclosing Party owns the Disclosing Party's Confidential Information and it shall continue to be the exclusive property of the Disclosing Party, whether or not prepared in whole or in part by the Receiving Party and whether or not disclosed to or entrusted to the Receiving Party's custody. Excluding the license in Section 7(b) hereof, Contractor owns all right, title and interest in and to the Contractor Materials. Company owns all right, title and interest in and to the Services, Production Services, Site, App, Platform, Software, Quote and Fees.

## 8. Contractor Representations And Warranties

Contractor agrees, represents and warrants that:

- Contractor will comply with all terms and conditions of this Agreement, Terms of Use and other policies related to the use of the Services, Production Services, Site, App, Software and Platform.



- Contractor owns all right, title and interest in and to all Customer Materials and has all necessary rights to grant the license to the Company as described in Section 7(b) hereof.
- Contractor's agreement to perform any services pursuant to this Agreement does not violate any agreement or obligation between Contractor and any third party.
- Contractor Materials, including but not limited to Contractor's Garment designs and any Design Project, will not infringe, violate, or misappropriate any right of a third party, including but not limited to any privacy rights, copyright, patent, trade secrets, trademark, or other proprietary or intellectual property right held by any third party.
- Contractor will (a) provide clear instructions and timeline to Partner for the production of any Design Project, (b) be available during normal business hours to respond to Partner's questions related to a Garment, Approved Sample or a Design Project, and (c) will designate one (1) approver for the Design Project in order to provide timely approval, rejection and/or comments to a Sample or other inquiries or questions.
- If a Partner's final production of Garments materially deviates from or does not conform to an Approved Sample, Contractor will immediately notify Company of such deviation or non-conformity; provided, however, that, Contractor shall bear all costs and fees for any material deviation or non-conformity due to Contractor's actions, inaction or instructions to Partner.
- Contractor will be responsible and liable for all costs incurred by Partner and/or Company for any Production Services that are delayed or hindered for any reason due to Contractor's action or inaction, including, but not limited to, mistreatment or discrimination of Partners, lack of communication, unresponsiveness through the Platform, and illegal behavior.
- Contractor will not engage in any unfair competition with Company, or engage in any action which may constitute intentional interference with CALA's prospective economic advantage.
- Contractor will not disclose, duplicate, sell, use for promotional means or otherwise use for any purposes, any assets, material, property, artwork or designs of Partner or Company.
- Contractor will promptly update Partner via the Platform as to any relevant updates with respect to the Design Project, including, but not limited to, any preset list of tasks in connection with a Design Project and/or changes to such list.
- Contractor will pay all Fees, in a timely manner pursuant to Section 3 hereof.

- Contractor will not use the Services, Production Services, Site, Platform, Software or App in any manner that (a) violates any federal, state, or law, statute, rule, ordinance, regulation, policy or other requirement; (b) is harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, fraudulent, deceptive, or misleading or otherwise objectionable; or (c) adversely affects or reflects negatively on our goodwill, name or reputation or causes duress, distress or discomfort to us or anyone else, or discourages any person, firm or enterprise from using all or any portion, feature, or function of the Services, Production Services, Site, App, Platform or Software or from advertising, liking or becoming a supplier to use in connection with the Services, Production Services, Site, App, Platform or Software.

## **9. Indemnity**

Contractor agrees to indemnify, defend, and hold Company and its successors, officers, directors, agents, Partners and employees harmless from any and all costs, expenses (including reasonable attorneys' fees), losses, damages, claims, liabilities, demands, penalties, forfeitures, suits and judgments, which Company may hereafter incur, become responsible for or pay, as a result of any breach of your representations, warranties, agreements or other promises contained herein or any breach of this Agreement by Contractor.

## **10. Waiver And Release**

YOU AGREE THAT NEITHER WE NOR OUR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS, LICENSORS OR SUPPLIERS SHALL HAVE ANY LIABILITY TO YOU UNDER ANY THEORY OF LIABILITY OR INDEMNITY IN CONNECTION WITH YOUR USE OF THE SITE, THE APP, THE SERVICES, PRODUCTION SERVICES, SOFTWARE OR THE PLATFORM. YOU SPECIFICALLY ACKNOWLEDGE THAT WE SHALL NOT BE LIABLE FOR THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY AND THAT THE RISK OF HARM OR DAMAGE FROM THE FOREGOING RESTS ENTIRELY WITH YOU. YOU HEREBY RELEASE AND FOREVER WAIVE ANY AND ALL CLAIMS YOU MAY HAVE AGAINST CALA, OUR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS, LICENSORS OR SUPPLIERS (INCLUDING BUT NOT LIMITED TO CLAIMS BASED UPON THE NEGLIGENCE OF CALA, OUR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS, LICENSORS OR SUPPLIERS) FOR LOSSES OR DAMAGES YOU SUSTAIN IN CONNECTION WITH YOUR USE OF THE SITE, THE APP, THE SERVICES, PRODUCTION SERVICES, SOFTWARE OR THE PLATFORM.

