

Marketplace Terms of Service

Last Updated: June 8, 2025

Please read these Terms of Service (the “**Terms**”) and our Privacy Notice <https://empirium.co/> (“**Privacy Notice**”) carefully. These Terms govern the use by you or the company or entity on whose behalf you entered into these Terms (“**you**”) of (a) our website (including the website located at <https://empirium.co/>), (b) the Marketplace (as later defined in these Terms), and (c) applications, tools, and other services (all of the foregoing, collectively, the “**Services**”) offered by Empirium, Inc. (“**Empirium**,” “**we**,” “**our**”) under these Terms. You and Empirium may be referred to collectively as the “parties” or individually as a “party.”

1. Agreement to Terms. By (a) checking or clicking an “I accept” or similar box or button indicating acceptance of these Terms and displayed when accessing our Services, (b) creating any form of user account, including User Credentials (as defined herein) to access the Services, or (c) by accessing or using our Services, you accept these Terms and agree to be bound by these Terms. If you do not agree to be bound by these Terms, you are not authorized to access or use the Services. If an individual is accepting these Terms on behalf of a company or other legal entity, such individual represents and warrants that they have the authority to bind such company or other legal entity to these Terms, and “you” will refer to such company or other legal entity.

2. Changes to these Terms. We may revise, update, or otherwise change these Terms from time to time in our sole discretion. If we do, we will notify you by written communication, which may include posting the revised Terms through the Services. It is important that you review these Terms whenever we revise them or you use the Services. If you continue to use the Services after we have notified you of the revised Terms, it means that you accept and agree to the revisions. If you do not agree to be bound by the revisions, you are no longer authorized to access or use the Services.

3. Privacy Notice. Please review our Privacy Notice <https://empirium.co/>, which also governs your use of the Services, for information on how we collect, use and share your information.

4. Empirium Policies. Through the Services Empirium offers an online marketplace platform available at <https://empirium.co/marketplace> (“Marketplace”) that facilitates the buying and selling of certain products and services among users of the Marketplace. If you are using the Services to purchase certain products and services on the Marketplace, you are a “Buyer”; if you are using the Services to sell certain products and services on the Marketplace, you are a “Seller.” For clarity, any reference to “you” in these Terms is a reference to all users of the Services, including both Buyers and Sellers. All Buyers and Sellers are subject to and must comply with Empirium’s rules, policies, and other requirements, including any set forth in or referenced in these Terms (collectively, as may be updated from time to time in our sole discretion, “Empirium Policies”). The Empirium Policies are incorporated herein by this reference as if fully set forth herein and are available to you as indicated or upon request. Empirium Policies include, without limitation:

- Empirium Marketplace Listing Guidelines and Selling Fees available at <https://empirium.co/>
- Empirium Marketplace Onboarding Requirements available at <https://empirium.co/>
- Empirium Acceptable Use Policy (set forth in Section 12)

- Trade Compliance Terms (set forth in Section 13)
- DMCA/Copyright Policy available at <https://empirium.co/>
- Privacy Policy available at <https://empirium.co/>
- Sanctions Compliance Policy available at <https://empirium.co/>

5. Access and Use

(a) Account Creation. For certain features of the Services, you will need to create a user account ("**Account**") and provide certain information to us, including as may be necessary for us to conduct background checks, identity verification, know your customer (KYC) verification, know your business or know your vendor (KYV) assessments, anti-money laundering verification, or other third party risk assessments, or otherwise necessary pursuant to the Empirium Marketplace Onboarding Requirements (available at <https://empirium.co/>). You will promptly provide any additional information requested by Empirium in connection with the foregoing. You represent and warrant that all information you provide to us in connection with the foregoing or any other Empirium Policies (including without limitation the Trade Compliance Terms (set forth in Section 13)) will be accurate, complete, and current, and you will keep this information up to date by notifying us of any changes. Accounts for Sellers and Accounts for Buyers may be subject to different requirements. Empirium has sole discretion over Account creation (including type of Account) and may refuse to create or otherwise provide you an Account for any reason. Unless expressly permitted otherwise by Empirium, you are only allowed to create one Account and you agree you will not share your Account with anyone. Your Account may permit you to set up subaccounts for authorized users. You are responsible for all activities that occur under your Account (including by any users or under any user subaccounts).

