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## Payments Terms of Service

Please read these Payments Terms of Service carefully as they contain important information about your legal rights, remedies and obligations. By using the Payment Services, you agree to comply with and be bound by these Payments Terms of Service.

Please note: these Payments Terms of Service are subject to an arbitration agreement and class action waiver, as fully set forth in Paragraph 2 of the Clutch! Terms of Service. By accepting these Payments Terms of Service, you agree to be bound by this arbitration clause and class action waiver. Please read it carefully.

These Payments Terms of Service (“**Payments Terms**”) constitute a legally binding agreement (“**Agreement**”) between you and Clutch! governing the Payment Services (defined below) conducted through or in connection with the Clutch! Marketplace.

When these Payments Terms mention “**Clutch!**,” “**we**,” “**us**,” or “**our**,” it refers to Clutch!, LLC.

The Clutch! Terms of Use (“**Clutch! Terms**”) separately govern your use of the Clutch! Marketplace. All capitalized terms have the meaning set forth in the Clutch! Terms unless otherwise defined in these Payments Terms.

Our collection and use of personal information in connection with your access to and use of the Payment Services is described in Clutch!’s Privacy Policy.

### 1. Scope and Use of the Payment Services

1.1 Clutch! provides payments services to Members, including payment collection services, payments and payouts, in connection with and through the Clutch! Marketplace (“**Payment Services**”).

1.2 Clutch! may restrict the availability of the Payment Services, or certain services or features thereof, to carry out maintenance measures that ensure the proper or improved functioning of the Payment Services. Clutch! may improve, enhance and modify the Payment Services and introduce new Payment Services from time to time.

1.3 The Payment Services may contain links to third-party websites or resources (“**Third-Party Services**”). Such Third-Party Services are subject to different terms and conditions and privacy practices and Members should review them independently. 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.

1.4 You may not use the Payment Services except as authorized by United States law, the laws of the jurisdiction in which you reside, and any other applicable laws. In particular, but without limitation, the Payment Services may not be used to send or receive funds: (i) into any United

States embargoed countries; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Denied Persons List or Entity List. You represent and warrant that: (i) neither you nor your Provider Services 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. In addition to complying with the above, you must also comply with any relevant export control laws in your local jurisdiction.

1.5 Your access to or use of certain Payment Services may be subject to, or require you to accept, additional terms and conditions. If there is a conflict between these Payments Terms and terms and conditions applicable for a specific Payment Service, the latter terms and conditions will take precedence with respect to your use of or access to that Payment Service, unless specified otherwise.

## **2. Key Definitions**

**"Payout"** means a payment initiated by Clutch! to a Member for services (such as Listing Fees) performed in connection with the Clutch! Marketplace.

**"Payment Method"** means a financial instrument that you have added to your Clutch! Account, such as a credit card, debit card, or PayPal account.

**"Payout Method"** means a financial instrument that you have added to your Clutch! Account, such as a PayPal account, direct deposit, a prepaid card, or a debit card (where available).

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

Clutch! reserves the right to modify these Payments Terms at any time in accordance with this provision. If we make changes to these Payments Terms, we will post the revised Payments Terms on the Clutch! Marketplace and update the "Last Updated" date at the top of these Payments Terms. We will also provide you with notice by email of the modification at least thirty (30) days before the date they become effective.. If you disagree with the revised Payments Terms, you may terminate this Agreement with immediate effect. We will inform you about your right of refusal and your right to terminate this Agreement in the notification email. If you do not terminate your Agreement before the date the revised Terms become effective, your continued use of the Payment Services will constitute acceptance of the revised Payments Terms.

## **4. Eligibility, Member Verification**

4.1 You must be at least 18 years old and able to enter into legally binding contracts to use the Payment Services. By using the Payment Services you represent and warrant that you are 18 or older.

4.2 If you are agreeing to these Payments Terms on behalf of a company or other legal entity, you represent and warrant that you have the authority to bind that company or other legal entity

to these Payments Terms and, in such event, “you” and “your” will refer and apply to that company or other legal entity.