## 11. Liability Limitation

NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY: (A) WE WILL NOT BE LIABLE UNDER ANY THEORY OF LAW, FOR ANY INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF INFORMATION OR DATA OR COSTS OF REPLACEMENT GOODS, ARISING OUT OF THE USE OR INABILITY TO USE THE SITE, THE APP, SERVICES, PRODUCTION SERVICES, SOFTWARE OR THE PLATFORM OR RESULTING FROM USE OF OR RELIANCE ON THE INFORMATION PRESENTED, EVEN IF WE MAY HAVE BEEN ADVISED OR ARE AWARE OF THE POSSIBILITY OF SUCH DAMAGES; AND (B) CALA'S TOTAL AGGREGATE LIABILITY FOR ANY CLAIM OF ANY KIND ARISING OUT OF THIS AGREEMENT, SITE, APP, SERVICES, PRODUCTION SERVICES, SOFTWARE AND PLATFORM WHETHER BASED IN CONTRACT, TORT, STATUTORY, WARRANTY, OR ANY OTHER LEGAL OR EQUITABLE GROUNDS, EXCEED THE FEES RECEIVED BY COMPANY FROM CONTRACTOR DURING THE PREVIOUS TWELVE (12) MONTHS UNDER THIS AGREEMENT. THE SITE, THE APP, SERVICES, PRODUCTION SERVICES, SOFTWARE AND THE PLATFORM ARE CONTROLLED AND OFFERED BY US FROM OUR FACILITIES IN THE UNITED STATES OF AMERICA. WE MAKE NO REPRESENTATIONS THAT THE SITE, THE APP, SERVICES, PRODUCTION SERVICES, SOFTWARE OR THE PLATFORM IS APPROPRIATE OR AVAILABLE FOR USE IN OTHER LOCATIONS. THOSE WHO ACCESS OR USE THE SITE, THE APP, SERVICES, PRODUCTION SERVICES, SOFTWARE OR THE PLATFORM FROM OTHER JURISDICTIONS DO SO AT THEIR OWN VOLITION AND ARE RESPONSIBLE FOR COMPLIANCE WITH LOCAL LAW.

## 12. Non-Solicitation; Non-Circumvent

- (a) **Non-Solicitation.** To the fullest extent permitted under applicable law, from the effective date of this Agreement until 18 months after the termination of this Agreement for any reason, you agree that, neither you nor any of your agents, employees, contractors or affiliates will, directly or indirectly, solicit or hire any of our Partners whom you meet or who become known to you during, or as a result of, your access to the App, Platform, Production Services and/or Services. The foregoing provision will not prevent you from conducting generalized solicitations for such production partners through the use of media advertisements, professional search firms or otherwise not specifically targeted to any of our Partners.
- (b) **Non-Circumvent.** Because of this Agreement, Contractor may be introduced to or learn of Partners, persons, contacts, entities, customers,

distributors, clients, employees, consultants, or agents of the Company (collectively, the “Designated Parties”). For the Term of this Agreement and for 18 months following the termination of this Agreement, Contractor agrees not to circumvent, attempt to circumvent, or permit any other party or persons on your behalf to circumvent Company’s relationships and/or agreements with the Designated Parties in any way, manner or form, including but not limited to, contacting, calling on, soliciting, consummating transactions, contracts or engagements; or taking away, either directly or indirectly, any Designated Party without the prior written permission of a duly authorized representative of the Company. In the event of any breach of this Section 12, Company, in addition to any other remedies at law or in equity that Company may have, will be entitled, without the requirement of posting a bond or other security, to equitable relief, including injunctive relief and specific performance.

### 13. Relationship Of Parties

Notwithstanding any provision hereof, Contractor is an independent contractor and is not an employee, agent, or joint venturer of Company and shall not bind nor attempt to bind Company to any contract. Contractor shall not be eligible to participate in any of Company’s benefit plans, fringe benefit programs, group insurance arrangements or similar programs. Company shall not provide workers’ compensation, disability insurance, Social Security or unemployment compensation coverage or any other statutory benefit to Contractor.

