

Seller Terms

IMPORTANT

These Seller Terms do not apply to customers.

If you are a Customer (purchasing products through an OnCommerce Marketplace), please refer to the applicable Customer Terms for the relevant OnCommerce Marketplace:

- OnBuy Customer Terms;
- easyShop.com Customer Terms;
- Comet Customer Terms.

PARTIES

These Seller Terms are between:

- (1) The Seller;
- (2) OnBuy Ltd in relation to UK Sales; and
- (3) OnBuy (EU) Ltd in relation to Other European Sales.

Collectively hereafter referred to as the “Parties”, with the applicable OnCommerce entity or entities hereafter referred to as the “OnCommerce Company”, which trade as each of the OnCommerce Marketplaces under the names ‘OnBuy’, ‘easyShop.com’ and ‘Comet’, as applicable. Full information about the OnCommerce Companies is set out in Schedule 1 of these Seller Terms.

1 INTERPRETATION

1.1 Unless the context otherwise requires, key terms are capitalised and defined in Schedule 1 (below).

1.2 Any words following the terms "including", "include", "in particular", "for example" or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.3 Wherever a singular expression is used in these Seller Terms, that expression is considered as including the plural or the body corporate where required by the context.

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1.4 In these Seller Terms, the term “or” shall not be interpreted to be exclusive, and the term “and” shall not be interpreted to require the conjunctive (in each case, unless the context otherwise requires).

2 SELLER ACCEPTANCE

2.1 By completing the Seller application, paying the Application Fee and using any or all of the OnCommerce Marketplaces from the Commencement Date, the Seller agrees to be bound by these Seller Terms. If the OnCommerce Marketplace is being used on behalf of a company or other entity by an individual authorised to accept this Agreement on its behalf, then all references to “Seller” refer to the company or other entity. If the Seller is a company or other entity, the individual accepting this Agreement on your behalf represents and warrants that they have authority to bind you to this Agreement. If you are not eligible, or do not agree to the terms and conditions of this Agreement, then you do not have the OnCommerce Company’s permission to use the OnCommerce Marketplace.

3 COMMENCEMENT AND DURATION

3.1 This contract shall commence on the Commencement Date and shall have a term of one-month which shall automatically renew on a monthly rolling basis unless and until terminated in accordance with Clause 20 (Termination).

3.2 Any contractual terms between the OnCommerce Companies and the Seller, that were applicable prior to the Commencement Date, shall continue to apply solely to those sales made by the Seller prior to the Commencement Date under such contractual terms.

4 OVERVIEW OF ROLES

4.1 The OnCommerce Marketplaces are online platforms for the Seller and the Customers to complete transactions for the purchase of Products. The Seller shall participate in the OnCommerce Marketplaces under a single OnCommerce account. The relevant OnCommerce Company shall determine, in its sole discretion, which of the OnCommerce Marketplaces the Seller’s Products are listed on. The Seller may not opt out of any OnCommerce Marketplace but shall determine in the SCP which countries it wishes to sell Products into.

4.2 The OnCommerce Companies are not party to contracts for the sale of Products made through the OnCommerce Marketplaces. Any contract for the sale of Products concluded via the OnCommerce Marketplaces is solely between the Seller and the Customer pursuant to the Customer Terms applicable to the relevant OnCommerce Marketplace. None of the OnCommerce

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Companies assume any responsibility whatsoever for breaches by either party to the relevant Customer Terms.

4.3 Notwithstanding clause 4.2 above, the applicable OnCommerce Company has the Seller's authority to bind the Seller to contracts to the extent that they are created via the OnCommerce Marketplaces.

4.4 The Seller understands that by selling on an OnCommerce Marketplace, it authorises the OnCommerce Company to act as a commercial agent on behalf of the Seller only, and not on behalf of the Customer:

4.4.1 OnBuy (EU) Ltd shall act as commercial agent on behalf of the Seller to complete transactions for all Orders which are made by Customers in European countries, with the exception of the United Kingdom.

4.4.2 OnBuy Ltd shall act as commercial agent on behalf of the Seller to complete transactions which are made by Customers in the United Kingdom.

4.5 By entering into these Seller Terms, the Seller gives the relevant OnCommerce Company (as applicable based upon the Seller's selection) the right to conclude the sale of Products to Customers via the OnCommerce Marketplaces on behalf of the Seller.

4.6 Customer payments for Orders shall be collected by the applicable OnCommerce Company in the relevant currency for that country, or any other currency that OnCommerce determines shall apply for purchases in the country of purchase. At its sole discretion, the relevant OnCommerce Company shall have the right to select the payment options made available to the Customer on the OnCommerce Marketplaces.

4.7 In consideration for the Monthly Subscription Fees and other fees described in these Seller Terms, and subject to the Seller's adherence to these Seller Terms, the Seller shall be given access to the OnCommerce Marketplaces. The relevant OnCommerce Company shall:

4.7.1 Provide the OnCommerce Marketplaces and other operational means for the Seller to sell Products to Customers in various countries.

4.7.2 Provide a framework for the Seller to enter into legally binding contracts with Customers;

4.7.3 Provide the means for Sellers to communicate with Customers, including acknowledgement of the Order, and (separately) confirming dispatch of the Order;

4.7.4 Accept payments from the Customer on behalf of the Seller in settlement of the debt owed by the Customer to the Seller. Payments shall be processed by the relevant OnCommerce Company and made available for the Seller to withdraw pursuant to these Seller Terms.

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4.7.5 Provide the operational and technical means for Sellers to effect sales with Customers;

4.7.6 Provide the means for Sellers to manage cancellations and process refunds;

4.7.7 Process full or partial refunds on the Seller's behalf when the relevant OnCommerce Company deems necessary (if the relevant OnCommerce Company has already paid the Seller, the Seller shall refund such sums to the relevant OnCommerce Company);

4.7.8 Provide (either directly or via a third party) a responsive Customer Care Team for and on behalf of the Seller to the Seller's Customers. This shall include assistance, negotiation and conclusion of Customer disputes for the Seller; and

4.7.9 From time to time, deliver marketing and promotional campaigns and offer incentives to Customers in order to increase Seller sales;

4.8 Act as commercial agent for the Seller pursuant to these Seller Terms and not act as agent for the Customer.

4.9 All contracts concluded by the Sellers with Customers through the OnCommerce Marketplaces shall be completed pursuant to the applicable Customer Terms for the relevant OnCommerce Marketplace through which the relevant Order is placed and email confirmation of the Customer's Order. The Seller agrees to comply with applicable Customer Terms for the relevant OnCommerce Marketplace(s) at all times.

4.10 The OnCommerce Companies are not a party to the Customer Terms and the OnCommerce Companies shall not be liable for, or in connection with, the Customer Terms or any claim or dispute arising out of or in connection with that agreement.

4.11 Certain features and services (including Boost and Priority Orders) may not be available on all OnCommerce Marketplaces. Availability of features for each OnCommerce Marketplace is indicated in the SCP.

5 SELLER APPLICATION PROCESS

5.1 A non-refundable Application Fee shall be paid by the Seller to the relevant OnCommerce Company in consideration for the relevant OnCommerce Company processing the Seller's application to sell on the OnCommerce Marketplaces.

5.2 If the Seller's application is successful, the Application Fee shall then constitute the Seller's first monthly subscription.

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5.3 The OnCommerce Company reserves the right to reject the application at its sole discretion and is under no obligation to explain its decision. The Seller understands that rejection may be due to the OnCommerce Company identifying repeat applications, fraud and other frailties in the Seller's application which the OnCommerce Company may not wish to disclose in order to protect the integrity of OnCommerce's onboarding procedure.

