

## Sphere Terms of Service & Privacy Policy

*Last Updated: September 1st, 2023*

Welcome to Sphere!

Sphere is a technology services provider that offers various software and systems solutions to help businesses streamline their payments. The following terms and conditions of service, together with any other documents expressly incorporated herein, (collectively, the "**Terms**") constitute a legal agreement between you, the entity or sole proprietor on whose behalf a Sphere account is created, ("**you**", "**your**", "**User**", "**Merchant**", "**Client**", or "**Customer**") and Sphere Laboratories, Inc., a company incorporated and registered in the United States in the State of Delaware ("**Sphere**", "**we**", "**our**", "**us**", or "**Company**"), to receive certain payment processing, data, technology and analytics, or other business services offered by Sphere and its Affiliates.

These Terms apply to your use of the Sphere Dashboard ("**Dashboard**", "**Application**"), Application Programming Interface ("**API**"), Software Development Kits ("**SDKs**"), and any Specified Service that may be offered to you by Sphere, its Affiliates, and/or a Service Provider (collectively, the "**Platform**"), as a Merchant to accept fiat payments for goods and services; non-custodially accept digital assets for goods and services; self-custody digital assets; access reporting, tax, accounting, and invoicing capabilities; and additional functionality as Sphere may add to the Platform from time to time (collectively, the "**Services**").

These Terms describe the terms that govern your use of all versions of the Platform. These Terms and additional information about the Platform can be found on <https://spherepay.co> (the "**Site**").

BY PROCEEDING, YOU UNDERSTAND THAT SPHERE IS NOT A BANK, LICENSED MONEY TRANSMITTER, BROKER/DEALER, EXCHANGE, CUSTODIAN, OR FIDUCIARY. IF THESE TYPES OF SERVICES ARE PROVIDED, OUR LICENSED AFFILIATES WILL PROVIDE ALL APPLICABLE BANK AND/OR MONEY TRANSMISSION SERVICES AND ARE SOLELY RESPONSIBLE FOR HANDLING AND KEEPING YOUR FUNDS SAFE. YOU UNDERSTAND THAT SPHERE MAY PROVIDE YOUR INFORMATION AND INSTRUCTIONS TO A PARTNER FINANCIAL INSTITUTION OR A THIRD-PARTY SERVICE PROVIDER SOLELY ON A "PASS-THROUGH" BASIS IN ACCORDANCE WITH THESE TERMS OF SERVICE OR ANY INSTRUCTION YOU PROVIDE. IN SO PROVIDING YOUR INFORMATION OR INSTRUCTIONS TO A PARTNER FINANCIAL INSTITUTION OR A THIRD-PARTY SERVICE PROVIDER, SPHERE IS NOT AUTHORIZED TO INITIATE OR EXECUTE



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TRANSACTIONS, PAYMENTS, OR TRANSFERS, AND ONLY THE APPLICABLE PARTNER FINANCIAL INSTITUTION OR THIRD-PARTY SERVICE PROVIDER IS AUTHORIZED TO DO SO. SPHERE DOES NOT AND WILL NOT CONTROL, TRANSMIT OR HOLD YOUR FUNDS PURSUANT TO THESE TERMS OF SERVICE.

IF YOU DO NOT AGREE WITH THESE TERMS, OR IF YOU REJECT ANY PART OF THEM, YOU MUST IMMEDIATELY CEASE ALL USE OF THIS SITE, APPLICATION, OR RELATED SERVICES AND EXIT THE PLATFORM. YOUR CONTINUED USE OF THE SITE, APPLICATION, OR ANY ASSOCIATED SERVICES WILL BE DEEMED AS YOUR EXPLICIT ACKNOWLEDGMENT AND ACCEPTANCE OF THESE TERMS, INDICATING YOUR UNDERSTANDING AND AGREEMENT TO COMPLY WITH AND BE BOUND BY THEM. THIS INCLUDES YOUR EXPRESS WAIVER OF THE RIGHT TO PARTICIPATE IN A JURY TRIAL IN COURT OR JOIN IN ANY CLASS ACTION LAWSUIT AGAINST US. YOU AGREE THAT ALL DISPUTES ARISING FROM OR RELATED TO THESE TERMS OR YOUR USE OF OUR SERVICES MUST BE RESOLVED EXCLUSIVELY IN A DELAWARE SMALL CLAIMS COURT OR THROUGH MUTUAL ARBITRATION, AND ANY CLAIMS MUST BE MADE WITHIN ONE YEAR OF THE OCCURRENCE OF THE ALLEGED INCIDENT.

Certain features of the Sphere Services may be provided by our Affiliates (“**Affiliate Services**”), including but not limited to our technology, infrastructure, and financial institution affiliates (“**Affiliates**”). By applying for a Sphere Account and using the Sphere Services, you agree to comply with each of these terms, the terms and conditions of our partnered Affiliates (the “**Affiliate Agreements**”), their respective privacy policies (the “**Affiliate Privacy Policies**”), and to any other terms we link to in this document that become applicable to you after you begin using the Sphere Services. These Affiliate Services are not default publicly available or accessible, as they only apply to a select number of Merchants that have undergone a rigorous anti-money laundering and counter-terrorist financing (“**AML/CFT**”) program, including but not limited to Know-Your-Customer (“**KYC**”) and Know-Your-Business (“**KYB**”) identity verification. If you wish to access these Affiliate Services and/or if they are relevant to you, they will be presented to receive your explicit consent before gaining access to these Affiliate Services.