### 14. Miscellaneous

- (a) **Governing Law.** This Agreement shall be governed by the laws of the State of New York, without regard to its conflict of laws provisions.
- (b) **Injunctive Relief.** Any breach of Section 7 (Property Rights of Parties) of this Agreement will cause irreparable harm to Company for which damages would not be an adequate remedy, and therefore, Company will be entitled to injunctive relief with respect thereto in addition to any other remedies.
- (c) **Waiver.** Our failure to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or right. No waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be, or shall constitute, a waiver of any other term, provision or condition hereof, whether or not similar, nor shall such waiver constitute a continuing waiver of any such term, provision or condition hereof.

- (d) **Severability.** In the event that any provision of this Agreement shall be determined to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable. Furthermore, in lieu of any such illegal or unenforceable provision hereof, the parties shall add as a part of this Agreement a provision as similar in terms to such illegal or unenforceable provision as may be possible to be legal and enforceable.
- (e) **Entire Agreement.** This Agreement and the Terms of Use, incorporated herein by this reference, represent the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous proposals, representations, agreements and undertakings related to the subject matter of this Agreement. This Agreement may be modified by us at any time as described in the introduction of this Agreement. Contractor does not have a right to modify this Agreement, except in a written instrument signed by a duly authorized representative of Company.
- (f) **Assignment.** This Agreement is personal to Contractor and Contractor shall not have the right or ability to assign, transfer or subcontract any rights or obligations under this Agreement without the written consent of Company. Any attempt to do so will be null and void and a material breach by Contractor of this Agreement. Company may freely assign this Agreement, in whole or in part, to any third party.
- (g) **Notice.** All notices by Contractor under this Agreement shall be in writing and shall be deemed given when personally delivered to Company, or three (3) days after being sent by US mail, overnight delivery to CALA, 50 Eldridge Street, Floor 2, New York, NY 10002 or email to hi@ca.la. All notices by Company under this Agreement can be sent to Contractor via email associated with the Platform and/or App.

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## Terms of Use

### Acceptance of Terms

The following terms and conditions govern all use of the <https://ca.la/> website (including all content and functionality available through the <https://ca.la/> domain name, the “Site”) and mobile application (the “App”). The Site and App are offered subject to acceptance without modification of any of the terms and conditions contained herein or all other operating rules, policies and procedures that may be published from time to time on the Site and/or App by

This Is Cala, Inc. (“CALA”, “we”, “us” and “our”). Subject to the terms of this Terms of Use (the “Agreement”), CALA provides you with access to the Site and App, related data, our proprietary software, and content and related documentation and information through the Site and App in connection with our design, sourcing and production of garment and fitting services, including our “CALA Fit” product, and any future features, products and/or services we may provide through the Site or App, through a technology platform (the “Platform”) on the Site and App (collectively the “Services”).

**PLEASE READ THESE TERMS OF USE CAREFULLY BEFORE USING THE SITE, THE APP AND/OR SERVICES. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT AND/OR THE PRIVACY POLICY, YOU DO NOT HAVE CALA’S AUTHORIZATION TO USE ANY OF THE SERVICES AND YOU MAY NOT ACCESS OR USE ANY PORTION OF THE SITE OR APP.**

BY VISITING AND PROVIDING INFORMATION TO US THROUGH THE SITE AND/OR APP, DOWNLOADING THE APP AND/OR REGISTERING FOR AN ACCOUNT (AN “ACCOUNT”) AS EITHER A DESIGNER (THE “DESIGNER”) OR PRODUCTION PARTNER (THE “PARTNER”), ACCESSING OR USING ANY PART OF THE SITE OR THE APP, YOU (THE TERMS “YOU”, “YOUR”, AND “YOURS” SHALL REFER TO ANY AND ALL USERS OF THE SITE AND/OR APP, INCLUDING DESIGNERS AND PARTNERS (THE “USERS”)) EXPRESSLY AGREE TO AND CONSENT TO BE BOUND BY (A) THE TERMS AND CONDITIONS OF THIS AGREEMENT, (B) CALA’S privacy policy, which CAN BE found at <https://ca.la/privacy> (THE “PRIVACY POLICY”); AND (C) THE TERMS OF THE DESIGNER AGREEMENT AND/OR PRODUCTION PARTNER AGREEMENT, AS APPLICABLE.

