



# SHIFT4 CUSTOMER HUB

## TERMS AND CONDITIONS

PLEASE READ THE AGREEMENT CAREFULLY BEFORE USING ANY OF THE SHIFT4 SERVICES.

These Shift4 Customer Hub Terms and Conditions ("Agreement") describe the terms and conditions and govern the access and use of the Services (as defined below) made available by Shift4 Payments, LLC ("Shift4"). This Agreement governs your use of the proprietary operating system, Customer Hub, its firmware, applications, service plans, the interface associated with the services and any software, documentation, tools, components, and any updates thereto (including software maintenance, service information, help content, bug fixes, or maintenance releases) provided by Shift4 in connection with the Services.

Customer Hub platform and products, including but not limited to, Marketplace, Online Ordering, Reservations, and Online Reputation Management (the "Services"). The Services are available only to Users who can form legally binding contracts under applicable law. By using the Services, you represent and warrant that you have the legal authority to bind your organization to the terms and conditions contained in this Agreement, and are not a person barred from purchasing or receiving the Services found under the laws of the United States or other applicable jurisdiction.

The Services are available to you as a result of your contracting with Shift4 for payments processing merchant services and payment gateway services. By accessing the Services, you warrant that you, (i) have a valid contract with Shift4, (ii) are exclusively utilizing Shift4 for your payment processing needs and (iii) confirm that you have read and understood the terms and conditions to the Merchant Processing Agreement the Gateway Services Agreement.

The Agreement is between you, meaning Individual Users and Merchant/Vendors, (Referred to individually and collectively as "You," "Your," or "User" whether or not capitalized) and Shift4 Payments, LLC (Referred to as "Shift4," "We," "Our" or "Us" whether or not capitalized).

### 1. Account Registration

You must register with Shift4 to use the Services through the Customer Hub Merchant account portal ("Registration"). During registration you will need to include your name and information when prompted including contact information. You must provide accurate and complete information in response to our questions. You must also keep the information that you provide up-to-date. You must use Your or your business' true and accurate name in registering for Services. Shift4 reserves the right to seek additional information from you at any time, including without limitation as needed to provide the Services. Moreover, You will cooperate with Shift4 in connection with the performance of this Agreement and provision of the Services, by making available such personnel and information as may be reasonably required, and taking such other actions as Shift4 may reasonably request. We reserve the right to suspend or terminate use of Services if You provide inaccurate, untrue, or incomplete information, or fail to comply with the account registration requirements.

### 2. Rights and Licenses

Subject to the terms of this Agreement, Shift4 grants you a personal, limited, non-exclusive, revocable, non-sublicensable, non-transferable license, non-assignable right to access and use the Services for your internal business use solely in the United States to manage your establishment and/or conduct associated point of sale activities in accordance with these terms. The Services are subject to modification, restriction, or suspension at Shift4's sole discretion for any purpose deemed appropriate by Shift4. Furthermore, Shift4 reserves the right, in its sole discretion, to modify this Agreement at any time by sending you a notice. You are responsible for reviewing and becoming familiar with any modifications reflected in such notice (you will receive a pop-up notification when logging on to Customer Hub, or the notice will appear on your monthly statement message). If Shift4 makes a material change to this Agreement in accordance with the foregoing, you may elect to suspend your use of the Services, which is your sole and exclusive remedy for early termination. In order to terminate this Agreement, you must provide written notice to Shift4, which must be received within ten (10) business days following the date of Shift4's notice to You of a material change. There will be no refund of amounts paid for the month in which You paid for the Service, whether or not You elect to terminate before the month's completion. **Use of the Services following a notice by Shift4 of a material change, or that Services have been updated, modified or restricted constitutes your acceptance of the terms and conditions of this Agreement as modified.**

### 3. General Payment Terms

**By accepting the terms of this Agreement, you agree to pay the monthly subscription fee of twenty (\$20.00) dollars per month per merchant identification number. You will be required to utilize your Merchant Account tied to your Merchant Processing Agreement for payment of the subscription fee. You will promptly update your account information with any changes in your payment information. You agree to pay Shift4 in accordance with the terms set forth in this Agreement,**

and you authorize Shift4 to bill your payment instrument in advance on a periodic basis in accordance with such terms.

