



Updated 04/11/2025

PAYZERWARE SOFTWARE LICENSE AND TERMS OF USE

This Software License and Services Terms of Use ("Agreement"), effective as of the date of your electronic signature (the "Effective Date"), is made and entered into by and between Payzer, LLC, a Delaware Limited Liability Company ("Payzer," "we," "us," or "our") and you, a business that applies to use, registers to use, or uses, the Payzer Software, ("Licensee," "you," "your" and the like). By providing your electronic signature: (1) you acknowledge that you have read the entire Agreement; (2) you agree to be bound by the terms of this Agreement; and (3) you represent and warrant that the signer has the authority to sign and bind you, the entity identified in the application to receive the Services (defined below) pursuant to the terms of this Agreement. This Agreement sets forth the terms and conditions that apply to your use of the Services, and by submitting information to Payzer and registering for or using a Service, you agree to be bound by this Agreement and Payzer's Privacy Policy (the "Privacy Policy"), including any changes or revisions to either of the foregoing, which Payzer may make from time to time in its sole discretion. Please carefully read this Agreement and the Payzer Privacy Policy prior to your access to and/or use of the Services.

A. Payzer has developed proprietary software called "Payzerware" and data to allow Licensee to manage its customers, operations, and payments (the "Payzer Software"). Payzerware is an end-to-end operating platform that provides applications for scheduling, customer relationship management (CRM), job management, service agreements, accounts receivable, reporting, and "Payment Options." Payment Options refers to the Payzer Software modules that enable card and check payment acceptance, initiation, management, and settlement of loan applications.

B. The following capitalized terms as appeared in this Agreement shall have the meanings as described below:

- "Bank Account": A bank account at a U.S. financial institution.
- "Content": Any description of any service or product of a business, or any advice, opinion, offer, proposal, statement, data, or other non-confidential information displayed or distributed, purchased, or paid through the Services by Licensee.
- "Payee": The Payzer Software user that receives a payment.
- "Payer": The Payzer Software user that makes a payment.
- "Payment Account": The credit card account, debit card account or Bank Account that is used to fund a payment.
- "Payment Transaction": The processing of a payment from a Payer to a Payee.
- "Rules": The rules and regulations, as may be amended from time to time, of the issuers, owners, managers, or facilitators of Payment Accounts.
- "Service": The products and services provided to you by Payzer as further described in this Agreement.

C. The parties desire that Payzer provide Services to Licensee, including a license to the Payzer Software, in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Licensee and Payzer agree as follows:

1. License. Payzer hereby grants to Licensee a limited, revocable, non-sublicensable, non-transferable, royalty-free, non-exclusive, restricted license to use the Payzer Software solely to manage its business operations and payments, and any other features provided by Payzer within the Payzer Software, in all instances only to the extent specifically authorized by this Agreement (the "Limited Purpose"). Licensee may not use the Payzer Software for any purpose other than the Limited Purpose. Payzer reserves all rights not expressly granted to Licensee in this Agreement. Licensee shall not: (a) copy the Payzer Software; (b) modify, or create derivative works or improvements of the Payzer Software; (c) remove, disable, or otherwise create or implement any workaround to, any security features in the Payzer Software; (d) remove, delete, or alter any trademarks, copyright notices, or other Intellectual Property Rights (defined below) notices of Payzer or its licensors, if any, from the Payzer Software; (e) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make the Payzer Software available to any other person or entity; or (f) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the Payzer Software, in whole or in part. Licensee agrees that Payzer may stop (permanently or temporarily) providing the Payzer Software (or any features within the Payzer Software) to Licensee generally at Payzer's sole discretion, with 30 days prior notice to Licensee. Licensee will be solely responsible for the accuracy of all data and Content that Licensee enters into, or provide to Payzer for, the Payzer applications under Licensee's user credentials.

2. License Fees. As consideration for the license granted by Payzer to Licensee pursuant to this Agreement, Licensee authorizes Payzer to debit the Payment Account designated by Licensee for the applicable license fees ("License Fees"). License Fees and other fees may vary depending on the features of the Service you choose and the number of users for which you buy subscriptions. Some features may require third-party services and any charges they impose may be passed through to you. Payzer will present you with the License Fees and other fees you would be charged, which you will have the opportunity to review, prior to signing up for the Services (the "Pricing Quote"). The agreed Pricing Quote will be incorporated into and made a part of this Agreement. Credit card payments may have transaction or other processing fees. Unless otherwise agreed to in writing, all License Fees, add-on services fees, and all other fees are in U.S. Dollars, non-refundable, and subject to change from time to time in Payzer's sole discretion. If Payzer modifies your pricing, we will provide you with at least 30 days' notice before the modifications take effect unless the agreed Pricing Quote included set price increases, then the increase will take effect automatically without notice to you.

