

[Google Home](#)

Accept payments through Google - Terms of Service

July 19, 2011

These Seller Terms of Service (the "**Agreement**") are a legal agreement between Google Payment Corp. ("**GPC**") and you ("**Seller**"). GPC is a subsidiary of Google Inc. ("**Google**"). You should review this entire Agreement before you decide whether to accept this Agreement and continue with the registration process.

BY CLICKING "I AGREE TO THE TERMS OF SERVICE" BELOW AND CLICKING ON THE "COMPLETE SIGN UP" BUTTON YOU AGREE TO BE BOUND BY THIS AGREEMENT.

SECTION 1. DEFINED TERMS

1.1 "**Beta Features**" means those features of the Service which are identified by GPC as beta or unsupported in GPC's then current technical documentation, including without limitation the Integration Guidelines for the version of the Service that Seller has implemented.

1.2 "**Brand Features**" means the trade names, trademarks, service marks, logos, domain names, and other distinctive brand features of each party.

1.3 "**Buyer**" means a person or entity that registers to use the Service to make payments using a Payment Account.

1.4 "**Carrier**" means a mobile telephone operator approved by GPC that offers a Carrier Billing Account to Buyers.

1.5 "**Carrier Billing**" means a mobile telephone operator approved by GPC that offers a Carrier Billing Account to Buyers.

1.6 "**Carrier Billing Account**" means the monthly or other periodic billing account provided by a Carrier registered by a Buyer with the Service to fund certain Payment Transactions.

1.7 "**Disputes**" means any disagreements, litigation, or other disputes between Seller and a Buyer or between Seller and a third party arising from the use of the Service, but excluding Service Disputes.

1.8 "**Google Website**" means the website pages of any website owned or operated by Google or its affiliates.

1.9 "**Intellectual Property Rights**" means any and all rights existing from time to time under patent law, copyright law, semiconductor chip protection law, moral rights law, trade secret law, trademark law, unfair competition law, publicity rights law, privacy rights law, and any and all other proprietary rights, as well as, any and all applications, renewals, extensions, restorations and re-instatements thereof, now or hereafter in force and effect worldwide.

1.10 "**Payment Account**" means the credit card account, debit card account, Carrier Billing Account, or other payment instrument that is registered by a Buyer with the Service and accepted by GPC to facilitate the processing of Payment Transactions.

1.11 "**Payment Transaction**" means the processing of a payment through the Service that results in the debiting or charging of the Purchase Amount to a Buyer's Payment Account and the issuance of funds to Seller's Settlement Account.

1.12 "**Policies**" means the various policies, guidelines, and other terms and conditions that are referenced in this Agreement but are not expressly set forth in this Agreement.

The Policies may be updated from time to time by GPC. The Policies include, without limitation, the following:

- <https://checkout.google.com/seller/policies.html>
(the "**Program Policies**")
- http://checkout.google.com/seller/content_policies.html
(the "**Content Policies**")
- <http://code.google.com/apis/checkout/>
<http://code.google.com/apis/checkout/terms.html>
(together, the "**Integration Guidelines**")
- <http://www.google.com/privacypolicy.html>
<http://checkout.google.com/files/buyerprivacy.html>
(together, the "**Service Privacy Policy**")
- http://checkout.google.com/seller/checkout_buttons.html
http://checkout.google.com/seller/acceptance_logos.html
(together, the "**Button and Acceptance Logo Guidelines**")
- <http://www.google.com/permissions/guidelines.html>
(the "**Google Brand Feature Guidelines**")
- <http://checkout.google.com/seller/fees.html>
(the "**Fee Schedule**")

1.13 "**Products**" mean any digital or physical merchandise, goods, or services offered by Seller that a Buyer may pay for using the Service.

1.14 "**Purchase Amount**" means the monetary amount of a Payment Transaction, which includes any taxes, shipping charges, handling charges, or other fees that are charged to the Buyer as part of the Payment Transaction.

1.15 "**Seller Website**" means the website pages of Seller.

1.16 "**Service**" means the service, described in this Agreement, that facilitates the processing of Payment Transactions on behalf of Seller to complete a payment for a purchase between Seller and Buyer.

1.17 "**Service Disputes**" mean any disagreements, litigation, or other disputes between GPC and Buyers arising solely from an error in the functioning of the Service.

1.18 "**Settlement Account**" means the deposit account of Seller maintained at a financial institution located in the United States that is designated by Seller and approved by GPC for receipt of funds from the processing of Payment Transactions through the Automated Clearing House network ("**ACH Network**").

SECTION 2. SERVICE FEATURES AND DESCRIPTION

2.1 Service Description. Seller acknowledges and agrees that: (i) Seller's sales of Products are transactions between Seller and the Buyer and not with GPC or any of GPC's affiliates; (ii) GPC is a third-party service provider facilitating Payment Transactions for Seller and is not a party to any Payment Transaction; (iii) GPC is not a Buyer or a seller in connection with any Payment Transaction; (iv) GPC will not be responsible for and does not control any aspect of the Products or the description of the Products; and (v) GPC will not be responsible for and does not control if a Buyer will complete the purchase of or payment for Products. When a Buyer seeks to make a purchase with a Payment Account, the Service will process the Payment Transaction on behalf of Seller either (a) through the appropriate payment processing network, including without limitation credit card or debit card networks or (b) to the Carrier for payment and collection through Carrier Billing as described below.