- 3.1. You will be billed on a recurring monthly basis which coincides with, and will be reflected on, your Merchant Processing Agreement Statement Messages (“Billing Period”). If you wish to cancel and/or suspend your subscription, you must notify Shift4 at least thirty (30) days prior to the commencement of another Billing Period. By way of example, if you notify Shift4 on April 15th of cancellation of your subscription, you will be billed for the months of April and May, and your subscription will end upon the final date of the May billing period.
- 3.2. From time to time, we may offer trials of the Shift4 Services for a specified period without payment or at a reduced rate (a “Trial”). Shift4 reserves the right, in its absolute discretion, to determine your eligibility for a Trial, and, subject to applicable laws, to withdraw or to modify a Trial at any time without prior notice and with no liability, to the greatest extent permitted under the law.

**You will be required to provide your payment details to start the Trial. AT THE END OF SUCH TRIALS, WE MAY AUTOMATICALLY START TO CHARGE YOU FOR THE APPLICABLE PAID SUBSCRIPTION ON THE FIRST DAY FOLLOWING THE END OF THE TRIAL, ON A RECURRING MONTHLY BASIS. BY PROVIDING YOUR PAYMENT DETAILS IN CONJUNCTION WITH THE TRIAL, YOU AGREE TO THIS CHARGE USING SUCH PAYMENT DETAILS. IF YOU DO NOT WANT THIS CHARGE, YOU MUST CANCEL THE APPLICABLE PAID SUBSCRIPTION THROUGH YOUR SHIFT4 MERCHANT ACCOUNT PAGE BEFORE THE END OF THE TRIAL.**

- 3.3. If you dispute any charges you must let Shift4 know within thirty (30) days after the date that you receive your Statement Message. All amounts paid are non-refundable and we reserve the right to change our prices in the future. If we increase our prices for your subscription, we will provide notice of the change on the Customer Hub platform and on your Statement Messages at least 30 days before the change is to take effect. Your continued use of the Service after the price change goes into effect constitutes your agreement to pay the changed amount.
- 3.4. At Shift4’s sole discretion, Shift4 may elect to bill you via any means that is available to Shift4 in the event that Shift4 encounters any difficulty in billing you via the Merchant Account on file or otherwise has difficulty in receiving timely payment from you. If Shift4 is unable to collect fees when due from you, Shift4 may suspend your access to the Services or terminate this Agreement. In the event that Shift4 is unable to collect fees from you, and your access to the Services is suspended and/or terminated, you agree that Shift4 is not responsible for any resulting damages (including but not limited to, lost revenue, damage to business reputation, and/or breach of any third-party agreement(s)) and agree to hold Shift4 harmless from such resulting damages.
- 3.5. Past due fees are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection. You shall be responsible for all taxes associated with Services other than U.S. taxes based on Shift4’s net income. Failed payments including Automated Clearing House (“ACH”) rejections or insufficient funds rejections will be subject to a returned payment fee of \$25 per attempt.

#### **4. Restrictions**

You shall not and shall not permit any third-party to:

- (a) access or attempt to access the Services (or any part) that is not intended to be available to you;
- (b) access or use (in any format) the Services (or any part) through any time-sharing service, service bureau, network, consortium, or other means;
- (c) without Shift4’s advance written consent, use, ship or access the Services (or any part) outside or from outside of the United States;
- (d) perform or attempt to perform any actions that would interfere with the proper working of the Services, prevent access to or use of the Service by other users, or impose a large load on Shift4’s infrastructure, network capability or bandwidth; or
- (e) use the Services (or any part) to distribute or otherwise disseminate any material that: (a) is false, misleading, unlawful, obscene, indecent, lewd, pornographic, defamatory, libelous, threatening, harassing, hateful, abusive, or inflammatory; (b) encourages conduct that would be considered a criminal offense or gives rise to civil liability; (c) breaches any duty toward or rights of any person or entity, including rights of publicity, privacy or trademark; (d) contains corrupted data or any other harmful, disruptive, or destructive files; (e) advertises products or services competitive with Shift4’s or its partners’ products and services, as determined by Shift4 in its sole discretion; or (f) in Shift4’s sole judgment, is objectionable, restricts or inhibits any person or entity from using or enjoying any portion of the Services, or which may expose Shift4, its affiliates, its customers, or Buyers to harm or liability of any nature; or