5.4 During the application stage, the applicant will be asked to select a country of business registration. This country must be featured among the list of supported countries set out and the Seller must be able to set up a business bank or business building society account in the chosen country. The Seller represents and warrants that the country selected is the primary country in which the Seller operates its business, and the Seller will immediately notify the OnCommerce Company if its business relocates.

5.5 If an applicant submits an application with false, erroneous or insufficient information, the Seller's application shall be rejected. Duplicate applications shall also be rejected. The Seller may only have one account with OnCommerce.

5.6 Unless advised otherwise by OnCommerce, the Seller may make subsequent applications, but each subsequent application will be subject to a non-refundable Application Fee.

6 SELLER'S USE OF THE ONCOMMERCE MARKETPLACES

6.1 Accessing and Completing the Seller Control Panel (SCP)

6.1.1 Once the Seller has successfully completed the application process, the Seller shall receive a welcome email and gain access to the SCP. The Seller shall be able to upload, update and review detailed Listing information for its Products. Orders will be logged into the SCP. The Seller will be able to use the SCP to manage Orders, view and manage disputes, view and print sales history, update and manage stock levels, pricing, view performance reports, manage its subscription, and handle Customer feedback. All financial information will be stored in the SCP. All communication between the Seller and Customers will be made through the SCP.

6.1.2 The Seller shall ensure that the Seller's business name, company registration number and registered office (where applicable), as well as trading and returns address and applicable VAT numbers and other applicable tax identification numbers, are clearly provided and updated as soon as changes become applicable.

6.2 Placing Products on the OnCommerce Marketplaces

6.2.1 The Seller shall be able to create a Product Page and/or add a Listing or use an existing Product Page and add a Listing.

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6.2.2 The Seller shall select in the SCP whether the Listing shall be made available for UK Sales or Other European Sales (either or both).

6.2.3 If another seller is already using a Product Page on a specific OnCommerce Marketplace and the Seller wishes to update the details on such Product Page, the Seller can submit a request to OnCommerce. OnCommerce reserves the right to accept or refuse to action such requests.

6.2.4 The Seller shall ensure that the correct age restrictions, in each applicable country, are included with the Listing in the SCP for any applicable age-restricted Products.

6.2.5 The Seller shall not use the OnCommerce Marketplaces as an advertising portal for selling items, other than
the Products which the Seller is permitted to list for sales pursuant to these Seller Terms.

6.2.6 The Seller shall refrain from selling any Products that are illegal or in contravention of the Prohibited Products Policy and shall pay the Operational Costs Recovery Fee to the relevant OnCommerce Company if the Seller lists such Products, as set out at Clause 15.4 of these Seller Terms. When electing to make its Products available and sell to Customers in specific countries, the Seller is solely responsible for complying with all applicable laws in such country and ensuring that the Products may be lawfully sold in the relevant country.

6.2.7 The Seller shall not create Product Pages which infringe upon the Intellectual Property Rights or proprietary rights of any third party.

6.2.8 The Seller shall not create Product Pages or upload anything onto the OnCommerce Marketplaces that contains obscene or discriminatory language, nude images, political messages or material or otherwise breaching the Policies applicable at the time of such breach.

6.2.9 The Seller shall take sole responsibility for the accuracy and detail on all Product Pages it creates, including, but not limited to:

- a. Product descriptions;
- b. categorisation of Products;
- c. origin of Products;
- d. Listing Prices;
- e. images (the Seller shall ensure the photographic quality of the Products is high and have a white background colour where possible);
- f. measurements, the condition and any other supplementary information about the Products (including packaging, postage and delivery as well as the delivery price for each Listing);

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- g. the total amount of stock of the Product that the Seller has available for Customers to purchase and the Seller's stock keeping unit of the Product, ensuring that this information is detailed in each Listing.

This responsibility in 6.2.9 applies irrespective of whether the Seller creates the Product Page or uses an existing Product Page. For the avoidance of doubt, where integrations such as APIs or stock feeds are used, the Seller remains responsible for ensuring such information remains accurate.

6.2.10 The Seller shall ensure the Products are of satisfactory quality, that any refurbished Products are clearly displayed as such, and that any Products that are sold as damaged or defective are clearly labelled as such in the Listing.

6.2.11 The Seller shall rectify any inaccuracy in any Product Page immediately upon knowledge of such inaccuracy. If for any reason the Seller is unable to make the necessary corrections, the Seller shall, as soon as reasonably practicable notify OnCommerce, through the SCP, of any such inaccuracy and provide details of how the inaccuracy should be corrected.

6.2.12 Except where the relevant OnCommerce Company is the deemed supplier for VAT or other applicable sales tax purposes, the collection, reporting and payment of VAT, or other applicable sales tax, to the relevant tax authority shall be the Seller's sole responsibility. The Seller shall also be responsible for the collection, reporting and payment of all other applicable taxes and import and import handling fees due in connection with the Products sold by the Seller via the OnCommerce Marketplaces.

6.2.13 The Seller accepts all responsibility for ensuring that the transactions entered into with Customers are lawful in the country in which the Marketplace is located, and in the jurisdiction in which delivery is to be made to the Customer.

6.2.14 The Seller shall not list excessive volumes of Products on the OnCommerce Marketplaces. The OnCommerce Companies shall have sole discretion as to reasonable usage. The relevant OnCommerce Company shall inform the Seller if it has or is about to exceed a reasonable number of Listings and give the Seller 48 hours to reduce its Listings to a prescribed amount. If the Seller fails to reduce its Listings to the prescribed amount within that timeframe, the relevant OnCommerce Company may reduce the Seller's Listings accordingly.

6.2.15 The OnCommerce Companies reserve the right to place a limit on the volume or amount of Seller sales. This cap may be changed or removed at the sole discretion of the OnCommerce Companies.

6.3 Seller Use of the SCP

6.3.1 The Seller shall:

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- a. check the SCP each day for alerts from the OnCommerce Companies of new Orders, cancellations, refunds, disputes, or Customer message requests;
- b. ensure that the SCP accurately reflects the Seller's details and Orders, including dispatches and tracking numbers, and that all stock availability, Pricing and Order information held within the SCP is accurate and is updated promptly whenever changes occur;
- c. display the Seller's Holiday Period in the SCP;
- d. respond to enquiries from Customers and OnCommerce Companies, including returns and disputes, within 48 hours, unless such enquiries are made during the Seller's Holiday Period, in which case the Seller shall respond within 48 hours of return;
- e. not use the SCP or any other part of the OnCommerce Marketplaces to communicate with the Customers with the intention of enticing them to purchase the Products through any other means than through the OnCommerce Marketplaces;
- f. neither engage in nor encourage communications outside of the SCP. Sellers may only communicate with Customers via the SCP.
- g. neither encourage, facilitate or in any other manner direct Customers to write fake reviews/ratings of Products and Seller performance. This includes Products sold by any Seller. The Seller may not incentivise reviews or apply pressure on Customers to submit reviews. OnCommerce's Reviews Policy is hereby incorporated into these Seller Terms.

6.4 Listing Prices

6.4.1 The Seller must add the Listing Price on the SCP;

6.4.2 When the Seller makes a Listing applicable for UK Sales, the Seller shall list the gross price of the Product in GBP. When the Seller makes a Listing applicable for Other European Sales, the Seller shall list the gross price of the Product in the applicable currency applicable to the OnCommerce Marketplace through which the sale is made.