(b) Credentials. In connection with establishing your Account, Empirium will provide you, or permit you to choose, a username and password, or provide other access control or security credentials for your main Account and, if applicable, any subaccounts for authorized users (collectively, "**Credentials**"). Credentials are personal to your Account (or specific users, if applicable) and may not be shared or transferred without Empirium's express prior written consent. In the event of any actual or suspected misuse, abuse, or unauthorized use, or any suspected disclosure to or discovery by third parties, of your Account or any Credentials, or of any actual or suspected attempt to engage in any of the foregoing, you will immediately notify Empirium. Empirium reserves the right to place limits on, restrict, suspend or revoke your Account and access to or use of the Services in the event of any actual or suspected misuse, abuse, or failure to comply with the terms and conditions of any Empirium Policies or any other terms of these Terms.

6. Transactions on the Marketplace.

(a) Transactions. Unless otherwise specified or communicated to you by Empirium, Empirium facilitates (but does not participate in) transactions on the Marketplace for a Seller's sale of products and/or services to a Buyer ("**Transactions**"). Notwithstanding anything to the contrary, Empirium reserves the right to cancel or refuse to complete a Transaction at any time in Empirium's sole discretion. Each Transaction on the Marketplace is made solely between the applicable Buyer and Seller, and the sale and purchase of applicable products and services are subject to terms that are provided by and apply directly between the applicable Buyer and Seller ("Purchase Terms"). For facilitating Transactions, Empirium may receive commissions or transaction or other processing fees from Sellers and/or Buyers. Unless otherwise specified or

communicated to you by Empirium, Empirium is not a party to, and is not bound by and has no obligations under, any Purchase Terms and Purchase Terms create rights and obligations solely between the applicable Buyer and Seller. As Buyer or Seller you are responsible for, as the case may be, establishing, disclosing, agreeing to, complying with, and enforcing Purchase Terms. The applicable Purchase Terms for a Transaction govern the allocation of responsibility for any liability, loss, or damage arising from or related to the Transaction. Empirium does not provide any warranties, guarantees or similar representations or commitments with respect to, and Empirium will not be responsible for any liability, loss, or damage arising from or related to, any products or services offered or sold by Sellers or purchased by Buyers on the Marketplace or for the performance of any obligations arising pursuant to the Purchase Terms or otherwise pertaining to the Transaction. Each Seller, and not Empirium, is solely responsible and liable for the products and services that the Seller offers or sells on the Marketplace and the performance of any obligations arising pursuant to the Purchase Terms or otherwise pertaining to the Transaction, and any disputes between a Seller and a Buyer with respect to the Seller's products and services (and the applicable Transaction for them) must be resolved directly between the applicable Seller and Buyer. While Empirium encourages Buyers and Sellers to use the Services responsibly, we have no control over and cannot guarantee the availability of any Seller products or services or the fulfillment of any Transaction. Empirium will not be responsible for cancelled or otherwise unfulfilled Transactions, or any liability, loss, or damage resulting therefrom.

(b) Transaction-Related Information. Any Transaction-related content or other information Buyers obtain or receive through the Services or otherwise from Empirium is for informational, transactional and payment purposes only. Empirium is not a referral service and does not refer, recommend or endorse any particular product, service, seller, buyer, opinion, or other information that may appear through the Services. If you, as a Buyer or Seller, rely on any such content or other information provided through the Services, you do so solely at your own risk. We encourage you to independently confirm any content or other information relevant to you and your Transactions with other sources, as applicable.

(c) Payments for Transactions.

(i) Buyers. If you are using the Services as a Buyer, you are responsible for timely paying the purchase price as set forth by the Seller in the applicable listing, and all duties, tariffs, levies, taxes, and similar assessments and governmental charges (collectively "**Taxes**"), and any other charges, commissions, and fees arising out of or in connection with the Transaction, including any corresponding packaging, insurance, shipping and handling fees (collectively "**Other Charges**"). You expressly authorize us or Seller (and any third party Payment Processor), as applicable, to charge you for all such amounts arising out of or in connection with the Transaction. In the event you dispute any amounts charged through the Services by a Seller, you will resolve such dispute directly with the applicable Seller. Empirium is not responsible for any charges submitted for processing by a Seller. We may ask you to supply additional information relevant to your Transaction, including your bank account information, bank routing number, credit card number, credit card expiration date, verification code, other payment method information, and your email and postal addresses for billing and notification, and additional information to verify your identity for purposes of completing the Transaction (such information, "**Payment Information**"). You represent and warrant that you have the legal right to use all payment method(s) represented by any such Payment Information. When you initiate a Transaction, you authorize us and Seller to provide your Payment Information to third party Payment Processors and other service providers as necessary to complete the Transaction and

to charge the payment method for the purchase price for the Transaction and all Taxes and Other Charges. All payments are to be made in United States dollars.