2.2 Permissible Payment Transactions. Seller may only use the Service to process a Payment Transaction for a Product that is purchased by a Buyer through a

legitimate, bona fide sale of the Product. A Payment Transaction may not be submitted for capture through the Service until Seller has satisfied the requirements for charging and shipping as described in the Program Policies. The Service may not be used to process a Payment Transaction for Seller, or otherwise transfer money between a Buyer and Seller, that does not directly result from a Buyer's purchase of a Product. Notwithstanding the foregoing, if Seller identifies its primary product type as "non-profit" and is verified by GPC as a valid IRS certified nonprofit organization, then Seller may use the Service to process donations from Buyers. Seller may not use the Service to provide cash advances to Buyers or to facilitate the purchase by Buyers of cash equivalents (e.g., travelers checks, prepaid cards, money orders); provided however, that Seller may use the Service to facilitate the purchase by Buyers of a gift certificate or stored value card as permitted by the Policies. GPC may establish general practices and limits concerning use of the Service, including without limitation individual or aggregate transaction limits on the dollar amount or number of Payment Transactions during one or more specified time periods. Seller may not use the Service to process Payment Transactions in connection with an illegal transaction or the sale or exchange of any illegal or prohibited goods or services, including without limitation prohibited Products as set forth in the Content Policies.

2.3 Limitations on the Use of Service. Seller must comply with the Policies and any other limits concerning use of the Service as updated by GPC from time to time, including without limitation: (i) the Integration Guidelines; (ii) the Button and Acceptance Logo Guidelines and the Google Brand Feature Guidelines; (iii) GPC requirements for data security; (iv) operating rules and/or policies of the card associations or networks that are used to process the Payment Transactions attached hereto as **Exhibit A** (as may be updated from time to time); or (v) Carrier requirements applicable to Carrier Billing. Seller's Payment Transactions may be protected pursuant to the chargeback resolution policies ("**Chargeback Resolution Policy**") and payment guarantee policy ("**Payment Guarantee Policy**") as each are described in the Program Policies. GPC has the right (i) to change, suspend or discontinue the Service, in whole or in part, as necessary to perform maintenance or updates to the Service and (ii) to impose limits on certain features or restrict access to parts or all of the Service without notice and without liability. GPC may decline to process any Payment Transaction in connection with, among other reasons, fraud prevention activities, applicable law, or GPC policies.

2.4 Prohibited Actions. Unless expressly permitted in writing by GPC, Seller may not: (a) establish a minimum or maximum Purchase Amount as a condition for Buyer's use of the Service to pay for a Product; (b) require Buyer to provide Seller with the account numbers of any credit card, debit card, Carrier Billing Account or other payment instrument; (c) add any Service use surcharge to a Payment Transaction; (d) separately process as a Payment Transaction the amount of any tax applicable to a purchase of a Product; (e) submit to the Service a Payment Transaction that was previously returned as a chargeback; or (f) permit the use of the Service for payment of any debt owed to Seller by Buyer.

2.5 Payment Transaction Authorization. Seller acknowledges that the receipt of an authorization for a Payment Transaction indicates only that, as of the date of the authorization, the underlying Payment Account has sufficient credit with the card issuer or Carrier for the amount of the Purchase Amount. Seller acknowledges that the authorization is not a confirmation of the Buyer's identity; nor is an authorization a guarantee by GPC that the transaction will not be subject to a chargeback or other reversal.

2.6 Additional Carrier Billing Terms. When a Buyer makes a Payment Transaction using Carrier Billing, GPC, as processor for the Seller, will submit charges to the Carrier for payment and processing through the Buyer's Carrier Billing Account. A

reversal, refund, or adjustment of that Payment Transaction also may be submitted by GPC, as processor for the Seller, to the Carrier for processing through the Buyer's Carrier Billing Account. GPC is not obligated to Seller or any other person to make settlement for Buyer's Payment Transaction (or reversals, refunds or adjustments thereof) in the event that the Carrier is unable or unwilling for any reason to collect the funds from the Carrier Billing Account or otherwise from the Buyer (for payment of a Payment Transaction) or to credit the Carrier Billing Account or otherwise credit the Buyer (for a reversal, refund or adjustment of a Payment Transaction). In the event GPC provides any settlement funds to the Seller pending payment from the Carrier, GPC reserves the right to chargeback or reclaim the funds from the Seller in the event the Carrier does not complete the Payment Transaction processing to the Buyer's Carrier Billing Account or otherwise does not obtain payment from the Buyer. GPC may limit the types of Sellers that may use Carrier Billing and the types of products that may be purchased with Carrier Billing.

2.7 Beta Features. From time to time, GPC may make Beta Features available to Seller as part of the Service, which are provided "as is." Seller's use of Beta Features is solely at Seller's own risk. GPC reserves the right, in its sole discretion, to include or cease providing Beta Features as part of the Service at any time.

SECTION 3. SERVICE IMPLEMENTATION

3.1 Implementation of Service. Seller agrees not to use the Service through websites other than the Seller Websites. GPC at all times reserves approval authority as to the implementation of the Service on each Seller Website, and GPC may upon notice suspend Seller's use of the Service until Seller corrects implementation issues as reasonably specified by GPC.

3.2 Implementation Setup. Seller agrees to provide current, complete and accurate registration information for the Service and to maintain and promptly update the information. Seller will set up and maintain a Settlement Account that is capable of receiving funds through the ACH Network. Seller authorizes GPC to confirm that the Settlement Account is in good standing with the financial institution, including by submitting a request for a payment authorization and/or a low monetary credit to the Settlement Account. Seller authorizes GPC to reconfirm the Settlement Account any time the account information is changed. Seller also authorizes GPC to obtain from time to time a credit report and to otherwise make credit or other background inquiries on Seller as GPC deems appropriate to assess Seller's eligibility for continued use of the Service. GPC may require Seller to provide additional information from time to time as a condition of Seller's continued use of the Service in connection with a credit or other background inquiry.

