

Popular Pays' Platform

by Lightricks US, Inc.

Platform Terms and Conditions

These Platform Terms and Conditions (the “Terms”) are entered into between Lightricks US, Inc., including its affiliates (the “Provider,” “us,” or “we”), and you (the “Customer” or “you”). Provider owns a state of the art, cloud-hosted technology platform named Popular Pays (the “Platform”), which enables agile advertising by facilitating collaboration between content creators and influencers (“Creators”) and Customers wishing to generate content or market their products and services through such Creators using the Platform (the “Services”). Lightricks US, Inc. is a company established in the United States of America and our address is 1658 Milwaukee Ave, Suite 100 #17330, Chicago, IL 60647.

PLEASE READ THESE TERMS CAREFULLY. FOR US-BASED CUSTOMERS THESE TERMS CONTAIN A BINDING AND MANDATORY JURY TRIAL WAIVER PROVISION. BY ACCEPTING THE TERMS, EITHER BY AGREEING TO AN AGREEMENT WHERE THESE TERMS ARE REFERENCED AND INCORPORATED, CLICKING A BOX INDICATING YOUR ACCEPTANCE, BY ESTABLISHING AN ACCOUNT, USING THE PLATFORM AND/OR OUR SERVICES, YOU AGREE THAT (A) YOU HAVE READ AND UNDERSTOOD THE TERMS; (B) YOU REPRESENT THAT YOU ARE AT LEAST 18 YEARS OLD; (C) YOU CAN FORM A BINDING CONTRACT; AND (D) YOU ACCEPT THE TERMS AND AGREE THAT YOU ARE LEGALLY BOUND BY THESE TERMS. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS, IN WHICH CASE THE TERMS “YOU” OR “YOUR” SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES.

YOU UNDERSTAND AND AGREE THAT PROVIDER IS NOT A PARTY TO ANY AGREEMENTS ENTERED INTO BETWEEN CUSTOMERS AND CREATORS. PROVIDER HAS NO CONTROL OVER THE CONDUCT OF CUSTOMER AND CREATORS, OR OTHER USERS OF THE SERVICE, AND DISCLAIMS ALL LIABILITY IN THIS REGARD TO THE MAXIMUM EXTENT PERMITTED BY LAW. YOU ACKNOWLEDGE AND AGREE THAT, BY ACCESSING OR USING THE SERVICES, YOU ARE INDICATING THAT YOU HAVE READ, AND THAT YOU UNDERSTAND AND AGREE TO BE BOUND BY THESE TERMS. IF YOU DO NOT HAVE AUTHORITY TO ACCEPT THE TERMS, OR IF YOU DO NOT AGREE WITH THE TERMS, YOU MUST NOT ACCEPT THE TERMS AND MAY NOT USE THE PLATFORM AND/OR THE SERVICES.

SECTION 14.1 OF THESE TERMS IS ONLY APPLICABLE WHERE THE CUSTOMER HAS ITS PLACE OF ESTABLISHMENT OR IS LOCATED IN AN EU MEMBER STATE

1. SERVICES AND ACCESS TO PLATFORM.

- 1.1. **Services.** Subject to these Terms, Provider will provide Customer and users (including but not limited to Customer’s clients, employees, contractors and agents) authorized by Customer (the “Authorized Users”) to (a) access the Platform and (b) execute media buys (the “Services”) in accordance with these Terms and an applicable insertion order (collectively, the “IO”). For the purposes of these Terms, “Creator” means an independent contractor who has created a profile on the Platform and who wishes to participate in a Campaign by providing Creator Content in accordance with the Campaign Brief; “Campaign” means the content creation and/or marketing campaign created by or on behalf of Customer, in which Creators may offer to participate through the Platform; and “Campaign Brief” or “Brief” means marketing campaign criteria or specifications provided by the Customer for a Campaign, made available on the Platform, which can be accepted by a Creator who wishes to participate in the Campaign.
- 1.2. **AI Terms of Use.** To the extent that our Services include third-party integrated artificial intelligence (“AI”) features and/or if any IO includes deliverables that include an AI feature, such shall be subject to these Terms. Additionally, your use of the Services, including your use of any AI feature, is subject to, and you agree to, the Studio AI Terms of Use, attached hereto as **SCHEDULE A**.
- 1.3. **Platform.** Provider hereby grants to Customer and its Authorized Users a limited, non-perpetual, non-exclusive, worldwide, non-sublicensable, non-transferable, non-assignable, revocable right to

access the Platform, for its internal business purposes during the term of the applicable IO or such other period of time specified in such IO, and to use the Platform and associated deliverables as described in the Terms and any applicable IO. By accessing Provider's Platform and Services, Customer and its Authorized Users acknowledge and agree to the processing of personal data as specified in Provider's Privacy Policy available here: <https://popularpays.com/privacy/>.

- 1.4. **Access to Services and Platform.** In order to access our Services or the Platform you will have to establish an account (the "Account"). Your login credentials for your Account are confidential. Please do not share them with anyone, unless you have been authorized to do so by Provider or by your organization. You acknowledge and agree: (i) to provide accurate and complete Account and login information (where applicable) (e.g., full name and email); (ii) to keep all Account log in details and passwords secure at all times; (iii) to remain solely responsible and liable for the activity that occurs in connection with your Account; and (iv) to promptly notify us in writing if you become aware of any unauthorized access or use of your Account or the Platform. If specified in any IO or Framework Agreement (as defined in Section 9), Provider shall provide additional customer support services to facilitate Customer's on-boarding to the Platform. You represent and warrant that if you are entering into these Terms on behalf of your employer or other legal entity, that you have full authority to bind said employer or other legal entity to these Terms.
- 1.5. **Authorization Limitations and Restrictions.** Except as otherwise explicitly provided in the Terms or an applicable IO or as may be expressly permitted by applicable law, Customer will not, directly or indirectly, and will not permit or authorize third-parties or Authorized Users to: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure of the Platform or Services; (ii) mine data from the Platform or Services or use automated systems or software to extract data from the Platform for commercial purposes ('data scraping'); (iii) modify, translate, or create derivative works based on the Platform; (iv) rent, lease, or otherwise permit third-parties to use the Platform; (v) use the Services to provide services to any third-parties that have not been authorized by Provider; (vi) circumvent or disable any security or other technological features or measures of the Services or Platform; (vii) take any action to contest Provider's Intellectual Property Rights or infringe them in any way; (viii) use the Platform for any illegal or unauthorized purpose; or (ix) remove any proprietary notices or labels.