6.4.3 The Listing Price is solely determined by the Seller and shall be deemed to be inclusive of:

- a. any applicable sales tax;
- b. delivery charges including import fees, duties and taxes;

6.4.4 Listing Prices shall not exceed £30,000 (or equivalent in other currencies) inclusive of taxes and delivery charges. The relevant OnCommerce Company shall remove Listings that are priced in excess of £30,000 (or equivalent in other currencies) from the OnCommerce Marketplaces;

6.4.5 The Seller acknowledges and accepts that:

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- a. The Seller has sole responsibility to add correct Listing Prices and to check that each Product has been correctly categorised. The OnCommerce Companies bear no responsibility for incorrect Listing Prices or wrongly categorised Products. The OnCommerce Companies reserve the right to recover sums from the Seller if Products are found to have been incorrectly categorised, and the Seller shall have no claims against the OnCommerce Companies if the Seller is charged a higher Sales Fees as a result of incorrect categorisation of a Product.
- b. Once the Seller has dispatched the Product and the relevant OnCommerce Company has sent a confirmation email to the Customer, the Seller has entered into a legally binding contract with the Customer and any errors in the Sale price cannot be changed.
- c. Where the Seller has updated the Listing Price, the updated Listing Price may take up to 2 hours to display on the Marketplaces. If a pricing error is discovered prior to dispatch, the Seller shall contact the Customer as soon as is practicable and the Order shall be cancelled, and the Seller shall process a refund within 2 days.
- d. Where packaging and postage costs or any other costs are not correctly inputted into the SCP, the Seller has no right to pursue the Customer for additional payments once the Customer has placed an Order.
- e. The OnCommerce Companies may, at their own discretion, offer promotions for the purposes of increasing the Seller's sales. Any pricing changes actioned by the OnCommerce Companies will not affect payments otherwise due to the Seller.

6.5 Processing Orders

6.5.1 The Seller is solely responsible for fulfilment of Orders.

6.5.2 Once the Seller has received an Order through the SCP, the Seller may decide to accept or reject the Order. If for any reason the Seller is unable to supply a Customer with all or part of the Order, the Seller will inform the Customer via the Customer's applicable OnCommerce Marketplace account. Rejections may affect the Seller's performance metrics and cause the Seller to incur a Refund Administration Fee. If the Seller accepts the Order, the Seller is obliged to fulfil and dispatch the Order as soon as is reasonably practicable and confirm receipt within the dispatch timeframe options in the SCP.

6.5.3 The Seller must select a designated delivery timeframe from between 1 and 30 days.

6.5.4 Orders must be dispatched within the Seller's Handling Time, which can be set in the SCP for a maximum of 10 (ten) days.

6.5.5 Where the Priority Orders feature is available on the relevant OnCommerce Marketplace, Priority Orders must be dispatched on the same day if ordered before the priority cut-off time set in the SCP.

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6.5.6 Acceptance of the Order is achieved by email to the Customer, sent through the SCP at the dispatch of the Order.

6.5.7 Any enquiries relating to the Order or delivery must be dealt with through the SCP.

6.5.8 The Seller acknowledges and agrees that the OnCommerce Company shall, on the Seller's behalf, have the right to refund the Customer's payment for an Order (from the monies received by the relevant OnCommerce Company from the Customer on behalf of the Seller) if the Seller doesn't meet the Delivery Timeframes chosen by the Customer based upon the options set by the Seller.

6.5.9 The Seller must provide the Customer with an appropriate invoice if requested by the Customer. For UK Sales where any of the OnCommerce Companies are the deemed supplier for VAT purposes, the relevant OnCommerce Company shall be responsible for providing the Customer with a VAT invoice.

6.5.10 The OnCommerce Company reserves the right to cancel an Order and process a refund if, in the OnCommerce Company's reasonable opinion, it believes that the Seller is or will become in breach of these Seller Terms.

6.5.11 Where an Order is not marked as dispatched within 30 days of the Order being made, the sale will be automatically cancelled and refunded by the relevant OnCommerce Company (on behalf of the Seller) from the monies received by the OnCommerce Company from the Customer.

6.5.12 Where a Seller has not accepted an Order as described in 6.5.6 within the Handling Time that the Seller has set on the SCP, or where the relevant OnCommerce Company reasonably believes that the Seller has rejected an Order, the relevant OnCommerce Company shall be entitled to cancel the sale and refund the Customer's payment for that Order from the monies received by the relevant OnCommerce Company from the Customer on behalf of the Seller.

6.5.13 If a Force Majeure Event takes place that affects the performance of the Seller's obligations under the applicable Customer Terms for the relevant OnCommerce Marketplace:

6.5.13.1 the Seller will contact and notify the Customer as soon as reasonably possible; and

6.5.13.2 the Seller's obligations under the Customer Terms will be suspended and the time for performance of the Seller's obligations will be extended for the duration of the Force Majeure Event.

6.5.14 Where the Force Majeure Event affects the Seller's delivery of Products to the Customer, the Seller will endeavour to arrange a new delivery date with the Customer after the Force Majeure Event comes to an end. Alternatively, the Customer may cancel the Order.

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6.6 Delivery, Post and Packing

6.6.1 The Seller shall be solely responsible and bear all risk and liability for sourcing, storing, selling and delivering all the Products in an Order to the Customer and shall use standards of skill and care reasonably to be expected of a professional supplier in doing so.

6.6.2 The Seller bears the risk in the Products until the Products have been delivered to the Customer. The Seller may reduce this risk by using a tracked delivery service to deliver Products to Customers.

6.6.3 If the Seller uses an untracked delivery service and the Products are not delivered to the Customer within the Delivery Timeframe or cannot be proven to have been delivered at all, the relevant OnCommerce Company reserves the right to require the Seller, at the Customer's option, to issue either a full refund or provide a replacement to the Customer, in which case the Customer shall not be required to return any Products delivered late unless the Seller can demonstrate (for example, by providing tracking or other evidence of delivery for the relevant Order) that the Products were successfully delivered to the Customer within the relevant Delivery Timeframe. If the Seller fails to provide a refund or a replacement, the relevant OnCommerce Company shall have the right to recover the relevant sum pursuant to Clause 16.2.

6.6.4 The Seller shall be responsible for selecting in the SCP which delivery options shall apply.

6.6.5 If additional packaging and postage costs apply to the Products, where for example the Products are heavy, fragile, bulky, precious or perishable, the Seller is responsible for ensuring that these costs are included in the Listing Price.

6.6.6 The Seller must ensure that all the Products within the Order are wrapped in a professional manner. The wrapping must be appropriate for the Product (for example and without limitation):

- a. delicate items should be wrapped in protective packaging; and
- b. Products listed in any of the sex & adult categories should be delivered in discreet (opaque and not include any labelling which indicates the contents) packaging.

6.6.7 The Seller shall not include any promotional marketing material inside any packaging used to deliver the Product.

6.6.8 If the Seller uses a third-party to fulfil an Order, the Seller shall select a non-branded packaging option if such option is available.

6.6.9 The Seller shall select the delivery options from the SCP that apply to the Product, and once an Order is made, the Seller must ensure that the Products are sent according to the delivery method selected by the Customer, or a faster and more secure method.

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6.6.10 In the instance of non-delivery, mis-delivery, late delivery, theft or other error or mistake in connection with delivery of Products sold through the OnCommerce Marketplaces, the Seller shall resolve any issues with its delivery provider and under no circumstances request the Customer resolves delivery with the delivery provider aside from Customer confirmation that he/she will be present at the delivery address at an agreed time.

6.6.11 Any customs and import fees and duties levied on an Order shall be the Seller's sole responsibility. If a Customer raises a query regarding any customs and import fees applicable to its Order, the Customer shall be entitled to reimbursement of such charges if it can provide evidence of the same with official documentation, in which case the relevant OnCommerce Company shall reimburse the Customer and shall deduct the applicable customs and import fees from any payments due to the Seller in accordance with Clause 16.2.