(ii) Sellers. If you are using the Services as a Seller, you authorize Empirium to receive and disburse Buyer funds on your behalf, and in connection with such billing, collection and payment services, Empirium and third party Payment Processors on behalf of Empirium may collect, withhold, and deduct from any disbursement to you as the applicable Seller a commission or Transaction or other processing fees ("**Empirium Fee**"). Empirium Fees are listed on the Empirium Marketplace Listing Guidelines and Selling Fees available at <https://empirium.co/>. As a Seller, you are liable for Empirium Fees arising out of all Transactions for the sale of your products and services initiated via the Marketplace, even if the sale (and associated payment) of the products and services are finalized outside of the Services (for example, as a result of you providing your contact information or obtaining the Buyer's contact information through the Marketplace). To the extent required by applicable law, you and Empirium agree to and acknowledge the following: (A) Empirium will, or will instruct Payment Processors to, materially comply with lawful instructions provided by you on where to transfer payments made by Buyer that are final (less any Empirium Fees and any other required withholdings); (B) Empirium's or third party Payment Processor's receipt of payment is considered receipt of payment by the Seller; and (C) you are aware that Empirium (and third party Payment Processors) acts as an agent for the purposes of billing, holding, receiving and disbursing payments made by Buyers for certain products and services purchased from you. As a Seller, you are solely responsible for any chargebacks, declined payments, payment reversals and associated fees. Empirium (and third party Payment Processors) does not otherwise act as your agent or other representative.

(d) Shipping and Handling. As a Buyer, you are responsible for payment of all Taxes and Other Charges, including any shipping and handling fees as may be described in the applicable Purchase Terms or any shipping policy provided by the applicable Seller through the functionality of the Services. Empirium is not responsible for the shipping or handling of any product or service sold or purchased through the Marketplace.

(e) Refunds; Returns and Exchanges. All products and services sold or purchased through the Marketplace are governed by the applicable Seller's refund policies and return and exchange policies, as described in the applicable Purchase Terms or any return policy provided by the applicable Seller through the functionality of the Services. Empirium is not responsible for any refund, return, or exchange of any product or service sold or purchased through the Marketplace. To the extent there is a refund request, chargeback, declined payment, payment reversal, payment discount, or other payment-related issue or request, any such payment-related adjustment must be made directly by Seller to Buyer, and Empirium is not responsible for making any refunds or reversing any payments.

(f) Taxes. You are solely responsible for all costs incurred by you in using the Services and determining, collecting, reporting and paying all applicable Taxes that you may be required by law to pay, collect, or withhold and remit to governmental agencies, and other similar municipal, state, federal and national indirect or other withholding and personal or corporate income taxes. You are solely responsible for maintaining all relevant Tax records and complying with any reporting requirements you may have as related to our Services. In addition, you are solely responsible for independently maintaining the accuracy of any record submitted to any Tax authority, including any information derived from the Services. We reserve the right to report any activity occurring using the Services to relevant Tax authorities as required under applicable law.

(g) Additional Requirements. For certain Transactions, we may require the Buyer or the Seller, or both, to meet additional requirements in order to complete the Transaction (for example, completing applicable forms required by regulatory authorities). For more information, please refer to the Empirium Marketplace Listing Guidelines and Selling Fees available at <https://empirium.co/>.

(h) Payment Processor Terms. We and Sellers may engage third parties as payment processing service providers ("**Payment Processors**") to facilitate the consummation of the Transaction. Please review each Payment Processor's terms of service to understand how the Payment Processor processes your payment and each Payment Processor's privacy notice to understand its privacy practices. The Payment Processor's terms of service and privacy notice are available to you through the Payment Processor's website or upon request. Empirium may change any Payment Processor(s) it engages at any time without notice to you. Empirium is not responsible for, and expressly disclaims any liability for, Payment Processors' services, and your sole remedy regarding Payment Processors' services must be obtained from the applicable Payment Processor.

7. Other Services; Changes to the Services. In addition to the Marketplace, we may offer other services as part of the Services, such as logistics and warehousing services provided by our third party partners or services to facilitate your completion and submission of customs clearance declarations or applications or other standard forms. Such other services will be subject to these Terms and any additional terms and conditions (for example, fees and other payment terms) provided to you, including by posting to the Services. Because our Services are evolving over time, Empirium may change or discontinue all or any part of any feature, function, element, performance, scope, or other aspect of the Services, at any time and without notice, at our sole discretion.