(A) For customers who choose a Payzerware Enterprise license, it is a full license for up to 7 users and the Payment Options license is included. Additional user licenses may be purchased at any time during the Term, with fees prorated for partial months, while the number of user licenses may only be reduced upon a Renewal Term.

(B) The monthly License Fee for Payzerware Enterprise shall include unlimited text and e-mail messages per month.

(C) For customers who choose a Payzerware Payment Options Only license, you have access to Services for card acceptance, check acceptance, and financing. The monthly License Fee will be waived in any month where the total of settled card and loan volume exceeds \$25,000.

(D) You may switch to a higher license type at any time during the Term, but only to a lower license type upon a Renewal Term.

(E) The applicable License Fees and other fees that are owed under this Agreement shall be paid via Licensee's Payment Account(s) or any other method accepted by Payzer. Except as set forth in this Agreement, all payments are non-refundable and if payments are via Licensee's Payment Account, Licensee authorizes Payzer to debit accordingly from Licensee's Payment Account in U.S. dollars each month. Licensee will be responsible for all taxes, withholdings, duties, and levies (excluding taxes based on the net income of Payzer). If payments are through a Payment Account, Licensee shall ensure its Payment Account is always sufficiently funded in advance throughout the Term for payments due and owing each month to be debited from such Payment Account. Any late payments shall be subject to a late fee assessed at a periodic rate of 1.5% per month of the amount due, starting the day following the due date, plus any actual costs of collection (including reasonable attorneys' fees). All late fees are due within 10 business days of Licensee's receipt of notice from Payzer.

Amendment. Licensee agrees that Payzer may change any part of this Agreement, including without limitation, the rates, charges, fees and other terms of this Agreement, and that Payzer may introduce new rates, charges, fees and other terms of this Agreement to the fullest extent permitted under applicable law. Any change in the terms and conditions to the Agreement may be applied to the outstanding balance on the Licensee's account to the extent permitted under applicable law. Payzer will provide at least thirty (30) days' prior written notice to Licensee before making any such changes.

Discount, Rebates and Promotional Offers. Licensee may be offered discounts (including discounts on the License Fees for multi-year Term), rebates, and/or promotional offers from time to time. Such discounts, rebates, and/or promotional offers may be suspended, modified, or discontinued at any time without prior notice and may not be applicable to all product types. In addition, certain conditions in order to earn or receive the rebate, discount or promotional offers, such as but not limited to, maintaining the Licensee's accounts in good standing, will apply and be provided to Licensee when such offers are made.

Add-On Services. If Licensee chooses to enroll in any additional products or services offered by Payzer, its affiliates or a third party as described in this Agreement, Licensee may be required to complete additional enrollment forms and/or agree to additional terms and conditions (including third parties' and applicable fees) with respect to such products or services. Licensee will look solely to the applicable Add-On Services third-party partner in the event of a dispute or breach of the terms and conditions with the applicable Add-On Services third-party partner. Any enrolled Add-On Services, except for the Vehicle Tracking services, will be coterminous with the then-current Term of the Payzerware licenses. Enrollment in any Vehicle Tracking plan will be pursuant to the services duration term for such Vehicle Tracking plan (i.e., by 24 months or 36 months, as applicable), notwithstanding anything to the contrary in this Agreement.

Accepting Card Payments. Licensee may use the Services to accept payments using registered Visa, Mastercard, Discover, or American Express cards in accordance with the terms and conditions of Payzer's agreement with its card processing partners. Licensee's use of the card processing services will be governed by the partner's terms and conditions found here:

Fiserv Card Acceptance Terms of Use. If Licensee utilizes this feature, it will be subject to the applicable card processing rates listed on your Pricing Quote. Licensee understands and acknowledges that Payzer and the card processing partners are independent entities and Payzer is not liable or responsible for the card processing partners' actions, omissions, obligations, services or products. You may opt-in to the Customer Card Surcharge Service in accordance with, and subject to, the terms and conditions of this Agreement and Payzer's card processing partner's terms and conditions found here: Fiserv Surcharge Addendum. Utilization of this Customer Card Surcharge Service will be subject to a monthly Merchant Surcharge Program (MSP) Enablement Fee equal to 1.00% of the total amount of all card transactions processed each month. Please click here for more details and FAQs: Customer Card Surcharge Details.