6.6.12 The Seller shall not via the OnCommerce Marketplaces export, directly or indirectly, any Products in breach of any applicable Laws or regulations, to any country for which the government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval.

6.6.13 The Seller must ensure that the value of the contents of all Product packages is correctly stated on the relevant packing materials to avoid the Customer being charged incorrect or excessive customs and import fees.

6.6.14 The OnCommerce Companies accept no liability for any customs and import fees arising on any Products returned by the Customer to the Seller, which shall be the sole responsibility of the Seller. If, for any reason, an OnCommerce Company incurs costs in respect of any sales that are a direct result of the mislabelling of consignments by the Seller, the relevant OnCommerce Company shall have the right to deduct any such charges from any payments due to the Seller's payment in accordance with Clause 16.1. If such costs exceed the sums the relevant OnCommerce Company holds on behalf of the Seller, the Seller shall make immediate payment of the costs to the relevant OnCommerce Company upon demand.

6.7 Cancellations and Refunds

6.7.1 Where a Customer has a right to a full or partial refund as set out in the applicable Customer Terms for the relevant OnCommerce Marketplace, the Seller shall process the applicable refund to the Customer via the SCP within the relevant timescale. The relevant OnCommerce Company reserves the right, in its sole discretion, with reasonable notice to the Seller, to refund the Customer on behalf of the Seller and recover the amount refunded from any monies owed to the Seller pursuant to Clause 16 of these Seller Terms.

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7 CUSTOMER CARE

7.1 The OnCommerce Companies' Customer Care Team shall deliver a customer care function for, and on behalf of, the Seller. Where possible, and when the Customer Care Team deems it necessary to do so, the Customer Care Team shall resolve queries without recourse to the Seller, but may contact the Seller.

7.2 With the exception of the response times set out in clause 9.1.2 (Chargebacks), the Seller shall, within 48 hours from delivery to the SCP, respond via the SCP to all Customer communications, relating to:

7.2.1 the quality or fitness for purpose of a Product;

7.2.2 the authenticity of the Product;

7.2.3 whether a Product meets the Seller's description;

7.2.4 failed delivery of the Product; and

7.2.5 other concerns and disputes regarding the Product

Such response must, wherever possible, include a resolution acceptable to the Customer.

7.3 If the Seller fails to provide an acceptable resolution to the Customer pursuant to 7.2, the relevant OnCommerce Company may at its sole discretion process a refund to the Customer on behalf of the Seller and deduct the Dispute Fee from the Seller's account pursuant to Clause 16.2.

7.4 The Dispute Resolution Stage shall involve the Customer Care Team reviewing the full facts of the Dispute. The Customer Care Team may make further contact with the Seller and Customer to gather additional information.

7.5 Upon completion of the Dispute Resolution Stage, a decision will be made either in favour of the Seller or the Customer.

7.6 If the Customer Care Team:

7.6.1 finds in favour of the Seller, the Seller shall not be required to take any further action. This outcome shall not adversely impact the Seller's performance metrics and the Dispute Fee described at 7.3 shall be refunded to the Seller;

7.6.2 finds in favour of the Customer, the relevant OnCommerce Company shall process a refund to the Customer pursuant to 6.7.1. Such a finding may also adversely affect the Seller's performance metrics and may result in action being taken by the relevant OnCommerce Company to restrict the Seller's access to the SCP pursuant to Clause 14.

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7.6.3 The Seller accepts that the Customer Care Team described in this Clause 7 is supplied by the OnCommerce Companies for the benefit of the Seller to enable the Seller to dedicate its resources to selling and to reduce the likelihood that the Seller shall be subject to chargebacks and legal proceedings. The Seller agrees to accept all decisions by the Customer Care Team.

7.7 The Seller accepts that the Customer may commence legal proceedings against the Seller in addition or in the alternative to contacting the Customer Care Team. The Seller hereby releases and shall procure that the Customer releases the OnCommerce Companies, and its affiliates officers, and directors; and (where applicable) the OnCommerce Companies parent company and its officers and directors from any Customer Claims (actual and consequential) of every kind and nature arising out of or in any way connected with such Customer claims and shall indemnify the OnCommerce Companies and (where applicable) the OnCommerce Company's parent company against such Customer Claims.

8 VAT

8.1 The Seller is responsible for pricing Products, on a delivery duty paid (DDP) basis, inclusive of VAT.

8.2 Where an OnCommerce Company is legally obliged to collect VAT, and/or any other applicable sales taxes, charges or levies for any reason in any jurisdiction in respect of the Seller's use of the OnCommerce Marketplaces, the relevant OnCommerce Company will report and remit the relevant sums in respect of such VAT, other applicable sales taxes, other taxes, charges or levies directly to the appropriate national authorities, and will accrue such sums from the sums paid by a Customer in any transaction and so reduce by the value of the relevant VAT, other applicable sales taxes, and/or any other applicable taxes, charges or levies, the net sale proceeds otherwise due to the Seller for that transaction.

8.3 Where an OnCommerce Company is not legally obliged to collect VAT, other applicable sales taxes or any other applicable taxes, charges or levies for any reason in any jurisdiction in respect of the Seller's use of the OnCommerce Marketplaces, or any other transactions, the relevant OnCommerce Company shall remit the net sale proceeds to the Seller inclusive of such VAT, or any other applicable taxes, charges or levies and the Seller shall be solely responsible for reporting and remitting the other applicable sales taxes, relevant sums in respect of such VAT, other applicable sales taxes, and/or any other applicable taxes, charges or levies directly to the appropriate national authorities. If an OnCommerce Company incurs liabilities in respect of any failure by the Seller to correctly categorise its Products, or correctly remit VAT, other applicable sales taxes or any other applicable taxes, charges or levies directly to the appropriate national authorities, the relevant OnCommerce Company reserves the right to deduct any such amounts from any payments due to the Seller in accordance with Clause 16.2 of these Seller Terms.

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8.4 The Seller shall notify the OnCommerce Company as soon as possible if it becomes aware that the OnCommerce Marketplaces are incorrectly displaying VAT, other applicable sales taxes or any other applicable taxes, charges or levies for any of the Seller's Products on the OnCommerce Marketplaces, or if there has been any significant change in the Seller's tax position (e.g., additional tax registrations or de-registrations).

9 CHARGEBACKS

9.1 Fraud Related Chargebacks

9.1.1 The relevant OnCommerce Company shall be responsible for Fraud Related Chargebacks except where the relevant OnCommerce Company has instructed the Seller that an Order must be cancelled prior to the Order being dispatched or if OnCommerce has reasonable grounds to believe that the Seller is complicit with the fraud.

9.1.2 If within 48 hours of the Order being placed, the relevant OnCommerce Company has instructed the Seller that an Order should be cancelled prior to the Order being dispatched, the Seller must respond to the relevant OnCommerce Company on the same day and to confirm that the Order has been either cancelled or dispatched.

9.2 Customer Dispute Chargebacks

9.2.1 The Seller shall be responsible for Customer Dispute Chargebacks including, inter alia, where a Product is not as described or is defective; and for delivery related reasons (except where the Seller has proof of delivery to the address the Customer requested in the Order).