**Please read these Terms of Service carefully**, as they include important information about your legal rights with respect to your use of Sphere Services through the Platform, and covers areas such as warranty, disclaimers, limitation of liability, and the resolution of disputes by arbitration and a class action waiver.

THIS AGREEMENT IS ACCOMPANIED BY SPECIFIC DISCLOSURES REGARDING YOUR UTILIZATION OF THE SPHERE SERVICES. YOUR CONCURRENCE WITH THE TERMS SET FORTH IN THIS AGREEMENT CONSTITUTES YOUR RECOGNITION AND ASSENT TO THESE ADDITIONAL DISCLOSURES, WHICH ARE ELABORATED THROUGHOUT THESE TERMS AND MAY BE PROVIDED UPON



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REQUEST. ADDITIONALLY, YOU HEREBY AGREE TO THE RECEIPT OF ALL COMMUNICATIONS FROM US AND OUR AFFILIATES EXCLUSIVELY VIA ELECTRONIC MEANS. THIS AGREEMENT REMOVES THE POSSIBILITY OF COMMUNICATING WITH US REGARDING THE SPHERE SERVICES THROUGH TELEPHONE, STANDARD POSTAL SERVICES, OR OTHERWISE.

**Sphere takes your privacy seriously.** Our Privacy Policy, disclosed further below, explains how we, if ever, may collect and use any Personal Data you share with us. Each time you visit our website, apply for an account with us (“Sphere Account”, “Account”), or use the Sphere Services, you are giving us your consent to collect, use, and disclose your Personal Data, as that term is defined in our Privacy Policy . Your consent applies for as long as you use the Sphere Services.

BY PROCEEDING, YOU EXPRESSLY ACKNOWLEDGE AND ACCEPT YOUR SOLE RESPONSIBILITY FOR COMPLIANCE WITH ALL APPLICABLE ANTI-MONEY LAUNDERING (AML) AND COUNTER-TERRORISM FINANCING (CFT) REGULATIONS IN CONNECTION WITH YOUR USAGE OF THE SPHERE SERVICES. YOU AGREE TO UTILIZE THE SPHERE SERVICES IN A LEGAL MANNER, STRICTLY IN ACCORDANCE WITH ALL RELEVANT LAWS AND REGULATIONS. YOU ALSO AGREE NOT TO ENGAGE IN REVERSE ENGINEERING, DECOMPILING, OR ATTEMPTING TO DISCERN THE UNDERLYING CODE OR STRUCTURE OF THE SPHERE SERVICES, NOR TO USE ANY KNOWLEDGE ACQUIRED FROM UTILIZING THE SPHERE SERVICES TO DEVELOP SIMILAR OR COMPETING SERVICES. IN THE EVENT OF ANY DISPUTE, THE TERMS OF THIS AGREEMENT AS IT PERTAINS TO SPHERE SERVICES SHALL OVERRIDE AND SUPERSEDE ANY OTHER CONTRADICTORY PRIVACY POLICY, TERMS OF SERVICE, OR LEGAL AGREEMENT UNLESS EXPLICITLY AND PREVIOUSLY AGREED TO IN WRITING.

**By using or accessing the Sphere Services or by clicking on a corresponding box, icon, or button, you are agreeing to these Terms of Service.** If you are using the Services for or on behalf of an organization, you're agreeing to these Terms of Service on behalf of that organization, and you represent and warrant that you have the authority and are otherwise able to do so (the reference to “you” or “your” in this Terms of Service includes such organization). Sphere may update these Terms of Service from time to time in its sole discretion.

All changes are effective immediately when Sphere verifiably posts them on its Site or other public domain. Your continued use of the Sphere Services following the posting of revised Terms of Services means that you accept and agree to the changes. You are expected to, and it is your responsibility to, check this page for updates to these Terms of Service from time to time, so you are aware of any changes, as they are binding on you. **To reiterate from above, if you do not agree to the Terms of Service or updates thereto, you must immediately stop using or accessing the Sphere Services and you may lose access to the Sphere Services.**