2. CREATORS.

- 2.1. **Creator Content and Approved Creator Content.** "Creator Content" is content created by Creator that includes, but is not limited to, creative materials, audio, written text in captions and blogs, photographs, video, or other deliverables provided by an Approved Creator to Customer pursuant to the Campaign Brief. We will enable relevant Creators to apply to the Campaign, and from these Creators, Customer will select those which are approved to participate (hereinafter, "Approved Creators"). The Approved Creators will create Creator Content and Customer will have the right to approve such Creator Content to be used by the Customer and/or to be posted on one or more social media platforms by the Approved Creator. Such selected Creator Content is hereinafter referred to as "Approved Creator Content."
- 2.2. **Creator Compensation.** We shall pay all compensation owed to Approved Creators arising out of their completed performance of Approved Creator Content, following receipt of the corresponding payment from Customer, unless otherwise agreed upon in an applicable IO.
- 2.3. **Creator Agreement.** All Creators agree to and are bound by the Creators Terms of Service (the "Creator Terms") when they establish an Account with Provider, start using Provider's Platform, and/or apply for a Campaign, which is available here: <https://popularpays.com/terms/>.
- 2.4. **Provider Responsibility.** Provider is not responsible for any delay or failure of performance caused in whole or in part by a Creator. Notwithstanding the foregoing, upon Customer's written notice of Approved Creators' delay in performance or obligations in a Campaign, Provider shall: (i) seek, using reasonable efforts, to have the Creator correct the Creator Content; and/or (ii) replace the noncompliant Approved Creator with another Creator, subject to approval by Customer; and/or (iii) remove the Approved Creator from the Campaign.
- 2.5. **Relationship with Creators.** Notwithstanding the above, Customer acknowledges and agrees that

Creators are providing services as independent contractors pursuant to the Customer's specifications and approvals. Customer further acknowledges and agrees that Provider is not responsible for any Creator Content or any services provided by a Creator.

- 2.6. **Relationship with Provider.** Customers and Provider are independent contractors and nothing contained herein shall be interpreted as creating any relationship other than that of independent contracting parties. The Parties shall not be construed as being partners, joint venturers, shareholders, employer/employee, or agent/servant. Neither Party has power or authority to bind the other Party to any obligation, agreement, debt or liability. Neither Party shall hold itself out as an agent or representative of the other Party.

3. **RESTRICTIONS AND RESPONSIBILITIES.**

- 3.1. **Customer Campaign Obligations.** Customer will: (i) submit the Campaign Brief to be posted on the Platform; (ii) ensure any requirements in the Campaign Brief comply, at all times, with all applicable laws, rules, regulations, and industry guidelines relating to the advertising of its products and services, including the FTC guides concerning the use of endorsements and testimonials in advertising (the "FTC Guides") and all equivalent advertising laws, rules and guidelines that apply in the jurisdiction in which your Campaign Brief is being devised (including, where applicable, the UK ASA and CAP advertising codes) (collectively, "Applicable Laws"), and do not violate any third-party rights, including Intellectual Property Rights; (iii) select Approved Creators to participate in the Campaign; (iv) be responsible, if applicable, for providing Creators with any support, services or "In-Kind Rewards" (which means non-monetary compensations such as gift cards that are provided to Approved Creators to facilitate Approved Creator's participation in the Campaign) (v) notify Provider via the Platform or email of any complaints, problems or performance issues with an Approved Creator; (vi) monitor its Campaign and notify the applicable Approved Creator and Provider in the event it discovers Creator Content in violation of any third-party rights or Applicable Laws; (vii) select Approved Creator Content for the Campaign; (viii) ensure that Approved Creator Content does not infringe Intellectual Property Rights of any third-party or any Applicable Laws.
- 3.2. **Warranties and Representations.** Customer represents, covenants, and warrants that Customer will not directly or indirectly: (i) use the Platform and/or Services other than in compliance with all Applicable Laws; (ii) use the Platform and/or Services to communicate any message or material that is harassing, libelous, threatening, obscene or would violate the Intellectual Property Right or privacy right of any person or is otherwise unlawful or that would give rise to civil liability; (iii) use Platform and/or Services in a manner that constitutes or encourages conduct that could constitute a criminal offense or could result in a civil action under any Applicable Laws; (iv) otherwise access or use Platform and/or Services beyond the scope of any applicable IO; (v) access or use Platform and/or Services for purposes of competitive analysis of the Services or for the development, provision or use of a competing software service or product or any other purpose that is to Provider's detriment or commercial disadvantage; or (vi) disparage the Creators or Provider, or harm their business or reputation. Customer will defend, indemnify, and hold Provider harmless for any damages, costs, expenses and claims (collectively "Damages") resulting from a breach of the above representations, covenants and warranties or Customer Campaign Obligations.
- 3.3. **Non-Solicitation.** During the Term, and for twelve (12) months thereafter, Customer shall not recruit or solicit (other than by general advertisement) any employees of the Provider, or any Creators or Approved Creators made known to Customer through the Services and/or Platform, with whom Customer did not have a prior relationship.

4. **CONTENT TAKEDOWN**

4.1. **Content Takedown and Account Closures**

In accordance with EU regulations, Provider can take down any content or information if Provider believes that it violated these Terms, or if Provider is required to do so by law. Provider can further disable your Account if you repeatedly violated these Terms, infringed intellectual property rights or on any other applicable laws.