3.3 Implementation Updates. Seller will provide GPC with sixty (60) days advance notice of any change to a Seller Website or the code or technology used to implement the Service on a Seller Website that could reasonably be expected to adversely affect Seller's implementation of the Service; provided that giving notice will not relieve Seller of its obligations under this Agreement. If GPC updates the technical or implementation specifications for the Service, Seller will implement the updates as soon as reasonably practical, but no later than ninety (90) days of receiving notice of the updates. If GPC updates its look and feel or branding specifications, Seller will implement the updates as soon as reasonably practical, but no later than thirty (30) days of receiving notice of the updates.

3.4 Support. Prior to making any support request to GPC, Seller will first use reasonable efforts to resolve the problem on its own without any escalation to GPC. Thereafter, Seller may submit a written request for technical support via the methods specified by GPC. Any support that Seller provides to Buyers will be at Seller's own expense. Seller agrees that any telephone communications between Seller and GPC

related to the support or operation of the Service may be recorded by GPC for quality assurance and training purposes.

SECTION 4. ADDITIONAL SERVICE TERMS

4.1 GPC Not A Banking Institution. Seller hereby acknowledges and agrees that (i) GPC offers the Service to facilitate the processing of Payment Transactions in connection with Product purchases by Buyers, (ii) GPC processes Payment Transactions on behalf of Seller, (iii) GPC is not a bank or other chartered depository institution and (iv) funds held by GPC or its service providers (including any bank service providers) in connection with the processing of Payment Transactions are not deposit obligations of Seller and are not insured for the benefit of Seller by the Federal Deposit Insurance Corporation or any other governmental agency.

4.2 Unclaimed Property. Seller acknowledges and agrees that if (i) GPC is holding funds that are due to Seller arising from a Payment Transaction processed through the Service or otherwise, (ii) GPC is unable to contact Seller and (iii) GPC has no record of Seller's use of the Service for several years, then GPC may be required under applicable law to report the balance of such funds as unclaimed property. In the event of the foregoing, GPC will try to locate Seller at the Seller's mailing address shown in GPC's records and, if GPC is unable to locate Seller, Seller acknowledges and agrees that GPC may be required to deliver any such funds to the applicable state as unclaimed property; provided, however that GPC may deduct a dormancy fee and other administrative charges from such unclaimed funds, as permitted by applicable law.

4.3 No Endorsement. Seller acknowledges that GPC does not endorse the Seller Website, any of the information or other content appearing on the Seller Website or provided by Seller to GPC ("**Seller Content**"), or any of the Products. Seller agrees not to state or imply any endorsement by GPC or Google on the Seller Website or otherwise. To the extent that Seller Content appears within the Service or on Google Websites, GPC reserves the right to modify or remove the Seller Content at its sole discretion.

4.4 Buyer Identity. GPC has no responsibility to Seller to investigate the background or confirm the identity of Buyers, except to the extent required by applicable law. GPC may offer a feedback or other ranking system to assist Seller in evaluating Buyers or to assist Buyers in evaluating Seller. Seller acknowledges that any feedback or ranking system represents solely the opinion of third parties, and is not an opinion, representation, or warranty by GPC.

4.5 Disputes. Except as expressly provided for in the Chargeback Resolution Policy, Seller is solely responsible for Disputes and GPC is not a party to and will not be responsible for any Disputes. With respect to Disputes, Seller is subject to the Chargeback Resolution Policy and other dispute procedures as provided by GPC from time to time. GPC may provide tools to facilitate communication between Seller and a Buyer to resolve Disputes. If Seller and a Buyer are unable to resolve a Dispute, GPC may mediate the Dispute upon either party's request and may propose a non-binding solution at GPC's sole discretion. GPC is solely responsible for Service Disputes and Seller is not a party to and will not be responsible for any Service Disputes; provided, that Seller agrees to provide reasonable assistance to GPC in resolving Service Disputes.

SECTION 5. BRAND FEATURES

5.1 GPC Brand Features. Subject to this Agreement and after Seller has implemented the Service, GPC grants Seller a limited, nonexclusive and nonsublicensable license to display GPC Brand Features to promote the availability of the Service on the Seller Websites. Seller may use buttons and acceptance logos in

accordance with the Button and Acceptance Logo Guidelines without prior approval from GPC. Other uses of GPC Brand Features require prior approval from GPC in accordance with the Google Brand Feature Guidelines. GPC may revoke the permission granted in this paragraph to use GPC Brand Features by providing notice to Seller and a reasonable period of time to cease usage. Seller agrees to adhere to the Google Brand Feature Guidelines.

5.2 Seller Brand Features. Subject to this Agreement, Seller grants GPC and its affiliates a limited, nonexclusive and nonsublicensable license to display Seller Brand Features in connection with (i) operating the Service and (ii) promotions, presentations, marketing materials, verbal communications, and lists of sellers (e.g. a seller directory posted on a Google Website) that identify Seller as a seller that has implemented the Service.