8. Interaction with Third Party Services. The Services may link to or allow you to interface with, interact with, access or use third party websites, resources, content, applications, services, products, or technology (including external websites that are framed by the Services) (collectively, "**Third Party Services**"). When you access the Third Party Services, you do so at your own risk. Third Party Services are not under our control and are instead subject to an agreement separate from these Terms between you and the providers of the Third Party Services. Empirium does not warrant, endorse, guarantee, or assume responsibility for any Third Party Services, and Empirium will not be a party to or in any way responsible for monitoring any activities between you and the providers (or their operators) of the Third Party Services. If you believe any Third Party Services violate applicable law or may be inappropriate, please notify Empirium. The inclusion of any Third Party Services in the Marketplace or elsewhere in the Services does not imply any association between Empirium and the providers (or their operators) of the Third Party Services. By using the Services, you expressly release and agree to hold Empirium harmless from any and all losses, damages, and liabilities arising from your use of any Third Party Services, including any loss or damage incurred as a result of any dealings between you and any third parties, or as the result of a failure of such Third Party Services to function as intended. It is your responsibility to evaluate the content and usefulness of any information obtained from third parties through the Services, and you are solely responsible for all of your activities with any third party with whom you communicate or interact as a result of your use of the Services.

9. Feedback. We appreciate feedback, comments, ideas, proposals, survey responses, and suggestions for improvements to the Services ("**Feedback**"). If you choose to submit Feedback,

you agree that we are free to use and exploit it for any purpose without any restriction or compensation to you.

10. User Content. Our Services may allow you to submit, store or share content, such as text (in Marketplace listings, product searches, product reviews, posts, or other communications), files, documents, graphics, images, profile photos, videos or audio recordings, or other information that you choose to upload to the Services. Any content (other than Feedback) that you submit, post, transmit, or otherwise process or provide through the Services is referred to as "User Content." Empirium does not claim any ownership rights in any User Content and nothing in these Terms will be deemed to restrict any rights that you may have to your User Content. You are solely responsible for User Content. You will not provide any User Content that is false, misleading, fraudulent, deceptive, illegal, abusive, threatening, defamatory, obscene, vulgar, or otherwise offensive or in violation of these Terms (including any Empirium Policies). To the extent User Content is provided by you, you hereby grant to Empirium a non-exclusive, transferable, worldwide, royalty-free license, with the right to sublicense, to use, copy, modify, create derivative works based upon, distribute, publicly display, and publicly perform User Content in connection with operating, promoting, improving, and providing the Services and other Empirium products and services, including for purposes of training, validating, and improving artificial intelligence and machine learning algorithms and models. You represent and warrant that you have (and will have) all rights necessary to grant us the foregoing license to User Content. You represent and warrant that User Content, your use and provision of User Content to be made available through the Services, and any use of User Content by Empirium on or through the Services will not infringe, misappropriate or violate a third party's intellectual property rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation. You can remove your User Content by specifically deleting it. You should know that in certain instances, some of your User Content (such as posts or comments you make) may not be completely removed and copies of your User Content may continue to exist on the Services. To the maximum extent permitted by law, we are not responsible or liable for the removal or deletion of (or the failure to remove or delete) any of your User Content. Please see our DMCA/Copyright Policy available at <https://empirium.co/> for how to report alleged copyright infringements taking place on or through our Services.

11. Empirium's Intellectual Property. You may access and use the Services solely for your own internal business purposes in accordance with these Terms and the applicable documentation. Except for the limited rights expressly granted herein, nothing grants or otherwise confers, or will be construed to grant or otherwise confer, upon you any right, title, interest, or license in, to, or under any intellectual property rights of Empirium or its licensors, whether express, by implication, estoppel, or otherwise, and all such right, title, and interest will be and remain the sole and exclusive property of Empirium or its licensors. Empirium and its licensors exclusively own all right, title and interest in and to the Services, including all associated intellectual property rights. You acknowledge that the Services are protected by copyright, trademark, and other laws of the United States and foreign countries. You agree not to remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying the Services. The Services may include open source software or third party software. Any such software is made available to you under the terms of the applicable licenses. Please refer to <https://empirium.co/> for applicable notices and license terms.

