

## Clutch! TERMS OF USE

Please read these Terms of Use carefully as they contain important information about your legal rights, remedies and obligations. By accessing or using Clutch!'s Site or Application (as defined below) you agree to comply with and be bound by these Terms of Use.

Please note: Paragraph 18 of these Terms of Use contains an arbitration clause and class action waiver that applies to all Clutch! Users. If you reside in the United States, this provision applies to all disputes with Clutch!. If you reside outside of the United States, this provision applies to any action you bring against Clutch! in the United States. It affects how disputes with Clutch! are resolved. By accepting these Terms of Use, you agree to be bound by this arbitration clause and class action waiver. Please read it carefully.

These Terms of Use ("**Terms**") constitute a legally binding agreement ("**Agreement**") between you and Clutch! (as defined below) governing your access to and use of the Clutch! website, including any subdomains thereof, and any other websites through which Clutch! makes the Clutch! Services available (collectively, "**Site**"), our mobile, tablet and other smart device applications, and application program interfaces (collectively, "**Application**") and all associated services (collectively, "**Clutch! Services**"). The Site, Application and Clutch! Services together are hereinafter collectively referred to as the "**Clutch! Marketplace**".

When these Terms mention "**Clutch!**," "**we**," "**us**," or "**our**," it refers to Clutch!, LLC., an Alabama Limited Liability Company.

Our collection and use of personal information in connection with your access to and use of Clutch! is described in our Privacy Policy.

Any and all payment processing services through or in connection with your use of the Clutch! Marketplace ("**Payment Services**") are provided to you by one or more Clutch! Payments entities (individually and collectively, as appropriate, "**Clutch! Payments**") as set out in the Payments Terms of Service ("**Payments Terms**").

Providers alone are responsible for identifying, understanding, and complying with all laws, rules and regulations that apply to their Parking Spot Listings and Provider Services. If you have questions about how local laws apply to your Listing(s) and Provider Service(s) on the Clutch! Marketplace, you should always seek legal guidance.

## 1. Scope of Clutch! Services

1.1 Clutch! is an online marketplace that enables registered users (“**Clutch! Users**”) and certain third parties who offer event parking services (Clutch! Users and third parties who offer event parking reservations are “**Providers**” and the event parking reservations and related services they offer are “**Provider Services**”) to publish such Provider Services on the Clutch! Marketplace (“**Parking Spot Listings**”) and to communicate and transact directly with Clutch! Users that are seeking to book such Provider Services (Clutch! Users using Provider Services are “**Guests**”).

1.2 As the provider of Clutch! Services, Clutch! does not own, create, sell, resell, provide, control, manage, offer, deliver, or supply any Parking Spot Listings or Provider Services. Providers alone are responsible for their Parking Spot Listings and Provider Services. When Clutch! Users make or accept a booking, they are entering into a contract directly with each other. Clutch! is not and does not become a party to or other participant in any contractual relationship between Clutch! Users, nor is Clutch! an insurer. Clutch! is not acting as an agent in any capacity for any Member, except as specified in the Payments Terms.

1.3 Clutch! has no control over and does not guarantee (i) the existence, quality, safety, suitability, or legality of any Parking Spot Listings or Provider Services, (ii) the truth or accuracy of any Parking Spot Listing descriptions, Ratings, Reviews, or other Member Content (as defined below), or (iii) the performance or conduct of any Member or third party. *Any Clutch! User proceeds with using the Clutch! Marketplace and either performing or receiving Provider Services at its own peril and affirmatively assumes (by virtue of accepting these Terms of Use) any and all risks that may arise (whether foreseeable or unforeseeable) thereby.* Clutch! does not endorse any Member, Parking Spot Listing or Provider Services. Any such description is not an endorsement, certification or guarantee by Clutch! about any Member, including of the Member's identity or background or whether the Member is trustworthy, safe or suitable. You should always exercise due diligence and care when deciding whether to use Provider Services, accept a booking request from a Guest, or communicate and interact with other Clutch! Users, whether online or in person.

1.4 If you choose to use the Clutch! Marketplace as a Provider, your relationship with Clutch! is limited to being an independent, third-party contractor, and not an employee, agent, joint venturer or partner of Clutch! for any reason, and you act exclusively on your own behalf and for your own benefit, and not on behalf, or for the benefit, of Clutch!.

1.5 To promote the Clutch! Marketplace and to increase the exposure of Parking Spot Listings to potential Guests, Parking Spot Listings and other Member Content may be displayed on other websites, in applications, within emails, and in online and offline advertisements.

1.6 The Clutch! Marketplace may contain links to third-party websites or resources (“**Third-Party Services**”). Such Third-Party Services may be subject to different terms and conditions and privacy practices. Clutch! is not responsible or liable for the availability or accuracy of such Third-Party Services, or the content, products, or services available from such Third-Party Services. Links to such Third-Party Services are not an endorsement by Clutch! of such Third-Party Services.

1.7 Due to the nature of the Internet, Clutch! cannot guarantee the continuous and uninterrupted availability and accessibility of the Clutch! Marketplace. Clutch! may restrict the availability of the Clutch! Marketplace or certain areas or features thereof, if this is necessary in view of capacity limits, the security or integrity of our servers, or to carry out maintenance measures that ensure the proper or improved functioning of the Clutch! Marketplace. Clutch! may improve, enhance and modify the Clutch! Marketplace and introduce new Clutch! Services from time to time.

## **2. Eligibility, Using Clutch!, Member Verification**

2.1 You must be at least 18 years old and able to enter into legally binding contracts to access and use the Clutch! Marketplace or register a Clutch! Account. By accessing or using the Clutch! Marketplace you represent and warrant that you are 18 or older and have the legal capacity and authority to enter into a contract.