## 1. About Sphere and Sphere Services

### 1.1. About Sphere.

Sphere Laboratories, Inc. is a technology services provider that offers various software and systems solutions to help businesses streamline their payments through proprietary infrastructure and user-interface technology and relationships with its Affiliates. Although Sphere volunteers for many, if not all, the compliance requirements of a registered Money Service Business (“**MSB**”), or Virtual Asset Service Provider (“**VASP**”) or regional equivalent, Sphere is not a bank, money transmitter, money services business, virtual asset service provider, exchange, broker/dealer, custodian, fiduciary or similar. Sphere is not registered with the U.S. Department of Treasury Financial Crimes Enforcement Network (“**FinCEN**”), Financial Industry Regulatory Authority (“**FINRA**”) or the Securities Investor Protection Corporation (“**SIPC**”). Sphere is a technology company, and any banking and/or financial services that may, but not necessarily, be provided to a Merchant or, in some qualified cases, the customer of a Merchant (“**End-User**”, “**Merchant’s Customer**”), via the Platform are either provided by one or more licensed Affiliates that are regulated and legally allowed to provide these services; or between peers that have consented to engage with each other. BY ACCEPTING THIS AGREEMENT, WHETHER EXPLICITLY OR IMPLICITLY THROUGH CONTINUED USE OF THE PLATFORM WITHOUT IMMEDIATELY EXITING UPON ITS PRESENTATION, YOU UNCONDITIONALLY AGREE TO THE TERMS AND PRIVACY POLICIES OF OUR AFFILIATES. THESE POLICIES WILL BE PROMINENTLY DISPLAYED TO YOU WHEN RELEVANT AND/OR ARE AVAILABLE UPON REQUEST. IT IS YOUR ABSOLUTE RESPONSIBILITY TO CONDUCT THOROUGH DUE DILIGENCE PRIOR TO FURTHER ENGAGEMENT WITH THE PLATFORM. CONTINUANCE ON THIS PLATFORM SIGNIFIES YOUR EXPLICIT CONSENT TO THESE TERMS. IN INSTANCES WHERE APPLICABLE, YOU OR YOUR USERS WILL BE ENTERING INTO A DIRECT LEGAL RELATIONSHIP WITH OUR AFFILIATES TO THE EXTENT THAT THEY PROVIDE YOU ACCESS TO THEIR SERVICES THROUGH SPHERE. YOU ACKNOWLEDGE THAT YOUR INTERACTIONS WITH OUR AFFILIATES ARE GOVERNED BY THEIR RESPECTIVE TERMS AND POLICIES, AND SPHERE ASSUMES NO LIABILITY FOR YOUR ENGAGEMENTS WITH SUCH AFFILIATES. YOUR DECISION TO UTILIZE SERVICES OFFERED BY OUR AFFILIATES THROUGH SPHERE IMPLIES YOUR FULL COMPLIANCE AND AGREEMENT TO THESE TERMS AND ANY OTHER ASSOCIATED LEGAL OBLIGATIONS.

### 1.2. About Sphere Services.

In the case of Sphere Services or Sphere-Enabled Services that facilitate your access to regulated activity including but not limited to banking services (e.g. deposit accounts, cards, funds transmission), data privacy (e.g., collection and transmission of personal identifiable data), et cetera, such services are either provided by our licensed Affiliates, which may either directly or indirectly include, without limitation, one or more national or state-chartered banks, associations, qualified custodians, payment service providers, payment processors, card networks, and in some cases decentralized ledgers. With respect to Sphere or Sphere-Enabled Services that facilitate your access to digital asset services (e.g. digital wallets or digital asset conversion services), such digital asset services are provided by our Affiliates or other third-party service provider(s), or are non-custodially originated from Users.

## **2. Consent.**

You agree to these Terms of Service when you use the Sphere Services or Sphere-Enabled Services. You understand, as described in greater detail above, that any regulated services, including, without limitation, banking and financial services provided on your behalf via the Sphere Platform or a Platform provided by Merchants (“**a Platform**”), are provided directly to you by an Affiliate and not by Sphere. In some cases, certain services provided to you via the Platform may be provided to you directly by the Platform, in which case, the Platform is responsible for providing such services to you pursuant to one or more agreements between you and the Platform, as may be applicable. The Sphere Services and Sphere-Enabled Services may allow you to easily communicate with Affiliates via a Platform. By using the Sphere Services or Sphere-Enabled Services, you expressly consent to and grant to Sphere the right, power, and authority to act on your behalf to access and securely transmit your personal and financial information, including service requests, to and between any Affiliate and the Platform subject to the best practices of modern data privacy regulation, including the General Data Protection Regulation (“**GDPR**”), and its regional equivalents. Sphere does not store this personal and financial information, and uses secure 3rd party vendors to tokenize and encrypt this information at transit and at rest. Sphere will only interact with this information when it is absolutely necessary, such as when you explicitly consent and instruct us to on your behalf.

## **3. Eligibility**

### **3.1. Requirements**

To be eligible to apply for, create, and use a Sphere Account, or to use Sphere-Enabled Services through a Merchant that has been approved, you

must be at least 18 years old; have the legal capacity to agree to these terms; are not barred from using the Sphere Services under applicable law including but not limited to individual sanctions, residence in a geography that is restricted by applicable law, or similar; you must have or be eligible to create an active account at our Affiliates to the extent that you wish to use their services as a part of the Sphere Services; If you are opening a Sphere Account on behalf of a business entity (“**Business User**”), you warrant under that you are either authorized by the Business User to open a Sphere Account, are an executive officer of the Business User, or your position permits you to make important decisions for the Business User, such as in the case of a controlling party, entity, or individual.

### **3.2. Sanctions and Account Restrictions**

You may not use Sphere Services or Sphere-Enabled Services if, as it pertains to sanctions or other similar international regulations, you are in, under the control of, or a national or resident of Cuba, Iran, North Korea, Sudan, Syria, or any other country subject to United States embargo, UN Security Council Resolutions (“UNSCR”), HM Treasury's financial sanctions regime, or if you are on the U.S. Treasury Department's Specially Designated Nationals List or the U.S. Commerce Department's Denied Persons List, Unverified List, Entity List HM Treasury's financial sanctions regime. Similarly, you may not use Sphere Services or Sphere-Enabled Services if you intend to supply any Services to Cuba, Iran, North Korea, Sudan, Syria, or any other country subject to United States embargo or HM Treasury's financial sanctions regime, or to a person on the Specially Designated Nationals List, Denied Persons List, Unverified List, Entity List, or HM Treasury's financial sanctions regime. You agree to comply with all applicable export control and trade sanctions laws

### **3.3. Use Limitations and Termination**

If you are a Business User, you may only use the Sphere Services for commercial purposes. If you are not a Business User, you may only use the Sphere Services for personal, consumer, or household purposes. By proceeding, you agree that you are solely and fully responsible for any legal consequences if any of the above information was inaccurately represented at the time of account creation or throughout the use of Sphere Services. Sphere retains the discretion to, without notice, close any Sphere Accounts or access for End-Users that are discovered to not be eligible.