9.2.2 The OnCommerce Company will automatically assign liability to the Seller and the relevant OnCommerce Company will deduct:

- a. the amount of the chargeback (including all charges from banks or card providers); and
- b. The Chargeback Fee from any money owed to the Seller as net sale proceeds or otherwise. If the amount of the Customer Dispute Chargeback exceeds the monies owed to the relevant OnCommerce Company by the Seller, the OnCommerce Company shall have the right to demand immediate payment by the Seller to the relevant OnCommerce Company to cover any shortfall in accordance with Clause 16.2.

9.2.3 The relevant OnCommerce Company shall use its reasonable endeavours to defend Customer Dispute Chargebacks raised against the Seller where the Seller can provide compelling evidence (as determined by the relevant payment processor), which shall be provided to OnCommerce

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within 3 Business Days of the request by the relevant OnCommerce Company. If no compelling evidence is provided, the relevant OnCommerce Company shall have the right to accept the Customer Dispute Chargeback (for which the Seller shall be liable in accordance with Clause 9.2.1. and 9.2.2).

9.2.4 If the Customer Dispute Chargeback is successfully defended, the relevant OnCommerce Company shall pay the Seller the full amount of the Customer Dispute Chargeback set out at 9.2.2 a) and b).

10 PERSONAL DATA

10.1 The Seller shall, at all times, comply with the OnCommerce Privacy Policy and all relevant legislation, in particular, but without limitation, the Data Protection Act 2018 and the GDPR, and the OnCommerce Data Processing Agreement, which is accessible and set out at Schedule 2 (below)

11 COMMUNICATIONS

11.1 The Seller shall communicate all matters with the relevant OnCommerce Company via a support ticket in the SCP.

11.2 The relevant OnCommerce Company shall communicate with the Seller via the contact details the Seller provided in its application or those details in the SCP.

12 NO PROMOTION

12.1 The Seller shall refrain from including links to, or otherwise providing the address of, or promoting, its (or any other) website on the SCP, any Listing on the OnCommerce Marketplaces, in sales that were placed by the Customer on the Marketplaces, or in any other means of communication with the Customer.

12.2 The Seller may not send emails or catalogues or other promotional material to Customers introduced to the Seller by the OnCommerce Companies, other than those which are branded solely as from the OnCommerce Companies.

12.3 The Seller acknowledges and accepts that 'OnCommerce', 'OnBuy', and 'Comet' are registered trademarks of Visor Commerce Ltd (the holding company of the OnCommerce Companies), and that 'easyShop.com' is used by the OnCommerce Companies under licence from its proprietor, and no rights or licences in respect of any of these marks are granted to the Seller.

12.4 The Seller shall not bid on OnCommerce's name, or variations of the OnCommerce Marketplaces brands or trademarks (including OnBuy, easyShop.com, Comet and any other brand

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of the OnCommerce group notified to the Seller or listed in the SCP) or domain names or brand names, on Google or any other search engines or any search sites.

13 SECURITY

13.1 The Seller shall be solely responsible for procuring, maintaining and securing its network connections and telecommunications links at its own cost.

13.2 The Seller shall use its own virus protection software and shall not knowingly access, store, distribute or transmit any viruses or knowingly introduce or permit the introduction of any viruses, trojans, worms, logic bombs or other material that is malicious or technologically harmful during the course of its use of the OnCommerce Marketplaces.

13.3 The Seller must ensure its username and password logins are kept safe and not accessed by any other party and the Seller is solely responsible for all activity that occurs through its account. If these details are lost or the Seller becomes aware that they have been accessed by any other party, the Seller must report the incident to the OnCommerce Companies immediately via a support ticket in OnCommerce's Support Centre.

14 RESTRICTED SELLER ACCESS

14.1 The OnCommerce Companies may, at their sole discretion, partially or completely restrict the Seller access to the SCP in the following and any other reasonable circumstances:

14.1.1 If the Seller fails to fulfil any of its payment obligations set out in these Seller Terms;

14.1.2 on termination of these Seller Terms;

14.1.3 if the Seller fails to dispatch orders in a timely manner or at all;

14.1.4 if the Seller fails to adhere to Clause 7 (Customer care) of these Seller Terms;

14.1.5 if any of the OnCommerce Companies, having made reasonable attempts to contact the Seller, believes that the Seller is and has been inactive for a period of at least 6 months;

14.1.6 if any of the OnCommerce Companies have reasonable grounds to believe that the Seller is using any OnCommerce Marketplace to sell fake/counterfeit Products or is otherwise infringing the intellectual property or proprietary rights of any third party;

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14.1.7 if the Seller has a high rate of cancellations or refunds, or is failing in the relevant OnCommerce Company's reasonable opinion to sufficiently deal with Customers' queries or complaints pursuant to Clause 7 (Customer Care);

14.1.8 if the relevant OnCommerce Company has other reasonable concerns that the Seller's activity has or will breach these Seller Terms; or

14.1.9 pursuant to Clause 20 (Termination).

14.2 If an OnCommerce Company partially restricts the Seller's access pursuant to Clause 14.1, the relevant OnCommerce Company shall do so to the extent that the Seller can only view and manage live Orders and sales, view invoices between the Seller and the relevant OnCommerce Company, mark Orders as dispatched and handle Customer feedback. During this time, the Seller's Listings will not be visible to Customers and Customers will not be able to place new Orders with the Seller.

15 FEES PAYABLE BY SELLERS TO ONCOMMERCE

15.1 The Seller shall pay to OnCommerce:

15.1.1 Monthly Subscription Fee;

15.1.2 Sales Fee;

15.1.3 Boost Fee as described in Schedule 3 of these Seller Terms;

15.1.4 Dispute Fee (if applicable);

15.1.5 Chargeback Fee (if applicable);

15.1.6 Refund Administration Fee (if applicable); and

15.1.7 Operational Costs Recovery Fee (if applicable)

15.2 Monthly Subscription

15.2.1 The Seller shall pay a recurring Monthly Subscription Fee for each calendar month during the term of these Seller Terms. This fee is based on a monthly rolling contract and there is no minimum commitment.

15.2.2 The Monthly Subscription Fee shall be paid online by recurring payments made in advance commencing on the Commencement Date and thereafter on the subscription due date unless the Seller serves 30 days' written notice through the SCP to terminate these Seller Terms pursuant to Sub-Clause 20.1 (Termination).

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15.2.3 The Monthly Subscription Fee shall be paid by the Seller to the OnCommerce Company that the Seller selected at the time of its application (see Clause 5.1).

15.2.4 Where the first Monthly Subscription Fee is taken on the 28th, 29th, 30th or 31st of a month, the subsequent due dates for the Monthly Subscription Fee will be as close to the original payment dates as possible and no later than the date on which the first Monthly Subscription Fee was taken. The Monthly Subscription Fee is subject to VAT (where applicable, (and any other applicable sales tax)) subject to the relevant OnCommerce Company supplying the Seller with a valid VAT invoice.

15.2.5 The OnCommerce Companies reserve the right to change the Monthly Subscription Fees upon 30 days' prior written notice to the Seller.

15.3 Sales Fee

15.3.1 When a sale is made for a Product placed against the Seller's Listing, the Seller shall always pay the applicable Sales Fee to the relevant OnCommerce Company.

15.3.2 If for any reason, the Seller provides the Customer with a full or partial refund pursuant to Clause 6.7, or if the relevant OnCommerce Company provides the Customer with a full or partial refund on behalf of the Seller pursuant Clause 4.7.7, the relevant OnCommerce Company will refund the relevant proportion of the Sales Fee to the Seller. The relevant OnCommerce Company shall charge the Seller the applicable Refund Administration Fee. For avoidance of doubt, where a Sales Fee has been made up of two different percentages with a lower and upper threshold (see Sales Fees), any refunded Sales Fee will be paid in reverse order to how the Sales Fee was charged.