## **Changes**

CALA reserves the right, at its sole discretion, to modify or replace any of these Terms of Use at any time. It is your responsibility to check the Terms of Use periodically for changes. Your continued use of the Apps following the posting of any changes to the Terms of Use constitutes acceptance of those changes.

## **Proprietary Rights**

You acknowledge and agree that all CALA content and materials displayed on the Site and App, delivered via the App and the Services or otherwise made available by CALA (collectively, the “Content”) are protected by copyrights, trademarks, service marks, patents, trade secrets or other proprietary rights and laws. There may be collective work that is the property of other third parties and such collective work is also protected by copyright and other intellectual

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## **Grant of Limited License**

Your access to the Service is licensed and not sold. Subject to the terms of this Agreement, and upon your registration for an Account, CALA hereby grants you a revocable, non-exclusive, non-transferable account enabling you to access and use the Services and the App and the Site. Your use of the Services (including the use of the materials that you download in connection with the use of the App, along with any documentation, text, software, photos, video, graphics, and music, sound or other multimedia files that might accompany it (collectively, "Material")) is governed by the terms of this Agreement. We reserve the right, without notice and in our sole discretion, to terminate your license to use the Site, the App and Services, and to block or prevent future access to and use of the Site, the App and Services. You are not permitted, directly or indirectly, and the foregoing license grant does NOT include the right for you to (a) publish, publicly perform or display, or distribute to any third party any Materials, including reproduction on any computer network or broadcast or publications media; (b) market, sell or make commercial use of the Site, App, or any Material; (c) systematically collect and use of any data or content including the use of any data spiders, robots, or similar data gathering, mining or extraction methods; (d) make derivative uses of the Site, App, or the Material; or (e) use, frame or utilize framing techniques to enclose any portion of the Site, App (including the images found at this Site, App, or any text or the layout/design of any page or form contained on a page).

## User Agreement

In order to access the Service, you will be required to register for an Account by providing us with information such as your name and your email address. In addition, if you are accessing the Site and App as (a) a Designer, you must agree to accept the terms of the Designer Agreement, accessible here, and/or (b) a Partner, you must agree to accept the terms of the Production Partner Agreement, accessible here. You further agree to: (i) provide true, accurate, current and complete information about yourself when registering for an Account, including any credit card information (your “Credit Card”), as applicable; (ii) maintain and promptly update your Account to keep it true, accurate, current and complete; and (iii) authorize us, or our third party billing service, to charge your Credit Card for any and all service fees incurred by your use of Services, as applicable. If you provide any information that is untrue, inaccurate, not current or incomplete, or we have reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, we have the right to suspend or terminate your Account and refuse any and all current or future use of the Services (or any portion thereof)

## Use of App

In using the App, you understand and agree that (a) your use of the App is conditioned upon your acceptance of the terms of this Agreement; (b) the App contains copyrighted material, trade secrets, and other proprietary materials of CALA and its licensors; (c) you will only use the App to access and/or use the Services; (d) you will not use any software or services in conjunction with the Service or authorized third-party software which modifies or reroutes, or attempts to modify or reroute, the Service; (e) you will not authorize any third party to access and/or use the Service on your behalf using any automated process such as a BOT, a spider or periodic caching of information stored by the Service on your behalf without a separate written agreement with CALA; (f) you will not use any software or hardware that reduces the number of Users directly accessing or using the Service (sometimes called ‘multiplexing’ or ‘pooling’ software or hardware); (g) you will not sell, distribute, rent, lease, sublicense or otherwise transfer the App to a third party; (h) you will permit CALA to send and deliver updates and notifications to you as part of your use of the App; (i) you will allow the App to automatically download and install updates from time to time from CALA which are designed to improve, enhance and further develop the App and may take the form of bug fixes, enhanced functions, new software modules and completely new versions; and (j) in order to protect those proprietary materials, except as expressly permitted by applicable law, neither you nor a third party acting on your behalf will: (i) decompile, disassemble or reverse engineer the App; (ii) modify or create derivative works of the App; (iii) use the App in any manner to provide service bureau, commercial time-sharing or other computer services to third parties; (iv) transmit the App or provide



its functionality, in whole or in part, over the Internet or other network (except as expressly permitted above); or (v) use components of the App to run applications not running on the App.