4.3 Clutch! may make access to and use of certain areas or features of the Payment Services subject to certain conditions or requirements, such as completing a verification process or meeting specific eligibility criteria.

4.4 We may make inquiries we consider necessary to help verify or check your identity or prevent fraud. In some jurisdictions, we have a legal obligation to collect identity information to comply with anti-money laundering regulations. This may include (i) asking you to provide a form of government identification (e.g., driver’s license or passport), your date of birth, your address, and other information; (ii) requiring you to take steps to confirm ownership of your email address, Payment Methods or Payout Methods; or (iii) attempting to screen your information against third-party databases. Clutch! reserves the right to close, suspend, or limit access to the Payment Services in the event we are unable to obtain or verify any of this information.

## **5. Account Registration**

5.1 In order to use the Payment Services, you must have a Clutch! Account in good standing. If you or Clutch! closes your Clutch! Account for any reason, you will no longer be able to use the Payment Services.

5.2 You may authorize a third party to use your Clutch! Account in accordance with the [Clutch! Terms](#). You acknowledge and agree that anyone you authorize to use your Clutch! Account may use the Payment Services on your behalf and that you will be responsible for any payments made by such person.

## **6. Payment Methods and Payout Methods**

6.1 When you add a Payment Method or Payout Method to your Clutch! Account, you will be asked to provide customary billing information such as name, billing address, and financial instrument information either to Clutch! or its third-party payment processor(s). You must provide accurate, current, and complete information when adding a Payment Method or Payout Method, and it is your obligation to keep your Payment Method and Payout Method up-to-date at all times

6.2 When you add or use a new Payment Method, Clutch! may verify the Payment Method by authorizing a nominal amount, not to exceed one dollar (\$1). For further verification, we may also (i) authorize your Payment Method for one or two additional nominal amounts, each not to exceed two dollars (\$2), and ask you to confirm these amounts, or (ii) require you to upload a billing statement. When you add a Payment Method during checkout, we will automatically save that Payment Method to your Clutch! Account so it can be used for a future transaction.

6.3 To verify your Payout Method, Clutch! may send one or more payments of nominal amounts to your Payout Method. We may, and retain the right to, initiate refunds of these amounts from your Payout Method.

6.4 Please note that Payment Methods and Payout Methods may involve the use of third-party payment service providers. These service providers may charge you additional fees when processing payments and Payouts in connection with the Payment Services (including deducting charges from the Payout amount), and Clutch! is not responsible for any such fees and disclaims all liability in this regard. Your Payment Method or Payout Method may also be subject to additional terms and conditions imposed by the applicable third-party payment service provider; please review these terms and conditions before using your Payment Method or Payout Method.

6.5 You authorize Clutch! to store your Payment Method information and charge your Payment Method as outlined in these Payments Terms. If your Payment Method's account information changes (e.g., account number, routing number, expiration date) as a result of re-issuance or otherwise, we may acquire that information from our financial services partner or your bank and update your Payment Method on file in your Clutch! Account.

6.6 You are solely responsible for the accuracy and completeness of your Payment Method and Payout Method information. Clutch! is not responsible for any loss suffered by you as a result of incorrect Payment Method or Payout Method information provided by you.

## **7. Financial Terms for Providers**

### **7.1 Generally**

Generally speaking, Clutch! will collect the Total Fees from a Guest at the time the Guest's booking request is accepted by the Provider, or at any other time mutually agreed between the Guest and Clutch!.

### **7.2. Payouts**

7.2.1 In order to receive a Payout you must have a valid Payout Method linked to your Clutch! Account. Clutch! will generally initiate Payouts to your selected Payout Method within twenty-four (24) hours after the conclusion of a completed Booking.

7.2.2 Your Payout for a Booking will be the Listing Fee less the applicable Service Fee, other fees and charges, and Taxes.

7.2.3 Clutch! will remit your Payouts in U.S. dollars. Amounts may be rounded up or down as described in Section 10.5 ("Rounding Off").