## **4. User Responsibilities**

These responsibilities apply without limitation to both Merchants and End-Users for Sphere Services and Sphere-Enabled Services.

#### **4.1. Conduct**

You agree and acknowledge that, in using the Sphere Services and Sphere-Enabled Services, you will not provide false, inaccurate, or misleading information to Sphere or in connection with your use of the Sphere Services or Sphere-Enabled Services; defraud or attempt to defraud Sphere, a Platform, or an Affiliate, including through, without limitation, receiving or attempting to receive duplicate compensation for a disputed transaction; or otherwise breaching these Terms and any applicable laws.

#### **4.2. Account Security**

You solely bear the risks associated with accessing and using your Sphere Account. Sphere is not responsible for any unauthorized access to or use of your Account Credentials, Account, or Account keys. You will be the only entity able to access your Sphere Account using the unique Account Credentials tied to your profile upon set-up. Sphere itself does not store or have knowledge of Account Credentials. If any unauthorized access occurs relating to your Account Credentials or Account, you must immediately notify Sphere to allow for appropriate review and response, if possible. Sphere reserves the right to suspend, limit, or terminate any Account in its sole discretion, if the security or integrity of the Account is compromised or believed to be compromised. This includes but is not limited to unauthorized access by third-parties, sharing of Account Credentials with unauthorized parties, or any other suspicious activity relating to the Account.

Sphere further reserves the right to disclose any information related to an Account, including but not limited to personal identification information, digital wallet contents, IP addresses, or other metadata, to any law enforcement or government authority that properly compels such disclosure through valid legal process. You agree that Sphere shall not be liable to you or any third party for any modifications, suspensions, or terminations of your Account pursuant to this Policy. We are not responsible (and you will not hold us responsible) for any unauthorized access to or use of your Login Credentials, your Affiliate Account, or your Sphere Account. We do not have access to your Affiliate Account, and we cannot retrieve or change your Login Credentials. In cases where relevant, you must contact the Affiliate immediately if you become aware of or suspect any unauthorized access to your Affiliate Account. Your use of the Sphere platform indicates your acknowledgement and acceptance of these terms relating to Account security and management.

#### **4.3. Obligations and Sphere-Enabled Services**



#### 4.3.1. Registration Process

When applying to registering for a Sphere Account, you must provide complete, accurate and up-to-date information for all required elements, including your full legal name. Providing misleading information is prohibited. You agree to furnish any additional identification or other documentation requested by Sphere for identity verification, or the detection and prevention of financial crimes like money laundering and terrorism financing. This may include items such as a government photo ID, lease agreement, or utility bill to validate Account residency. You authorize Sphere to retain copies of submitted identification materials as well as conduct inquiries Sphere deems necessary – directly or via third party vendors – to verify your identity, protect users from fraud, or comply with applicable regulations. You understand such inquiries may involve disclosure of personal details to credit bureaus, data aggregators, or financial regulatory bodies, and that these entities may provide comprehensive response information for verification purposes. By accepting these terms and registering an account, you agree to promptly furnish any additional information we request and understand Sphere owes no obligation to establish an Account if identity cannot be verified or compliance obligations are unclear or unmet. Sphere will safeguard privacy to the greatest lawful extent. Should issues ever emerge, you agree to cooperate fully with any lawful investigations.

#### 4.3.2. Enhanced Verification

In certain circumstances, Sphere may require you to submit supplemental information for the purposes of conducting additional due diligence (“**Enhanced Verification**”, “**Enhanced KYC/B**”, “**KYC/B with ID Verification**”). This could include providing further details about your identity, occupation, business activities, financial history and sources of income/wealth. As part of the Enhanced Verification process, you may need to furnish documentation or undertake additional verification steps in order to validate the integrity and compliance status of your Sphere Account. The specific nature and scope of additional information or documentation required, if any, shall be determined at Sphere's sole discretion based on risk factors pertaining to your particular account profile, transaction history and regulatory obligations. Your prompt cooperation and submission of any materials or completion of any verification procedures reasonably requested by Sphere during Enhanced Verification review is a condition of maintaining an active Sphere Account in good standing. Sphere reserves the right to restrict or close the account if requirements are not satisfactorily met.

#### 4.3.3. Sphere Enabled-Services



#### 4.3.3.1. **Enhanced User Obligations**

For Users that wish to offer Sphere-Enabled Services to third-party End Users through their applications or platforms, they understand and agrees that by leveraging the Sphere Services to provide payments or other regulated financial services to End Users, they now bears direct responsibility under applicable law for implementing appropriate AML/CFT, Office of Foreign Assets Control (“**OFAC**”) sanctions screening, and KYC/B measures to vet all such End Users before allowing access to Sphere-Enabled Services (“**Enhanced User Obligations**”). These include, without limitation: (1) acceptance and processing of fiat or digital asset payments from End Users; (2) custody of digital assets on behalf of End Users using the wallet infrastructure provided by Sphere’s Affiliates; and (3) transmission of funds or assets from End Users through the User to third parties.