4.2. **Content Moderation**

Provider uses automated content moderation tools to identify any illegal content on the Platform. Automatic moderation occurs directly upon upload and for each piece of content posted. Provider may equally receive notices from its users or third parties, claiming that uploaded content violates these Terms, infringes on Intellectual Property Rights or any other applicable laws (for example, as set out in Section 5). These notices are subject to human review and are not processed in an automated fashion. In both instances, content moderation may lead to the removal of your content, or disabling of your account, if the content violates these Terms or is illegal.

4.3. **Request for Reconsideration**

If Provider has removed your content, or disabled, suspended, or terminated your Account due to violations set out in Section 4.1, you may submit a written request for reconsideration of such action (the “**Reconsideration Request**”) by clicking the “Report” button in the Platform within **five (5) days** of your receipt of written notice from Provider of such action. Please make sure to respond to the email that you may receive from us following such report, asking for additional information, as legally required. The Reconsideration Request must include the following information: your full name, address, and phone number; and a written explanation as to why you believe that you did not violate the terms of these Terms.

4.4. **Provider Reconsideration**

Provider shall review, assess, and make a determination regarding a Reconsideration Request in good faith at Provider’s sole and exclusive discretion (a “**Final Determination**”) within sixty (60) days of receipt of such Reconsideration Request. Provider shall notify you of the Final Determination not later than thirty (30) days from the date of our Final Determination. Such Final Determinations are final and non-appealable and no further requests for reconsideration shall be accepted. Any late Reconsideration Requests shall be denied.

5. **COPYRIGHT INFRINGEMENT/DMCA NOTICE.**

5.1. **Removal of Content.** It is the policy of Provider to respect the legitimate rights of copyright owners or legitimate interest of any rights holders, and we will respond to clear notices of alleged copyright infringement or any other infringement to applicable laws. Pursuant to the Digital Millennium Copyright Act (the “DMCA”) and the Digital Services Act (the “DSA”), we have designated a Copyright Agent (as specified below) to receive notifications of claimed copyright infringement in connection with the Services. Please be advised that we enforce a policy that provides for the termination in appropriate circumstances of users of the Platform who are repeat infringers. If you believe that your work or someone else’s work has been copied in a way that constitutes copyright infringement, or that information published on the Platform might be illegal content, please provide the Copyright Agent (as defined below) with the following information in accordance with the DMCA and the DSA:

- 5.1.1. the elements justifying your right on the copyrighted work (whether you hold the right or you act on behalf of the right holder);
- 5.1.2. a description of the copyrighted work you claim has been infringed or sufficiently substantiated explanation of the reasons why you allege the content in question to be illegal;
- 5.1.3. a description of where the material that you claim is infringing is located on the Platform, with enough detail that we may find it;
- 5.1.4. your address, for DMCA-related notices only, telephone number, and email address;
- 5.1.5. a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and
- 5.1.6. a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner’s behalf. In accordance with the DMCA only, your notice should also include: An electronic or physical signature of the person authorized to act on behalf of the owner of the copyright.

- 5.2. In the event that you submit an incomplete or deficient Notice or Counter Notice (as such terms are defined in the DMCA) to Provider, Provider is not obligated to respond or to take further action on the matter.
- 5.3. Counter-Notification. If you believe that the material you posted was removed from the Platform by mistake, and that you have the right to post the material, you may elect to send us a counter-notification. To be effective the counter-notification must be a written communication provided to our Copyright Agent that includes substantially the following (please consult your legal counsel or see the DMCA to confirm these requirements):
- Your physical or electronic signature;
 - Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled. Providing URLs in the body of an email is the best way to help us locate content quickly;
 - A statement under penalty of perjury that you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled; and
 - Your name, address, and telephone number, and a statement that you consent to the jurisdiction of the Federal District Court for the judicial district in which the address is located, or if your address is outside of the United States, for any judicial district in which the Services may be found or accessed, and that you will accept service of process from the person who provided notification of infringement or an agent of such person.
- 5.4. Notice from National Authorities: National authorities of EU member states might contact Provider for any orders to act against illegal content to the following mail address: legal@lightricks.com.
- 5.5. Misrepresentations. Please note that under the DMCA (at 17 U.S.C. Section 512(f)) any person who knowingly materially misrepresents that material or activity is infringing or was removed or disabled by mistake or misidentification may be subject to liability.
- 5.6. Copyright and Infringement Agent. Our agent for notice of claims of copyright infringement or any other infringement to applicable laws ("Copyright Agent") can be sent in the English language to the following address: Lightricks Ltd., email: contact@lightricks.com.

6. **CONFIDENTIALITY.**

Each Party (the "Receiving Party") understands that the other Party (the "Disclosing Party") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business ("Confidential Information"). Confidential Information of Provider includes non-public information regarding Platform features, functionality, pricing, product plans, customer lists, Creator names, vendor lists, terms of contracts including these Terms, and performance of the Services. Confidential Information of Customer includes non-public data provided by Customer to Provider to enable the provision of the Services, including marketing plans, product information, and campaign information ("Customer Data"). The Receiving Party agrees: (i) to take reasonable precautions to protect such Confidential Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Confidential Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information after three (3) years following the disclosure thereof or any information that the Receiving Party can document (a) is or becomes generally available to the public; (b) was in its possession or known by it prior to receipt from the Disclosing Party; (c) was rightfully disclosed to it without restriction by a third party; (d) was independently developed without use of any Confidential Information of the Disclosing Party; or (e) is required to be disclosed by law (in which case, a prior notice of such requirement shall be sent to the Disclosing Party to enable the Disclosing Party to seek a protective order or otherwise prevent or restrict such disclosure).