7.2.4 For compliance or operational reasons, Clutch! may limit the value of each individual Payout. If you are due an amount above that limit, Clutch! may initiate a series of Payouts (potentially over multiple days) in order to provide your full payout amount.

## **8. Financial Terms for Guests**

8.1 You authorize Clutch! to charge your Payment Method the Total Fees for any booking requested in connection with your Clutch! Account. Clutch! will collect the Total Fees in the manner agreed between you and Clutch! via the Clutch! Marketplace. Clutch! will generally collect the Total Fees after the Provider accepts your booking request. Clutch! may offer alternative options for the timing and manner of payment; any additional fees for using offered payment options will be displayed via the Clutch! Marketplace and included in the Total Fees, and you agree to pay such fees by selecting the payment option. If Clutch! is unable to collect the Total Fees as scheduled, Clutch! will collect the Total Fees at a later point. Once the payment transaction for your requested booking is successfully completed you will receive a confirmation email.

8.2 When you request to book a Listing, Clutch! may also (i) obtain a pre-authorization via your Payment Method for the Total Fees or (ii) charge or authorize your Payment Method a nominal amount, not to exceed one dollar (\$1), to verify your Payment Method.

8.3 If a requested booking is cancelled either because it is not accepted by the Provider or you cancel the booking request before it is accepted by the Provider, any amounts collected by Clutch! will be refunded to you, and any pre-authorization of your Payment Method will be released (if applicable). The timing to receive the refund or for the pre-authorization to be released will vary based on the Payment Method and any applicable payment system (e.g., Visa, MasterCard, etc.) rules.

8.4 You authorize Clutch! to perform the Payment Method verifications described in Sections 6 and 8, and to charge your Payment Method for any bookings made in connection with your Clutch! Account. You hereby authorize Clutch! to collect any amounts due by charging the Payment Method provided at checkout, either directly by Clutch! or indirectly, via a third-party online payment processor, and/or by one or more of the payment methods available on the Clutch! Marketplace (such as gift cards).

8.5 If Clutch! is unable collect any amounts due via your selected Payment Method, you authorize Clutch! to charge any other Payments Methods on file in your Clutch! Account (unless you have previously removed the authorization to charge such Payment Method(s)). You also authorize Clutch! to charge any Payment Method on file in your Clutch! Account in the event of a Damage Claim.

8.6 If you overstay the period of your Booking at a Property, you authorize Clutch! to charge any Payment Method(s) you have on file in your Clutch! Account to collect fees payable under the Clutch! Terms. In addition, Clutch! may recover any costs and expenses it incurs in collecting the Overstay Fees by charging any Payment Method(s) you have on file in your Clutch! Account.

8.7 Clutch! is not responsible for any fees that a Guest's third-party payment service provider may impose when Clutch! charges the Guest's Payment Method, and Clutch! disclaims all liability in this regard.

## **9. Appointment of Clutch! as Limited Payment Collection Agent**

9.1 Each Member collecting payment for services provided via the Clutch! Marketplace (such as Provider Services) (“**Providing Member**”) hereby appoints Clutch! as the Providing Member’s payment collection agent solely for the limited purpose of accepting funds from Members purchasing such services (“**Purchasing Members**”).

9.2 Each Providing Member agrees that payment made by a Purchasing Member through Clutch!, shall be considered the same as a payment made directly to the Providing Member, and the Providing Member will provide the purchased services to the Purchasing Member in the agreed-upon manner as if the Providing Member has received the payment directly from the Purchasing Member. Each Providing Member agrees that Clutch! may refund the Purchasing Member in accordance with the Clutch! Terms. Each Providing Member understands that Clutch!’ obligation to pay the Providing Member is subject to and conditional upon successful receipt of the associated payments from Purchasing Members. Clutch! guarantees payments to Providing Members only for such amounts that have been successfully received by Clutch! from Purchasing Members in accordance with these Payments Terms. In accepting appointment as the limited payment collection agent of the Providing Member, Clutch! assumes no liability for any acts or omissions of the Providing Member.