12. Empirium Acceptable Use Policy. Pursuant to the following "Empirium Acceptable Use Policy," you agree that you will not do any of the following:

empirium

(a) Distribute, rent, lend, loan, lease, sell, sublicense, or otherwise make available to or for use by others, the Services or any individual element within the Services, without Empirium's express written consent;

(b) Use, copy, display, perform, distribute, mirror or frame the Services or any individual element within the Services, Empirium's name, any Empirium trademark, logo or other proprietary information, or the layout and design of any page or form contained on a page, without Empirium's express written consent;

(c) Access, tamper with, or use non-public areas of the Services, Empirium's computer systems, or the technical delivery systems of Empirium's providers;

(d) Attempt to probe, scan or test the vulnerability of any Empirium system or network or breach any security or authentication measures;

(e) Avoid, bypass, remove, deactivate, disable, impair, descramble or otherwise circumvent any security or other technological measure implemented by Empirium or any of Empirium's providers or any other third party (including another user) to limit access to the Services (for example, by geofencing the Services) or to protect the Services or any content available through the Services;

(f) Attempt to access or search the Services or download, scrape, aggregate, or otherwise collect content from the Services using any engine, software, tool, agent, device or mechanism (including spiders, robots, crawlers, data mining tools or the like) other than the software and search agents provided by Empirium or other generally available third party web browsers;

(g) Send any unsolicited or unauthorized advertising, promotional materials, email, junk mail, spam, chain letters or other form of solicitation through the Services or to any user of the Services;

(h) Use the Services, or any portion thereof, for any commercial purpose other than permitted Transactions on the Marketplace or for the benefit of any third party or in any manner not permitted by these Terms;

(i) Forge any TCP/IP packet header or any part of the header information in any email or newsgroup posting, or in any way use the Services to send altered, deceptive or false source-identifying information;

(j) Attempt to decipher, decompile, disassemble, attempt to derive the source code of, or reverse engineer any of the software, protocols, methods, or algorithms used to provide the Services;

(k) Interfere with, or attempt to interfere with, the access of any user, host or network, including, without limitation, sending a virus, overloading, flooding, spamming, or mail-bombing the Services;

(l) Collect or store any personally identifiable information from the Services from other users of the Services without their express permission;

- (m) Impersonate or misrepresent your affiliation with any person or entity;
- (n) Attempt to hide or disguise your physical location from which you access or use the Services, including any attempt to circumvent geolocation or geoblocking technology, including any attempt to alter your actual IP address or shield your actual IP address through VPN tools or otherwise;
- (o) Violate any applicable law or regulation; or
- (p) Encourage or enable any other individual to do any of the foregoing.

Empirium is not obligated to monitor access to or use of the Services. However, we have the right to do so for the purpose of operating the Services, to ensure compliance with these Terms, and to comply with applicable law or other legal requirements. We reserve the right, but are not obligated, to remove or disable access to any content, and to block, suspend, or terminate Accounts or user access, at any time and without notice, including, but not limited to, if we, at our sole discretion, consider it objectionable or in violation of these Terms. We have the right to investigate violations of these Terms or conduct that affects the Services. We may also consult and cooperate with law enforcement authorities to prosecute users who violate the law.

13. Trade Compliance Terms.

(a) Prior to listing any products for sale on the Marketplace, Seller will determine (i) whether the products are subject to the International Traffic in Arms Regulation (ITAR) or the Export Administration Regulation (EAR), and (ii) the proper U.S. Munitions List Category or Export Controls Classification Number for the products. Empirium will not be responsible for validating the export controls classification of Seller's product. Upon request, Seller will provide Empirium with information regarding the classification of its products to verify compliance with this Section 13(a).

(b) You, as Seller or Buyer, as applicable, will be solely responsible for (i) determining whether a Transaction requires an export authorization and for obtaining the authorization prior to export, (ii) completing all relevant import and export paperwork required for the Transaction, including but not limited to the electronic export information filing, and (iii) maintaining and retaining all relevant records as necessary to comply with applicable law. Empirium is not the exporter or importer of record for any Transaction or any other transactions between Seller and Buyer. Empirium is not responsible for, and will have no liability for, any Transaction's violation of or failure to comply with U.S. or other applicable export controls and sanctions. You (as Seller or Buyer) will (x) indemnify and hold harmless Empirium for any claim, damage, loss, or liability arising from violation of import and export controls in relation to the Transaction, (y) immediately notify Empirium if you know or have reason to know a Transaction potentially violated import or export controls, and (z) upon request, provide Empirium with information regarding export authorizations and compliance with this Section 13. We reserve the right to report any activity occurring using the Services to relevant regulatory authorities as required under applicable law.