(f) otherwise use the Services (or any part) except as permitted in these Terms.

## 5. Service Requirements and Limitations

- 5.1. You may access the Services through your point of sales system, tablet, or other mobile or fixed form mechanism identified by Shift4 as compatible with and capable of accessing and/or supporting the Services (“**Device**”) using a wired (Ethernet) or wireless (Wi-Fi or cellular) connection to the Internet. You are solely responsible for the payment of any fees that may be imposed by your Internet/data provider. Your use of the Services accessed wirelessly or through the Internet is subject to: (a) the terms of any agreements you have with your Internet/data provider; and (b) availability, transmission range and uptime of the services and any wireless equipment.
- 5.2. You may use the Service to conduct point of sale activities offline. Transactions initiated offline will be queued and submitted for authorization when Internet connectivity to the Shift4 platform is restored. You assume all risk, responsibility and liability associated with any transaction that you choose to conduct while the Services is offline.
- 5.3. The Service does not function with every mobile device. Shift4 may alter which Devices are approved as compatible with the Services in Shift4’s discretion.
- 5.4. You shall at all times comply with any operating procedures, requirements, or guidelines regarding your use of the Services that are posted on the Shift4 interface or otherwise provided or made available to you.
- 5.5. You agree that Shift4 shall not have any liability to you arising directly or indirectly from or otherwise concerning: (a) any termination, suspension, delay or disruption of the Services (including billing for the Services) by the Internet, any common carrier or any third-party service provider; (b) any failure, disruption or malfunction of the Services, the Internet, or any communications network, facility or equipment beyond Shift4’s, its affiliate(s), or a third-party’s reasonable control; (c) your failed attempts to access the Services or to complete transactions via the Services; or (d) any failure to transmit, obtain or collect data or for human, machine or software errors or faulty or erroneous input by you.

## 6. Communicating with Customers through the Services

- 6.1. Each of your customers who desires to receive marketing materials, transaction receipts or other communications from you via text message or email must (a) give his appropriate consent in writing or (b) enter his phone number or email address in the appropriate space on the Device and provide such consent via a check box himself on the Device; you are NOT permitted to add or modify a customer’s consent indication on behalf of your customer.
- 6.2. You (or your agents acting on your behalf) may only send marketing materials or other communications to a customer’s provided phone number, street address, and/or email address if the customer has specifically consented by checking (himself) the applicable box displayed on the Device.
- 6.3. NOTWITHSTANDING THE CAPABILITY OF THE SERVICES TO COLLECT AND STORE CUSTOMER INFORMATION AND TO ALLOW YOUR CUSTOMERS TO ELECT TO RECEIVE MARKETING MATERIALS FROM YOU, SOME STATES MAY LIMIT YOUR USE OF SUCH INFORMATION ONCE COLLECTED AND/OR YOUR DISCLOSURE OF SUCH INFORMATION TO THIRD-PARTIES, EVEN IF THE CUSTOMER HAS PROVIDED HIS CONSENT. YOU AGREE THAT (A) YOUR USE OF CUSTOMER INFORMATION OBTAINED IN CONNECTION WITH THE SERVICES MAY BE SUBJECT TO LOCAL, STATE, AND/OR FEDERAL LAWS, RULES, AND REGULATIONS, (B) YOU ARE SOLELY RESPONSIBLE FOR KNOWING SUCH LAWS, RULES, AND REGULATIONS, AND (C) YOU WILL AT ALL TIME STRICTLY COMPLY WITH ALL SUCH LAWS, RULES, AND REGULATIONS.
- 6.4. You shall provide and obtain any disclosures and consents related to the E-Sign Act that may be required in connection with your communications and agreements with your customers through the Services.