7. **INTELLECTUAL PROPERTY RIGHTS.**

- 7.1. **Services, Platform, and Provider Materials.** All right, title, and interest in and to the Services and

Platform, including any updates or modifications thereto, including all Intellectual Property Rights therein, are and will remain with the Provider or its licensors. Customer has no right, license or authorization with respect to the Services or Platform, except as expressly set forth herein. For the purpose of these Terms, “Intellectual Property Rights” mean all rights granted, applied for or otherwise now or hereafter in existence under or related to any patents, copyright, trademark, trade secret, database protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world, including rights of publicity or personality. For the sake of clarity, Provider is, and shall be, the sole and exclusive owner of all right, title and interest (including without limitation all Intellectual Property Rights) in and to:

7.1.1. The Platform;

7.1.2. Provider Materials;

7.1.3. Provider Marks (as defined in Section 7.4 below);

7.1.4. Provider’s Confidential Information;

7.1.5. Any Feedback (as defined in Section 7.2 below);

7.1.6. Usage Statistics (as defined in Section 7.6 below); and

7.1.7. Any and all improvements, derivative works, and/or modifications of/to any of the foregoing, regardless of inventorship or authorship.

7.2. **Feedback.** If the Provider receives any feedback (e.g., questions, comments, suggestions or the like) regarding the Platform or Services (collectively, “Feedback”), all rights in such Feedback shall belong exclusively to the Provider and that such Feedback shall be considered the Provider’s Confidential Information and Customer hereby irrevocably and unconditionally transfers and assigns to the Provider all Intellectual Property Rights it has in such Feedback and waives any and all moral rights that Customer may have in respect thereto. It is further understood that Customer represents that the Feedback it provides does not include Confidential Information of third parties. Provider may use the Feedback at its sole discretion.

7.3. **Consent to Use Customer Data.** Subject to the Terms and the applicable IO, Customer hereby grants Provider a license to use, reproduce, distribute display and modify data provided by the Customer which is separate from Customer Materials (defined below) (the “Customer Data”). Notwithstanding anything to the contrary, Provider shall have the right to collect and analyze data and other information relating to the Platform and Services, and Provider will be free, during and after the Term hereof or the expiration or termination of any IO, to (i) use such information and data to improve the Platform and Provider’s business, and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business. As the exclusive owner of the Customer Data, you represent that to the extent the Customer Data includes any personally identifiable information, you have received the required consents or permits and have acted in compliance with applicable privacy laws, as to allow us to use the Customer Data solely in order to perform our Services. We may however be required to disclose the Customer Data: (a) to satisfy any applicable law, regulation, legal process, subpoena or governmental request; or (b) to collect, hold and/or manage the Customer Data through Provider’s authorized third party service providers as reasonable for business purposes, which may be located in a country that does not have the same data protection laws as the data subject’s jurisdiction. Additionally, if through the Platform Customer chooses to connect their Ads Manager account(s) from social media providers, including but not limited to Facebook, Instagram, Pinterest, Twitter, and TikTok (the “Ads Manager Accounts”), to the Platform, Customer gives permission to Provider to use third-party’s API or SDK on Approved Creator Content that is exported via the Platform to Customer’s Ads Manager Account(s). For clarity, the purpose of this permission is so Provider can access and display to Customer in the Platform performance data from ads using Approved Creator Content created and managed from Customer’s Ads Manager Account(s). Provider may also collect anonymized performance data related to Approved Creator Content used for the same purpose. No rights or licenses are granted except as expressly set forth herein.

7.4. **Customer Material.** With respect to trademarks of a Customer or its Authorized Users (collectively,

“Marks”), or other Intellectual Property Rights that is provided or specified in a Campaign Brief (“Customer Materials”), Customer hereby grants to Provider a license to use such Marks and Customer Materials during the Term, but solely in connection with providing the Services, and for marketing purposes, in accordance with any trademark usage policy provided in writing by Customer.

- 7.5. **Customer Materials.** Customer grants to Provider a perpetual license to use such Creator Content that Customer acquires rights to under the Campaign Brief, for its internal use, and for marketing and advertisement of the Platform and Services.
- 7.6. **Usage Statistics.** For the avoidance of doubt, it is acknowledged and agreed that Provider (alone and/or together with its Affiliates and service providers) may generate and commercially exploit Usage Statistics for the purpose of enhancing the Platform, and nothing in this Agreement shall be deemed to prohibit or otherwise limit such activities. “Usage Statistics” means any non-Customer-identifying information, data, reporting, suggestions, analyses, and/or intelligence relating to the operation, support, and/or Customer’s use, of the Platform and/or Services (such as metadata, aggregated data, analytics, security findings or discoveries, etc.).
- 7.7. **Third Party Components.** The Platform may use or include third party software, files, libraries or components that are subject to third party open source license terms. A list of such components contained in the Services and the licenses applicable to them can be found under the Settings section in each of our Services in Android, or under the Settings in your iOS device, when you navigate to each of our Services, as may be updated from time to time.
- 7.8. **No Intellectual Property Rights Transferred.** The Parties agree that nothing herein shall give either Party any right, title or interest in any of the other Party’s Intellectual Property Rights, or except as provided herein, any right to use any of the other Party’s Intellectual Property Rights in any way.

8. PAYMENT OF FEES.

Customer will pay Provider the fees (the “Payment”) set forth in the applicable IO (and where no IO is issued, as set out within the Platform itself) and in accordance with the terms thereof. Customer shall make all Payments in US Dollars. Unpaid amounts are subject to a late payment charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection, and may result in immediate termination of Services and/or access to the Platform. Customer shall be responsible for all taxes associated with Services other than taxes based on Provider’s net income.