2.2 You will comply with any applicable export control laws in your local jurisdiction. You also represent and warrant that (i) neither you nor your Provider Service(s) are located or take place 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.

2.3 Clutch! may make the access to and use of the Clutch! Marketplace, or certain areas or features of the Clutch! Marketplace, subject to certain conditions or requirements, such as completing a verification process, meeting specific quality or eligibility criteria, meeting Ratings or Reviews thresholds, or booking and cancellation history.

2.4 Clutch! does not assume any responsibility for the confirmation of any Member's identity. Clutch! User assume all responsibility and liability for determining

2.5 The access to or use of certain areas and features of the Clutch! Marketplace may be subject to separate policies, standards or guidelines, or may require that you accept additional terms and conditions. If there is a conflict between these Terms and terms and conditions applicable to a specific area or feature of the Clutch! Marketplace, the latter terms and conditions will take precedence with respect to your access to or use of that area or feature, unless specified otherwise.

2.6 If you access or download the Application from the Apple App Store, you agree to Apple's Licensed Application End User License Agreement. Some areas of the Clutch! Marketplace implement Google Maps/Earth mapping services, including Google Maps API(s). Your use of Google Maps/Earth is subject to the Google Maps/Google Earth Additional Terms of Service.

### **3. Modification of these Terms**

Clutch! reserves the right to modify these Terms at any time in accordance with this provision. If we make changes to these Terms, we will post the revised Terms on the Clutch! Marketplace. We will also provide you with notice of the modifications by email at least thirty (30) days before the date they become effective. If you disagree with the revised Terms, you may terminate this Agreement with immediate effect. We will inform you about your right to terminate the Agreement in the notification email. If you do not terminate your Agreement before the date the revised Terms become effective, your continued access to or use of the Clutch! Marketplace will constitute acceptance of the revised Terms. Notwithstanding your termination under this Section 3, to the extent applicable the prior accepted Terms accepted by you shall continue to govern the subject matter thereof as to any actions undertaken by you that are covered hereunder.

### **4. Account Registration**

4.1 You must register an account ("**Clutch! Account**") to access and use certain features of the Clutch! Marketplace, such as publishing or booking a Parking Spot Listing. If you are registering a Clutch! Account for a company or other legal entity, you represent and warrant that you have the authority to legally bind that entity and grant us all permissions and licenses provided in these Terms.

4.2 You can register an Clutch! Account using an email address and creating a password, or through your account with certain third-party social networking services, such as Facebook or Google ("**SNS Account**"). You have the ability to disable the connection between your Clutch! Account and your SNS Account at any time, by accessing the "Settings" section of the Clutch! Marketplace.

4.3 You must provide accurate, current and complete information during the registration process and keep your Clutch! Account and public Clutch! Account profile page information up-to-date at all times.

4.4 You may not register more than one (1) Clutch! Account unless Clutch! authorizes you to do so. You may not assign or otherwise transfer your Clutch! Account to another party.

4.5 You are responsible for maintaining the confidentiality and security of your Clutch! Account credentials and may not disclose your credentials to any third party. You must immediately notify Clutch! if you know or have any reason to suspect that your credentials have been lost, stolen, misappropriated, or otherwise compromised or in case of any actual or suspected unauthorized use of your Clutch! Account. You are liable for any and all activities conducted through your Clutch! Account, unless such activities are not authorized by you and you are not otherwise negligent (such as failing to report the unauthorized use or loss of your credentials).

## 5. Content

5.1 Clutch! may, at its sole discretion, enable Clutch! Users to (i) create, upload, post, send, receive and store content, such as text, photos, audio, video, or other materials and information on or through the Clutch! Marketplace ("**Member Content**"); and (ii) access and view Member Content and any content that Clutch! itself makes available on or through the Clutch! Marketplace, including proprietary Clutch! content and any content licensed or authorized for use by or through the Clutch! Marketplace from a third party ("**Clutch! Content**" and together with Member Content, "**Collective Content**").

5.2 The Clutch! Marketplace, Clutch! Content, and Member Content may in its entirety or in part be protected by copyright, trademark, and/or other laws of the United States and other countries. You acknowledge and agree that the Clutch! Marketplace and Clutch! Content, including all associated intellectual property rights, are the exclusive property of Clutch! and/or its licensors or authorizing third-parties. You will not remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying the Clutch! Marketplace, Clutch! Content or Member Content. All trademarks, service marks, logos, trade names, and any other source identifiers of Clutch! used on or in connection with the Clutch! Marketplace and Clutch! Content are trademarks or registered trademarks of Clutch! in the United States and abroad. Trademarks, service marks, logos, trade names and any other proprietary designations of third parties used on or in connection with the Clutch! Marketplace, Clutch! Content, and/or Collective Content are used for identification purposes only and may be the property of their respective owners.

5.3 You will not use, copy, adapt, modify, prepare derivative works of, distribute, license, sell, transfer, publicly display, publicly perform, transmit, broadcast or otherwise exploit the Clutch! Marketplace or Collective Content, except to the extent you are the legal owner of certain Member Content or as expressly permitted in these Terms. No licenses or rights are granted to you by implication or otherwise under any intellectual property rights owned or controlled by Clutch! or its licensors, except for the licenses and rights expressly granted in these Terms.

5.4 Subject to your compliance with these Terms, Clutch! grants you a limited, non-exclusive, non-sublicensable, revocable, non-transferable license to (i) download and use the Application on your personal device(s); and (ii) access and view any Collective Content made available on or through the Clutch! Marketplace and accessible to you, solely for your personal and non-commercial use.