5.3 Brand Feature Rights. Each party retains all right, title and interest, including without limitation all Intellectual Property Rights, relating to its Brand Features. Except as expressly provided in this Agreement, neither party acquires any right, title or interest in any Brand Features of the other party, and any rights not expressly granted are deemed withheld. All use by GPC of Seller Brand Features (including any associated goodwill) will inure to the benefit of Seller, and all use by Seller of GPC Brand Features (including any associated goodwill) will inure to the benefit of GPC. While this Agreement remains in effect and upon request, each party agrees to furnish the other party with samples of the usage of the other party's Brand Features as contemplated by this Section 5 to enable the other party to monitor and ensure that the usage is consistent with the other party's quality control requirements. While this Agreement remains in effect, Seller agrees not to challenge or assist others to challenge the GPC Brand Features (except to protect Seller's rights to its own Brand Features) and not to register any Brand Features or domain names that are confusingly similar to those of GPC.

SECTION 6. SERVICE FEES AND PAYMENT TERMS

6.1 Service Fees. Subject to Section 12, the transaction processing and other fees for the Service will be as set forth on the Fee Schedule (the "**Service Fees**"). GPC reserves the right to earn interest and/or other compensation from its service provider banks or others arising from the processing of Payment Transactions that have not settled to Seller.

6.2 Payment Terms. GPC will hold amounts due and payable to Seller (subject to adjustments as described in Section 6.3) separate from GPC's general corporate funds and will not use the amounts for GPC's corporate operating expenses. Subject to Section 12, unless otherwise mutually agreed upon by the parties, GPC will use commercially reasonable efforts to electronically transfer funds to Seller's Settlement Account before the end of the second business day (excluding bank holidays) after the day that Payment Transactions are submitted for capture by Seller. Notwithstanding the foregoing, GPC will not be obligated to settle funds to Seller (i) for any Payment Transaction for which GPC has not received full settlement in final available funds if Seller does not capture funds during an authorization hold period indicated in the Program Policies or (ii) if Seller's earned balance at the time of disbursement or transfer is less than one dollar.

6.3 Payment Adjustments. Seller acknowledges that Buyers may retain a chargeback right pursuant to card association and network rules and/or their agreement with the holder of the Payment Account (including a Carrier), and GPC will have the right (but not the obligation) to pass chargebacks to Seller if the particular transactions are not covered by the Payment Guarantee Policy. As to particular Payment Transactions, GPC may withhold payments or reverse previous payments if (i) a Buyer makes a claim to GPC for a refund or other reversal or (ii) GPC believes that

the Payment Transactions are invalid, involve misconduct or fraud (such as fraudulent use of a payment instrument), or otherwise violate applicable law, this Agreement, or the Policies. Seller agrees to cooperate with GPC and to provide any information that may be reasonably requested by GPC in its investigation of any of the foregoing circumstances. GPC may offset any payment obligation that GPC may have to Seller under this Agreement against (i) Service Fees owed by Seller, (ii) amounts overpaid to Seller due to a later reversal, refund, chargeback or other adjustment to prior Payment Transactions, and (iii) any other amounts owed by Seller to GPC under this Agreement or any other agreement. In the event that Seller incurs a negative balance (i.e. due to negative adjustments exceeding the settlement proceeds for a particular period), GPC may debit the Settlement Account for the amount of the negative balance. Furthermore, GPC may choose to invoice Seller for any amounts owed by Seller under this Agreement which will be immediately due and payable.

6.4 Reserve. GPC reserves the right to withhold a portion of the proceeds that are payable to Seller with respect to the processing of Payment Transactions (a "**Reserve**") to help ensure that sufficient funds are available to GPC in the event of chargebacks, reversals and other liabilities related to Seller's use of the Service. Circumstances where GPC may impose a Reserve include, but are not limited to: (a) adverse changes in Seller's financial condition or its payment record with creditors; (b) excessive rate of chargebacks, reversals, or Buyer support issues; or (c) significant changes in the nature of Seller's business or product lines. GPC is not responsible for any losses sustained by Seller as a result of the imposition of a Reserve.

6.5 Refunds and Adjustments. Seller will disclose its return/cancellation policy on the Seller Website. If Seller allows returns, cancellations or price adjustments in connection with a Payment Transaction, Seller will initiate a credit to the Buyer using the refund function of the Service within three (3) days of receiving the Buyer's request. Refunds cannot exceed the total amount of the Payment Transaction. Seller agrees not to accept cash or any other consideration from a Buyer in exchange for issuing a refund to a Buyer. Seller agrees not to give cash refunds to a Buyer in connection with a Product paid for with the Service unless required by law. If Seller provides a refund through a means other than through the Service, Seller remains responsible if the Payment Transaction results in a chargeback through the Service. Seller acknowledges that even if Seller's return/cancellation policy prohibits returns or cancellations, Seller may still receive chargebacks relating to the transactions. GPC may reject or delay a refund request from Seller through the Service if GPC is unable to obtain sufficient funds from Seller to fund the refund.

6.6 Taxes and Other Charges. Seller will pay any applicable taxes, including sales, use, personal property, value-added, excise, customs fees, import duties or stamp duties or other taxes and duties imposed by governmental entities of whatever kind and imposed with respect to the transactions under this Agreement, including penalties and interest, but specifically excluding taxes based upon GPC's net income. For purposes of clarification, GPC is not responsible for, and is not the entity collecting sales or income or other taxes with respect to Payment Transactions. When GPC has the legal obligation to collect any applicable taxes, the appropriate amount will be invoiced to and paid by Seller net thirty (30) days from the date of invoice or other notification. Seller will promptly provide GPC with documentation as may be required by the applicable governmental entity in order for GPC to process payments hereunder (including, without limitation, a valid certificate of Seller's exemption from obligation to pay taxes as authorized by the appropriate governmental entity), and GPC may withhold any payments required to be made hereunder until Seller has provided the documentation. Seller acknowledges that, beginning in 2011, GPC will report to the Internal Revenue Service the gross annual sales made by Seller through GPC in any calendar year where Seller both (i) receives aggregate payments exceeding \$20,000, and (ii) has more than 200 transactions. Seller will promptly provide GPC with original

or certified copies of all tax payments or other sufficient evidence of tax payments at the time the payments are made by Seller pursuant to the Agreement.