## 7. Third-Party Services

The Services may contain links to applications, services, products or promotions provided by third-parties and not by Shift4 (“**Third-Party Services**”). If you decide to use Third-Party Services, you will be responsible for reviewing and understanding the terms and conditions associated with the Third-Party Services (including obtaining and maintaining any required third-party hardware and/or software that is required for the Third-Party Services to work with the Service). **ANY ACCESS OF OR CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH YOUR USE OF THIRD-PARTY SERVICES ACCESSIBLE THROUGH SHIFT4 CUSTOMER HUB ARE ACCESSED OR DOWNLOADED AT YOUR OWN RISK. SHIFT4 WILL NOT BE RESPONSIBLE FOR ANY ACTIONS OR ANY FAILURES TO ACT OF ANY THIRD-PARTY, AND EXPRESSLY DISCLAIMS ALL LIABILITY RELATED TO ANY THIRD-PARTY SERVICES. BY USING SHIFT4 CUSTOMER HUB OR ANY THIRD-PARTY SERVICES YOU AGREE THAT SHIFT4 MAY SHARE YOUR TRANSACTION INFORMATION WITH THE THIRD-PARTY SERVICES. SHIFT4 DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PROVIDER OF A THIRD-PARTY SERVICE OR THIRD-PARTY SERVICE ADVERTISED OR OFFERED THROUGH THE SERVICES OR ANY**

**HYPERLINKED WEBSITE OR SERVICE, OR FEATURED IN ANY BANNER OR OTHER ADVERTISING. SHIFT4 WILL NOT BE A PARTY TO OR IN ANY WAY MONITOR ANY TRANSACTION BETWEEN YOU AND PROVIDERS OF THIRD-PARTY SERVICES.**

## **8. Marketplace Additional Terms**

- 8.1. **This Agreement applies to your use of all the Services, including Marketplace, whereby third-party applications are available for you to install onto your Customer Hub platform (the “Marketplace”) but the following additional terms also apply to Marketplace:**
- 8.2. **Both you and Shift4 acknowledge that the Agreement is concluded between you and Shift4 only, and not with the third-party application creator(s), and that Shift4 is not responsible for the application(s) installed by you, or the content therein;**
- 8.3. **You agree that you will carefully read, and understand, the terms of the agreements which you will enter in order to install selected third-party applications through Marketplace;**
- 8.4. **The application(s) are licensed to you on a limited, non-exclusive, non-transferrable, non-sublicensable basis, solely to be used in connection with the Services for your private, personal, non-commercial use, subject to all the terms and conditions of this Agreement as they are applicable to the Services;**
- 8.5. **You acknowledge and agree that Shift4 has no obligation whatsoever to furnish any maintenance and support services with respect to the Application(s);**
- 8.6. **You acknowledge and agree that the third-party application creator, and not Shift4, is responsible for addressing any claims you or any third party may have in relation to the Application;**
- 8.7. **You acknowledge and agree that, in the event of any third-party claim that the Application or your possession and use of the Application infringes that third-party’s intellectual property rights, the application creator, and not Shift4, will be responsible for the investigation, defense, settlement and discharge of any such infringement claim;**
- 8.8. **You represent and warrant that you are not located in a country subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a “terrorist supporting” country, and that you are not listed on any U.S. Government list of prohibited or restricted parties; and**
- 8.9. **Both you and Shift4 acknowledge and agree that, in your use of the Application, you will comply with any applicable third-party terms of agreement which may affect or be affected by such use.**