15.3.3 The applicable OnCommerce Company shall have the right to change the Sales Fees upon at least 30 days' prior written notice to the Seller.

15.4 Operational Cost Recovery Fee

15.4.1 If the Seller lists a Prohibited Product, the Seller shall pay the Operational Cost Recovery Fee to the relevant OnCommerce Company which operates the OnCommerce Marketplace on which the Prohibited Product was sold.

15.4.2 The Seller's obligation to pay the Operational Cost Recovery Fee shall commence 30 days after notification from the OnCommerce Company to the Seller that the Products listed by the Seller under are Specific Listing have been identified as Prohibited Products.

15.4.3 The Seller's obligation to pay the Operational Cost Recovery Fee shall cease upon the Seller providing OnCommerce with satisfactory evidence (in OnCommerce's reasonable opinion) that all the Products listed by the Seller under that Listing were not Prohibited Products.

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15.4.4 The Seller shall pay the Operational Cost Recovery Fee on demand, or the OnCommerce Company may deduct it pursuant to clause 16.2.

15.4.5 This Clause 15.4 is without prejudice to the right of the OnCommerce Company to claim general damages arising out of the sale of Prohibited Products by the Seller.

15.4.6 The Seller and the relevant OnCommerce Company hereby confirm that the Operational Costs Recovery Fee is a reasonable and proportionate to protect the OnCommerce Company's legitimate interest in increasing the trustworthiness of the OnCommerce Marketplaces and managing the effects of the sale of Prohibited Products by the Seller.

16 SELLER PAYMENTS TO ONCOMMERCE

16.1 The OnCommerce Company shall have the right to obtain reimbursement from the Seller in any of the following circumstances:

16.1.1 The relevant OnCommerce Company provides a refund to a Customer because the Seller did not deliver the Products pursuant to Clause 6 (Seller's Use of the OnCommerce Marketplaces) of these Seller Terms, or the relevant OnCommerce Company otherwise determines, consistent with the applicable Customer Terms for the relevant OnCommerce Marketplace, that a refund is warranted in a particular circumstance;

16.1.2 The relevant OnCommerce Company identifies erroneous or duplicate transactions related to a Seller;

16.1.3 The relevant OnCommerce Company receives a chargeback from a Customer's payment card issuer or reversal of payment for the amount of a Customer's purchase from a Seller, or any other method of reversal of payment for the amount (or part thereof) of a Customer's purchase from a Seller;

16.1.4 Any sums pursuant to the fees set out in Clause 15 (Fees Payable by the Seller to OnCommerce) of these Seller Terms are outstanding; or

16.1.5 The Seller's OnCommerce account falls into a negative balance for any reason.

16.2 The Seller authorises the relevant OnCommerce Company to use any or all of the following methods to seek reimbursement of any amounts owed by the Seller to the relevant OnCommerce Company:

- a. deduction from future payments from the relevant OnCommerce Company to the Seller,
- b. reversal of any credits to the Seller's OnCommerce account balance,

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- c. charge the Seller's card on file, or
- d. recovery from the Seller by any other lawful means, including by using third-party collections services.

16.3 The OnCommerce Company may charge the Seller interest and debt recovery costs pursuant to the Late Payment of Commercial Debts (Interest) Act 1998 in addition to the outstanding amount.

16.4 Pursuant to Clause 14 (Restricted Seller Access) the OnCommerce Company may restrict the Seller's OnCommerce account at any time pending payment of an outstanding balance.

17 PAYMENT TO THE SELLER

17.1 When payment is made by a Customer, the funds shall be paid to the relevant OnCommerce Company in their role as commercial agent for the Seller and pursuant to these Seller Terms;

17.2 Payment by a Customer to the relevant OnCommerce Company settles the debt owed by a Customer to the Seller and the Customer will no longer owe that amount to the Seller.

17.3 Subject to 17.12, the relevant OnCommerce Company, acting as commercial agent for the Seller, shall pay the Seller the Listing Price together with delivery costs for the relevant Product less any the Sales Fee set out at 15.3.1 and any other charges pursuant to these Seller Terms. Where the relevant OnCommerce Company is the deemed supplier for the purposes of VAT or other applicable sales tax, the relevant OnCommerce Company shall also deduct VAT or other applicable sales tax.

17.4 The Seller shall be able to separately view its UK Sales (in GBP) and Other European Sales (in the relevant currency) via the SCP.

17.5 Payments pursuant to UK Sales shall be made by OnBuy Ltd to the Seller's OnCommerce account in GBP. Payments pursuant to Other European Sales shall be made by OnBuy (EU) Ltd into the Seller's OnCommerce account in the applicable currency for that country.

17.6 Subject to 17.12, the Seller will be able to request a withdrawal of funds no later than 7 days after the end of the Delivery Timeframe.

17.7 The relevant OnCommerce company shall initiate Seller's pay-out pursuant to the Seller's request set out at 17.5 no later than the end of the next Business Day. The receipt of settlements as cleared funds in the Seller's bank account(s) may be delayed because of interbank systems over which the OnCommerce Company has no control.

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17.8 The Seller will be able to transfer the funds to the Seller's bank account, the details of which the Seller provided during the Seller's application, unless those details have been changed by the Seller thereafter.

17.9 The Seller accepts that the OnCommerce Company shall have no liability to the Seller if the Seller provides or has provided incorrect bank details.

17.10 The Seller accepts that the OnCommerce Company shall not make any payments to the Seller if it has become dissolved.

17.11 Under no circumstances shall the OnCommerce Companies make payments due to the Seller to any third-party including any third-party bank account.

17.12 The OnCommerce Company has the right to withhold funds if they reasonably believe the Seller has breached these Seller Terms. This includes the retention of funds in the event Seller is suspected of selling products in contravention of the Prohibited Products Policy. In any instance that the Seller is suspected of selling counterfeit products, such retention shall remain in place unless and until the Seller is able to satisfy the relevant OnCommerce Company, that all the suspected Prohibited Products are authentic. The relevant OnCommerce Company reserves the right to share any concerns and evidence the Seller provides with the relevant law enforcement agency, regulatory authority, manufacturer and brand owner.

17.13 The relevant OnCommerce Companies will provide the Seller with monthly VAT (or other relevant sales tax) invoices for all fees and charges. The VAT or other relevant sales tax invoice will be prepared and provided to the Seller during the subsequent month following the period for which the VAT or other relevant sales tax invoice relates e.g. the VAT or other relevant tax invoice relating to the calendar month of February will be prepared on the 1st of March, the VAT or other relevant tax invoice relating to the calendar month of March will be prepared on the 1st of April, etc.

17.14 Sometimes the Customer may pay for Products using promotional codes or through other promotions. However, these promotions shall not affect the Seller's right to receive payment of the Listing Price pursuant to 17.3.

17.15 Seller payment queries of any kind (including disputes) must be raised with the relevant OnCommerce Company within 12 months of the date of the Order and must be sent via the SCP. Any credit in the Seller's account which is unclaimed for 12 months or more will be retained by the relevant OnCommerce Company.

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18 REPRESENTATIONS AND WARRANTIES

18.1 **General.** Each party represents and warrants that:

18.1.1 it is a business, it is duly organised, validly existing and in good standing under the Laws of its jurisdiction in which the business is operating, and in the case of the Seller, it holds a valid bank account or e-wallet with Payoneer that can receive the currency of which the Products were sold.