(c) You represent and warrant on a continuous basis as long as you are using the Services that you are not, nor are you owned by or acting on behalf of, a person or entity (i) organized, located, or resident in a sanctioned jurisdiction, including Cuba, Iran, North Korea, Syria, Russia, Belarus, Venezuela, or the embargoed regions of Ukraine, (ii) targeted by U.S. or other

applicable sanctions or export controls, including but not limited to designation on the Specially Designated Nationals and Blocked Persons List, the Entity List, or the Military End User List, or (iii) engaged in restricted end uses under the ITAR or EAR, except as authorized under a specific license issued by the applicable regulatory authority.

(d) You will comply with U.S. and other applicable export controls and sanctions and will not cause Empirium to be in violation of such laws. Empirium has the right to immediately suspend or terminate your access to and use of the Services, including suspending access to or terminating your Account, at any time, without notice or liability to you, if continued dealings may, in Empirium's sole discretion, violate U.S. or other applicable export controls and sanctions. You will promptly provide any additional information requested by Empirium in connection with this Section 13.

14. Termination. We may suspend, disable, or terminate your access to and use of the Services, including suspending access to or terminating your Account, at any time and without notice to you, including if necessary to protect the integrity of the Services, if required by applicable law or any governmental authority or if we, in our sole and reasonable discretion, determine you are violating these Terms (including any Empirium Policies) or the terms of any third party service provider. Such suspension, disablement, or termination will not constitute a breach of these Terms by Empirium. If we suspend or disable your access to or use of the Services, you will not access or use the Services until we notify you in writing that the suspension or disablement has ended and your Account has been reinstated. You may cancel your Account at any time through the method available in your Account settings. You acknowledge and agree that Empirium will have no liability or obligation to you in such an event and that you will not be entitled to a refund of any amounts that you have already paid to us or any third party, to the fullest extent permitted by applicable law. Upon any termination of your access to and use of the Services or any discontinuation or cancellation of the Services, you will immediately cease all access to and use of the Services. You remain responsible for fulfilling your obligations with respect to any Transactions outstanding as of any suspension, disablement, termination, discontinuation, or cancellation of the Services.

15. Disclaimer of Warranties.

(a) THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED. EMPIRIUM (AND ITS SERVICE PROVIDERS) MAKE NO WARRANTY THAT THE SERVICES (OR ANY MATERIAL, INFORMATION, OR CONTENT PROVIDED THEREON) OR ANY PRODUCTS OR SERVICES LISTED, OFFERED, SOLD, PROVIDED, PURCHASED, PROCURED, CLAIMED, GENERATED, CREATED, OR OTHERWISE MADE AVAILABLE VIA THE SERVICES: (I) WILL MEET YOUR REQUIREMENTS; (II) WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS; OR (III) WILL BE ACCURATE, RELIABLE, COMPLETE, LEGAL, OR FREE FROM HARM. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EMPIRIUM DISCLAIMS ALL WARRANTIES AND CONDITIONS, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT OR NON-INFRINGEMENT, AND ANY AND ALL WARRANTIES THAT MAY ARISE FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE.

(b) Nothing herein nor any use of the Services in connection with any products or services of any third party, including without limitation products and services offered on the Marketplace and any Third Party Services, constitutes our warranty, endorsement, guarantee, referral, recommendation, or any other affiliation of or with the third party provider. FOR CLARITY, EMPIRIUM MAKES NO WARRANTY, AND ASSUMES NO RESPONSIBILITY, REGARDING THE PRODUCTS AND SERVICES OFFERED ON THE MARKETPLACE, WHICH ARE THE RESPONSIBILITY OF THE APPLICABLE SELLERS.

(c) Although we require Buyers and Sellers to complete the Empirium Marketplace Onboarding Requirements (available at <https://empirium.co/>), Empirium makes no warranty as to the identity, character or conduct of Buyers and Sellers and assumes no responsibility for a Buyer's or a Seller's compliance with these Terms or any applicable laws. YOU AGREE THAT EMPIRIUM IS NOT LIABLE FOR ANY ACT OR OMISSION OF ANY BUYER OR SELLER.

16. Indemnity. You will indemnify, defend (at Empirium's option) and hold Empirium and its officers, directors, employees, service providers, licensors, and agents, harmless from and against any claims, disputes, demands, liabilities, damages, losses, and costs and expenses, including without limitation reasonable legal and accounting fees, arising out of or related to (a) your access to or use of the Services, (b) your disputes with other users of the Services, including other Buyers and Sellers of the Marketplace, and (c) your violation of these Terms (including any Empirium Policies). You may not settle or otherwise compromise any claim, dispute, or demand subject to this Section without Empirium's prior written approval.