5.5 By creating, uploading, posting, sending, receiving, storing, or otherwise making available any Member Content on or through the Clutch! Marketplace, you grant to Clutch! a non-exclusive, worldwide, royalty-free, irrevocable, perpetual (or for the term of the protection), sub-licensable and transferable license to such Member Content to access, use, store, copy, modify, prepare derivative works of, distribute, publish, transmit, stream, broadcast, and otherwise exploit in any manner such Member Content to provide and/or promote the Clutch! Marketplace, in any media or platform. Unless you provide specific consent, Clutch! does not claim any ownership rights in any Member Content and nothing in these Terms will be deemed to restrict any rights that you may have to use or exploit your Member Content.

5.6 You are solely responsible for all Member Content that you make available on or through the Clutch! Marketplace. Accordingly, you represent and warrant that: (i) you either are the sole and exclusive owner of all Member Content that you make available on or through the Clutch! Marketplace or you have all rights, licenses, consents and releases that are necessary to grant to Clutch! the rights in and to such Member Content, as contemplated under these Terms; and (ii) neither the Member Content nor your posting, uploading, publication, submission or transmittal of the Member Content or Clutch!'s use of the Member Content (or any portion thereof) will infringe, misappropriate or violate a third party's patent, copyright, trademark, trade secret, moral rights or other proprietary or intellectual property rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation.

5.7 You will not post, upload, publish, submit or transmit any Member Content that: (i) is fraudulent, false, misleading (directly or by omission or failure to update information) or deceptive; (ii) is defamatory, libelous, obscene, pornographic, vulgar or offensive; (iii) promotes discrimination, bigotry, racism, hatred, harassment or harm against any individual or group; (iv)

is violent or threatening or promotes violence or actions that are threatening to any other person; or (v) promotes illegal or harmful activities or substances. Clutch! may, without prior notice, remove or disable access to any Member Content that Clutch! finds to be in violation of these Terms or Clutch!'s then-current Policies or Standards, or otherwise may be harmful or objectionable to Clutch!, its Clutch! Users, third parties, or property.

5.9 Clutch! respects copyright law and expects its Clutch! Users to do the same. If you believe that any content on the Clutch! Marketplace infringes copyrights you own, please notify us via email.

## **6. Service Fees**

6.1 Clutch! may charge a fee for each Parking Spot Listing booked via the Clutch! Marketplace ("**Service Fees**") in consideration for the use of the Clutch! Marketplace. Clutch! shall charge a Service Fee or Service Fees on a per transaction basis. The amount of such Service Fees shall be disclosed to each Guest at the time of booking. All parties hereto agree that Service Fees may be modified by Clutch! at its discretion, on thirty (30) days' notice. All parties hereto acknowledge that any given Service Fee may not represent the lowest Service Fee charged by Clutch!.

6.2 Clutch! reserves the right to change the Service Fees at any time, and will provide Clutch! Users adequate notice of any fee changes before they become effective.

6.3 You are responsible for paying any Service Fees that you owe to Clutch!. The applicable Service Fees are due and payable and collected by Clutch! Payments pursuant to the Payments Terms. Except as otherwise provided on the Clutch! Marketplace, Service Fees are non-refundable.

## **7. Terms specific for Providers**

### **7.1 Terms applicable to all Parking Spot Listings**

7.1.1 When creating a Parking Spot Listing through the Clutch! Marketplace you must (i) provide complete and accurate information about your Parking Spot Listing (such as listing description, location, and calendar availability), (ii) disclose any deficiencies, restrictions, and requirements that apply and (iii) provide any other pertinent information requested by Clutch!. You are responsible for keeping your Parking Spot Listing information (including calendar availability) up-to-date at all times.

7.1.2 You are solely responsible for setting a price (including any Taxes if applicable) for your Parking Spot Listing (“**Listing Fee**”). Once a Guest requests a booking of your Parking Spot Listing, you may not request that the Guest pays a higher price than in the booking request.

7.1.3 Any terms and conditions included in your Parking Spot Listing, in particular in relation to cancellations, must not conflict with these Terms or the cancellation or refund policies you have selected for your Parking Spot Listing.

7.1.4 Pictures, animations or videos (collectively, "**Images**") used in your Parking Spot Listings must accurately reflect the quality and condition of your Parking Spot Listing. Clutch! reserves the right to require that Parking Spot Listings have a minimum number of Images of a certain format, size and resolution.

7.1.5 The placement and ranking of Parking Spot Listings in search results on the Clutch! Marketplace may vary and depend on a variety of factors, such as Guest search parameters and preferences, Provider requirements, price and calendar availability, number and quality of Images, customer service and cancellation history, Reviews and Ratings, and/or ease of booking.

7.1.6 When you accept or have pre-approved a booking request by a Guest, you are entering into a legally binding agreement with the Guest and are required to provide your Parking Spot Listing to the Guest as described in your Parking Spot Listing when the booking request is made. Your failure to provide adequate provisions for each Guest that books a Parking Spot Listing with you constitutes a breach of (i) your agreement with each Guest for whom you fail to provide adequate Parking Spot List, and (ii) these Terms, for which remedy may include any and all legal remedies available to Clutch!, including without limitation the cancellation of your Clutch! Account. You also agree to pay the any applicable Service Fee or Taxes, which will be collected pursuant to the Payments Terms.

7.1.7 *Clutch! recommends that Providers obtain appropriate insurance.* Please review any respective insurance policy carefully, and in particular make sure that you are familiar with and understand any exclusions to, and any deductibles that may apply for, such insurance policy, including, but not limited to, whether or not your insurance policy will cover the actions or inactions of Guests (and the individuals the Guest has booked for, if applicable) while staying at your Provider’s Property or participating in your Experience, Event or other Provider Service.