## **9. Maintenance on the Services**

- 9.1. **Shift4 may perform maintenance on the Services which may result in service interruptions, delays, or errors. Shift4 will not be liable for any such interruptions, delays, errors, or bugs. Shift4 may contact you in order to assist you with the Services and obtain information needed to identify and fix any errors.**
- 9.2. **Shift4 may, at its discretion, release enhancements, improvements or other updates to the Services and any software. If Shift4 notifies you that such update requires an installation, you shall integrate and install such update into your systems within 30 days of your receipt of such notice. Failure to install any updates in a timely fashion may impair the functionality of the software or Services. Shift4 shall have no liability for your failure to properly install the most current version of any software or any update, and Shift4 shall have no obligation to provide support or services for any outdated versions.**
- 9.3. **Certain software can automatically install, download, and/or deploy updated and/or new components, which may include a new version of the software itself. You shall not, in any event or in any manner, impede the update process. You agree to assume full responsibility and indemnify Shift4 for all damages and losses, of any nature, for all adverse results or third-party claims arising from your impeding the update process.**

## **10. Term and Termination**

- 10.1. **These Terms commence on the date on which you first use the Services and continue until such time that you cancel your subscription, the Services are no longer offered, whichever is longer. The subscription term will automatically renew each month, unless you give notice of cancellation, which must be given fifteen (15) days prior to the commencement of the next calendar month in order to keep your account from being debited.**
- 10.2. **Shift4 may permanently or temporarily terminate, suspend, or otherwise refuse to permit your access to the Services without any notice and liability for any reason, including if in Shift4’s sole determination you violate any provision of these Terms.**
- 10.3. **Upon termination of these Terms for any reason, you must immediately stop using the Services and your license to**

use the Services provided under these Terms shall end. Upon your termination of these Terms, Shift4 will provide you with a reasonable period of time to allow you to extract your Account Data (defined below) that Shift4 has stored on its servers as of the termination date.

- 10.4. The rights, obligations and limitations of Sections 3, 4, 6.3, 7, 8, 10, 12.1, 12.2, 13, 14, 15, 16, 17, 19, 21 and 22 will survive termination of these Terms.

## 11. Privacy and Data Use

All data collected via the Shift4 interface or in connection with your use of the Services, including customer information and information about your business and employees used with or stored in or by the Services, is collected by Shift4. By agreeing to these terms, you agree that you have read and understand the terms of the Shift4 Privacy Policy, available online at <https://www.shift4.com/privacypolicy>

## 12. Protecting Information

- 12.1. You shall safeguard all confidential information Shift4 supplies or otherwise makes accessible to you using a reasonable degree of care. You shall only use Shift4's confidential information for the purposes of these Terms and shall not disclose Shift4's confidential information to any person, except as Shift4 may agree in advance and in writing. At Shift4's request, you shall return to Shift4 or destroy all of Shift4's confidential information in your possession or control.
- 12.2. You are solely responsible for ensuring that your account numbers, passwords, security questions and answers, login details and any other security or access information used by you to use or access the Services are kept safe and confidential. You must prevent unauthorized access to and use of any of your information or data used with or stored in or by the Services (collectively, "**Account Data**"). You are responsible for electronic communications sent to Shift4 or to any third-party containing Account Data and for all uses of the Services in association with your Account Data, whether or not authorized by you. Shift4 has the right to rely on user names, password and other signor credentials, access controls for the Services or any software provided or approved by Shift4 to authenticate access to, and use of, the Services and any software. You must immediately notify Shift4 if you become aware of any loss, theft or unauthorized use of any Account Data. Shift4 reserves the right to deny you access to the Services, in whole or in part, if Shift4 believes that any loss, theft or unauthorized use of any Account Data or access information has occurred.
- 12.3. You may submit comments or ideas about the Services, including about how to improve the Services. By submitting any idea, you agree that (a) Shift4 expressly disclaims any confidentiality obligations or use restrictions, express or implied, with respect to any idea; (b) your submission will be non-confidential; and (c) Shift4 is free to use and disclose the idea on an unrestricted basis without notifying or compensating you. You release Shift4 from all liability and obligations that may arise from Shift4's receipt, review, use or disclosure of any portion of any idea.