17. Limitation of Liability.

(a) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EMPIRIUM OR ITS SERVICE PROVIDERS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND, OR ANY DAMAGES FOR LOST PROFITS, LOST REVENUES, LOST SAVINGS, LOST BUSINESS OPPORTUNITY, LOSS OF DATA OR GOODWILL, SERVICE INTERRUPTION, COMPUTER DAMAGE OR SYSTEM FAILURE OR THE COST OF SUBSTITUTE GOODS OR SERVICES OF ANY KIND, WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), INDEMNITY, PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY, IN CONNECTION WITH THE SERVICES (INCLUDING THE USE OF OR INABILITY TO USE THE SERVICES), THESE TERMS, OR THE PARTIES' ACTIVITIES RELATING HERETO, EVEN IF EMPIRIUM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EMPIRIUM'S AGGREGATE LIABILITY ARISING UNDER OR IN CONNECTION WITH THE SERVICES (INCLUDING THE USE OF OR INABILITY TO USE THE SERVICES), THESE TERMS, OR THE PARTIES' ACTIVITIES RELATING HERETO EXCEED THE AMOUNTS YOU HAVE PAID OR THAT ARE PAYABLE BY YOU TO EMPIRIUM FOR USE OF THE SERVICES OR ONE HUNDRED U.S. DOLLARS (\$100), IF YOU HAVE NOT HAD ANY PAYMENT OBLIGATIONS TO EMPIRIUM, AS APPLICABLE.

(c) BECAUSE EMPIRIUM IS NOT INVOLVED IN TRANSACTIONS BETWEEN BUYERS AND SELLERS, YOU HEREBY IRREVOCABLY AND FOREVER RELEASE AND DISCHARGE EMPIRIUM (AND ITS OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES) FROM ALL CLAIMS, DEMANDS, LIABILITIES, DAMAGES, LOSSES, AND COSTS AND EXPENSES OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, SUSPECTED AND UNSUSPECTED, DISCLOSED AND

UNDISCLOSED, ARISING OUT OF OR IN ANY WAY CONNECTED WITH ANY DISPUTES OR ANY ACTUAL OR POTENTIAL TRANSACTIONS BETWEEN YOU AND ANY BUYER OR SELLER, OR ANY PRODUCTS AND SERVICES LISTED, OFFERED, SOLD, PROVIDED, PURCHASED, PROCURED, OR OTHERWISE MADE AVAILABLE BY BUYERS AND SELLERS VIA THE SERVICES, INCLUDING ANY FAILURE OF BUYERS OR SELLERS TO PERFORM ANY OF THEIR OBLIGATIONS IN CONNECTION WITH A TRANSACTION.

You hereby irrevocably and forever expressly waive all rights you may have arising under California Civil Code Section 1542 and all similar rights under the laws of any other applicable jurisdictions with respect to the release granted by you under this Section 17(c). You understand that Section 1542 provides that: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party." You acknowledge that you have been fully informed by your counsel concerning the effect and import of this Section 17(c) under California Civil Code Section 1542 and similar laws of any other applicable jurisdictions.

(d) THE EXCLUSIONS AND LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN EMPIRIUM AND YOU.

18. Governing Law and Dispute Resolution.

(a) Governing Law. These Terms and any dispute, claim, or controversy about these Terms, including the performance, breach, termination, enforcement, interpretation, or validity of these Terms ("Dispute") will be governed by the laws of the State of California, without giving effect to any conflicts of laws principles that require the application of the laws of a different jurisdiction. The Convention on Contracts for the International Sale of Goods will not apply to this Agreement.

(b) Dispute Resolution. Subject to the exceptions expressly set forth herein, the parties agree that any Dispute (including with respect to the scope or applicability of this agreement to arbitrate) will be referred to and finally determined by arbitration administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules (the "Rules"). The tribunal will consist of three arbitrators appointed in accordance with the Rules. The place of arbitration will be San Diego, California. The language of the arbitration will be English. The parties will maintain the confidential nature of the arbitration proceeding and the arbitration award, including the arbitration hearing, except as may be necessary to prepare for or conduct the arbitration hearing on the merits, or as may be necessary in connection with a court application for a preliminary remedy, a judicial challenge to an award or its enforcement, or unless otherwise required by law or judicial decision. The administrative fees of AAA and the arbitrator fees will be borne equally by the parties. Judgment on any award or order rendered in the arbitration may be entered in any court of competent jurisdiction.