Mobile and PC Card Readers. Licensee may purchase a card reader for a mobile device and/or a PC. The cost for each card reader is a one-time cost based on the device selected. Prices for card readers can be provided to Licensee upon request.

Accepting ACH and Mobile Check Deposit Payments. Licensee may also use the Services to accept ACH and Mobile Check Deposit Payments by using Payzerware in accordance with the terms and conditions of Payzer's agreement with its check processing partner Paya. Paya's terms and conditions can be found here: Paya Check Acceptance Terms of Use. If Licensee utilizes this feature, Licensee will be subject to the applicable check processing rates listed on Licensee's Pricing Quote.

Financing Services. Licensee may offer financing to its customers by applying with any of Payzer's financing partners. There is no additional software fee from Payzer for these lenders. The rates for the loan plans may vary depending on the financing partner and loan specific variables. Licensee use of this feature is subject to the applicable financing partner's terms and conditions. Licensee acknowledges that the third party financing partners are responsible for all underwriting decisions and Licensee shall look solely to the applicable financing partner in regards to any underwriting and financing decisions. Licensee may not terminate its Agreement with Payzer based on any underwriting or financing decision.

Dash Debit Card(s). Licensee may have Dash Debit Cards(s) for expense management, rewards and incentives, and payroll through the Payzer Software. Dash, in its sole discretion, determines if Licensee is approved for the Dash Debit Card(s). Your use of the Dash Debit Card is subject to the Dash terms and conditions found here: Dash Debit Card Terms and Conditions.

Zoom Video Conferencing Services. Licensee may be given access to utilize Zoom Video Communications, Inc., together with its affiliates, ("Zoom") products and services through the Payzer Services. Use of such Zoom products and services is subject to the Zoom terms and conditions found here: Zoom Terms and Conditions. Licensee understands and acknowledges that Payzer and Zoom are independent entities and Payzer is not liable or responsible for Zoom's actions, omissions, obligations, services or products. Licensee will look solely to Zoom in the event of a dispute or breach of the Zoom terms and conditions and for any issues with the Zoom products or services. Licensee agrees and understands that the Zoom may monitor, record and transcribe any Zoom communications pursuant to the Zoom terms and conditions. Licensee acknowledges and agrees that it is solely responsible for compliance with all laws as it relates to its usage of the Zoom products and services, including, but not limited to the Telephone Consumer Protection Act, privacy laws, data protection laws, and any other applicable federal, state and local laws.

Flat Rate Price Book. Licensees may access the Flat Rate Price Book integrated within Payzerware for an additional fee subject to the Flat Rate Pricebook Terms of Use.

Supplier Price Book. Licensees may access the Supplier Price Book integrated within Payzerware for an additional fee subject to the Supplier Price Book Terms of Use.

Vehicle Tracking. Licensees may access the capability to track vehicles using GPS tracking capability from Azuga integrated within Payzerware subject to Azuga's Vehicle Tracking Terms of Use. The fee for this service varies depending on the plan chosen and will be listed on your Pricing Quote.

Marketing Services. Full Licensees (Enterprise License with at least 7 users) may access the Marketing Services enabling you to implement e-mail marketing campaigns at no additional cost. Optionally, you may automatically track any marketing campaign by requesting a phone number and linking it to the campaign.

3. Term and Termination. The term of this Agreement shall begin on the Effective Date and shall continue for a period of twelve (12) months (the "Initial Term"). Thereafter, the term of the Agreement shall automatically renew for successive one-year periods (each, a "Renewal Term", and collectively with the Initial Term, the "Term"), unless either party provides written notice of non-renewal to the other party at least ninety (90) days prior to the end of the Initial Term or the then-current Renewal Term. Payzer may terminate this Agreement for any reason. Payzer will provide notice of termination if

required by applicable law, provided that Payzer may terminate inactive, fraudulent, and fake accounts without notice. Licensee may terminate the Agreement during the Initial Term or a Renewal Term by submitting a fully completed Payzer Cancellation Form, subject to a Termination Fee (defined below). Licensee may request a Payzer Cancellation Form by emailing to payzercare@payzer.com. Upon Payzer's receipt of the fully completed Payzer Cancellation Form, termination will be effective on the last day of the following month.