#### 4.3.3.2. **AML/CFT Procedures**

User agrees to the best practice of implementing and maintain a robust ongoing compliance program that regularly screens all applicable End Users against OFAC lists and conducts appropriate KYC/B procedures before allowing access to regulated Sphere-Enabled Services. This may include monitoring all accounts and transactions for suspicious activity; geo-blocking IP addresses from restricted areas, known VPNs, common TOR exit-nodes; and promptly filing any necessary reports to FinCEN, or other equivalent authorities.

#### 4.3.3.3. **Peer-to-Peer Transactions**

User agrees to use commercially reasonable efforts to screen End Users for OFAC using available information and monitor activity for any illegal or suspicious behavior in peer-to-peer transactions.

#### 4.3.3.4. **Liabilities for Breach**

While Sphere implements robust AML/CFT, OFAC and KYC/B screening and monitoring processes covering activity that occurs through its own infrastructure and products, Sphere does not control the User’s separate infrastructure, applications, or platforms through which Sphere-Enabled Services may be offered to End Users. As such, any failure by a User to properly extend and apply equivalent compliance measures to its own Services, as agreed to previously, could potentially cause irreparable damage to Sphere. By proceeding, User agrees to provide to bear full legal responsibility for the End

Users they service. This responsibility is elaborated in §4.4.

#### **4.4. Remediation**

You will be fully responsible for any and all liability, losses, damages or claims that arise from or relate to unauthorized access or use of your Sphere Account, violation of these Terms, or non-compliance with applicable laws. Sphere maintains full discretion regarding remedies or actions taken in response to any such breaches, without requiring advance notice. If a breach of these Terms involves coordinated efforts by you and other Sphere Users, you and those parties may be jointly and severally liable for resulting monetary, equitable or any other damages incurred by Sphere and its Affiliates. Sphere's election to pursue any particular legal or equitable remedy for actual or threatened violations will not act as a waiver of Sphere's other rights or remedies, nor preclude Sphere from pursuing multiple or alternative remedies simultaneously or in the future. Sphere makes no guarantee to take action in response to violations, but retains full discretion to do so as it deems appropriate.

### **5. Support**

#### **5.1. Obligations to Merchants**

Sphere will use commercially reasonable efforts support all Merchants who access regulated Sphere Services directly through provision of customer assistance, network maintenance, and incident response as necessary and detailed in the associated Sphere Master Service Agreement (“**MSA**”), and accompanying Service Level Agreement executed by duly authorized representatives of Merchant and Sphere (“**SLA**”).

#### **5.2. Obligations to End Users**

However, Sphere does not guarantee equivalent levels of support for Merchant offerings of Sphere Services, in this case Sphere-Enabled Services, to third-party End Users. While Sphere will endeavor to remediate direct disruptions to its infrastructure per the MSA/SLA, it cannot oversee nor is legally responsible for independent applications, platforms or systems operated by Merchant in connecting End Users to Sphere Services. Sphere will abide by the agreements detailed in the MSA/SLA to provide commercially reasonable efforts, to the best of its ability and subject to the legal obligations described therein, to assist Merchants in supporting their End Users to the extent where it applies to Sphere Services.

#### **5.3. Withdrawing Consent**

Should Merchants or, in relevant cases, End Users wish to withdraw their consent to these Terms, or otherwise wish to cease receiving electronic communications, they must immediately contact Sphere at [support@spherepay.co](mailto:support@spherepay.co). If you fail to provide, or if you withdraw your consent to receive communications electronically, Sphere reserves the right to immediately close the relevant Sphere Account(s) and/or invoice for additional fees for paper copies or other outstanding financial obligations.

## 6. Fees, Intellectual Property, and Taxes

### 6.1. Fees

Sphere Fees for access to and use of the Sphere platform and suite of financial technology services by the Merchant shall be calculated on a basis according to transaction volume, asset value, or other applicable metric as mutually agreed upon in writing in the corresponding MSA/SLA executed concurrently herewith. Sphere Fees are separate and distinct from any additional fees Merchant may separately assess its End Users for access to value-added services or software applications built upon Sphere ("**Merchant Fees**"). Merchant shall have sole discretion and responsibility over its fee structure for End Users subject to applicable law and regulation.

### 6.2. Intellectual Property

#### 6.2.1. Ownership

Sphere retains exclusive ownership of any and all intellectual property related to the Sphere platform, applications, software code, documentation, APIs, graphical interfaces, database structures, and related technical materials, whether existing or future versions (collectively, "Sphere IP"). Sphere IP also encompasses all modifications, improvements, integrations, derivative works and any other innovations developed during the course of this Agreement. Sphere grants its Users a limited, non-exclusive right to utilize the Sphere Services strictly for its internal business needs, benefiting both itself and End Users. During the tenure of this agreement, the User has the permission to engage with the Sphere Platform and its API, and to reproduce and use relevant resources to support their proper utilization. Except as explicitly provided, no right, title or interest in Sphere IP is granted or conferred to the User.

#### 6.2.2. Copyright and Feedback

The content, works, communications and other materials provided by

Sphere, whether displayed on or downloaded from our platform, including any names, logos, trademarks, service marks, trade names, information, data, software, scripts, graphics, photos, sounds, music, videos, interactive features, materials and other works (the "**Sphere Content**"), are proprietary to Sphere or our content contributors. Subject to your compliance with these Terms, Sphere grants you a limited, revocable, non-exclusive license to access and make personal, non-commercial use of the Sphere Content. You may not distribute, modify or create derivative works from any Sphere Content without permission. All rights not expressly granted to you are reserved by Sphere. Any uploads, transmissions or other input of data or content by you ("**User Input**") shall be considered non-confidential, and Sphere shall have an irrevocable, perpetual license to use, store, cache, publish, and distribute such User Input for any legal purpose.