9. TERM AND TERMINATION.

- 9.1. Subject to earlier termination as provided below, the initial term of these Terms commences as of the Effective Date of any outstanding IO, or any framework agreement executed by the Parties (the “Framework Agreement”), if applicable, and it shall remain in effect until the later of (i) the completion of all Services under any outstanding IO, or (ii) the termination of the Framework Agreement (the “Term”). In addition to any other remedies it may have, either Party may terminate these Terms and any underlying IO (where applicable) immediately (a) if a party materially breaches any of the terms or conditions of these Terms and such breach, if curable, remains uncured for a period of thirty (30) days after receipt of notice; (b) if the other Party (i) makes a general assignment for the benefit of creditors, (ii) admits in writing its inability to pay debts as they come due, (iii) voluntarily files a petition or similar document initiating any bankruptcy or reorganization proceeding, or (iv) involuntarily becomes the subject of a petition in bankruptcy or reorganization proceeding and such proceeding is not dismissed within sixty (60) days after filing; or (c) if applicable, as additionally outlined in the applicable IO. Upon termination, we will provide you with notice via the email address associated with your Account to give you the opportunity to export Customer Data from our Services or Platform for a period of 30 days, after which we may delete the Customer Data.
- 9.2. **Effect of Termination.** Upon termination of the Terms or any applicable IO, each Party will promptly return, or at the other Party’s request, destroy (and provide confirmation of such destruction signed by a legal officer), all Confidential Information of the other Party. All sections of the Terms or any applicable IO which by their nature should survive termination will survive termination,

including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, non-solicitation and limitations of liability. All undisputed payments to Provider for Services fully or substantially rendered (including payment to Approved Creators, whether or not Creator Content has been created) will become due immediately.

10. WARRANTY AND DISCLAIMER.

Provider will supply the Services in a professional and workmanlike manner. Services or Platform may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Provider or by third-party providers, but Provider shall use reasonable efforts to provide notice in writing or by e-mail of any scheduled service disruption. PROVIDER DOES NOT, HOWEVER, WARRANT THAT THE SERVICES OR PLATFORM WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES OR PLATFORM. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND PLATFORM ARE PROVIDED “AS IS” AND PROVIDER DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PURPOSE AND NON-INFRINGEMENT.

11. LIMITATION OF LIABILITY.

NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, EXCEPT FOR DEATH OR BODILY OR PERSONAL INJURY, WILFUL MISCONDUCT, OR VIOLATIONS OF SECTION 6 (CONFIDENTIALITY), SECTION 7 (INTELLECTUAL PROPERTY RIGHTS) AND SECTION 12 (INDEMNIFICATION), NEITHER PARTY NOR ITS AFFILIATES, AND THEIR RESPECTIVE DIRECTORS, OFFICERS, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THE TERMS OR APPLICABLE IO RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY FOR (A) ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; OR (C) ANY MATTER BEYOND PROVIDER’S REASONABLE CONTROL FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAYABLE BY CUSTOMER TO PROVIDER FOR THE SERVICES UNDER THE APPLICABLE IO (OR AS SPECIFIED IN THE PLATFORM ITSELF WHERE NO IO IS ISSUED) THAT GAVE RISE TO THE LIABILITY, DURING THE TWELVE (12) MONTHS PRIOR TO SUCH EVENT, WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. INDEMNIFICATION.

12.1. Indemnification by Provider. In the event that, during the term of these Terms and/or any applicable IO or the six (6) month period thereafter, a third party makes or institutes any claim, action, or proceeding against Customer alleging that Customer’s authorized access and use of the Platform infringes such third party’s copyright, trade secret or patent (an “Infringement Claim”), Provider shall:

12.1.1. At its own expense, defend Customer against the Infringement Claim; and

12.1.2. Indemnify and hold harmless Customer for any amount finally awarded against Customer by a court (or otherwise agreed in settlement) under the Infringement Claim (provided, however, that any insurance recoveries and/or indemnity or contribution amounts received by the Customer prior to receipt of indemnification by Provider, shall reduce the indemnifiable amount to be paid by Provider by the amount of such recovery). Provider will have no obligation or liability under this Section (INDEMNIFICATION) to the extent that the Infringement Claim is based on or results from: (i) a modification to the Platform not made by Provider; (ii) the combination of the Platform with any third party product or service; and/or (iii) any Customer instructions or specifications. Should the Platform (in whole or in part) become, or in Provider’s opinion be likely to become, the subject of an Infringement Claim or an injunction prohibiting Customer’s use of the Platform, then the Provider may, at

its sole discretion: (a) procure for the Customer the right to continue using the Platform; (b) replace or modify the Platform to avoid the infringement claim; or

- 12.1.3. if options (a) and (b) cannot be accomplished despite the Provider's reasonable efforts or are not, in Provider's opinion, commercially reasonable, then the Provider may terminate these Terms and any applicable IO and Customer's access to the Platform and Services, and, without derogating from our indemnification obligations under this Section 12, as Customer's sole remedy, provide a refund for any amount pre-paid by Customer for the remaining unused period of the license.

Provider's aggregate liability under this Section (*INDEMNIFICATION*) shall be capped at the lower of: (a) ten (10) times the amount actually paid by Customer to Provider under this Agreement in the twelve (12) months prior to the event that gave rise to the Infringement Claim; and (b) one hundred thousand US Dollars (US\$ 100,000).

This Section (*INDEMNIFICATION*) represents the Provider's sole obligation and liability, and the Customer's sole remedy, for any allegations or claims of infringement relating to the Platform.

- 12.2. **Indemnification by Customer.** If Provider or its Affiliates (or their respective directors, officers, or employees) (collectively, "Provider Indemnitees") incur or suffer any loss or liability whatsoever (including but not limited to a fine, penalty, damages award, legal costs and expenses such as attorney's fees, etc.) under or in connection with any demand, claim, suit, or proceeding made or brought by a third party (whether by an individual, organization, or governmental agency) against a Provider Indemnitee (each, a "Misuse Claim"), and such Misuse Claim arises directly from an allegation of any breach by Customer under this Agreement and/or from Customer's use of the Platform beyond the permitted use hereunder, Customer agrees to:

- (a) Indemnify and hold harmless the Provider Indemnitee(s) for such losses and liabilities; and
- (b) Defend the Provider Indemnitee(s) against the Misuse Claim, at Customer's own cost and expense.