Multi-Year Terms. Licensee may be offered a discount on the License Fees or annual pricing increases if Payzer agrees to provide Licensee an Initial Term or a Renewal Term of longer than one year. Such discount offers may be suspended, modified, or discontinued at any time without prior notice and may not be applicable to all product types. In addition, certain conditions in order to earn or receive the discount, such as, but not limited to, maintaining the Licensee's accounts in good standing, will apply and be provided to Licensee when such offers are made.

Termination Fee. In the event of the termination of this Agreement (i) by Payzer for cause, or (ii) by Licensee during the Term (other than for a material breach by Payzer if Payzer fails to cure such breach within a reasonable time after receipt of notice thereof), there shall be no refund, in whole or in part, of any payments already made from Licensee to Payzer, and Licensee shall make all outstanding payments due prior to the date of termination. Licensee acknowledges that it would be impractical or extremely difficult to ascertain the actual damages to Payzer in the event that this Agreement is terminated as set forth in (i) or (ii) above. Accordingly, in the event of such termination, Licensee shall pay a fee for termination ("Termination Fee") equal to: (a) Payzer's actual costs of implementation of the services for Licensee under the Agreement, plus (b) an amount equivalent to the monthly License Fees plus any monthly Add-On Services monthly fees, multiplied by the number of months remaining in the Term. The Termination Fee shall be liquidated damages, a non-exclusive remedy, and not a penalty. Payzer shall be entitled to recover any costs of collection, including reasonable attorney's fees and costs, incurred in the collection of the Termination Fee. Licensee acknowledges that Licensee shall have no right to withhold any payment due as a set-off against alleged claims against Payzer and hereby waives any such claim as a defense or counterclaim to termination by Payzer.

Obligations Upon Termination. In the event the Agreement is terminated by Licensee, any rebates payable to Licensee, or discounts offered, by Payzer shall immediately terminate and the standard fees set forth in this Agreement (i.e., without any rebate or discount) shall apply for the remainder of the Term. After termination, Payzer shall have a reasonable amount of time to terminate the Payment Account, Services, and Add-On Services.

Survival. Notwithstanding the termination of the Agreement as set forth herein, the terms and conditions of this Agreement shall continue to apply until all amounts owing by Licensee are paid in full and Licensee has performed all of its obligations under this Agreement. Those provisions of this Agreement that by their nature are intended to survive termination or expiration of this Agreement in order to give them full force and effect will survive the termination or expiration of this Agreement, including, but not limited to, the parties' confidentiality obligations.

4. General Rules and Descriptions.

Credit Reporting & Registration Applications. Payzer, in its sole and absolute discretion, may refuse to approve or may terminate existing registrations for the Services with or without cause or notice, other than any notice required by applicable law not waived herein. Payzer may require additional information as a condition of continued use of the Services, or to assist in determining whether to permit continued use of the Services.

Accepting Payments. When Licensee receives payments from other users using Visa, Mastercard, Discover, or American Express cards, or using Payzer check acceptance (ACH and Mobile Check Deposit), Payzer or its partners may charge additional fees which will be listed in your Pricing Quote. Licensee authorizes Payzer or its partners to debit its Bank Account provided during registration for such fees. Payzer processes Payment Transactions on behalf of the Payee, as the agent of the Payee, through accepted credit card, debit card, and ACH networks.

Onboarding & Data Loading. The most time sensitive component of onboarding is loading your data. Our commitment is to load your data and onboard you within the "Expected Time" as outlined below (also see [Payzer Onboarding & Billing Practices](#)). If we do not, we will not charge you a monthly License Fee beyond the Expected Time until data loading is complete, for as long as you remain committed. The "Expected Time" for Data Loading is defined based on the complexity of your data load. If you require a Standard Data Load, you should plan on making 2 normal monthly License Fee payments prior to being able to adopt the system. If you require a Custom Data Load, we will let you know how much extra work and time is needed to get your data loaded. Generally, in the case of a custom load, you should plan on making 3 normal monthly

License Fee payments prior to system adoption. You will be notified within 5 business days of providing your data to us if your data requires a Custom Data Load.