## 13. Intellectual Property

- 13.1. All right, title and interest in and to all confidential information and intellectual property related to the Services (including Marks, all software, the content of any materials, web screens, layouts, processing techniques, procedures, algorithms, and methods and any updates, changes, alterations, or modifications to or derivative works from such intellectual property), owned, developed or licensed by Shift4 at any time or employed by Shift4 in connection with the Services, shall be and remain, as between Shift4 and you, Shift4's or its affiliates', Shift4's vendors' or licensors' (as applicable) sole and exclusive property and all right, title and interest associated with the Service not expressly granted by Shift4 in these Terms are deemed withheld. You may not use Marks in any manner, including in any advertisements, displays, or press releases, without Shift4's prior written consent. "**Marks**" means Shift4's names, logos, emblems, brands, service marks, trademarks, trade names, taglines or other proprietary designations.
- 13.2. You shall not, and shall not permit any third-party to: (a) decompile, disassemble, reverse engineer, or otherwise attempt to reconstruct or discover by any means any source code, underlying ideas or algorithms of the Services, (or any part), except to the extent that such restriction is expressly prohibited by law; (b) modify, translate, or alter in any manner, the Services (or any part) or the Marks; (c) create derivative works of or based on the Services (or any part), or the Marks; (d) except for backup and archival purposes, directly or indirectly copy the Services (or any part); (e) republish, upload, post, transmit, disclose, or distribute (in any format) the Services (or any part) except as permitted in these Terms; or (f) remove, relocate, or otherwise alter any proprietary rights notices from the Services (or any part) or the Marks.
- 13.3. If Shift4 provides you with copies of or access to any software or documentation, unless otherwise expressly stated in writing, that software and documentation is provided on a personal, non-exclusive, non-transferable, non-assignable, revocable limited license for the period of your subscription to the Service and solely for you to

access and use the software and documentation to receive the Service for its intended purpose on Devices owned or licensed by you.

- 13.4. You shall not take any action inconsistent with the stated title and ownership in this Section 14. You will not file any action, in any forum that challenges the ownership of any part of the Service, any related software, materials or documentation. Failure to comply with this provision will constitute a material breach of these Terms.

#### 14. **Shift4 Services Disclaimer**

UNLESS OTHERWISE PROVIDED IN THIS AGREEMENT, THE SERVICES ARE PROVIDED "AS IS" AND SHIFT4 DISCLAIMS ALL REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, MADE TO YOU OR ANY OTHER PERSON, INCLUDING ANY WARRANTIES REGARDING QUALITY, SUITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR THAT THE SERVICE WILL OPERATE UNINTERRUPTED OR ERROR FREE OR THAT THE SERVICES ARE SECURE, FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR DOES NOT INFRINGE THE RIGHTS OF ANY PERSON. APPLICATIONS PUBLISHED ON THE MARKETPLACE ARE CREATED AND MAINTAINED BY THIRD-PARTIES WITH NO AFFILIATION TO SHIFT4, AND SHIFT4 EXPLICITLY DISCLAIMS ANY LIABILITY AS TO THE QUALITY, SUITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR THAT THIRD-PARTY APPLICATIONS WILL OPERATE UNINTERRUPTED OR ERROR FREE OR THAT THE APPLICATIONS ARE SECURE, FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR DOES NOT INFRINGE THE RIGHTS OF ANY PERSON.