- 12.3. **Indemnity Procedure.** As a condition to indemnification under this Section (*INDEMNIFICATION*), the indemnified Party agrees: (A) to provide the indemnifying Party with prompt written notice of the Infringement Claim or Misuse Claim, as applicable (the "Claim"); (B) to cede to the indemnifying Party sole control of the defense and settlement of the Claim (except that any settlement shall require the indemnified Party's prior written consent, not to be unreasonably withheld, conditioned or delayed); (C) to provide the indemnifying Party with all information and assistance reasonably requested by it; and (D) not to admit any liability under (or otherwise compromise the defense of) the Claim. The indemnified Party may participate in the defense of the Claim at its own cost and expense.

13. **PRIVACY.**

Each Party agrees to fully comply with the applicable privacy regulations. We will use any personal information that we may collect or obtain in connection with the Services in accordance with our privacy policy available at: <https://popularpays.com/privacy/>, as may be updated from time to time. You further agree that we may use personal information that you provide or make available to us in accordance with the Privacy Policy.

14. **MISCELLANEOUS.**

14.1. **Out of Court Dispute Resolution.**

- 14.1.1. In relation to any dispute that arises under these Terms (including complaints that have not been resolved under Sections 4.3 and 4.4 above) Customer is entitled to select any out-of-court dispute settlement body which meets the criteria set out in Article 21 of the DSA in order to resolve its dispute.

14.1.2. Provider and Customer shall engage in good faith with the selected out-of-court dispute settlement body with a view to resolving the dispute, however such body shall not have the power to issue a binding decision on the parties and shall not preclude the parties from resorting to legal proceedings as set out in Section 14.2 below.

14.1.3. If the out-of-court dispute settlement body decides the dispute in favour of a Customer, then Provider shall bear all fees charged by such body and shall reimburse Customer for any reasonable expenses incurred in relation to that dispute. If the out-of-court dispute settlement body decides the dispute in favour Provider, Customer shall not be required to reimburse any fees or expenses incurred by Provider in relation to the dispute unless Customer has manifestly acted in bad faith.

14.2. **Dispute Resolution.** The Parties will endeavor to resolve any dispute with respect to these Terms and any applicable IO, in good faith within thirty (30) days of a dispute being raised by one Party with the other Party. The Parties agree that any unresolved controversy or claim arising out of or relating to the Terms or applicable IO (excluding claims for injunctive or other equitable relief) shall be governed by and construed under the laws of the State of New York, without reference to principles and laws relating to the conflict of laws. The competent federal and state courts of New York City, New York shall have the exclusive jurisdiction with respect to such controversy or claim.

14.3. **Waiver of Jury Trial.** EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THESE TERMS AND ANY APPLICABLE IO OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY).

14.4. **Modifications.** Provider reserves the right, at its sole discretion to modify or discontinue, temporarily or permanently, the Platform and/or the Services or to modify these Terms at any time and without prior notice. If we modify these Terms, we will post the modification on the Platform. We will also update the Last Updated Date at the top of these Terms. Modifications to these Terms will automatically take effect upon posting; provided, however, that changes to the Terms will be effective as to an existing Customer thirty (30) days after posting. By continuing to access or use our Platform or Services after we have posted a modification, you are indicating that you agree to be bound by the modified Terms. If the modified Terms are not acceptable to you, your only recourse is to cease accessing or using the Platform and Services.

14.5. **Third Party Content.** The Platform may present, or otherwise allow Customer to view, access, link to, and/or interact with, Content from third parties and other sources that are not owned or controlled by Provider (such Content, “Third Party Content”). The Platform may also enable Customer to communicate with the related third parties. The display or communication to Customer of such Third Party Content does not (and shall not be construed to) in any way imply, suggest, or constitute any sponsorship, endorsement, or approval by Provider of such Third Party Content or third party, nor any affiliation between Provider and such third party. Provider shall have no obligation or liability of any kind whatsoever for Third Party Content or for the third party’s policies, practices, actions, or omissions. If Customer enables or uses Third Party Content with the Platform, Provider will allow the Third Party Content providers to access and use Customer Content as required for the interoperation of the Third Party Content and the Platform. Any Third Party Content used by Customer is subject to the applicable agreement between Customer and the Third Party Content provider.

14.6. If any provision of these Terms or applicable IO is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that these Terms and applicable IO will otherwise remain in full force and effect and enforceable. These Terms and applicable IO are not assignable, transferable or sublicensable by either Party except with the other Party’s prior written consent, except in connection with an assignment to a Party’s parent, wholly owned subsidiary, or a successor to all or substantially all of its assets (whether by merger, transfer of assets or equity interests, or otherwise). These Terms and applicable IO are the complete and exclusive statement of the mutual understanding of the Parties and supersede and cancel all previous written and oral agreements, communications and other understandings relating to the subject matter

of these Terms and applicable IO. All waivers and modifications must be in writing signed by both Parties, except as otherwise provided herein. All notices under these Terms or applicable IO must be in writing and will be deemed to have been duly given when received, if personally delivered; upon receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

- 14.7. **Contact Details.** For any queries relating to these Terms, an IO or Framework Agreement, please email our customer representative using the following email address: support@popularpays.zendesk.com.

Last updated: February 4, 2024

SCHEDULE A

Studio AI Terms of Use

Last Updated: February 4, 2024

Provider offers a third-party integrated artificial intelligence feature (“AI”) on the Platform, named “Studio AI” (the “AI Feature”), on which Provider allows you to create custom artificial intelligence-based conceptual artwork.