## **7.2 Parking Spot Listing Provider’s Properties**

7.2.1 You represent and warrant that any Parking Spot Listing you post and the booking of will not (i) not breach any agreements you have entered into with any third parties, such as

homeowners association, condominium, or other agreements, and (ii) comply with all applicable laws (such as zoning laws), Tax requirements, and other rules and regulations (including having all required permits, licenses and registrations). As a Provider, you are responsible for your own acts and omissions and are also responsible for the acts and omissions of any individuals who reside at or are otherwise present at the Provider's Property at your request or invitation, excluding the Guest (and the individuals the Guest invites to the Provider's Property, if applicable).

7.2.2 Provider, by agreeing to list its Property on the Clutch! Marketplace for potential booking by a Guest, explicitly represents to Clutch! and its agents, employees, officers, directors, subsidiaries, parent companies and affiliates, as applicable, that its Property complies in all material respects with the applicable provisions of municipal, state, and federal law concerning accommodations for handicapped-accessible parking, including without limitation the provisions of (to the extent applicable) the Americans with Disabilities Act ("**Parking Accommodation Laws**"). Provider acknowledges that Clutch! assumes no liability for ensuring compliance with Parking Accommodation Laws by Provider with respect to Providers Property. Provider hereby agrees to indemnify and hold harmless Clutch!, its agents, employees, officers, directors, subsidiaries, parent companies and affiliates, from and against any and all claims of any type, including claims made by governmental entities, relating to or arising from in any way the breach of, or an alleged breach of, Parking Accommodation Laws.

## **8. Terms specific for Guests**

### **8.1 Terms applicable to all bookings**

8.1.1 Subject to meeting any requirements (such as completing any verification processes) set by the Provider, you can book a Parking Spot Listing available on the Clutch! Marketplace by following the respective booking process. All applicable fees, including the Listing Fee, Service Fee, and any applicable Taxes (collectively, "**Total Fees**") will be presented to you prior to booking a Parking Spot Listing. You agree to pay the Total Fees for any booking requested in connection with your Clutch! Account.

8.1.2 Upon receipt of a booking confirmation from Clutch!, a legally binding agreement is formed between you and your Provider, subject to any additional terms and conditions of the Provider that apply, including in particular the applicable cancellation policy and any rules and restrictions specified in the Parking Spot Listing. Clutch! Payments will collect the Total Fees at the time of the booking request or upon the Provider's confirmation pursuant to the Payments Terms.

## **8.2 Booking Provider's Properties**

8.2.1 You understand that a confirmed booking of a Parking Spot Listing is a limited license granted to you by the Provider to enter, occupy and use the property of the Provider's Property for the limited purpose of parking a vehicle on the Provider's Property during the applicable time (only where and to the extent permitted by applicable law) retains the right to re-enter the space rented by you, in accordance with your agreement with the Provider.

8.2.2 The duration of a Guest's use of the Provider Services shall terminate ("**Listing Conclusion**") as agreed upon between Guest and Provider. If your vehicle remains on the premises past the Listing Conclusion without the Provider's consent ("**Overstay**"), you no longer have a license to stay permit your vehicle to be parked upon the Provider's Property and the Provider is entitled to remove your vehicle in accordance with applicable law, including without limitation towing your vehicle at your cost.

## **9. Booking Modifications, Cancellations and Refunds, Resolution Center**

9.1 Providers and Guests are responsible for any modifications to a booking that they make via the Clutch! Marketplace or direct Clutch! customer service to make ("**Booking Modifications**"), and agree to pay any additional Listing Fees, Service Fees, and/or Taxes associated with such Booking Modifications.

9.2 Clutch! does not provide refunds to Guests. In the event a Guest and Provider agree among themselves for the provision of a refund, Clutch! will, if requested by the Provider, facilitate a refund using the Clutch! Marketplace; provided, however, that Clutch! shall not, in any event, refund any Service Fee paid upon the confirmation of the Booking.

9.3 In certain circumstances, Clutch! may decide, in its sole discretion, that it is necessary to cancel a confirmed booking and make appropriate refund and payout decisions. This may be (i) where Clutch! believes in good faith, while taking the legitimate interests of both parties into account, this is necessary to avoid significant harm to Clutch!, other Clutch! Users, third parties or property, or (ii) for any of the reasons set out in these Terms.

9.4 Clutch! assumes no responsibility for nor shall Clutch! facilitate in any way the resolution of Damage Claims by and among Guests and/or Providers. Any and all such Damage Claims shall be governed, where applicable, by applicable law or regulation, or as between a Guest and Provider, by the terms of the agreement between such parties.

## **10. Ratings and Reviews**

10.1 Within a certain timeframe after completing a booking, Guests can leave a public review (“**Review**”) and submit a star rating (“**Rating**”) about Providers. Any Ratings or Reviews reflect the opinion of individual Clutch! Users and do not reflect the opinion of Clutch!. Ratings and Reviews are not verified by Clutch! for accuracy and may be incorrect or misleading.

10.2 Ratings and Reviews by Guests must be fair, truthful and factual and may not contain any offensive or defamatory language.

10.3 Clutch! Users are prohibited from manipulating the Ratings and Reviews system in any manner, such as instructing a third party write a positive or negative Review about another Member.

## **11. Rounding off, Currency.**

11.1 Clutch! may, in its sole discretion, round up or round down amounts that are payable from or to Guests or Providers to the nearest dollar.

11.2 Clutch! accepts U.S. dollars as currency. Clutch! does not accept any other currency (i.e., Euros, etc.) or any cryptocurrency (i.e., BitCoin, etc.).

## **12. Taxes**

12.1 As a Provider you are solely responsible for determining your obligations to report, collect, remit or include in your Listing Fees any applicable taxes ("**Taxes**").

12.2 Tax regulations may require us to collect appropriate Tax information from Providers, or to withhold Taxes from payouts to Providers, or both. If a Provider fails to provide us with documentation that we determine to be sufficient to alleviate our obligation (if any) to withhold Taxes from payouts to you, we reserve the right to freeze all payouts, withhold such amounts as required by law, or to do both, until resolution.