#### 15. **Your Responsibilities**

- 15.1. You shall comply fully with the requirements of all applicable federal, state and local laws and regulations related to your use of the Services and provision and use of any cardholder data, customer information and other point of sale data in connection with the Services. You shall not use the Services for illegal purposes.
- 15.2. You are solely responsible for obtaining all required permits, consents and licenses and monitoring legal developments applicable to the Services and the operation of your business, interpreting applicable laws and regulations, determining the requirements for compliance with all applicable laws and regulations, and maintaining an on-going compliance program.
- 15.3. You are solely responsible for ensuring the accuracy, quality, integrity, legality and appropriateness of all information and data regarding your business that you provide to Shift4 or its service providers in connection with the Services. In addition, if applicable, you are solely responsible for verifying that all information and data loaded onto a Device by Shift4 or its service providers at your request are accurate prior to your business use of such Devices. Shift4 and its service providers disclaim any and all liability arising out of any inaccuracies with respect to any information or data you provide.
- 15.4. You are responsible for any and all acts and omissions of Your employees and contractors, or any user who logs in to the Service using Your account credentials. You will not, and will not permit any third-party to: (a) reverse engineer (except to the extent applicable law expressly prohibits or limits restrictions on reverse engineering, but only to the extent required by such law (such as for interoperability purposes) and only to the extent that Shift4 does not make the requisite interoperability information available to You through another means), decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Services or any software, documentation, reports, or data related to or generated by the Services; (b) modify, translate, or create derivative works based on the Services; use the Services for timesharing or service bureau purposes or for any purpose other than its own internal business purposes; (c) use the Services other than in accordance with this Agreement and in compliance with all applicable laws and regulations (including but not limited to any European privacy laws) or in any manner that infringes, misappropriates, or violates the intellectual property rights or proprietary rights of any third-party; (d) use the Services in any manner that is harmful, fraudulent, deceptive, threatening, abusive, obscene, libelous, or otherwise objectionable; (e) use the Services in any manner that could disable, overburden, damage, or impair the Services, or interfere with any other use of the Services, including but not limited to, any user's ability to engage in real-time activities through the Services; (f) use any robot, spider, program, script, or other automatic device, process, or means to access the Services for any purpose, including to monitor or copy any of the material provided through the Services; (g) use any manual process to monitor or copy any of the material provided through the Services, or to engage in any other unauthorized purpose without Shift4's express, prior written consent; (h) otherwise use any device, software, or routine that interferes with the proper working of the Services; or (i) otherwise attempt to interfere with the proper working of the Services.

**16. Limitations on Liability and Damages**

IN NO EVENT SHALL SHIFT4 OR ITS AFFILIATES OR ANY OF SHIFT4'S OR ITS' AFFILIATES RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR SUBCONTRACTORS, BE LIABLE UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL THEORY FOR LOST PROFITS, LOST REVENUES, LOST BUSINESS OPPORTUNITIES,

EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, EACH OF WHICH IS EXCLUDED BY AGREEMENT OF THE PARTIES, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER ANY PERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

SHIFT4'S AND ITS' AFFILIATES CUMULATIVE LIABILITY FOR ALL LOSSES, CLAIMS, SUITS, CONTROVERSIES, BREACHES OR DAMAGES FOR ANY CAUSE WHATSOEVER (INCLUDING THOSE ARISING OUT OF OR RELATED TO THESE TERMS AND ANY INDEMNITIES), REGARDLESS OF THE FORM OF ACTION OR LEGAL THEORY, SHALL NOT EXCEED THE AMOUNT OF FEES RECEIVED BY SHIFT4 UNDER THESE TERMS FOR THE IMMEDIATELY PRECEDING SUBSCRIPTION TERM.

**17. Indemnity**

You will indemnify, defend and hold Shift4 harmless (and Shift4's employees, directors, agents, affiliates and representatives) from and against any and all claims, costs, losses, damages, judgments, tax assessments, penalties, interest, and expenses (including without limitation reasonable attorneys' fees) arising out of any claim, action, audit, investigation, inquiry, or other proceeding instituted by a person or entity that arises out of or relates to:

- (a) any actual or alleged breach of your representations, warranties, or obligations set forth in these Terms, including without limitation any violation of our policies or the card associations' rules;
- (b) your wrongful or improper use of the Services;
- (c) any transaction submitted by you through the Services (including without limitation the accuracy of any product information that you provide or any claim or dispute arising out of products or services offered or sold by you);
- (d) your violation of any third-party right, including without limitation any right of privacy, publicity rights or Intellectual Property Rights;
- (e) your violation of any law, rule or regulation of the United States or any other country; or
- (f) any other party's access and/or use of the Services with your user names, password and any other sign on credentials/access controls for the Services or any software provided or approved by Shift4 to authenticate access to, and use of, the Services and any software.