18.1.2 it has all requisite rights, power and authority to enter into these Seller Terms and perform its obligations and grants the rights, licences and authorisations it grants hereunder;

18.1.3 any information provided or made available by one party to the other party, or its affiliates is accurate and complete, and it will promptly update such information as necessary to ensure it at all times remains accurate and complete; and

18.1.4 it is not subject to sanctions or otherwise designated on any list of prohibited or restricted parties or owned or controlled by such a party, including but not limited to the lists maintained by the United Nations Security Council, the UK Government, US Government, the European Union or its member states, or other applicable government authority.

18.2 **Seller Warranties.** The Seller represents and warrants that:

18.2.1 it shall comply with all applicable Laws and shall not cause the OnCommerce Company to be in breach of any applicable Laws and shall not infringe the Intellectual Property Rights of any third party in its performance of these Seller Terms;

18.2.2 it shall comply with all its obligations under these Seller Terms including the policies referred to herein;

18.2.3 it shall not undertake any anti-competitive behaviours or practices either of itself or in collusion with any other Sellers;

18.2.4 it shall perform all of its obligations in these Seller Terms (including to Customers) with reasonable care and skill and in accordance with best industry practice of an online seller, including that by listing a Product for sale on the OnCommerce Marketplaces:

- a. it shall comply with all applicable laws and shall not cause the OnCommerce Company to be in breach of any applicable laws and shall not infringe the rights (including Intellectual Property Rights) of any third party in its performance of these Seller Terms;
- b. it owns the Product or is authorised by the owner to sell the Product on the OnCommerce Marketplaces;

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- c. it is able to transfer good title to the Product free from any third-party claims, liens or encumbrances;
- d. the details on Product Pages are accurate and complete and are not misleading or otherwise deceptive in any way;
- e. it shall dispatch Orders promptly and in accordance with the delivery standards set out at Clause 6 of these Seller Terms and in any event within the later of:
 - i. 24 hours from the time the Customer places the Order (unless a longer Handling Time has been set by the Seller in the SCP); and
 - ii. the expected dispatch date, as specified by the Seller at the time of the Order;
- f. the Product complies with all applicable Laws including the Laws of all countries in which the Product is made available via the OnCommerce Marketplaces, the country in which the Customer resides and any other relevant country (including the country where the Product is manufactured), including any labelling requirements, prohibitions on sale, distribution or offering for sale of specific products, customs procedures, taxation, Intrastat, parallel importation, copyright levies, export controls, CE marking and any other relevant marks and labels relating to safety and environment regulations (including (but not limited to) applicable Plastic Packaging Tax, Extended Producer Responsibility (packaging and waste), the Electronic Equipment Act in Germany) and Product Safety. The Seller shall ensure that all Products it makes available for sale which are aimed at minors are fully compliant with all relevant product health and safety legislation and shall provide any of the OnCommerce Companies with documentary evidence of the Seller's compliance with this clause 18.2.4 f. within 48 hours of request.
- g. it shall not list any Product on the OnCommerce Marketplaces and shall immediately remove and recall from the Customer any Products from sale which are or subsequently become:
 - i. considered by any local regulator or government body to be dangerous, harmful or hazardous, including all those listed as such on RAPEX, Safety Gate or similar; or
 - ii. subject to recall by the manufacturer or distributors.
- h. Where applicable, the Seller must ensure that it liaises directly with the responsible organisation in each of the Marketplace countries it lists in, to obtain the relevant Extended Producer Responsibility unique number, registration licence or identification for each of the categories of Product it lists. The Seller accepts that the OnCommerce Companies may preclude Listings if details are not provided and agrees to provide any

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of the OnCommerce Companies with documentary evidence of the Seller's compliance with this clause 18.2.4 h. within 48 hours of request.

18.3 OnCommerce Disclaimer of Warranties. Subject to Clause 19 (Limitation of Liability):

18.3.1 the OnCommerce Marketplaces and all commercial agency services are supplied on an "as is" basis; and

18.3.2 except for the warranties, representations, conditions and obligations expressly set out in these Seller Terms, the OnCommerce Companies disclaim all warranties, representations, conditions and obligations, whether express or implied, including:

- a. the implied warranties of merchantability, fitness for a particular purpose, title and noninfringement; and
- b. that the OnCommerce Marketplaces will meet the Seller requirements, will always be available, accurate, reliable, available, accessible, without interruption, timely, secure or free from error including, but not limited to malware, bugs and spam.

19 LIABILITY AND INDEMNITY

19.1 The Seller is responsible for losses the Customer may suffer which are caused by any breach by the Seller of the Customer Terms applicable to the relevant OnCommerce Marketplace. Nothing in these Seller Terms shall limit or exclude the OnCommerce Companies liability for:

19.1.1 death or personal injury caused by any of the OnCommerce Companies negligence, or the negligence of OnCommerce's employees, agents or subcontractors; or fraud or fraudulent misrepresentation;

19.1.2 Subject to Clause 19.1.1:

- a. The OnCommerce Companies shall not be liable to the Seller whether in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise for any indirect or consequential loss or damage, or any:
 - i. loss of revenue;
 - ii. loss of anticipated savings;
 - iii. loss of profits;
 - iv. loss of business;
 - v. loss of opportunity;
 - vi. loss of goodwill;
 - vii. loss due to business interruption;

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- viii. liability to third parties (including any obligation to pay the Customer compensation whether ex gratia or otherwise);
- ix. loss, alteration or corruption of data;
- x. additional operational and administrative costs and expenses; and
- xi. any fines, penalties or expenses imposed by a regulator, governmental authority or professional body (each of items (i) to (xi) applying whether such loss is direct or indirect).

19.1.3 The OnCommerce Companies' total aggregate liability to the Seller arising under or in connection with the sale of the Products to the Customer pursuant to these Seller Terms, whether in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, shall not exceed the total amount in Monthly Subscription Fees that the Seller has paid to the OnCommerce Companies in the 12 months immediately preceding the date on which the claim arose;

19.1.4 The OnCommerce Companies shall assume no liability in relation to the Products. It is the Seller's responsibility to take out the relevant insurance necessary to cover the cost of the Products it supplies to Customers, inter alia, in the event that Products are lost or damaged in transit and relevant insurance to cover damage that the Products might cause Customers or third parties.

19.1.5 From time to time, it will be necessary for one or more of the OnCommerce Companies to perform updates to and carry out essential maintenance to the OnCommerce Marketplaces. Although the relevant OnCommerce Companies shall endeavour to conduct such maintenance at times which are least likely to inconvenience the Seller, and the relevant OnCommerce Company will always try to notify Sellers of any planned maintenance, the OnCommerce Companies shall have no liability to the Seller for any downtime, including any loss of profits or any other losses caused by maintenance carried out on the OnCommerce Marketplaces or downtime of the OnCommerce Marketplaces.

19.1.6 Except as set out in these Seller Terms, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by Law, excluded. The OnCommerce Companies do not disclaim any warranty or other right that the OnCommerce Companies are prohibited from disclaiming under applicable law.

19.1.7 The Seller shall defend, indemnify and hold the OnCommerce Companies (including their parents, subsidiaries, affiliates, officers, directors, employees, agents, and other representatives) harmless from and against any and all liabilities, costs, expenses, damages and losses (including, without limitation, any direct, indirect, special, or consequential losses, loss of reputation and all interest, penalties and legal and other professional costs and expenses, including, without limitation, the cost of internal resources) suffered or incurred by the relevant OnCommerce Company arising out of or in connection with:

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- i Any breach by the Seller of any provision contained in these Seller Terms or the Customer Terms;
- ii Any actual or alleged defect in any Product (latent or patent);
- iii Violation of any applicable laws (including costs, additional expenses, customs duties, or assessments, fines, citations, penalties, or seller's failure to comply with any request by an OnCommerce Company for any import or export documentation);
- iv Breach of extended producer responsibility requirements;
- v Any claim, fine or penalty made against an OnCommerce Company for actual or alleged infringement of a third-party's intellectual property rights arising out of, or in connection with, the manufacturing, supply, sale or use of the products;
- vi Any claim, fine or penalty made against an OnCommerce company by a third-party arising out of, or in connection with, the manufacturing, sale or supply of the Products, including any claims that any Product has caused injury, death, or property damage, or is otherwise unhealthy or unsafe, or fails to comply with any law or product warranty applicable to such Product.