### 6.3. Taxes

Users and, if relevant, their End Users for Sphere Services and Sphere-Enabled Services must cover all sales, use, ad valorem and excise, and other similar taxes imposed by governmental authorities on payments made to Sphere, excluding taxes on Sphere's income. If any need to deduct any taxes from payments to Sphere, they should adjust the payment amount to ensure Sphere receives the full amount as if no deductions occurred. Broadly, Sphere does not provide tax or legal advice. We will report any relevant informations such as our proceeds from the Platform to the Internal Revenue Service to the extent and manner required by applicable law.

## 7. No Warranties and Limited Liability

### 7.1. No Warranties

SPHERE HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND WHATSOEVER, WHETHER EXPRESS, IMPLIED, STATUTORY OR ARISING FROM A COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. WITHOUT LIMITING THE FOREGOING, SPHERE SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, ACCURACY, COMPLETENESS, QUIET ENJOYMENT, AND INTELLECTUAL PROPERTY NON-INFRINGEMENT. THE SPHERE SERVICES ARE EXPERIMENTAL IN NATURE AND ARE PROVIDED STRICTLY ON AN "AS IS" AND "AS AVAILABLE" BASIS. SPHERE MAKES NO REPRESENTATIONS OR WARRANTIES THAT THE SPHERE SERVICES WILL MEET USER'S REQUIREMENTS OR BE AVAILABLE ON AN UNINTERRUPTED, SECURE, OR ERROR-FREE BASIS. SPHERE CANNOT AND DOES NOT REPRESENT OR WARRANT THAT THE SPHERE SERVICES OR THE SERVERS THAT MAKE

THE SERVICES AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. SPHERE MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE RELIABILITY, ACCURACY, COMPLETENESS, TIMELINESS, USEFULNESS, SUITABILITY, ADEQUACY, MERCHANTABILITY, PHYSICAL CONDITION, QUALITY, RECEIPT, TRANSMISSION, DELIVERY, SEQUENCE OR OTHERWISE OF THE SPHERE SERVICES OR ANY CONTENT, DATA, MATERIALS, PRODUCTS OR SERVICES PROVIDED THROUGH THE SPHERE SERVICES. USER EXPRESSLY AGREES THAT ITS USE OF THE SPHERE SERVICES IS AT ITS SOLE RISK. SPHERE SHALL HAVE NO LIABILITY FOR ANY DAMAGE OF ANY KIND ARISING FROM USER'S ACCESS TO OR USE OF THE SPHERE SERVICES. WITHOUT LIMITING THE FOREGOING, SPHERE SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, DATA, USE, CONTRACT OR OTHER INTANGIBLE LOSSES. NONE OF SPHERE, OUR AFFILIATES, NOR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, PARTNERS, EMPLOYEES, AGENTS OR CONTRACTORS (COLLECTIVELY, "**SPHERE PARTIES**") SHALL BE LIABLE TO ANY AUTHORIZED USER FOR ANY LOSSES, DAMAGES, EXPENSES, COSTS, OR LIABILITIES ARISING OUT OF OR RESULTING FROM ANY ACTIVITIES ASSOCIATED WITH AN SPHERE ACCOUNT OR ANY USE OF THE SPHERE SERVICES BY SUCH USER, INCLUDING BUT NOT LIMITED TO DAMAGES RELATED TO THE EXECUTION OF TRADES, TRANSFER OF FUNDS, STORAGE OF DIGITAL ASSETS, SERVICE DISRUPTIONS, THIRD PARTY ACTIONS, SYSTEM FAILURES, UNAUTHORIZED ACCESS, GOVERNMENTAL ACTIONS, FORCE MAJEURE EVENTS, OR OTHER CAUSES BEYOND SPHERE'S REASONABLE CONTROL (COLLECTIVELY, "CLAIMS"), EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT. THE FOREGOING EXCLUSION OF LIABILITY SHALL NOT APPLY TO ANY CLAIMS PROVEN TO HAVE RESULTED SOLELY AND DIRECTLY FROM THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD OF A SPHERE PARTY, AS FINALLY DETERMINED BY A COURT OF COMPETENT JURISDICTION. UNDER NO CIRCUMSTANCES SHALL ANY SPHERE PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, REVENUE, DATA OR USE, INCURRED BY ANY AUTHORIZED USER OR ANY THIRD PARTY, WHETHER IN AN ACTION ARISING OUT OF CONTRACT, TORT OR ANY OTHER LEGAL THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## **7.2. Limited Liability**

NOTWITHSTANDING ANY DAMAGES THAT USER MIGHT INCUR FOR ANY REASON WHATSOEVER, THE ENTIRE LIABILITY OF SPHERE AND ANY OF ITS AFFILIATES OR AGENTS, AND USER'S EXCLUSIVE REMEDY FOR ALL OF THE FOREGOING, SHALL BE LIMITED TO ACTUAL DAMAGES INCURRED BY USER BASED ON REASONABLE RELIANCE UP TO A