**18. Representation and Warranties**

You represent and warrant that:

- (a) you are validly existing, in good standing and have the right, power, and authority to enter into and perform under these Terms;
- (b) any sales transaction submitted by you (i) is genuine and arises from a genuine sale or service that you directly sold or provided, (ii) accurately describes the goods or services sold and delivered to a purchaser and (iii) represents the correct amount of goods or services purchased from your business;
- (c) you will fulfill all of your obligations to each customer for which you submit a transaction and will resolve any consumer dispute or complaint directly with the consumer;
- (d) you, all transactions initiated by you and your use of the Services will comply with all federal, state, and local laws, rules, and regulations applicable to your business, including any applicable tax laws and regulations and card association rules and regulations;
- (e) except in the ordinary course of business, no sales transaction submitted by you through the Services will represent a sale to any principal, partner, proprietor, or owner of your entity;
- (f) you will not use the Services, directly or indirectly, for any fraudulent undertaking or in any manner so as to interfere with the use of the Service; and
- (g) you are not engaged in and will not accept payment for any illegal activity, in the legal jurisdiction(s) in which you do business or provide goods and/or services.

**19. Consent to Electronic Communication**

- 19.1. You agree that Shift4, its affiliates and its third-party subcontractors and/or agents, may use, in addition to any live agent calls, an automatic telephone dialing system, an artificial or pre-recorded voice, or both, to contact you at the telephone number(s) you have provided, and/or may leave a detailed voice message if you are unable to be reached, even if the number provided is a cellular or wireless number or if you have previously registered on a Do Not Call list or requested not to be contacted for solicitation purposes.
- 19.2. You consent to receiving commercial electronic messages, including e-mail messages, SMS and text messages, and telephone calls, from Shift4, its affiliates and its third-party sales contractors and/or agents.

**20. Amendment**

Shift4 has the right to change or add to these Terms at any time, and to change, delete, discontinue, or impose conditions on any feature or aspect of the Services with notice that Shift4 in our sole discretion deem to be reasonable in the circumstances, including such notice on Shift4's interface or any other website maintained or owned by Shift4. Any use of the Services after Shift4's publication of any such changes or providing notice shall constitute your acceptance of these Terms as modified.

**21. Assignment**

These Terms, and any rights or licenses granted hereunder, may not be transferred or assigned by you (including by operation of law, transfer of voting control of you or otherwise) without Shift4's prior written consent, but may be assigned by Shift4 without restriction.

**22. General Provisions**

These Terms are a complete statement of the agreement between you and Shift4 and describe the entire liability of Shift4 and its vendors and suppliers (including processors) and your exclusive remedy with respect to your use and access to the Services. These Terms shall be governed and construed in accordance with the laws of the State of Pennsylvania without regard to its conflicts of laws provisions. You and Shift4 agree to submit to the exclusive jurisdiction of the courts located within Lehigh County, Pennsylvania to resolve any legal matter arising from these Terms. If any provision of these Terms is invalid or unenforceable under applicable law, then it shall be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law, and the remaining provisions will continue in full force and effect. These Terms do not limit any rights that Shift4 may have under trade secret, copyright, patent or other laws. Except for Shift4's affiliates and as otherwise stated herein, no persons shall be third-party beneficiaries to these Terms. No waiver of any provision of these Terms shall be deemed a further or continuing waiver of such provision or any other provision, and Shift4's failure to assert any right or provision under these Terms shall not constitute a waiver of such right or provision. Notices sent to your last known e-mail address or postal address, as indicated in our records, shall constitute effective notice to you under these Terms.