12.3 You understand that any appropriate governmental agency, department and/or authority ("**Tax Authority**") where your Provider’s Property is located may require Taxes to be collected from Guests or Providers on Listing Fees, and to be remitted to the respective Tax Authority. The laws in jurisdictions may vary, but these Taxes may be required to be collected and remitted as a percentage of the Listing Fees set by Providers, a set amount per day, or other variations.

12.4 In certain jurisdictions, Clutch! may decide in its sole discretion to facilitate collection and remittance of Taxes from or on behalf of Guests or Providers, in accordance these Terms ("**Collection and Remittance**") if such jurisdiction asserts Clutch! or Providers have an Occupancy Tax collection and remittance obligation. In any jurisdiction in which we decide to facilitate direct Collection and Remittance, you hereby instruct and authorize Clutch! (via Clutch! Payments) to collect Taxes from Guests on the Provider's behalf at the time Listing Fees are collected, and to remit such Taxes to the Tax Authority. The amount of Taxes, if any, collected and remitted by Clutch! will be visible to and separately stated to both Guests and Providers on their respective transaction documents. Where Clutch! is facilitating Collection and Remittance, Providers are not permitted to collect any Taxes being collected by Clutch! relating to their Provider's Properties in that jurisdiction.

12.5 You agree that any claim or cause of action relating to Clutch!'s facilitation of Collection and Remittance of Taxes shall not extend to any supplier or vendor that may be used by Clutch! in connection with facilitation of Collection and Remittance, if any. Guests and Providers agree that we may seek additional amounts from you in the event that the Taxes collected and/or remitted are insufficient to fully discharge your obligations to the Tax Authority, and agree that your sole remedy for Taxes collected is a refund of Taxes collected by Clutch! from the applicable Tax Authority in accordance with applicable procedures set by that Tax Authority.

12.6 Clutch! reserves the right, with prior notice to Providers, to cease the Collection and Remittance in any jurisdiction for any reason at which point Providers and Guests are once again solely responsible and liable for the collection and/or remittance of any and all Taxes that may apply to Provider's Properties in that jurisdiction.

### **13. Prohibited Activities**

13.1 You are solely responsible for compliance with any and all laws, rules, regulations, and Tax obligations that may apply to your use of the Clutch! Marketplace. In connection with your use of the Clutch! Marketplace, you will not and will not assist or enable others to:

- breach or circumvent any applicable laws or regulations, agreements with third-parties, third-party rights, or our Terms, Policies or Standards;
- use the Clutch! Marketplace or Collective Content for any commercial or other purposes that are not expressly permitted by these Terms or in a manner that falsely implies Clutch! endorsement, partnership or otherwise misleads others as to your affiliation with Clutch!;
- copy, store or otherwise access or use any information, including personally identifiable information about any other Member, contained on the Clutch! Marketplace in any way

that is inconsistent with Clutch!'s Privacy Policy or these Terms or that otherwise violates the privacy rights of Clutch! Users or third parties;

- use the Clutch! Marketplace in connection with the distribution of unsolicited commercial messages ("spam");
- offer, as a Provider, any accommodation that you do not yourself own or have permission to make available through the Clutch! Marketplace;
- unless Clutch! explicitly permits otherwise, book any Parking Spot Listing if you will not actually be using the Provider Services yourself;
- contact another Member for any purpose other than asking a question related to a your own booking, Parking Spot Listing, or the Member's use of the Clutch! Marketplace, including, but not limited to, recruiting or otherwise soliciting any Member to join third-party services, applications or websites, without our prior written approval;
- use the Clutch! Marketplace to request, make or accept a booking independent of the Clutch! Marketplace, to circumvent any Service Fee or for any other reason;
- request, accept or make any payment for Listing Fees outside of the Clutch! Marketplace or Clutch! Payments. If you do so, you acknowledge and agree that you: (i) would be in breach of these Terms; (ii) accept all risks and responsibility for such payment, and (iii) hold Clutch! harmless from any liability for such payment;
- discriminate against or harass anyone on the basis of race, national origin, religion, gender, gender identity, physical or mental disability, medical condition, marital status, age or sexual orientation, or otherwise engage in any abusive or disruptive behavior;
- use, display, mirror or frame the Clutch! Marketplace or Collective Content, or any individual element within the Clutch! Marketplace, Clutch!'s name, any Clutch! trademark, logo or other proprietary information, or the layout and design of any page or form contained on a page in the Clutch! Marketplace, without Clutch!'s express written consent;
- dilute, tarnish or otherwise harm the Clutch! brand in any way, including through unauthorized use of Collective Content, registering and/or using the Clutch! Marketplace or derivative terms in domain names, trade names, trademarks or other source identifiers, or registering and/or using domains names, trade names, trademarks or other source identifiers that closely imitate or are confusingly similar to the Clutch! Marketplace domains, trademarks, taglines, promotional campaigns or Collective Content;
- use any robots, spider, crawler, scraper or other automated means or processes to access, collect data or other content from or otherwise interact with Clutch! for any purpose;
- avoid, bypass, remove, deactivate, impair, descramble, or otherwise attempt to circumvent any technological measure implemented by Clutch! or any of Clutch!'s providers or any other third party to protect the Clutch! Marketplace;
- attempt to decipher, decompile, disassemble or reverse engineer any of the software used to provide the Clutch! Marketplace;

- take any action that damages or adversely affects, or could damage or adversely affect the performance or proper functioning of the Clutch! Marketplace;
- export, re-export, import, or transfer the Application except as authorized by United States law, the export control laws of your jurisdiction, and any other applicable laws; or
- violate or infringe anyone else's rights or otherwise cause harm to anyone.