MAXIMUM AMOUNT OF THE TOTAL FEES PAID BY USER IN THE TWELVE (12) MONTHS PRECEDING THE DATE OF ANY CLAIM OR DEMAND MADE BY USER. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTIONS OR CLAIMS IN THE AGGREGATE INCLUDING BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION AND ANY OTHER TORTS. IN NO EVENT SHALL SPHERE BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF USE OR DATA, INTERRUPTION OF BUSINESS, OR FOR INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF SPHERE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. USER AGREES THAT REGARDLESS OF ANY STATUTE OR LAW TO THE CONTRARY, ANY CLAIM OR CAUSE OF ACTION ARISING FROM OR RELATED TO USE OF THE SPHERE SERVICES OR THESE TERMS & CONDITIONS MUST BE FILED WITHIN ONE (1) YEAR AFTER SUCH CLAIM OR CAUSE OF ACTION AROSE OR BE FOREVER BARRED. THE LIMITATIONS SET FORTH HEREIN SHALL APPLY REGARDLESS OF THE THEORY OF LIABILITY ON WHICH A CLAIM IS BASED, WHETHER IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE), STATUTE OR OTHERWISE. THESE RESTRICTIONS WILL APPLY UNLESS AND TO THE EXTENT EXPRESSLY PROHIBITED BY APPLICABLE MANDATORY LAW. BY PROCEEDING YOU EXPLICITLY CONSENT TO THESE WARRANTY PROVISIONS AND LIMITATION OF LIABILITY AS THEY FORM THE FOUNDATION OF YOUR LEGAL RELATIONSHIP WITH SPHERE.

## 8. Mutual Arbitration and Waivers

### 8.1. Agreement to Arbitration

For all disputes arising from or relating to these Terms or your relationship with Sphere (collectively, “**Claims**”), you agree to binding arbitration (“**Arbitration Agreement**”). This includes Claims between us, you, or related third parties. You acknowledge that arbitration is a mandatory substitute for litigation that offers distinct advantages in both efficiency and cost when resolving disputes. By agreeing to arbitrate all Claims according to this Section, you acknowledge and agree without limitation that arbitration generally involves a limited discovery process, that issues are decided by a neutral third-party arbitrator rather than a judge or jury, and that the arbitrator's award is binding, with limited rights to appeal. This Arbitration Agreement shall apply to all Claims between you, any related third parties involved in any aspect of your Sphere account or activities, and Sphere, and its current and former affiliates, subsidiaries, employees and agents, regardless of whether the Claims arose in the past, present or future. The Claims subject to this Arbitration Agreement include without limitation all federal and state statutory, common law and equitable Claims.

## 8.2. Waiver of Jury Trial and Class Action Rights

BY PROCEEDING YOU AGREE TO THIS BINDING ARBITRATION AGREEMENT. AS A RESULT, YOU WAIVE THE RIGHT TO LITIGATE CLAIMS IN COURT OR HAVE A JURY TRIAL. SIMILARLY, YOU AGREE TO WAIVE THE RIGHT TO PURSUE A CLASS, CONSOLIDATED OR REPRESENTATIVE CLAIMS. YOU AGREE TO FOREGO THE RIGHT TO DISCOVERY AND THE RIGHT TO APPEAL. ALL CLAIMS, FINDINGS, AND SETTLEMENT UNDER THIS BINDING ARBITRATION SHALL BE KEPT CONFIDENTIAL. YOUR ACCEPTANCE AND CONTINUED USE OF SPHERE'S SERVICES SHALL BE PERMANENTLY CONSTRUED AS CONSENT TO AND PARTICIPATION IN THIS BINDING ARBITRATION PROCESS. BY UTILIZING, ACCESSING OR INTERACTING WITH SPHERE IN ANY MANNER WHATSOEVER, YOU ARE EXPLICITLY AND INHERENTLY AGREEING TO RESOLVE ANY AND ALL DISPUTES, CLAIMS OR CONTROVERSIES AGAINST SPHERE THROUGH BINDING INDIVIDUAL ARBITRATION AS SET FORTH HEREIN.

## 8.3. Arbitration Process

Before initiating arbitration for a dispute not amicably resolved, the parties will first attempt mediation administered by the American Arbitration Association ("AAA") in Delaware, or a mutually agreed location. The parties will mutually select the mediator or if unable, the AAA will select one. If mediation is unsuccessful within 60 days, the dispute will proceed to binding arbitration described below. Notwithstanding, a party may arbitrate to comply with limitation periods. All Claims will be resolved exclusively through binding individual arbitration administered by the AAA under its applicable Rules, limiting discovery. A hearing will occur in the district of your residence. The arbitrator will apply substantive Delaware law consistent with the Federal Arbitration Act ("FAA"). Privileges recognized at law will be honored. The arbitrator's award is final except as allowed by law. Declaratory and injunctive relief is limited to the requesting party. Precedential effects do not extend to non-parties. If any portion is invalid, the remainder survives. The FAA governs. Issues of scope/enforceability interpretation are determined by Delaware/federal courts.

## 8.4. Right to Reject

You may reject this Arbitration Agreement by written notice to Sphere within 30 days of account registration. Rejection does not affect other agreements. Notices must include name, address, email, phone. Claims properly filed in small claims court are excluded.

## 8.5. Governing Law

These Terms and your access/use are governed by Delaware law, without



regard to conflicts principles. Non-arbitrable disputes will be resolved exclusively in Delaware and in federal courts if pertinent.