PCI Compliance. Payzer does not charge a fee for PCI compliance. Licensee is solely responsible for its PCI compliance.

Making Payments with Registered Payment Accounts. Payzer does not charge any fees to make payments using the Payment Accounts that Licensee chooses to register.

Payment of Fees and Returned items. Payzer has the right to debit Licensee's Payment Accounts for any fees owed to Payzer, or to cover any returned Payment Transactions.

Access to Software Services and Fees. Access to this service is subject to approval by Payzer and its partners. Payzer or its partners will charge the fees as defined during registration. Licensee authorizes Payzer or its partners to debit its Bank account provided during registration for such fees, and to pay fees and other obligations arising from use of the Services as described in this Agreement.

Disputes. Payzer will not be a party to or otherwise assist in any dispute that may arise between Licensee and a third party with respect to a Payment Transaction. Licensee releases Payzer and its affiliates, agents, contractors, officers, and employees (collectively, the "Payzer Parties"), from all claims, demands and damages (actual and consequential) arising out of or in any way connected with a dispute, and agrees to fully indemnify and hold Payzer and the Payzer Parties harmless therefrom. Licensee agrees that it will not involve Payzer in any litigation or other dispute arising out of or related to any transaction, agreement, or arrangement with any business or other third party in connection with the Services. If it attempts to do so, (i) Licensee shall pay all costs and attorneys' fees of Payzer and the Payzer Parties and shall provide indemnification as set forth below, and (ii) the jurisdiction for any such litigation or dispute shall be limited as set forth below.

Refunds. Except as set forth in this Agreement, all Payment Transactions processed through the Services are non-refundable and irreversible. In addition, all fee disputes must be submitted to Payzer in writing within sixty (60) days from the billing date or they will be final and binding. All billed charges must be paid in full regardless of reported disputes. Upon receipt of a dispute, including any supporting documentation required by Payzer, Payzer will use reasonable efforts to investigate the dispute. In the event that Payzer determines the dispute is due to an error by Payzer, Payzer will, as Licensee's sole and exclusive remedy, refund any applicable amount and correct applicable data or reports, including invoices, if any. Licensee shall be liable for the applicable fees if the disputed item is not due to an error by Payzer and cannot be charged back to the applicable service provider.

Payzer Is Not a Banking Institution. Payzer processes Payment Transactions through the Services as an agent of and on behalf of businesses utilizing the Services. Payzer is not a bank or other chartered depository institution. Payzer will not take possession of or otherwise hold funds in connection with the processing of Payment Transactions.

Making Payments to other Payzer Software Users. Licensee may use the Services to make payments to other Payzer Software users by using a Visa, Mastercard, Discover, or American Express cards, or an external Bank Account. Licensee authorizes Payzer to route Payment Transactions through the external payment networks and ACH network to make payments that Licensee has authorized. To make payments, Licensee must register and use a Payment Account. Licensee authorizes Payzer to confirm that the applicable Payment Account is in good standing with the appropriate financial institution including, but not limited to, by submitting a request for a payment authorization and/or a low dollar credit and/or debit to the Payment Account, in accordance with applicable laws and the Rules. When Licensee chooses to make a payment with the Services, it authorizes the applicable Payee to submit charges (and, in the case of refunds, credits) to the registered Payment Account. Payzer will assist the Payee in accessing the Payment Account to process the Payment Transaction. Licensee is responsible for any charges and related fees that may be imposed as a result of use of a Payment Account. Payzer may delay payment processing of suspicious Payment Transactions or attempted Payment Transactions which may involve fraud or misconduct, or violate applicable law, this Agreement, the Rules, or other applicable Payzer policies, as determined in Payzer's sole and absolute discretion. Licensee authorizes the charge or debit to its Payment Account, by Payzer as agent of the Payee, as necessary to complete processing of a Payment Transaction. Licensee also authorizes the crediting to the Payment Account, by Payzer as agent of the Payee, in connection with reversals, refunds, or adjustments. Payzer is not a party to a Payment Transaction for the purchase of products and services, and Payzer is not a buyer or seller in connection with any Payment Transaction.