SECTION 7. CONFIDENTIALITY AND PROPRIETARY RIGHTS

7.1 Confidentiality. Seller will hold confidential and will not use any Buyer information obtained through the Service, except for uses expressly permitted by the Program Policies. Seller acknowledges that Buyer information received by GPC in connection with the Service is subject to the Service Privacy Policy. Seller will not disclose or cause to be disclosed any GPC Confidential Information without GPC's prior written consent, except to those employees, agents, representatives, or contractors of Seller who require access to GPC Confidential Information to perform under this Agreement ("**Authorized Personnel**") and who are bound by a written agreement not to disclose third party confidential information. Seller agrees that Seller is responsible for any act and/or omission of any Authorized Personnel in breach of this paragraph. Seller agrees to use the same degree of care, but no less than a reasonable degree of care, as Seller uses with respect to its own information of a similar nature to protect the GPC Confidential Information and to prevent communication of GPC Confidential Information to any unauthorized third parties. "**GPC Confidential Information**" includes without limitation: (a) all GPC software, technology, programming, specifications, materials, guidelines and documentation relating to the Service; (b) any information provided pursuant to this Agreement, including, without limitation, tangible, intangible, visual, electronic, present, or future information such as: (i) trade secrets; (ii) financial information, including pricing; (iii) technical information, including research, development, procedures, algorithms, data, designs, and know-how; and (iv) business information, including operations, planning, marketing and promotion plans, and products; and (c) any other information designated in writing by GPC or Google as "Confidential" or an equivalent designation. This Agreement imposes no obligation upon Seller with respect to GPC Confidential Information that: (a) was known to Seller before receipt from GPC or Google; (b) is or becomes publicly available through no fault of Seller; (c) is rightfully received by Seller from a third party without a duty of confidentiality; or (d) is independently developed by Seller without a breach of this Agreement. If GPC Confidential Information is required to be produced by law, court order, or other governmental demand ("**Process**"), Seller must immediately notify GPC of that obligation. Seller will not produce or disclose GPC Confidential Information in response to the Process unless GPC has (i) requested protection from the court or other legal or governmental authority requiring the Process and the request has been denied, or (ii) consented in writing to the production or disclosure of the GPC Confidential Information in response to the Process. Upon GPC's written request, Seller will promptly return all GPC Confidential Information, together with all copies, or certify in writing that all GPC Confidential Information and copies have been destroyed.

7.2 Username, Password, and Merchant Key. Seller will be responsible for maintaining the confidentiality of its Service username/password and merchant key (as described in the Integration Guidelines). Seller is responsible for all Service activity by persons that use the username/password and merchant key, including any consequences of the use or misuse of the username/password and merchant key. Seller agrees to notify GPC immediately of any unauthorized use of its username/password or merchant key or any other breach of security regarding the Service of which Seller has knowledge. Seller agrees that all officers, employees, agents, representatives and others having access to the Service username/password and merchant key will be vested by Seller with the authority to use the Service and legally bind Seller.

7.3 Proprietary Rights. GPC and its licensors retain all right, title and interest, including without limitation all Intellectual Property Rights relating to the Service (and any derivative works or enhancements thereof), including but not limited to, all software, technology, information, content, materials, guidelines, and documentation.

Seller does not acquire any right, title, or interest therein, except for the limited use rights expressly set forth in the Agreement. Any rights not expressly granted in this Agreement are deemed withheld. Seller agrees not modify, adapt, translate, prepare derivative works from, decompile, reverse engineer, disassemble or otherwise attempt to derive source code from the Service.

SECTION 8. WARRANTIES; DISCLAIMER OF WARRANTIES

8.1 Representations and Warranties. Seller represents and warrants that (a) if an individual, Seller is at least 18 years old, (b) if a business entity, Seller is duly authorized to do business in the United States, (c) Seller is capable of and has full power and authority to enter into the Agreement and this Agreement will constitute the valid and binding obligations of Seller, (d) Seller is a resident of the United States, (e) Seller owns and controls the Seller Websites and otherwise has and will maintain all rights, authorizations and licenses that are required to permit Seller to use the Service on the Seller Websites; (f) Seller's execution of this Agreement and use of the Service does not violate any other agreement to which Seller or its affiliates are subject; and (g) Seller will comply with all applicable laws, regulations and ordinances in connection with Seller's use of the Service.

8.2 DISCLAIMER OF WARRANTIES. THE SERVICE (INCLUDING ALL CONTENT, SOFTWARE, DATA TRANSMISSION, FUNCTIONS, MATERIALS AND INFORMATION PROVIDED IN CONNECTION WITH OR ACCESSIBLE THROUGH THE SERVICE) IS PROVIDED "AS IS" AND WITHOUT WARRANTY. GPC AND ITS AFFILIATES AND AGENTS DISCLAIM ALL WARRANTIES (WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE), INCLUDING WITHOUT LIMITATION WARRANTIES OF NONINFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. GPC does not warrant that the OPERATION OF the Service will be uninterrupted or error free. GPC WILL not be responsible for any service interruptions, including, but not limited to, power outages, system failures or other interruptions that may affect the receipt, processing, acceptance, completion or settlement of Payment Transactions or the Service.