1. CONTENT RIGHTS

- 1.1. Grant of Rights. By way of entering Text Cues (as defined below) or Image Cues (as defined below), into the AI generator of such AI Feature (collectively, the “**Input**”), and generating any artificial intelligence-based conceptual artworks (“**Artworks**”) resulting from the upload of such Input into the AI Feature (the Input and Artworks shall be collectively referred to as “**Customer Content**”), You grant Provider and its subsidiaries, affiliates, and partners a worldwide, non-exclusive, fully-paid, royalty-free, irrevocable, sublicensable and transferable license to use, reproduce, distribute, prepare derivative works of and based upon, display, transmit, adapt, edit, modify, publicly display, publish, perform, sell, republish, promote, exhibit, and otherwise use, the Customer Content, in all media now known or hereafter developed, for any and all purposes, including but not limited to promoting the Services in any media formats and through any media channels, whether now known or existing in the future throughout the world, without Provider seeking further permission from you. In addition, you grant Provider and its subsidiaries, affiliates, and partners as well as its other users with a worldwide, non-exclusive, fully paid, royalty-free, irrevocable, sublicensable and transferable license to generate additional images from the Text and Image Cues You created and change such Text and Image Cues.
- 1.2. Content Formats. For the purposes of the Services, and any license and authority granted hereunder to Provider, all Customer Content includes the expression of Customer Content in hard copy, electronic, and other versions, including, but not limited to, masters, and image files (including but not limited to .gif; .jpeg; .png; and .eps).
- 1.3. Responsibility for Customer Content. You are solely responsible for any Customer Content created by you and/or your use of the Services and the AI Feature, as well as the consequences of your use of the Customer Content. You are responsible for all Input, and you affirm, represent, and warrant that you own or have the necessary licenses, rights, consents, and permissions required to use and provide such Input to the AI Feature, that your Customer Content will not be defamatory, will not misappropriate, infringe, or otherwise violate any rights of any third party (including intellectual property rights or rights of publicity or privacy), and will not violate any applicable law, rule, regulation, or the terms of service of any other platform. For avoidance of doubt, it is hereby clarified that any intellectual property rights of AI generated content are subject to constant review and change and Provider takes no representations as to the legal usage or the rights attached to the Artwork in the AI Feature.
- 1.4. Third Party Rights. You agree that any Customer Content that you upload, download, or otherwise distribute through the Services will not contain third-party copyrighted, patented, or trademarked material, or material that is subject to other third-party proprietary rights, unless you have written permission from the rightful owner of the material, or you are otherwise legally entitled to use the material and to grant Provider all of the license rights conveyed in these Terms. You assume all risk and responsibility for determining whether you may lawfully use or otherwise distribute any Customer Content and we have no obligation to evaluate, screen, or monitor any Customer Content. By uploading, downloading, or otherwise distributing your Customer Content in any manner, you represent and warrant that you will not be in violation of any agreements or other rights or grants.

2. USE OF THIRD-PARTY INTEGRATED AI FEATURE

- 2.1. Artworks. The AI Feature can generate Artworks based on terms you enter (“**Text Cues**”) and images you upload (“**Image Cues**”) into the AI Feature.

- 2.2. Use of Artworks. Subject to your compliance with these Terms, you may use the Artworks for any legal purpose, including for commercial use. Commercial use includes the right to sell your rights to the Artworks you create, incorporate them into works such as books, websites, and presentations, and otherwise commercialize them. Any commercializing of the Artworks by you is at your risk and is subject to and in accordance with any third-party license governing the AI Feature and these Terms. **Your use of Artworks is at your own risk.** Provider makes no representations or warranties of any kind regarding your use of the Artworks for any purpose.
- 2.3. No Infringing or Harmful Use. You may not use the third-party integrated AI Feature in a way that is unlawful and/or may harm a person or infringe their rights. No license or rights to use the name, image, likeness, voice, or biographical information of any person, celebrity or otherwise, is granted hereunder, and as such, any use of a work that contains any images of any persons with or without their consent is done at your own risk. You may not use the AI Feature to generate harmful or illegal images and we reserve the right to delete any such Input and/or Artwork or suspend or ban your Account for any violations, at Provider's exclusive discretion. You may not seek to reverse engineer the AI Feature, use the AI Feature to attempt to build a competitive product or service, or otherwise infringe our rights. You will indemnify us for your use of AI Feature as outlined in this Schedule A.
- 2.4. Ownership of Artworks. You acknowledge and agree that the use of the AI Features is at your own risk and Provider makes no representation or warranty whatsoever regarding any Artworks, including, without limitation, with respect to any Customer's or third party's assertion of ownership rights, copyrights, or any other interest in or to any Artworks, and You further acknowledge that pursuant to applicable law, You may have no ownership rights, copyrights or interest in or to any Artworks. Without derogating from the preceding sentence, and solely to the extent permitted by law, you own your Text Cute, Image Cues and Artworks, and grant to Provider all relevant rights and licenses as set forth in Section 1.1 of this Schedule. Provider will not resell Artworks that you have created or assert any copyright in such Artworks against you, all provided that you comply with these Terms. If you violate these Terms (or any one of them), you will lose the right to use the Artworks, but we may, at Provider's sole discretion, provide you written notice and a reasonable opportunity to fix your violation. You understand and acknowledge that similar or identical Artworks may be created by other people using the same or different Text Cute or Image Cues, and your rights are only to the specific Artwork that you have created.

3. CHATGPT USE-BASED RESTRICTIONS.

The restrictions set forth below are use-based restrictions which are based on the third-party license found here: <https://openai.com/policies/business-terms> (the "**OpenAI License**"), as may be amended from time to time by OpenAI, L.L.C. ("**OpenAI**"). You cannot use any third-party integrated AI feature that is subject to the OpenAI License (an "**OpenAI-Based Feature**") in any manner that violates or contradicts the purpose of the restricted uses, and You agree that we have the right to determine, in our sole discretion, whether such use was in violation or contradiction of the OpenAI License. You may use an OpenAI-Based Feature only for lawful purposes and in accordance with the OpenAI License. Use includes, without limitation, creating any content with, use of and/or running the OpenAI-Based Feature.