Permissible Payment Transactions. Licensee may only use the Services to process a Payment Transaction for products and services that are purchased from a business through a legitimate, bona fide sale of the products and services. The Services

may not be used to process a Payment Transaction, or otherwise transfer money between Licensee and a business, that is unrelated to a purchase of a product or service. The Services may not be used to receive cash advances from anyone or to facilitate the purchase of cash equivalents (prepaid cards, money orders, gift certificates, etc.). Licensee may not use the Services to process Payment Transactions in connection with the sale or exchange of any illegal products or services or any other underlying illegal transaction. Licensee agrees that it will not use the Services to process Payment Transactions for any products or services that violate this Agreement, the Rules, or applicable law. Failure to comply with these limitations may result in suspension or termination of the Services.

5. Intellectual Property. “Intellectual Property” includes all of the following owned by Payzer: (i) trademarks and service marks (registered and unregistered) and trade names, logos, corporate names, domain names and associated goodwill; (ii) patents, patentable inventions, computer programs, and software; (iii) databases; (iv) trade secrets and the right to limit their use or disclosure; (v) copyrights in all works, copyrightable works, including software programs, mask works and rights in data and databases; (vi) domain names; (vii) Payzer Confidential Information; and (viii) the Payzer Software. The rights owned by Payzer in its Intellectual Property shall be defined, collectively, as “Intellectual Property Rights.” Other than the express licenses granted by this Agreement, Payzer does not grant any right or license to Licensee by implication, estoppel or otherwise to the services or any Intellectual Property Rights of such party. Payzer shall retain all ownership rights, title, and interest in and to its own products and services and all related Intellectual Property Rights. Licensee shall not remove or destroy any proprietary, confidentiality, trademark, service mark, or copyright markings or notices placed upon or contained in any materials or documentation received in connection with this Agreement. Licensee agrees that Payzer and/or its licensors own all legal right, title and interest in and to the Payzer Software, and all derivative works thereof, including all Intellectual Property Rights therein. Licensee hereby agrees to assign, and hereby assigns to Payzer, ownership of all Intellectual Property Rights associated with any derivative works, translations, customized versions, or other versions of the Payzer Software developed by Licensee or any third parties on behalf of Licensee. From time to time upon Payzer’s request, Licensee shall confirm such assignment by execution and delivery of such assignments, confirmations of assignment, or other written instruments as Payzer may request. Further, to the extent that Licensee is vested with intellectual property rights inconsistent with the express intentions of this Agreement, Licensee agrees to execute all documents and to take all reasonable actions to vest in Payzer such Intellectual Property Rights as are consistent with the express intentions of this Agreement. Nothing in this Agreement gives Licensee a right to use any of Payzer’s trade names, trademarks, service marks, logos, domain names, or other distinctive brand features without written authorization from Payzer, which may be withheld in Payzer’s sole discretion. Licensee agrees that the form and nature of the Payzer Software that Payzer provides may change without prior notice to Licensee and that future versions of the Payzer Software, if any, may be incompatible with applications developed by Licensee on previous versions of the Payzer Software.

6. Confidentiality. Licensee and Payzer acknowledge that under this Agreement, either could be provided with certain non-public confidential and proprietary information concerning the business and operations of the other, excluding Content, and that such information constitutes confidential and proprietary information (“Confidential Information”) owned solely by Licensee or Payzer, as applicable. Confidential Information shall be maintained in confidence by the receiving party, and each party undertakes to use the other party’s Confidential Information solely for the purpose of its performance and exercise of its rights under this Agreement, to disclose such information in its organization and to relevant third parties only on a need-to-know basis, and to take reasonable precautions to avoid disclosure to parties for which the Confidential Information is not intended. Notwithstanding the foregoing, (i) either party may disclose the other party’s Confidential Information if compelled by law, provided the receiving party notifies the disclosing party promptly (unless such notice is prohibited by law), and will cooperate with the disclosing party (at the disclosing party’s expense) in any lawful effort to contest the validity or scope of such disclosure; and (ii) Payzer may share Licensee’s information with its affiliates and third parties which provide goods or services to businesses.