SECTION 9. LIMITATION OF LIABILITY AND INDEMNIFICATION

9.1 LIMITATION OF LIABILITY. GPC (INCLUDING ITS AFFILIATES AND AGENTS) WILL NOT BE LIABLE TO SELLER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOST PROFITS, LOST REVENUE, LOSS OF GOODWILL, OR PROCUREMENT OF SUBSTITUTE SERVICES, HOWEVER CAUSED AND REGARDLESS OF THE TYPE OF CLAIM OR THE NATURE OF THE CAUSE OF ACTION, EVEN IF GPC HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGE OR LOSS. IN NO EVENT WILL GPC'S LIABILITY ARISING OUT OF THIS AGREEMENT AND THE SERVICE (WHEN AGGREGATED WITH GPC'S LIABILITY FOR ALL OTHER CLAIMS ARISING OUT OF THIS AGREEMENT AND THE SERVICE) EXCEED THE NET FEES THAT GPC HAS RECEIVED AND RETAINED UNDER THIS AGREEMENT DURING THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE DATE ON WHICH THE CLAIM ARISES. THE FOREGOING LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. Each party acknowledges that the other party has entered into this Agreement relying on the limitations of liability stated in this paragraph and that these limitations are an essential basis of the bargain between the parties.

9.2 Seller Indemnification. Seller will indemnify, defend and hold the GPC Indemnified Parties harmless from and against any and all third party claims, liability, loss, and expense (including damage awards, settlement amounts, and reasonable legal fees) brought against any of the GPC Indemnified Parties, arising out of or related

to (i) the Seller Websites, (ii) Seller Brand Features; (iii) Seller's use of the Service; and/or (iv) any breach of or non-compliance with this Agreement or the Policies by Seller. **"GPC Indemnified Parties"** include (i) GPC, Google, and their subsidiaries and affiliates and (ii) officers, directors, agents, employees, information providers, licensors, licensees, consultants, contractors and other applicable third parties (including without limitation Paymentech, L.P.) of GPC, Google, and their subsidiaries and affiliates. GPC may join in defense with counsel of its choice at its own expense

SECTION 10. TERMINATION

10.1 By Seller. Seller may terminate this Agreement or Seller's use of the Service at any time upon providing prior written notice to GPC or as otherwise permitted by GPC.

10.2 By GPC. GPC may terminate, limit or suspend this Agreement or Seller's use of the Service at any time for any reason and without liability to Seller, including without limitation (i) inactivity, (ii) violation of this Agreement or the Policies, or (iii) if Seller's use of the Service, in GPC's reasonable discretion, creates a risk of financial harm or loss of goodwill to GPC or any of the payment card systems used for processing Payment Transactions.

10.3 Effect of Termination. Sections 1, 4, 5.3, 6.3, 6.5, 6.6, 7.1, 7.3, 8, 9, 10.3, and 11 will survive any termination or expiration of this Agreement. Notwithstanding the payment terms described in Section 6.2 (Payment Terms), upon the expiration or termination of this Agreement or other cessation of Seller's use of the Service, GPC may withhold funds to cover GPC's expectation of potential chargeback exposure for up to one hundred eighty (180) days. Seller will remain liable for chargebacks and any other obligations incurred by Seller after the expiration or termination of this Agreement. Following the expiration or termination of this Agreement, GPC may disable Seller's access to the Service.

SECTION 11. GENERAL

11.1 Notice to GPC. Except as otherwise specified in the Agreement, all notices given under this Agreement by Seller to GPC will be in English and in writing to Google Payment Corp., 1600 Amphitheatre Parkway, Mountain View, CA 94043, with a copy to Attn: Legal Department at the same address. Notice to GPC will be deemed given upon receipt when delivered personally, upon written verification of receipt from overnight courier, or upon verification of receipt of registered or certified mail.

11.2 Notice to Seller. GPC may communicate with Seller regarding the Service by means of electronic communications, including (i) sending electronic mail to the email address Seller provided to GPC during registration or (ii) posting of notices or communications within the Service console or on a Google Website. GPC and Seller agree that GPC may communicate by means of electronic communications the following types and categories of communications and records: this Agreement (and revisions or amendments), notices or disclosures regarding the Service, payment authorizations, and any other matter relating to Seller's use of the Service. Seller is responsible for providing its own hardware, software and electronic access to the Internet in order to use the Service and access the electronic communications. Seller should maintain copies of electronic communications by printing a paper copy or saving an electronic copy on Seller's computer. Electronic communications will be deemed received by Seller when GPC sends the electronic communication to the email address of Seller provided at the time of registration or as revised by Seller thereafter in accordance with this Agreement or when GPC posts the electronic communication within the Service console or on a Google Website. For those categories of communications or records that GPC is otherwise required under applicable law to provide in a written paper form to Seller, GPC and Seller agree that GPC may provide the communications or records to Seller by means of electronic

communications. The following additional terms will apply to electronic communications: (a) Seller may contact GPC [here](#) to request another electronic copy of the electronic communication without a fee; (b) Seller may request a paper copy of an electronic communication, and GPC reserves the right to charge Seller a fee to provide a paper copy; (c) Seller may contact GPC through the Service contact page to update Seller's registration information (such as email address) used for electronic communications or to withdraw consent to receive electronic communications; and (d) GPC reserves the right to terminate Seller's use of the Service if Seller declines or withdraws consent to receive electronic communications from GPC.

11.3 Governing Law; Venue. The laws of California, excluding California's choice of law rules, and applicable federal United States laws will govern this Agreement. The exclusive venue for any dispute related to this Agreement will be the state or federal courts located in Santa Clara County, California, and each party consents to personal jurisdiction in these courts. The parties specifically exclude from application to this Agreement the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act.