## 9. Miscellaneous

### 9.1. Notices and Communication

Any information that is deemed to be relevant to a User, as determined by the law, our Affiliates, and at the discretion of Sphere (“**Notice**”, “**Communication**”), shall be sent via e-mail or an otherwise previously agreed upon form of electronic communication. To ensure receipt, you must notify Sphere if there are any changes in your previous communications channel. You agree that Sphere’s verifiable attempt at delivery will be considered valid notice under law, even if circumstances outside of our control, such as a sudden and not imparted change in delivery address has been enacted by you or your service providers. We retain the right to temporarily suspend your Sphere Account if a Notice is undeliverable.

### 9.2. Adaptation

If a court within the state of Delaware finds any part of this Agreement cannot be enforced, that part will be modified to reflect the original intent as much as possible, while the rest of the Agreement remains effective.

### 9.3. Force Majeure

You acknowledge and agree that Sphere cannot be held responsible for a failure to fulfill their duties if unforeseen events beyond our control prevent us from doing so. This includes but is not limited to: earthquake, flood, fire, storm, pandemic, epidemic, or other natural disaster, act of God, labor controversy or threat thereof, civil disturbance or commotion, disruption of the public markets, war or armed conflict, or the inability to obtain sufficient material, supplies, labor, transportation, power, or other essential commodity or service required in the conduct of its business, including internet access, or any change in or the adoption of any law, ordinance, rule, regulation, order, judgment, or decree.

### 9.4. Survival

Notwithstanding any termination or expiration of these Terms, any provisions relating to intellectual property, confidentiality, warranties and disclaimers, limitation of liability, disputes, governing law, compliance with laws, and miscellaneous matters, shall survive and continue to bind the parties, their successors, executors, heirs, representatives and permitted

assigns. Additionally, the following provisions shall explicitly survive termination: (i) Your payment obligations for any fees or costs accrued prior to termination; (ii) Sphere's right to suspend or terminate, including and especially in the future, your access for any past violations; (iii) mutual obligations to resolve any Claims through binding arbitration as described herein; (iv) your duty to promptly delete any Sphere confidential information and refrain from using our intellectual property.

#### **9.5. Indemnification**

You agree to defend, indemnify and hold harmless Sphere and its respective officers, directors, employees, agents, and suppliers from and against any third-party claim, suit, demand, loss, liability, damage, action, proceeding, judgment, settlement, penalty, fine, cost, or expense (including reasonable attorneys' fees and other litigation expenses) arising out of or relating to (i) your breach of any provision of these Terms of Service; (ii) your acts or omissions in connection with your use of the Sphere Services or Sphere-Enabled Services or any Platform; (iii) any act or omission of Sphere, provided that such act or omission is the result of Sphere reasonably responding to your instructions in accordance with these Terms of Service; (iv) your violation of any law and regulation; or (v) your negligent or reckless act or omission, or the willful misconduct of any of your employees, contractors, or agents. (vi) the negligent or reckless act or omission, or the willful misconduct by a Merchant offering Sphere-Enabled services (vii) the negligent or reckless act or omission, or the willful misconduct of an End-User. This provision shall survive the termination of these Terms of Service.

#### **9.6. Entire Agreement**

These Terms, including any documents herein by reference, constitute the full and complete understanding and agreement between the User and Sphere relating to the subject matter hereof and there are no terms, conditions, oral or written statements, warranties, understandings or agreements pertaining to the subject matter hereof other than as stated herein or in a written agreement signed by both parties.

#### **9.7. Title Interpretation**

Any headings used in these Terms are for convenience only and shall not be used to interpret the meaning or scope of any provision. If any part of these Terms is held to be void, invalid, unenforceable or illegal, the other provisions shall continue in full force and effect.

#### **9.8. Order of Precedence**

To the extent there is any conflict or inconsistency between the modules of

the Terms and other outstanding agreements, such conflict or inconsistency shall be resolved in the following order of precedence, unless a term or condition set out in a document of lower precedence is expressly identified as taking precedence over a document of higher precedence: Master Services Agreement, Terms of Services, and other Sphere policies.

#### **9.9. Assignment**

You agree that assigning, novation, or otherwise transferring, any of your rights or obligations under the Terms, or sub-contract the performance of any of your obligations under the Terms, without the prior written consent of Sphere is forbidden and shall be void. Sphere may assign, novate, or otherwise transfer any of its rights or obligations under the Terms to any other person, or sub-contract the performance of any of its obligations under the Terms, including the performance of the Services, at any time and without your consent, and you hereby consent to such assignment, novation, transfer or subcontracting, and agree to take all actions, including without limitation executing documents, and other assistance required by Sphere to ensure that any such assignment, novation, transfer or subcontracting is effective and enforceable. If you object to such assignment, novation, transfer or sub-contracting you may stop using our Services and terminate the Terms by contacting us and requesting us to close your Account.

#### **9.10. Modifications**

As noted previously, these Terms may be amended by Sphere from time to time in its sole discretion, with amendments becoming effective upon their posting to the Sphere website. User's continued use of the Sphere Services after any such amendments constitute acceptance of the amended Terms.

#### **9.11. Compliance with Applicable Laws**

As described in §3.2, you agree and understand that by using Sphere Services and either using or offering Sphere-Enabled Services in any capacity, you shall act in compliance with all Applicable Laws. Failure to do so may result in the suspension of your ability to use the Services or the closure of your Account. Without limitation to the above, your access to and use of your Account and the Services, and the receipt of any fee discounts and rebates, is subject to your continued compliance with all Applicable Laws, including the rules and directions of any applicable Regulatory Authority and, without limitation, all applicable tax, anti-money laundering ("AML") and counter-terrorist financing ("CTF") laws and regulations.