## **Information and Privacy**

We are firmly committed to protecting your privacy, the privacy of Users, and the information that we gather. In registering for the Services, you represent and agree that you will not use the Services to track or collect personally identifiable information of Users. For our complete policy on privacy, please visit and review our Privacy Policy at <https://ca.la/privacy>, which is incorporated by this reference. CALA will not edit, delete or disclose the contents of your data in connection with the Service unless (a) reasonably necessary to perform the Services, (b) authorized by you, (c) otherwise permitted under the Privacy Policy, or (d) CALA is required to do so by law or regulation, or in the good faith belief that such action is necessary to (i) conform or comply with applicable laws, regulations or legal process, (ii) protect or defend the rights or property of CALA or any other User, or (iii) enforce this Agreement.

## **Rules and Conduct**

You represent and warrant that (a) you are over the age of eighteen (18) and have the power, authority or consent to enter into and perform your obligations under the Agreement; (b) all information provided by you to us, including Credit Card information, is truthful, accurate and complete; (c) you are authorized, or have the permission of the authorized signatory of the Credit Card or charge card provided to us, to pay any fees incurred from use of the Services (as applicable); (d) you shall comply with all terms and conditions of this Agreement; (e) you have provided and will provide accurate and complete registration information, including, without limitation, your legal name and email address; (f) you will maintain the security of your user identification, password and other confidential information relating to your Account; (g) you will maintain the security, confidentiality and integrity of all messages and the content that you receive, transmit through or store on the Service; (h) you will maintain all charges resulting from the use of your Account, including but not limited to, unauthorized use of your Account prior to you notifying us in writing of such use and taking steps to prevent its further occurrence by changing your password; (i) you will comply with the terms of this Agreement set forth herein; and (j) you will comply with all applicable U.S. and international laws, statutes, ordinances, rules, regulations, contracts and applicable licenses regarding your use of the Services, Site or App.

You further warrant, represent and agree that you will not use the Site and/or Services in a manner that (i) infringes the intellectual property rights or proprietary rights, or rights of publicity or privacy, of any third party; (ii) violates

any law, statute, ordinance or regulation; (iii) you should know is harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, fraudulent, deceptive, or misleading or otherwise objectionable; (iv) adversely affects or reflects negatively on our goodwill, name or reputation or causes duress, distress or discomfort to we or anyone else, or discourages any person, firm or enterprise from using all or any portion, feature, or function of the Site or App, or from advertising, liking or becoming a supplier to use in connection with the Site; (v) send or result in the transmission or junk e-mail, chain letters, duplicative or unsolicited messages, or so-called “spamming”; (vi) transmit, distribute or upload programs or material that contain malicious code, such as viruses, timebombs, cancelbots, worms, trojan horse, spyware, or other potentially harmful programs or other material or information; (vii) falsely report to an employee or agent of CALA; (viii) circumvent, disable or otherwise interfere with security-related features of the Site or App or its features that prevent or restrict use or copying of any content; (ix) intercept or attempt to intercept email or other private communications not intended for you; and/or (x) causes the Site or App to be used for commercial or business purposes, including, without limitation, advertising, marketing, or offering goods or services, whether or not for financial or any other form of compensation or through linking with any other Site or web pages. You further warrant, represent and agree that you will not (A) post or transmit any message, data, image or program which is indecent, obscene or pornographic; (B) use the Site or App to threaten, harass, stalk, abuse, or otherwise violate the legal rights (including rights of privacy and publicity) of others; and (C) delete any author attributions, legal notices or proprietary designations or labels in a file that you upload to the Site. While it is not our intent to discourage you from reporting problems about the Services, nonetheless, we reserve the right to take such action as it deems appropriate and/or to remove any content from the Site at any time, for any reason (including, but not limited to, upon receipt of claims or allegations from third parties or authorities relating to such content or if we are concerned that you may have breached the provisions of this Section), at our sole discretion.

## **User Restrictions**

You are not permitted, directly or indirectly, to (a) engage in any acts inconsistent with the principles of copyright protection and fair use, as codified in 17 U.S.C. Sections 106-110, without obtaining the express written consent of CALA and/or the copyright owner; or (b) distribute, display, rent, lease, transfer or otherwise transfer rights to, or in any way exploit, the Content, in whole or in part; or (c) remove any proprietary notices or labels on the Content.

## Fees and Third Party Payment Processors

**Designers.** If you access and use the Services as a Designer, the Platform will generate fees and projected costs (the “Fees”) for the completion of your Design Project (as defined in the Designer Agreement). You understand and agree that you will pay all Fees in a timely manner as set forth in the Designer Agreement and you will be solely responsible to Partners for any non-payment or late payment of Fees. You further understand that no Production Services will commence until Fees are paid upfront according to the Designer Agreement.