11.4 Entire Agreement; Modification. This Agreement constitutes the entire agreement between the parties with respect to the subject matter. This Agreement supersedes any other prior or collateral agreements, whether oral or written, with respect to the subject matter. The Agreement will be binding on and inure to the benefit of each of the parties and their permitted successors and assigns. GPC will have the right, at its sole and absolute discretion, to change, modify, or amend any portion of this Agreement at any time by posting notification on a Google Website or otherwise communicating the notification to Seller. The changes will become effective, and will be deemed accepted by Seller, after the initial posting by GPC or the sending by GPC of notification to Seller and will apply on a going-forward basis with respect to Payment Transactions initiated after the posting or sending date. In the event that Seller does not agree with the modification, Seller must terminate its use of the Service, which will be Seller's sole and exclusive remedy.

11.5 Assignment. Seller may not assign (including by way of merger, sale of stock, or sale of assets) this Agreement or any rights or obligations under this Agreement without the prior written consent of GPC. Any attempt by Seller to make an assignment or transfer in violation of this paragraph will be void and without effect. GPC may assign this Agreement or any rights or obligations under this Agreement to Google or subsidiary of Google.

11.6 Force Majeure. Neither party will be liable for failing or delaying performance of its obligations (except for the payment of money) resulting from any condition beyond its reasonable control, including but not limited to, governmental action, acts of terrorism, earthquake, fire, flood or other acts of God, labor conditions, power failures, and Internet disturbances.

11.7 Other Provisions. The failure of GPC to exercise or enforce any right or provision of the Agreement will not constitute a waiver of the right or provision. Headings are for reference purposes only and will not be used for interpretation of this Agreement. Unless otherwise expressly stated, all amounts stated in this Agreement are denominated in United States dollars. The Policies and URLs referenced in this Agreement are incorporated by reference and may be updated by GPC from time to time. The parties are and will remain independent contractors and nothing in this Agreement will be deemed to create any agency, partnership, or joint venture relationship between the parties. Neither party will be deemed to be an employee or legal representative of the other nor will either party have any right or authority to create any obligation on behalf of the other party. If any provision of this Agreement is adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this

Agreement will otherwise remain in full force and effect and remain enforceable between the parties. This Agreement is not intended and will not be construed to create any rights or remedies in any parties other than Seller and GPC and no other person may assert any rights as a third party beneficiary; provided, that Google will be a third party beneficiary; provided, further that the GPC Indemnified Parties will be a third party beneficiary of the Seller indemnity in Section 9; provided, further that Paymentech, L.P will be a third party beneficiary of the agreement in **Exhibit A** and the Seller indemnity in Section 9.

SECTION 12. SPECIAL TERMS FOR ANDROID MARKETPLACE AND OTHER GOOGLE MARKETPLACES AND GOOGLE IN-APP PAYMENTS

This Section 12 only applies to Sellers that use the Service on Android Marketplace or one or more other Google marketplaces (each a **"Google Marketplace"**), including use of the Service to process in-application payments (**"Google In-App Payments"**) related to a Google Marketplace, except that Section 12.3 will also apply to Sellers that use the Service to process Google In-App Payments not related to a Google Marketplace.

12.1 Android Marketplace and other Google Marketplaces. Notwithstanding the first sentence of Section 3.1, Seller may use the Service to process transactions on a Google Marketplace. To use the Service on a Google Marketplace, a Seller must separately agree to the terms of service applicable to such Google Marketplace (the **"Google Marketplace TOS"**) and have the Seller's Service account linked to the Seller's account for that Google Marketplace. In the event of any conflict between this Agreement and the applicable Google Marketplace TOS, the terms of the applicable Google Marketplace TOS will control.

12.2 Service Fees; Payment Guarantee Policy. For transactions conducted through a Google Marketplace, Seller will be charged: i) Service Fees payable to GPC; or ii) a revenue share payable to the Google Marketplace, as set forth in the applicable Google Marketplace TOS.. Any fee discounts or fee waivers that are being offered by GPC for the Service do not apply to the revenue share specified in the applicable Google Marketplace TOS. The Payment Guarantee Policy does not apply to transactions conducted through a Google Marketplace.

12.3 Payment Terms; Monthly Payment Schedule Beginning February 1, 2011. Notwithstanding the payment schedule described in Section 6.2, if the Sellers Service account is linked to any Google Marketplace pursuant to this Section 12, or if the Seller uses the Service to process Google In-App Payments, GPC will for any Payment Transaction occurring on or after February 1, 2011, use commercially reasonable efforts to electronically transfer funds for Payment Transactions submitted for capture by Seller within a calendar month to Seller's Settlement Account before close of business on the 15th day of the following calendar month. The monthly payment schedule described in the foregoing sentence will apply to all of Sellers Payment Transactions, whether or not they are conducted through a Google Marketplace or for Google In-App Payments. At GPC's option, and with no prior notice to Seller, funds may be transferred to Sellers Settlement Account more frequently than monthly.

12.4. Bank Fees. Seller agrees to pay all fees, including any applicable currency conversion fees, associated with the conversion of funds and the processing of the ACH to the Settlement Account. Seller acknowledges and agrees that Seller bears all risk of loss arising from any changes in the currency exchange rates between the time Payment Transactions are processed and the time that settlement funds are sent by ACH to the Settlement Account. Banks that process the ACH to the Settlement Account also may impose fees and charges related to processing of the ACH and related currency conversion, and the Seller is solely responsible for all such fees and

charges.