7. Program Information. Payzer and its affiliates own and may use and disclose information obtained by Payzer in operating the Services and its business, including transaction and usage information, contractor-level data and/or identifiable information of Licensee and its customers (collectively, “Program Information”) for the purpose of operating Payzer’s, its affiliates’ business, and third-parties’ delivery, improvement, or customization of their respective services, sending communications related to their respective business, and for other legitimate purposes permitted by applicable law. Without limiting the foregoing, Payzer may provide Program Information to its affiliates and third parties which provide goods or services to commercial businesses and Licensee understands that Payzer, its affiliates, and third parties may contact Licensee and its customers to offer additional products or services. If Licensee chooses to enroll in any such product or service offered by Payzer, its affiliates or a third party, Licensee may be required to complete additional enrollment forms

or agreements, and/or agree to additional terms and conditions (which may include fees for use) with respect to such products or services. Payzer and its affiliates and third-parties may use and disclose Program Information that is not identifiable to Company in industry analytics and other data services or products provided to third parties. Program Information shall be subject to this Section 7 (Program Information) and not Section 6 (Confidentiality).

8. Representations and Warranties. Licensee represents and warrants that it has the necessary right and authority to provide the Content to Payzer in connection with the Services. Licensee represents and warrants that it shall only use the Payzer Software for the Limited Purpose in compliance with all applicable Rules, laws, regulations or generally accepted practices or guidelines in the relevant jurisdictions (including any laws regarding the export of data or software to and from the United States or other relevant countries, which laws may include restrictions on destinations, end users and end use) and on computers under its control. Licensee represents and warrants that it shall keep its contact and billing information accurate and current within the Services and acknowledges that Payzer is not at fault or in breach of any applicable obligation under this Agreement if Licensee fails to keep such information accurate and current. Licensee further represents and warrants that its use of the Payzer Software shall not: (i) violate any laws or regulations (including any privacy laws) or any obligations or restrictions imposed by any third party; (ii) contain any computer viruses, worms, or any software intended to damage or alter a computer system or data; (iii) send unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, or any other form of duplicative or unsolicited messages, whether commercial or otherwise; or (iv) harvest, collect, gather or assemble information or data regarding other users, including e-mail addresses, without their consent. Licensee understands and agrees that personal information provided to Payzer in connection with the Services is subject to the Privacy Policy. Any Content provided to Payzer in connection with the Services may be shared with other users of the Services and, conversely, any Content provided to other users of the Services in connection with the Services may be shared with Payzer. Payzer does not represent or endorse, and shall not be responsible for: (a) the reliability or performance of any business; (b) the safety, quality, accuracy, reliability, integrity or legality of any service or product obtained from a business; (c) the truth or accuracy of the Content; or (d) Licensee's ability to buy or redeem products and services using the Services. Payzer hereby disclaims any liability for any Content provided in the Services, and Licensee agrees and acknowledges that it is solely responsible for any such Content provided. Payzer reserves the right, but shall have no responsibility, to edit, modify, refuse to post or remove any Content, in whole or in part, that in its sole and absolute discretion is objectionable, erroneous, illegal, fraudulent or otherwise in violation of this Agreement.

9. Audit. Upon reasonable notice, Payzer may audit Licensee's compliance with the terms of this Agreement. This audit may be conducted at all sites where Licensee installs or uses the Payzer Software and will be conducted during normal business hours in a manner that minimizes disruption to Licensee's business. Payzer may use an independent auditor to assist in the audit provided such auditor has a confidentiality agreement in place with Payzer. To the extent that the audit reveals any underpayment due to Payzer, Licensee shall (a) promptly pay the money owed and (b) reimburse Payzer for the actual cost of the audit.

10. Disclaimer of Warranties. LICENSEE EXPRESSLY ACKNOWLEDGES AND AGREES THAT USE OF THE PAYZER SOFTWARE IS AT LICENSEE'S SOLE RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW: (A) THE PAYZER SOFTWARE AND ANY SUPPORT SERVICES ARE PROVIDED TO LICENSEE "AS IS", WITH ALL FAULTS, AND WITHOUT WARRANTY OF ANY KIND, AND (B) PAYZER AND ITS LICENSOR(S) EXPRESSLY DISCLAIM ALL WARRANTIES AND/OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, NON- INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY OR THOSE ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. PAYZER AND ITS LICENSORS DO NOT WARRANT THAT THE PAYZER SOFTWARE SHALL PERFORM ERROR FREE OR WITHOUT INTERRUPTION, OR THAT IT IS FREE FROM BUGS, VIRUSES, HARMFUL CODE, ERRORS, OR OTHER PROGRAM OR SYSTEM LIMITATIONS.