13.2 You acknowledge that Clutch! has no obligation to monitor the access to or use of the Clutch! Marketplace by any Member or to review, disable access to, or edit any Member Content, but has the right to do so to (i) operate, secure and improve the Clutch! Marketplace (including without limitation for fraud prevention, risk assessment, investigation and customer support purposes); (ii) ensure Clutch! Users' compliance with these Terms; (iii) comply with applicable law or the order or requirement of a court, law enforcement or other administrative agency or governmental body; (iv) respond to Member Content that it determines is harmful or objectionable; or (v) as otherwise set forth in these Terms. Clutch! Users agree to cooperate with and assist Clutch! in good faith, and to provide Clutch! with such information and take such actions as may be reasonably requested by Clutch! with respect to any investigation undertaken by Clutch! or a representative of Clutch! regarding the use or abuse of the Clutch! Marketplace.

13.3 If you feel that any Member you interact with, whether online or in person, is acting or has acted inappropriately, including but not limited to anyone who (i) engages in offensive, violent or sexually inappropriate behavior, (ii) you suspect of stealing from you, or (iii) engages in any other disturbing conduct, you should immediately report such person to the appropriate authorities and then to Clutch! by contacting us with your police station and report number (if available); provided that your report will not obligate us to take any action beyond that required by law (if any) or cause us to incur any liability to you.

#### **14. Term and Termination, Suspension and other Measures**

14.1 This Agreement shall be effective until such time when you or Clutch! terminate the Agreement in accordance with this provision.

14.2 You may terminate this Agreement at any time via the account cancellation feature on the Clutch! Marketplace or by sending us an email. If you cancel your Clutch! Account as a Provider, any confirmed booking(s) will be automatically cancelled and your Guests will receive a full refund. If you cancel your Clutch! Account as a Guest, any confirmed booking(s) will be automatically cancelled and any refund will depend upon the terms of the Parking Spot Listing's cancellation policy.

14.3 Without limiting our rights specified below, Clutch! may terminate this Agreement for convenience at any time by giving you thirty (30) days' notice via email to your registered email address.

14.4 Clutch! may immediately, without notice terminate this Agreement if (i) you have materially breached your obligations under these Terms, the Payments Terms, our Policies or Standards, (ii) you have violated applicable laws, regulations or third party rights, or (iii) Clutch! believes in good faith that such action is reasonably necessary to protect the personal safety or property of Clutch!, its Clutch! Users, or third parties (for example in the case of fraudulent behavior of a Member).

14.5 In addition, Clutch! may take any of the following measures (i) to comply with applicable law, or the order or request of a court, law enforcement or other administrative agency or governmental body, or if (ii) you have breached these Terms, the Payments Terms, our Policies or Standards, applicable laws, regulations, or third party rights, (iii) you have provided inaccurate, fraudulent, outdated or incomplete information during the Clutch! Account registration, Parking Spot Listing process or thereafter, (iv) you and/or your Parking Spot Listings or Provider Services at any time fail to meet any applicable quality or eligibility criteria, (v) you have repeatedly received poor Ratings or Reviews or Clutch! otherwise becomes aware of or has received complaints about your performance or conduct, (vi) you have repeatedly cancelled confirmed bookings or failed to respond to booking requests without a valid reason, or (vii) Clutch! believes in good faith that such action is reasonably necessary to protect the personal safety or property of Clutch!, its Clutch! Users, or third parties, or to prevent fraud or other illegal activity:

- refuse to surface, delete or delay any Parking Spot Listings, Ratings, Reviews, or other Member Content;
- cancel any pending or confirmed bookings;
- limit your access to or use of the Clutch! Marketplace; or
- temporarily or in case of severe or repeated offenses permanently suspend your Clutch! Account.
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In case of non-material breaches and where appropriate, you will be given notice of any intended measure by Clutch! and an opportunity to resolve the issue to Clutch!'s reasonable satisfaction.

14.6 If we take any of the measures described above (i) we may refund your Guests in full for any and all confirmed bookings that have been cancelled, irrespective of preexisting cancellation policies, and (ii) you will not be entitled to any compensation for pending or confirmed bookings that were cancelled.

14.7 When this Agreement has been terminated, you are not entitled to a restoration of your Clutch! Account or any of your Member Content. If your access to or use of the Clutch! Marketplace has been limited or your Clutch! Account has been suspended or this Agreement has been terminated by us, you may not register a new Clutch! Account or access and use the Clutch! Marketplace through an Clutch! Account of another Member.

14.8 If you or we terminate this Agreement, the clauses of these Terms that reasonably should survive termination of the Agreement will remain in effect.

## **15. Disclaimers**

**If you choose to use the Clutch! Marketplace and Collective Content, you do so voluntarily and at your sole risk. Clutch! Marketplace and Collective Content are provided “as is”, without warranty of any kind, either express or implied.**

**You agree that you have had whatever opportunity you deem necessary to investigate the Clutch! Services, laws, rules, or regulations that may be applicable to your Parking Spot Listings and/or Provider Services you are receiving and that you are not relying upon any statement of law or fact made by Clutch! relating to a Parking Spot Listing.**

**If we choose to conduct identity verification or background checks on any Member, to the extent permitted by applicable law, we disclaim warranties of any kind, either express or implied, that such checks will identify prior misconduct by a Member or guarantee that a Member will not engage in misconduct in the future.**

**You agree that using the Clutch! Marketplace may carry inherent risk, and by participating in those services, you choose to assume those risks voluntarily, including the risk of illness, bodily injury, disability, or death, and you freely and willfully assume those risks by choosing to participate in those services. You assume full responsibility for the choices you make before, during and after your participation in such services. If you are bringing a minor as an additional guest, you are solely responsible for the supervision of that minor and to the maximum extent permitted by law, you agree to release and hold harmless Clutch! from all liabilities and claims that arise in any way from any injury, death, loss or harm that occurs to that minor in relation to the provision of services pursuant to a Parking Spot Listing using the Clutch! Marketplace.**

The foregoing disclaimers apply to the maximum extent permitted by law. You may have other statutory rights. However, the duration of statutorily required warranties, if any, shall be limited to the maximum extent permitted by law.