9.3 Each Purchasing Member acknowledges and agrees that, notwithstanding the fact that Clutch! is not a party to the agreement between you and the Providing Member, Clutch! acts as the Providing Member’s payment collection agent for the limited purpose of accepting payments from you on behalf of the Providing Member. Upon your payment of the funds to Clutch!, your payment obligation to the Providing Member for the agreed upon amount is extinguished, and Clutch! is responsible for remitting the funds to the Providing Member in the manner described in these Payments Terms, which constitute Clutch!’ agreement with the Purchasing Member. In the event that Clutch! does not remit any such amounts, the Providing Member will have recourse only against Clutch! and not the Purchasing Member directly.

## **10. General Financial Terms**

### **10.1 Service Fees and Other Fees.**

Clutch! collects the Service Fees charged by Clutch! pursuant to the Clutch! Terms. Where applicable, Clutch! may also collect in respect of other fees and charges. Clutch! deducts the Service Fee and other applicable fees and charges.

### **10.2 Cancellations and Refunds**

10.2.1 If a Guest cancels a confirmed booking, Clutch! will refund the amount of the Total Fees due to the Guest pursuant to the Listing’s cancellation policy and as otherwise in accordance

with the Clutch! Terms, Clutch! will also initiate a Payout of any portion of the Total Fees due to the Provider under the applicable cancellation policy.

10.2.2 If a Provider cancels a confirmed booking, Clutch! will provide the Guest a full refund of the Total Fees within a commercially reasonable time of the cancellation. In some instances, Clutch! may allow the Guest to apply the refund to a new booking, in which case Clutch! will credit the amount against the Guest's subsequent booking at the Guest's direction.

10.2.3 If, as a Provider, you cancel a confirmed booking, you agree that Clutch! may collect any cancellation fees imposed pursuant to the Clutch! Terms. In these instances, Clutch! will treat your cancellation as a payment authorization.

10.2.4 If a Provider modifies or cancels a Provider Service, Clutch! will provide Guests a refund in accordance with the Clutch! Terms.

10.2.5 All refunds may be subject to the Clutch! Terms. If a Guest or Clutch! decides for any reason to cancel a confirmed booking pursuant to the Clutch! Terms, you agree that Clutch! will not have any liability for such cancellations or refunds aside from its obligations to remit refunds or Payouts pursuant to these Payments Terms.

10.2.6 If, as a Provider, your Guest cancels a confirmed booking or Clutch! decides that it is necessary to cancel a confirmed booking, and Clutch! issues a refund to the Guest, you agree that in the event you have already been paid, Clutch! will be entitled to recover the amount of any such refund from you, including by subtracting such refund amount out from any future Payouts due to you.

## **10.5 Payment Processing Errors**

We will take steps to rectify any payment processing errors that we become aware of. These steps may include crediting or debiting (as appropriate) the same Payout Method or Payment Method used for the original Payout to or payment by you, so that you end up receiving or paying the correct amount.

## **10.5 Booking Modifications**

If, as a Guest, you owe additional amounts to Clutch! due to a Booking Modification, you agree that Clutch! may collect such amounts by charging the Payment Method used to make your booking (or, if that Payment Method is not available, through any other authorized Payment Method in your Clutch! Account). If, as a Provider, you owe Clutch! any amounts due to a Booking Modification, you agree that Clutch! may collect those amounts pursuant to Section 7 ("Financial Terms for Providers") and as otherwise permitted under these Payments Terms.

## **10.6 Collections**

If Clutch! is unable to collect any amounts you owe under these Payments Terms, Clutch! may engage in collection efforts to recover such amounts from you. Clutch! will deem any owed

amounts overdue when: (a) for authorized charges, ninety (90) days have elapsed after Clutch! first attempts to charge the Member's Payment Method or the associated services have been provided, whichever is later; and (b) for withholdings from a Provider's future Payouts, one hundred and eighty (180) days have elapsed after the adjustment is made to the Provider's account or the associated services have been provided, whichever is later. Any overdue amounts not collected within one hundred and eighty (180) days after they become overdue will be deemed to be in default. You hereby explicitly agree that all communication in relation to amounts owed will be made by electronic mail or by phone, as provided to Clutch! by you. Such communication may be made by Clutch!, or by anyone on its behalf, including but not limited to a third-party collection agent.