**Partners.** If you access and use the Services as a Partner, you understand and agree that Fees due to you for your Production Services (as defined in the Production Partner Agreement) will be only due and paid to you by CALA upon receipt of payment by Designers in the manner set forth in the Production Partner Agreement. You further understand and agree that claims or actions of any kind with respect to Fees due to you by a Designer shall be brought solely against Designer and not CALA in the manner set forth in the Production Partner Agreement.

**Subscription Fees.** CALA may, at times, require a subscription fee (“Subscription Fee”) to access the Platform and Services. Notification of such Subscription Fee will be posted to the Site and App when and if applicable and you may choose to pay such Subscription Fee in order to access the Platform and Services. CALA, in its sole discretion, may waive such Subscription Fee on a case-by-case basis.

**Third party Payment Processors.** In registering for an Account and using our Services, you understand and agree that you may be charged a fee for the Services and we may use a third-party service provider (the “Processor”) (e.g., Stripe, Bill.com, etc.) for payment services (e.g., credit card transaction processing, merchant settlement, and any related service fees). By using the Site or Services, you agree to be bound by Processor’s Terms of Service and Processor’s Privacy Policy. You hereby consent to provide and authorize us and Processor to share any Credit Card information and payment instructions you provide to the extent required to complete the payment transactions in accordance with this Agreement, including personal, financial, credit card payment, and transaction information. YOU REPRESENT AND WARRANT THAT YOU HAVE THE LEGAL RIGHT TO USE ANY CREDIT CARD(S) OR OTHER PAYMENT MEANS USED TO PAY ANY FEE OR CHARGE. By providing us or the Processor with your payment information, you agree that we or the Processor is authorized to immediately invoice you for all fees and charges due and payable to us hereunder and that no additional notice or consent is required. You agree to immediately notify us and the Processor (as applicable) of any change to your payment information. You will be responsible for paying any applicable taxes relating to your payments and credits received and will indemnify and hold harmless CALA and the Processor from any and all taxes, including sales tax, based on any payments made or received by you in connection with the

Services.

## Feedback

At times, we may ask you to provide us with comments and feedback regarding the Services and/or the Site. Any such comments or feedback you provide through the Site will collectively be referred to as “Feedback”. By providing Feedback to us, you grant to us a perpetual, royalty-free, non-exclusive, irrevocable, unrestricted, worldwide license to use, copy, sublicense, reproduce, distribute, redistribute, modify, adapt, publish, edit, translate, transmit, create derivative works of, publish or broadcast, publicly perform or display any materials or other information (including without limitation, ideas contained therein for new or improved products or services) you submit to us. You further acknowledge and agree that your name and/or likeness may be associated with your Feedback and posted on the Site and you hereby grant us a perpetual, royalty-free, non-exclusive, irrevocable, unrestricted, worldwide license to use your name and/or likeness in association with your Feedback. You agree that you shall have no recourse against us for any alleged or actual infringement or misappropriation of any proprietary right in your communication to us. You further acknowledge and agree that no compensation will be paid with respect to the use of your Feedback, as provided herein, and that we may remove any Feedback we post on the Site at any time in our sole discretion. Further, when you provide Feedback, you authorize and direct us to make such copies thereof as we deem necessary in order to facilitate the posting and storage of such content on the Site.

## Operation

We reserve complete and sole discretion with respect to the operation of the Site and App. We may, among other things: (a) delete email or private messages if it has not been accessed by a User within the time established by our policies; (b) subject to the terms herein, make available to third parties information relating to the Users; and (c) withdraw, suspend or discontinue any functionality or feature of the Site or App. We may, in our complete and sole discretion, review uploaded files, conferences, forums, and chats and authorize restrictions on access thereto. We will not review the contents of email or private messages except as required or allowed by applicable law or legal process.

## Content and General Disclaimers

**General.** THE SERVICES, SITE AND APP ARE PROVIDED BY US ON AN “AS IS” BASIS. WE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION OF