11. Limitation of Liability. EXCEPT FOR DAMAGES INCURRED BY PAYZER FROM (I) ANY USE OF THE PAYZER SOFTWARE BEYOND THE SCOPE OF THE RIGHTS GRANTED IN THIS AGREEMENT BY PAYZER TO LICENSEE; (II) ANY MISAPPROPRIATION OR UNAUTHORIZED USE OF THE PAYZER SOFTWARE OR INTELLECTUAL PROPERTY RIGHTS OF PAYZER AND ITS LICENSORS; OR (III) LICENSEE'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS; NEITHER PARTY WILL BE LIABLE FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF DATA OR PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES TO THE OTHER PARTY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY KIND. IN NO EVENT SHALL PAYZER'S LIABILITY ARISING OUT OF THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE IN RELATION TO THIS AGREEMENT,

EXCEED THE TOTAL AGGREGATE AMOUNT OF FEES ACTUALLY RECEIVED AND RETAINED BY PAYZER (I.E., NOT REFUNDED OR PAID TO A THIRD PARTY) DURING THE TWELVE-MONTH PERIOD PRIOR TO THE DATE SUCH LIABILITY AROSE.

12. Indemnification. Licensee agrees, at its own expense, to defend Payzer and the Payzer Parties from and against any action or proceeding brought by a third party against Payzer or the Payzer Parties arising out of or relating to: (i) any breach, failure or violation of any of the representations, warranties, covenants or undertakings of Licensee, (ii) the alleged or actual use or misuse of the Services or the Payzer Software by Licensee or its end users, (iii) the combination of the Payzer Software with other products commercialized directly or indirectly by Licensee, (iv) any third-party claims arising from Payzer's use of any Content; and/or (v) any use of the Payzer Software in violation of the personal or privacy rights of any individual or any applicable Rule, law or regulation (collectively, the "Claims"), and Licensee will indemnify and hold harmless Payzer and the Payzer Parties for all costs and damages (including, without limitation reasonable attorneys' fees, experts' fees and court costs) arising from any such Claims.

13. Force Majeure. Payzer's failure to perform, or delay in performing, any term or condition of this Agreement as a result of conditions beyond its reasonable control such as, but not limited to, war, riots, acts of terrorism, strikes, fires, floods, acts of God, governmental restrictions, power failures, pandemic, epidemic, or widespread telecommunication or other technology failures, shall not be deemed a breach of this Agreement.

14. Communication Monitoring by Payzer. Payzer may monitor communications (including but not limited text messaging between its employees and its customers, including Licensee and Licensee's employees. In addition, Payzer may utilize video conferencing software, including transcriptions and video recordings thereof. Licensee consents to such monitoring, transcriptions, text messaging and recordings of all such communications and agrees to notify Licensee's employees who may be in telephone, video conferencing, or text messaging contact with Payzer's representatives that periodic monitoring, recording, and transcription of conversations will occur. In addition, Licensee understands and agrees that standard text messaging rates may apply, which fees are the sole responsibility of Licensee.

15. Miscellaneous. This Agreement shall be governed by North Carolina law except for its conflicts of laws principles. The Parties' consent to the exclusive jurisdiction and venue of the state and federal courts for the State of North Carolina for any action arising out of this Agreement. For any action arising out of or relating to this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees. The Agreement constitutes the entire agreement between the Parties with respect to its subject matter. Any conflicting or additional terms contained in additional agreements or documents (including but not limited to Licensee purchase order terms and conditions) or oral discussions are void and of no legal effect. Any modifications to this Agreement may be made by Payzer upon written notice to Licensee. Neither party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other party, except that Payzer may assign this Agreement to any of its affiliates or related parties, or in connection with merger or acquisition, without the consent of Licensee. No failure to pursue any remedy, or delay in the exercise of any remedy, resulting from a breach of this Agreement by the non-breaching party shall be construed as a waiver of that breach by the non-breaching party or as a waiver of any subsequent or other breach. No waiver of any rights of a party or obligations of the other party shall be effective unless consented to in a writing signed by an authorized representative of the party against which enforcement is sought. This Agreement may be executed in counterparts, each of which so executed will be deemed to be an original and such counterparts together will constitute one and the same Agreement.