## **11. Taxes**

11.1 In any jurisdiction where Clutch! facilitates the collection and remittance of Taxes pursuant to the Clutch! Terms, you hereby instruct and authorize Clutch! to collect Taxes from Guests on the Provider's behalf at the time the 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. You expressly agree to release, defend, 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, debts, obligations, and expenses, including, without limitation, reasonable legal and/or accounting fees, arising out of or in any way related to Taxes, including, without limitation, the applicability of, calculation, collection or remittance of Taxes in any amount or at all as to your transactions or accommodations.

11.2 You agree that any claim or cause of action relating to Clutch!' 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 of Taxes, 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. Damage; Security Deposits**

12.1 If you as a Guest (i) agree to pay the Provider in connection with a Damage Claim, or (ii) Clutch! determines that you are responsible for damaging an Accommodation or any personal or other property located at an Accommodation pursuant to the Clutch! Terms, you authorize Clutch! to charge the Payment Method used to make the booking in order to collect any Security Deposit associated with the Listing, as well as any amount of the Damage Claim exceeding any Security Deposit. If the Listing does not have a Security Deposit, Clutch! may charge the Payment Method used to make the booking for the amount of the Damage Claim. If we are unable to collect from your Payment Method used to make the booking, you agree that Clutch!

may charge any other Payment Method on file (and not otherwise unauthorized) in your Clutch! Account at the time of the Damage Claim.

12.2 Clutch! also reserves the right to otherwise collect payment from you and pursue any remedies available to Clutch! in situations in which you are responsible for a Damage Claim.

### **13. Prohibited Activities**

You are solely responsible for compliance with any and all laws, rules, regulations, and Tax obligations that may apply to your use of the Payment Services. In connection with your use of the Payment Services, you may not and you agree that 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 the Clutch! Terms, Policies, or Standards;
- use the Payment Services for any commercial or other purposes that are not expressly permitted by these Payments Terms;
- register or use any Payment Method or Payout Method with your Clutch! Account that is not yours or you do not have authorization to use;
- avoid, bypass, remove, deactivate, impair, descramble, or otherwise circumvent any technological measure implemented by Clutch! or any of Clutch!' providers or any other third party to protect the Payment Services;
- take any action that damages or adversely affects, or could damage or adversely affect, the performance or proper functioning of the Payment Services;
- attempt to decipher, decompile, disassemble, or reverse engineer any of the software used to provide the Payment Services; or
- violate or infringe anyone else's rights or otherwise cause harm to anyone.

### **16. Disclaimers**

**16.1 If you choose to use the Payment Services, you do so voluntarily and at your sole risk. The Payment Services are provided "as is", without warranty of any kind, either express or implied.**

**16.2 Notwithstanding Clutch!' appointment as the limited payment collection agent of Providing Members for the purposes of accepting payments from Members through the Clutch! Marketplace, Clutch! explicitly disclaims all liability for any act or omission of any Member or other third party. Clutch! does not have any duties or obligations as agent for each Providing Member except to the extent expressly set forth in these Payments Terms, and any additional duties or obligations as may be implied by law are expressly excluded.**

**16.3 If we choose to conduct identity verification 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.**

**16.4 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.**

## **17. 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 Payment Services remains with you. If you permit or authorize another person to use your Clutch! Account in any way, you are responsible for the actions taken by that person. Neither Clutch! nor any other party involved in creating, producing, or delivering the Payment Services 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 Payments Terms, (ii) from the use of or inability to use the Payment Services, or (iii) from any communications, interactions, or meetings with other Members or other persons with whom you communicate, interact, transact, or meet with as a result of your use of the Payment Services, 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 Providing Members pursuant to these Payments Terms, in no event will Clutch!’ aggregate liability arising out of or in connection with these Payments Terms and your use of the Payment Services including, but not limited to, from your use of or inability to use the Payment Services, 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), 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**