## **16. Liability**

You acknowledge and agree that, to the maximum extent permitted by law, the entire risk arising out of your access to and use of the Clutch! Marketplace and Collective Content, your publishing or booking of any Parking Spot Listing via the Clutch! Marketplace, your use of any Provider's Property, Service or any other interaction you have with other Clutch! Users whether in person or online remains with you. Neither Clutch! nor any other party involved in creating, producing, or delivering Clutch! or Collective Content will be liable for any incidental, special, exemplary or consequential damages, including lost profits, loss of data or loss of goodwill, service interruption, computer damage or system failure or the cost of substitute products or services, or for any damages for personal or bodily injury or emotional distress arising out of or in connection with (i) these Terms, (ii) from the use of or inability to use the Clutch! Marketplace or any Collective Content, (iii) from any communications, interactions or meetings with other Clutch! Users or other persons with whom you communicate, interact or meet with as a result of your use of the Clutch! Marketplace, or (iv) from your publishing or booking of a Parking Spot Listing, whether based on warranty, contract, tort (including negligence), product liability or any other legal theory, and whether or not Clutch! has been informed of the possibility of such damage, even if a limited remedy set forth herein is found to have failed of its essential purpose. Except for our obligations to pay amounts to applicable Providers pursuant to these Terms, in no event will Clutch!'s aggregate liability arising out of or in connection with these Terms and your use of the Clutch! Marketplace including, but not limited to, from your publishing or booking of any Parking Spot Listings via the Clutch! Marketplace, or from the use of or inability to use the Clutch! Marketplace or Collective Content or in connection with interactions with any other Clutch! Users, exceed the amounts you have paid or owe for bookings via the Clutch! Marketplace as a Guest in the twelve (12) month period prior to the event giving rise to the liability, or if you are a Provider, the amounts paid by Clutch! to you in the twelve (12) month period prior to the event giving rise to the liability, or one hundred U.S. dollars (US \$100.00), if no such payments have been made, as applicable. The limitations of damages set forth above are fundamental elements of the basis of the bargain between Clutch! and you. Some jurisdictions do not allow the exclusion or limitation of liability for consequential or incidental damages, so the above limitation may not apply to you. If you reside outside of the U.S., this does not affect Clutch!'s liability for death or personal injury arising from its negligence, nor for fraudulent

**misrepresentation, misrepresentation as to a fundamental matter or any other liability which cannot be excluded or limited under applicable law.**

## **17. Indemnification**

You agree to release, defend (at Clutch!'s option), indemnify, and hold Clutch! and its affiliates and subsidiaries, and their officers, directors, employees and agents, harmless from and against any claims, liabilities, damages, losses, and expenses, including, without limitation, reasonable legal and accounting fees, arising out of or in any way connected with (i) your breach of these Terms or our Policies or Standards, (ii) your improper use of the Clutch! Marketplace or any Clutch! Services, (iii) your interaction with any Member, or use of a Provider's Property, including without limitation any injuries, losses or damages (whether compensatory, direct, incidental, consequential or otherwise) of any kind arising in connection with or as a result of such interaction or use, (iv) Clutch!'s collection and remittance of Taxes, or (v) your breach of any laws, regulations or third party rights.

## **18. Dispute Resolution and Arbitration Agreement**

18.1 *Overview of Dispute Resolution Process.* Clutch! is committed to participating in a consumer-friendly dispute resolution process. To that end, these Terms provide for a two-part process for individuals to whom Section 18.1 applies: (1) an informal negotiation directly with Clutch!'s customer service team, and (2) a binding arbitration administered by the American Arbitration Association ("AAA") using its specially designed Consumer Arbitration Rules (as modified by this Section 18). Specifically, the process provides:

- Claims can be filed with AAA online ([www.adr.org](http://www.adr.org));
- Arbitrators must be neutral and no party may unilaterally select an arbitrator;
- Arbitrators must disclose any bias, interest in the result of the arbitration, or relationship with any party;
- Parties retain the right to seek relief in small claims court for certain claims, at their option;
- The initial filing fee for the consumer is capped at \$200;
- The consumer gets to elect the hearing location and can elect to participate live, by phone, video conference, or, for claims under \$25,000, by the submission of documents;
- The arbitrator can grant any remedy that the parties could have received in court to resolve the party's individual claim.

18.2 *Pre-Arbitration Dispute Resolution and Notification.* Prior to initiating an arbitration, you and Clutch! each agree to notify the other party of the dispute and attempt to negotiate an

informal resolution to it first. We will contact you at the email address you have provided to us; you can contact Clutch!'s customer service team by emailing us. If after a good faith effort to negotiate one of us feels the dispute has not and cannot be resolved informally, the party intending to pursue arbitration agrees to notify the other party via email prior to initiating the arbitration. In order to initiate arbitration, a claim must be filed with the AAA and the written Demand for Arbitration (available at [www.adr.org](http://www.adr.org)) provided to the other party, as specified in the AAA Rules.