(c) IP Disputes. Notwithstanding the foregoing, nothing herein will prevent either party from (i) seeking to obtain or enforce temporary injunctive relief or other provisional remedies in any court of competent jurisdiction, and (ii) bringing a Dispute regarding patent, copyright, trademark, or trade secret rights (an "IP Dispute") in any court of competent jurisdiction or from removing an IP Dispute to any court of competent jurisdiction within 30 days of receiving the other party's request for arbitration. Where a party is pursuing an IP Dispute in a proceeding in

court, either party may bring any claims or counterclaims reasonably related to such IP Dispute in the same proceeding.

(d) Application of FAA. The parties acknowledge that these Terms evidence a transaction involving interstate commerce. Notwithstanding the provision with respect to applicable substantive law in Section 18(a) (Governing Law), any arbitration conducted pursuant to the terms of these Terms will be governed by the Federal Arbitration Act (9 U.S.C., Secs. 1-16).

19. General Terms.

(a) Entire Agreement. These Terms (including the Empirium Policies) constitute the entire and exclusive understanding and agreement between Empirium and you regarding the Services, and these Terms supersede and replace all prior oral or written understandings or agreements between Empirium and you regarding the Services. If any provision of these Terms is held invalid or unenforceable by an arbitrator or a court of competent jurisdiction, that provision will be enforced to the maximum extent permissible, and the other provisions of these Terms will remain in full force and effect. Except where provided by applicable law in your jurisdiction, you may not assign, delegate, or transfer any of your rights or obligations under these Terms, by operation of law or otherwise, without Empirium's prior written consent. Any attempt by you to do so absent our consent or your statutory right, without such consent, will be null and void. Empirium may freely assign, delegate, and transfer these Terms and any or all of its rights and obligations hereunder without restriction. Subject to the foregoing, these Terms will bind and inure to the benefit of the parties, their successors and permitted assigns.

(b) Notices. Any notices or other communications provided by Empirium under these Terms will be given: (i) via email; or (ii) by posting to the Services. For notices made by email, the date of receipt will be deemed the date on which such notice is transmitted.

(c) Waiver of Rights. Empirium's failure to enforce any right or provision of these Terms will not be considered a waiver of such right or provision. The waiver of any such right or provision will be effective only if in writing and signed by a duly authorized representative of Empirium. Except as expressly set forth in these Terms, the exercise by either party of any of its remedies under these Terms will be without prejudice to its other remedies under these Terms or otherwise.

(d) Relationship Between the Parties. Nothing in these Terms will be construed to create a partnership, joint venture or agency relationship between you and Empirium. Neither party will have the power to bind the other or to incur obligations on the other's behalf without such other party's prior written consent.

20. Contact Information. If you have any questions about these Terms or the Services, please contact Empirium at support@empirium.com.

21. Additional Terms for Apps. We may make available mobile applications related to the Marketplace (each, an "App"). All Apps will be deemed part of the Services and subject to all terms and conditions that apply to the Services and your access and use thereof. In addition, the terms of this Section apply to all Apps.

(a) App License. Subject to your compliance with these Terms, Empirium grants to you a limited non-exclusive, non-transferable license, with no right to sublicense, to download and install the App on your personal computers, mobile handsets, tablets, wearable devices, and other devices and to execute and use the App solely for your own internal business purposes in accordance with the App's applicable documentation. Except as expressly permitted in these Terms, you may not: (i) copy, modify or create derivative works based on the App; (ii) distribute, transfer, sublicense, lease, lend or rent the App to any third party; (iii) reverse engineer, decompile or disassemble the App (unless applicable law permits, despite this limitation); or (iv) make the functionality of the App available to multiple users through any means.

(b) Additional Information: Apple App Store. This Section 21(b) applies to any App that you acquire from the Apple App Store or use on an iOS device. Apple has no obligation to furnish any maintenance and support services with respect to the App. In the event of any failure of the App to conform to any applicable warranty, you may notify Apple, and Apple will refund the App purchase price to you (if applicable) and, to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App. Apple is not responsible for addressing any claims by you or any third party relating to the App or your possession and use of it, including, but not limited to: (i) product liability claims; (ii) any claim that the App fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation. Apple is not responsible for the investigation, defense, settlement and discharge of any third party claim that your possession and use of the App infringe that third party's intellectual property rights. Apple and its subsidiaries are third party beneficiaries of these Terms, and upon your acceptance of the Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third party beneficiary thereof. You represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a terrorist-supporting country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties. You must also comply with any applicable third party terms of service when using the App.