## **18. 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 Payments Terms; (ii) your improper use of the Payment Services; (iii) Clutch!’ collection and remittance of Taxes; or (iv) your breach of any laws, regulations, or third-party rights.**

## **19. Termination, Suspension, and other Measures**

19.1 You may terminate this Agreement at any time via the “Cancel Account” feature on the Clutch! Marketplace or by sending us an email, or by following the termination procedures specified in the [Clutch! Terms](#). Terminating this Agreement will also serve as notice to cancel your Clutch! Account pursuant to the Clutch! Terms. If you cancel your Clutch! Account as a Provider, Clutch! will provide a full refund to any Guests with confirmed booking(s). If you cancel your Clutch! Account as a Guest, Clutch! will initiate a refund for any confirmed booking(s) based on the Listing’s cancellation policy.

19.2 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.

19.3 Clutch! may immediately, without notice terminate this Agreement if (i) you have materially breached your obligations under this Agreement; (ii) you have provided inaccurate, fraudulent, outdated, or incomplete information; (iii) you have violated applicable laws, regulations, or third-party rights; or (iv) Clutch! believes in good faith that such action is reasonably necessary to protect other Members, Clutch!, Clutch!, or third parties (for example in the case of fraudulent behavior of a Member).

19.4 In addition, Clutch! may limit or temporarily or permanently suspend your use of or access to the Payment Services (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 Payments Terms, the [Clutch! Terms](#), applicable laws, regulations or third-party rights, (iii) you have provided inaccurate, fraudulent, outdated, or incomplete information regarding a Payment Method or Payout Method, or (iv) Clutch! believes in good faith that such action is reasonably necessary to protect the personal safety or property of Clutch!, its Members, Clutch!, or third parties, or to prevent fraud or other illegal activity.

19.5 In case of non-material breaches and where appropriate, you will be given notice of any measure by Clutch! and an opportunity to resolve the issue to Clutch!' reasonable satisfaction.

19.6 If you are a Provider and we take any of the measures described in this Section we may refund your Guests in full for any and all confirmed bookings, irrespective of preexisting cancellation policies, and you will not be entitled to any compensation for pending or confirmed bookings that were cancelled.

19.7 If your access to or use of the Payment Services has been limited or this Agreement has been terminated by us, you may not register a new Clutch! Account or attempt to access and use the Payment Services through other an Clutch! Account of another Member.

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

## **20. Applicable Law and Jurisdiction**

These Payments 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 must be brought in state or federal court in Birmingham, Alabama unless we both agree to some other location. You and we both consent to venue and personal jurisdiction in Birmingham, Alabama.

## **21. Dispute Resolution and Arbitration.**

Any and all disputes or claims of any type arising under these Payment Terms shall be subject to the Arbitration Agreement set forth Paragraph 2 of the Clutch! Terms of Use.

## **22. General Provisions**

22.1 Except as they may be supplemented by additional terms and conditions, policies, guidelines, or standards, these Payments Terms constitute the entire Agreement between Clutch! and you regarding the subject matter hereof, and supersede any and all prior oral or written understandings or agreements between Clutch! and you regarding the Payment Services.

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

22.3 If any provision of these Payments 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.

22.4 Clutch!' failure to enforce any right or provision in these Payments 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 Payments Terms, the exercise by either party of any of its remedies under these Payments Terms will be without prejudice to its other remedies under these Payments Terms or otherwise permitted under law.

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

22.6 This Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties. Notwithstanding the foregoing, the parties agree that the payment card networks are third-party beneficiaries of this Agreement for purposes of enforcing provisions related to payments, but that their consent or agreement is not necessary for any changes or modifications to this Agreement.

22.7 Unless specified otherwise, any notices or other communications 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). For notices made to Members

residing outside of Germany, the date of receipt will be deemed the date on which Clutch! transmits the notice.

### **23. Contacting Clutch!**

You may contact Clutch! regarding the Payment Services using the information below:

These Payments Terms are available at <http://imclutch.com>. Clutch! will provide a copy of these Payments Terms on request. If you have any questions about these Payments Terms, please contact us.