In addition to any other restrictions included in these Terms, You agree not to:

- 3.1. use the OpenAI-Based Feature or Customer Content (as such term is defined in the OpenAI License) in a manner that violates any applicable laws or OpenAI Policies;
- 3.2. use the OpenAI-Based Feature or Customer Content (as such term is defined in the OpenAI License) in a manner that infringes, misappropriates, or otherwise violates any third party's rights;
- 3.3. send us or OpenAI any personal information of children under 13 or the applicable age of digital consent or allow minors to use the OpenAI-Based Feature without consent from their parent or guardian;
- 3.4. reverse assemble, reverse compile, decompile, translate, engage in model extraction or stealing attacks, or otherwise attempt to discover the source code or underlying components of the OpenAI-Based Feature, algorithms, and systems of the AI feature (except to the extent these restrictions are contrary to applicable law);

- 3.5. use Output (as such term is defined in the OpenAI License) to develop any artificial intelligence models that compete with OpenAI's or Provider's products and services;
- 3.6. use any method to extract data from the AI feature other than as permitted through the APIs; or
- 3.7. buy, sell, or transfer API keys from, to or with a third party.

You hereby acknowledge that the OpenAI License may be amended and changed from time to time, including with respect to restrictions on use, and agree that any restrictions included in the OpenAI License at any applicable time will apply to Your use of the AI Feature whether or not such restrictions are explicitly listed above. It is, and will remain, your responsibility to review any changes made to the OpenAI License and comply with such changes, and Provider has no obligation to provide any kind of notice to You with respect to changes made to the OpenAI License.

4. **CUSTOMER CONDUCT**

- 4.1. **Customer Conduct.** By using the Services and the AI Feature, you agree you will abide by these Terms, and expressly agree that your Customer Content will not contain any material that is, at Provider's exclusive and absolute discretion, inappropriate, dangerous, obscene, vulgar, hateful, unlawful, offensive, racist, discriminatory, harassing, or otherwise objectionable (hereinafter, "**Prohibited Content**"). Uploading, downloading, or otherwise distributing any Prohibited Content, in addition to any and all other rights and remedies available to Provider, may result in account suspension and/or termination, at Provider's exclusive discretion.
- 4.2. **Right to Interruption.** Provider reserves the right at any time, and from time to time, to modify or discontinue, temporarily or permanently, the AI Feature, without notice and where required by applicable laws, you also will be notified of any material change via email or within the Platform or otherwise. Customer acknowledges and agrees that the AI Feature is a third-party integration, and any modifications, interruptions, or temporary or permanent discontinuation is not controlled by nor the responsibility of, Provider.
- 4.3. **Right to Repair.** Provider reserves the right to suspend access to the AI Feature, temporarily or permanently, for no reason or any reason (e.g., for operational purposes, including maintenance, repairs, or installation of modifications) at any time and from time to time without notice. Provider assumes no liability of any kind for any such temporary or permanent suspension.
- 4.4. **Right to Monitor.** Provider reserves the right to implement automated measures for the purpose of monitoring usage of the AI Feature and preventing restricted usage, and You shall have no claim against Provider in this regard. As part of providing the AI Feature, we reserve the right to process and store all Customer Content, for purposes of monitoring for and preventing abusive or harmful uses or outputs of the Service.

5. **SOCIAL MEDIA, LIVESTREAMING, AND DEMONSTRATIONS POLICY**

You are permitted to livestream and post your Customer Content to social media, subject to the following conditions:

- You must manually review all Customer Content, including each Output, before sharing or while streaming;
- You must provide a clear and conspicuous disclosure that the Output is AI-generated; and
- You must not share Customer Content that violates the Agreement or that may offend others.

6. **COPYRIGHT PROTECTION**

- 6.1. **Fair Use and Exceptions to Copyright.** The Copyright Laws of the United States recognize the "fair use" of copyrighted content. Section 107 of the U.S. Copyright Act states:

"Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work,

including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright.”

More broadly, Provider takes account of any other exceptions and limitations to copyright provided for by the applicable law.

- 6.2. Use of Copyrighted Material. If you wish to use any copyrighted material from the Platform (or the Services in general) for purposes of your own that go beyond fair use or any other limitations to copyright provided for by the applicable law, you must obtain express permission from the applicable copyright owner. If you are the owner of any copyrighted material found on the Services and believe the use of any such material does not constitute fair use or any other limitations to copyright provided for under the applicable law, please contact us so that We may address those concerns.
- 6.3. No Provider Liability for Infringement. YOU HEREBY ACKNOWLEDGE AND AGREE THAT THE PROVIDER, THE ADMINISTRATORS OF THE SERVICES, AND/OR THE PROVIDER’S REPRESENTATIVES HEREBY DISCLAIM PERSONAL LIABILITY FOR ANY DAMAGES, ACTUAL OR CONSEQUENTIAL, FOR (i) ANY POSTS BY THIRD PARTIES WHICH MAY VIOLATE ANY LAW, OR (ii) ANY USE OF CONTENT UPLOADED TO THE SERVICES BY A CUSTOMER WHICH MAY VIOLATE ANY LAW.
- 6.4. Illicit Content Notice. If you are a copyright owner and believe that any Customer Content and/or other material posted on the Services infringes upon Your copyrights or someone else’s copyrights, please refer to Section 5 of the Terms.
- 6.5. Fraud. Any person who knowingly misrepresents that any Customer Content is infringing or was deleted by mistake or by misidentification may be subject to liability.

7. **WARRANTIES AND INDEMNIFICATION**

- 7.1. Disclaimer. We do not control, endorse or take responsibility for any Customer Content or third-party content available on or linked to by our Services including, without limitation, the AI Feature.
- 7.2. Warranties and Indemnification. The Terms, including without limitation, the provisions of Sections 10 (*Warranty and Disclaimer*), Section 11 (*Limitation of Liability*) and Section 12 (*Indemnification*) of the Terms shall apply to this **SCHEDULE A**.