**18.3 *Agreement to Arbitrate.* You and Clutch! mutually agree that any dispute, claim or controversy arising out of or relating to these Terms or the breach, termination, enforcement or interpretation thereof, or to any other terms, policies, or standards made applicable to the use of the Clutch! Marketplace (including without limitation the Clutch! Payment Terms or Clutch! Privacy Policy, and other published policies of Clutch!), or to the use of the Clutch! Marketplace or the Collective Content (collectively, "Disputes") will be settled by binding arbitration (the "Arbitration Agreement"). If there is a dispute about whether this Arbitration Agreement can be enforced or applies to our Dispute, you and Clutch! agree that the arbitrator will decide that issue.**

*18.4 Exceptions to Arbitration Agreement.* You and Clutch! each agree that the following claims are exceptions to the Arbitration Agreement and will be brought in a judicial proceeding in a court of competent jurisdiction: (i) Any claim related to actual or threatened infringement, misappropriation or violation of a party's copyrights, trademarks, trade secrets, patents, or other intellectual property rights; (ii) Any claim seeking emergency injunctive relief based on exigent circumstances (e.g., imminent danger or commission of a crime, hacking, cyber-attack).

*18.5 Arbitration Rules and Governing Law.* This Arbitration Agreement evidences a transaction in interstate commerce and thus the Federal Arbitration Act governs the interpretation and enforcement of this provision. The arbitration will be administered by AAA in accordance with the Consumer Arbitration Rules (the "AAA Rules") then in effect, except as modified here. The AAA Rules are available at [www.adr.org](http://www.adr.org) or by calling the AAA at 1-800-778-7879.

*18.6 Modification to AAA Rules - Arbitration Hearing/Location.* Any required arbitration hearing shall be conducted, at Clutch!'s option, (a) in the county where you reside; (b) in Jefferson County, Alabama; (c) in any other location to which you and Clutch! both agree; (d) via phone or video conference; or (e) for any claim or counterclaim under \$25,000, by solely the submission of documents to the arbitrator.

18.7 *Modification of AAA Rules - Attorney's Fees and Costs.* Clutch! shall be entitled to seek an award of attorney fees and expenses if it prevails in arbitration, to the extent provided under applicable law and the AAA rules.

18.8 *Arbitrator's Decision.* The arbitrator's decision will include the essential findings and conclusions upon which the arbitrator based the award. Judgment on the arbitration award may be entered in any court with proper jurisdiction. The arbitrator may award declaratory or injunctive relief only on an individual basis and only to the extent necessary to provide relief warranted by the claimant's individual claim.

**18.9 *Jury Trial Waiver.* You and Clutch! acknowledge and agree that we are each waiving the right to a trial by jury as to all arbitrable Disputes.**

**18.10 *No Class Actions or Representative Proceedings.* You and Clutch! acknowledge and agree that we are each waiving the right to participate as a plaintiff or class member in any purported class action lawsuit, class-wide arbitration, private attorney-general action, or any other representative proceeding as to all Disputes. Further, unless you and Clutch! both otherwise agree in writing, the arbitrator may not consolidate more than one party's claims and may not otherwise preside over any form of any class or representative proceeding. If this paragraph is held unenforceable with respect to any Dispute, then the entirety of the Arbitration Agreement will be deemed void with respect to such Dispute.**

18.11 *Severability.* In the event that any portion of this Arbitration Agreement is deemed illegal or unenforceable, such provision shall be severed and the remainder of the Arbitration Agreement shall be given full force and effect.

18.12 *Changes.* Notwithstanding any other provision hereof, if Clutch! changes this Section 18 ("Dispute Resolution and Arbitration Agreement") after the date you last accepted these Terms (or accepted any subsequent changes to these Terms), you may reject any such change by sending us written notice (including by email) within thirty (30) days of the date such change became effective, as indicated in the "Last Updated" date above or in the date of Clutch!'s email to you notifying you of such change. By rejecting any change, you are agreeing that you will arbitrate any Dispute between you and Clutch! in accordance with the provisions of the "Dispute Resolution and Arbitration Agreement" section as of the date you last accepted these Terms (or accepted any subsequent changes to these Terms).

18.13 *Survival.* This Section 18 will survive any termination of these Terms and will continue to apply even if you stop using Clutch! or terminate your Clutch! Account.

## **19. Applicable Law and Jurisdiction**

19.1 These Terms will be interpreted in accordance with the laws of the State of Alabama and the United States of America, without regard to conflict-of-law provisions. Judicial proceedings (other than small claims actions) that are excluded from the Arbitration Agreement in Section 19 must be brought in state or federal court in Jefferson County, Alabama, unless we both agree to some other location. You and we both consent to venue and personal jurisdiction in Jefferson County, Alabama.

## **20. General Provisions**

20.1 Except as they may be supplemented by additional terms and conditions, policies, guidelines or standards, these Terms constitute the entire Agreement between Clutch! and you pertaining to the subject matter hereof, and supersede any and all prior oral or written understandings or agreements between Clutch! and you in relation to the access to and use of the Clutch! Marketplace.

20.2 No joint venture, partnership, employment, or agency relationship exists between you and Clutch! as a result of this Agreement or your use of the Clutch! Marketplace.

20.3 These Terms do not and are not intended to confer any rights or remedies upon any person other than the parties.

20.4 If any provision of these Terms is held to be invalid or unenforceable, such provision will be struck and will not affect the validity and enforceability of the remaining provisions.

20.5 Clutch!'s failure to enforce any right or provision in these Terms will not constitute a waiver of such right or provision unless acknowledged and agreed to by us in writing. 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 permitted under law.

20.6 You may not assign, transfer or delegate this Agreement and your rights and obligations hereunder without Clutch!'s prior written consent. Clutch! may without restriction assign, transfer or delegate this Agreement and any rights and obligations hereunder, at its sole discretion, with 30 days prior notice. Your right to terminate this Agreement at any time remains unaffected.

20.7 Unless specified otherwise, any notices or other communications to Clutch! Users permitted or required under this Agreement, will be in writing and given by Clutch! via email, Clutch! Marketplace notification, or messaging service (including SMS and WeChat).

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