THE SERVICES, SITE OR APP OR THE INFORMATION, CONTENT, MATERIALS, OR PRODUCTS INCLUDED ON THE SERVICES, SITE OR APP. TO THE FULL EXTENT PERMISSIBLE BY APPLICABLE LAW, WE DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, AND WARRANTIES THAT ACCESS TO OR USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE FACE OF THESE TERMS. WE CANNOT AND DO NOT WARRANT AGAINST HUMAN AND MACHINE ERRORS, OMISSIONS, DELAYS, INTERRUPTIONS OR LOSSES, INCLUDING LOSS OF DATA. WE CANNOT AND DO NOT GUARANTEE OR WARRANT THAT FILES AVAILABLE FOR DOWNLOADING FROM THE SERVICES, SITE OR APP WILL BE FREE OF INFECTION BY VIRUSES, WORMS, TROJAN HORSES OR OTHER CODE THAT MANIFEST CONTAMINATING OR DESTRUCTIVE PROPERTIES. WE DO NOT WARRANT OR GUARANTEE THAT THE FUNCTIONS OR SERVICE ACCESSED THROUGH THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT DEFECTS IN THE SITE OR APP WILL BE CORRECTED. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THESE TERMS. IF YOU ARE DISSATISFIED WITH ANY PORTION OF THE SERVICE, OR WITH ANY TERM IN THIS AGREEMENT, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SERVICES. WE MAY CHANGE THE SERVICES, SITE OR APP OR THE FEATURES IN ANY WAY, AND AT ANY TIME AND FOR ANY REASON. ALTHOUGH WE HAVE ATTEMPTED TO PROVIDE ACCURATE INFORMATION ON THE SERVICES, SITE OR APP, WE ASSUME NO RESPONSIBILITY FOR THE ACCURACY OR COMPLETENESS OF THE INFORMATION.

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uitable rights or remedies you have or may have against us with respect thereto. You acknowledge that statements made on the Site or in Feedback reflect only the views of their authors. Forum managers, forum hosts, content providers, or merchants appearing on the Site, if applicable, are not authorized CALA spokespersons, and their views do not necessarily reflect those of CALA, and we do not endorse any Feedback, or any opinion, recommendation, or advice expressed therein.

**Links to Third Party Sites.** The Site or App may permit you to link to other websites on the Internet, and other websites may contain links to the Site or App. These other websites are not under CALA control, and you acknowledge that CALA is not responsible for the accuracy, legality, appropriateness or any other aspect of the content or function of such websites. The inclusion of any such link does not imply endorsement by CALA or any association with its operators.

## **Indemnification**

YOU AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS CALA, ITS OFFICERS, DIRECTORS, STOCKHOLDERS, EMPLOYEES, AGENTS, INFORMATION PROVIDERS AND SUPPLIERS FROM AND AGAINST ALL LOSSES, EXPENSES, DAMAGES AND COSTS, INCLUDING REASONABLE ATTORNEY'S FEES, RESULTING FROM ANY VIOLATION OF THIS AGREEMENT, BREACH OF YOUR REPRESENTATIONS CONTAINED HEREIN OR IN THE DESIGNER AGREEMENT OR PRODUCTION PARTNER AGREEMENT, AS APPLICABLE, OR ANY ACTIVITY RELATED TO YOUR ACCOUNT (INCLUDING INFRINGEMENT OF THIRD PARTIES' WORLDWIDE INTELLECTUAL PROPERTY RIGHTS OR NEGLIGENT OR WRONGFUL CONDUCT) BY YOU OR ANY OTHER PERSON ACCESSING THE SERVICES, SITE OR APP USING YOUR ACCOUNT.

## **Waiver and Release**

YOU AGREE THAT NEITHER WE NOR OUR OFFICERS, DIRECTORS, STOCKHOLDERS, EMPLOYEES, AGENTS, LICENSORS OR SUPPLIERS SHALL HAVE ANY LIABILITY TO YOU UNDER ANY THEORY OF LIABILITY OR INDEMNITY IN CONNECTION WITH YOUR USE OF THE SERVICES, SITE OR THE APP OR THE CONTENT. YOU SPECIFICALLY ACKNOWLEDGE THAT WE SHALL NOT BE LIABLE FOR FEEDBACK OR THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY AND THAT THE RISK OF HARM OR DAMAGE FROM THE FOREGOING RESTS ENTIRELY WITH YOU. YOU HEREBY RELEASE AND FOREVER WAIVE ANY AND ALL CLAIMS YOU MAY

HAVE AGAINST CALA, OUR OFFICERS, DIRECTORS, STOCKHOLDERS, EMPLOYEES, AGENTS, LICENSORS OR SUPPLIERS (INCLUDING BUT NOT LIMITED TO CLAIMS BASED UPON THE NEGLIGENCE OF CALA, OUR OFFICERS, DIRECTORS, STOCKHOLDERS, EMPLOYEES, AGENTS, LICENSORS OR SUPPLIERS) FOR LOSSES OR DAMAGES YOU SUSTAIN IN CONNECTION WITH YOUR USE OF THE SERVICES, THE SITE, THE APP, OR THE CONTENT.