12.5 Buyer Currency. A Google Marketplace may permit Seller to list purchase prices for Seller's Products, and a Buyer to purchase Seller's Products, in a currency different from that of the Seller's Settlement Account ("Buyer Currency Purchase Transaction"). For any Buyer Currency Purchase Transaction, Seller will be paid by GPC in the currency of Seller's Settlement Account, based on an exchange rate that will be applied to the purchase amount (denominated in Buyer Currency) at the time the Payment Transaction is submitted to GPC for processing by Seller. The exchange rate will be determined by a financial institution utilized by GPC to calculate exchange rates, and may be adjusted based on market conditions without notice to Seller. If a Buyer Currency Purchase Transaction is subsequently subject to refund, reversal, chargeback or other adjustment, GPC will apply the same exchange rate and currency that applied to the original Buyer Currency Purchase Transaction in calculating the obligation of the Seller for the refund, reversal, chargeback or other adjustment. GPC reserves the right to impose fees on this currency conversion.

Exhibit A

Three Party Agreement between Seller, GPC, and Paymentech, L.P.

This Exhibit A applies to Seller if Seller uses the Service to engage in aggregate payment card transaction amounts of five thousand dollars (\$5,000) or more in gross merchandise volume (GMV) for three consecutive months. This Exhibit contains terms required by the groups of Card issuer banks or debit networks that facilitate the use of payment cards ("**Associations**"). These terms form a three-party agreement between Seller, GPC, and Paymentech, L.P. ("**Paymentech**"), the service provider with which GPC has entered into a separate agreement to assist GPC in processing Seller's Payment Transactions involving payment cards.

Definitions

- Seller agrees to comply with all Association Rules, as may be applicable and in effect from time to time. Seller understands that GPC or Paymentech may be required to modify this Exhibit A in order to comply with requirements imposed by the Association Rules.
- Association Rules are the bylaws, rules, and regulations, as they exist from time to time, of the Associations.
- Card is both the plastic card or other evidence of the account and the account number, issued by a Card issuer or a debit network to the Cardholder, either of which are accepted for the purpose of paying Seller, and which will be processed under this Seller Payment Terms of Service.
- Cardholder is the person to whom the Card is issued and who is entitled to use the Card.
- Retrieval Request is a request for information by a Cardholder or Card issuer relating to a claim or complaint concerning a Card sale Seller has made.
- Sales Data is the evidence and/or electronic record of a Payment Transaction representing payment by use of a Card or of a refund/credit to a Cardholder.

Seller Acceptance of Cards

- Seller agrees to comply with all Association Rules, as may be applicable and in effect from time to time. Seller understands that GPC or Paymentech may be required to modify this Exhibit A in order to comply with requirements imposed by the Association Rules.
- The Association Rules require that each Sales Data Seller tenders to GPC for processing comply with the following conditions: (1) The Sales Data represents payment or refund of payment, for the bona fide sale or lease of the goods,

services or both, which Seller has provided in the ordinary course of its business; (2) The Sales Data does not involve any element of credit for any purpose other than payment for a current transaction (including payment of a previously-dishonored check) and, except in the case of approved installment or pre-payment plans, the goods have been shipped or services actually rendered to the Cardholder; (3) To Seller's knowledge, the Sales Data is free from any material alteration not authorized by the Cardholder; and (4) Seller has not advanced any cash to the Cardholder in connection with the Card transaction, nor has Seller accepted payment for effecting credits to a Cardholder's account.

Refunds and Adjustments

- The Card Associations require Seller to maintain a fair policy with regard to the return/cancellation of merchandise or services and adjustment of Card sales. Seller must also disclose its return/cancellation policy to Seller's customers.
- If Seller allows a price adjustment, return of merchandise or cancellation of services in connection with a Card sale, Seller must prepare and deliver to GPC Sales Data reflecting the refund or adjustment within 3 days of receiving the customer's request for the refund/adjustment.
- The amount of the refund/adjustment cannot exceed the amount shown as the total on the original Sales Data except by the exact amount required to reimburse the Cardholder for postage that the Cardholder paid to return merchandise. Seller is not allowed to accept cash or any other payment or consideration from a customer in return for preparing a refund to be deposited to the Cardholder's account nor to give cash refunds to a Cardholder in connection with a Card sale, unless required by law.
- If Seller's refund policy prohibits returns under certain circumstances, Seller may still receive a chargeback relating to the sales pursuant to the Association rules.

Retrieval Requests

- The Associations require Seller to store original documentation of each transaction for at least six months from the date of the respective transaction, and to retain copies of all the data for at least 18 months from the date of the respective transaction. The Associations do not allow Seller to charge a fee for the creation or storage of the copies.

Data Security and Privacy

- Seller must exercise reasonable care to prevent disclosure of Card information, other than to Seller's agents and contractors for the purpose of assisting Seller in completing a Card transaction, or to the applicable Association, or as specifically required by law. Association Rules require Seller to comply with all security standards and guidelines that may be published from time to time by Visa, MasterCard or any other Association, including, without limitation, the Visa U.S.A. Cardholder Information Security Program (collectively, the "Security Guidelines"). Seller understands and agrees that failure to comply with the Payment Card Industry Data Security Standard requirements and other Security Guidelines may result in fines and/or penalties being levied against Seller or against GPC or Paymentech because of Seller's actions by the Associations. If this occurs Seller agrees to reimburse GPC or Paymentech immediately for any fine or penalty imposed due to violation of the Security Guidelines.
- The Association Rules provide that Cardholder information and transaction data is owned by the Associations, the Card issuer and the Cardholder.