### **Limitation of Liability**

IN NO EVENT SHALL CALA (OR ITS AFFILIATES, LICENSORS AND SUPPLIERS) BE LIABLE CONCERNING THE SUBJECT MATTER OF THIS AGREEMENT, regardless of the form of any claim or action (whether in CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE), for any (A) MATTER BEYOND ITS REASONABLE CONTROL, (B) LOSS OR INACCURACY of data, loss or interruption OF USE, OR COST OF PROCURING SUBSTITUTE TECHNOLOGY, GOODS or SERVICES, OR (C) DIRECT OR INDIRECT, PUNITIVE, INCIDENTAL, RELIANCE, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS, REVENUES, PROFITS OR GOODWILL, EVEN IF CALA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS ARE INDEPENDENT FROM ALL OTHER PROVISIONS OF THIS AGREEMENT AND SHALL APPLY NOTWITHSTANDING THE FAILURE OF ANY REMEDY PROVIDED HEREIN.

### **Copyright or Intellectual Property Infringement Notification**

We respect the intellectual property rights of others. You can notify us of possible copyright infringement, and we will review all claims of copyright infringement received and remove content deemed to have been posted or distributed in violation of any such laws. To make a claim, please provide the following:

- (a) A physical or an electronic signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest that is allegedly infringed;
- (b) A description of the copyrighted work or other intellectual property that you claim has been infringed;
- (c) A description of where the material that you claim is infringing is located on the Site reasonably sufficient to permit us to locate the material;

- (d) Your contact information, including your address, telephone number, and email;
- (e) A statement by you that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- (f) A statement by you that the above information in your notice is accurate and that you, made under penalty of perjury, are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf. Contact the agent designated to receive and act on copyright violations under the Digital Millennium Copyright Act ("DMCA"). Claims can be directed to us at +4156805059, hi@ca.la, This is CALA, Inc. 855 Folsom St. San Francisco, CA 94107.

## Miscellaneous

This Agreement shall be governed by and construed in accordance with the laws of the State of California, excluding its conflicts of law rules, and the United States of America. You agree that any legal action or proceeding between CALA and you for any purpose concerning this Agreement, the Designer Agreement or Production Partner Agreement, as applicable, or the parties' obligations hereunder or thereunder shall be brought exclusively in a court of competent jurisdiction sitting in San Francisco County, California, United States. Any cause of action or claim you may have with respect to CALA must be commenced within one (1) year after the claim or cause of action arises. Our failure to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or right. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that the Agreement will otherwise remain in full force and effect and enforceable. CALA may assign, transfer or delegate any of its rights and obligations hereunder without consent. All waivers and modifications must be in a writing signed by CALA, except as otherwise provided herein. No waiver of any term, provision or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be, or shall constitute, a waiver of any other term, provision or condition hereof, whether or not similar, nor shall such waiver constitute a continuing waiver of any such term, provision or condition hereof. No agency, partnership, joint venture, or employment relationship is created as a result of this Agreement, and neither party has any authority of any kind to bind the other in any respect. This Agreement, along with the Designer Agreement and Production Partner Agreement, as applicable, constitutes the complete and exclusive statement of the agreement between the parties with respect to the Site, the App and Services and supersedes any and all prior or contemporaneous communications, representations, statements and understandings, whether oral or written, between the parties concerning the Service. If any action in law or



in equity is necessary to enforce the terms of this Agreement, the prevailing party will be entitled to reasonable fees of attorneys, accountants, and other professionals, and costs and expenses in addition to any other relief to which such prevailing party may be entitled. No provisions of this Agreement are intended, nor will be interpreted, to provide or create any third party beneficiary rights or any other rights of any kind in any Nonprofit User, client, customer, affiliate, or any party hereto or any other person unless specifically provided otherwise herein, and except as so provided, all provisions hereof will be personal solely between the parties to this Agreement; except that the sections pertaining to Indemnification, Waiver and Release, and Liability Limitation are intended to benefit CALA and its officers, directors, stockholders, directors, employees, agents, licensors, and suppliers.

## **Export Controls**

You shall comply with all export laws and restrictions and regulations of the Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control (“OFAC”), or other United States or foreign agency or authority, and not to export, or allow the export or re-export of the Material in violation of any such restrictions, laws or regulations. By downloading or using the Material, you are agreeing to the foregoing and you are representing and warranting that You are not located in, under the control of, or a national or resident of any restricted country or on any such list.

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## **Contact**

You may contact CALA at [hi@ca.la](mailto:hi@ca.la).