19.1.8 The Seller expressly agrees that, in regard to the Seller's activity on the OnCommerce Marketplaces, the Seller shall have no claim in contract, law or tort against the any parent company of the OnCommerce Companies.

20 TERMINATION

20.1 Either party may terminate these Seller Terms by giving 30 days written notice to the other party at any time. The Seller must submit a ticket to OnCommerce via the SCP notifying the relevant OnCommerce Company of termination.

20.2 Without limiting the rights or remedies available to the OnCommerce Companies and the Seller, each party may terminate these Seller Terms with immediate effect by giving written notice to the other party if:

20.2.1 the other party fails to pay any undisputed amount due pursuant to these Seller Terms on the due date for payment and fails to remedy that breach within 30 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied;

20.2.2 the other party commits a material breach of any other terms of these Seller Terms which breach is irremediable or (if such breach is remediable) fail to remedy that breach within 30 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied;

20.2.3 the other party repeatedly breaches any of the terms of these Seller Terms in such a manner as to reasonably justify the opinion that its conduct is inconsistent with having the intention or ability to give effect to these Seller Terms;

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20.2.4 the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to these Seller Terms is in jeopardy.

20.2.5 the other party suspends, or threatens to suspend, payment of its debts, declares bankruptcy or is unable to pay its debts as they fall due or admits its inability to pay its debts or is deemed unable to pay its debts including for sellers located in the UK, within the meaning of section 123 of the Insolvency Act 1986, as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;

20.2.6 the other party takes any step or action in connection with entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring in such manner that the company resulting from the restructuring effectively agrees to be bound by or to assume the obligations imposed on it pursuant to these Seller Terms), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring in such manner that the company resulting from the restructuring effectively agrees to be bound by or to assume the obligations imposed on it pursuant to these Seller Terms), having a receiver or administrative receiver appointed to or a creditor or encumbrancer taking possession of any of its assets or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

20.2.7 the other party suspends or ceases, or threatens to suspend or cease, to carry all or a substantial part of its business.

20.3 Without limiting the OnCommerce Companies' other rights or remedies, if the Seller fails to achieve the Seller performance metrics across the Marketplaces in any month, then the OnCommerce Company will provide the Seller with written notice of such failure setting out full details of such failure and the relevant OnCommerce Company will work with the Seller to help the Seller meet the Seller performance metrics in subsequent months. If (subject to the relevant OnCommerce Company providing the Seller with such notice after the first month) the Seller fails to meet the Seller performance metrics across the OnCommerce Marketplaces for two consecutive months, the relevant OnCommerce Company shall have the right, at its sole discretion, to:

20.3.1 grant the Seller only Restricted Access to the SCP; and

20.3.2 terminate these Seller Terms by giving the Seller 30 days' written notice.

20.3.3 without limiting OnCommerce's other rights or remedies, the relevant OnCommerce Company shall have the right to immediately terminate these Seller Terms, or suspend the Seller's access or grant the Seller only Restricted Access to the SCP if the Seller commits a material breach of these Seller Terms and, in the case of a breach which is capable of remedy, fails to remedy the

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same within 30 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied.

21 CONSEQUENCES OF TERMINATION

21.1 If any OnCommerce Company terminates these Seller Terms, that termination shall co-terminate the Seller's relationship with the other OnCommerce Companies. All sums due to the OnCommerce Companies in accordance with these Seller Terms shall become immediately due and payable by the Seller to the relevant OnCommerce Companies.

21.2 If an OnCommerce Company terminates these Seller Terms, the Seller shall continue to pay the relevant OnCommerce Companies all outstanding Fees set out under Clause 15 (Fees) of these Seller Terms for, and related to, sales during the 30-day notice period, and any other amounts which are properly owed to the relevant OnCommerce Company, together with any applicable VAT, other applicable sales taxes and other relevant taxes.

21.3 The Seller shall ensure that all Orders placed before termination are fulfilled (where the Seller's level of access to the SCP permits it to do so). If the Seller informs the relevant OnCommerce Company that fulfilment of the Order is not possible, or if the Seller fails to fulfil an Order within 7 days of termination, the relevant OnCommerce Company shall cancel the Order and process a refund to the Customer.

21.4 The accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination of these Seller Terms shall not be affected or prejudiced. This includes the right to claim damages in respect of any breach which existed at or before the date of termination or expiry.

21.5 The termination or expiration of these Seller Terms for any reason shall not affect any rights, obligations or liabilities accrued before the date of termination or expiry and all provisions regarding indemnification, warranty, liability and limits, confidentiality and protection of proprietary rights and trade secrets, and any provisions which expressly or by their nature are required to survive termination in order to achieve their purpose, shall so survive until it shall no longer be necessary for them to survive in order to achieve their purpose. Furthermore, termination of these Seller Terms shall not relieve the Seller of its respective obligations to supply Products that have been ordered and pay refunds and other charges even when such liabilities arise after date of termination or expiration (as one example: chargebacks).

21.6 All licences granted under these Seller Terms will expire on termination unless required for the purposes of Clause 21.2;

21.7 Clauses which expressly or by implication have effect after termination shall continue in full force and effect;

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21.8 The Seller acknowledges and accepts that the OnCommerce Companies reserve the right to pass the Seller's contact details held on the SCP (and any other details the OnCommerce Companies hold relating to the Seller) to a Customer or third party where, on or after termination of these Seller Terms, any dispute remains or arises between the Seller and the Customer or third party.

22 CONFIDENTIALITY

22.1 The Seller and the OnCommerce Companies agree that where a party is in possession of Confidential Information, subject to 22.2 all parties undertake to: (i) keep it confidential; (ii) use it only in connection with the performance of these Seller Terms; and (iii) not to disclose it to any other person or entity without the other parties' prior written consent.

22.2 The undertakings at 22.1 will not apply to information that otherwise becomes generally publicly available, was possessed prior to the Commencement Date (or prior to being designated as Confidential Information), or is lawfully acquired from an independent party who is under no obligation of confidence or information which is or has been independently developed by the recipient. All parties will be entitled to disclose Confidential Information to legal advisors to protect legitimate interests and to comply with any legal, professional or regulatory requirement. All Parties shall be entitled to share details of the other, in the event of requests from owners of third-party intellectual property where there are claims of intellectual property infringement.

22.3 The Seller agrees to reimburse any costs the OnCommerce Companies may incur in complying with any such disclosure requirement relating to these Seller Terms imposed in any proceedings or regulatory process not involving any substantive claim or proceeding against the relevant OnCommerce Company, provided that the relevant OnCommerce Company notifies the Seller promptly and, where reasonably or legally possible, prior to disclosure.

22.4 The Seller acknowledges that the OnCommerce Companies are entitled to share the Seller's Confidential Information with its affiliates and any subcontractors the OnCommerce Companies use in the performance of these Seller Terms (and more generally to those contractors providing administrative, infrastructure and other support services to the OnCommerce Companies) in each case whether located within or outside of the country in which the Marketplace is located on the understanding that they will treat the information as Confidential Information in accordance with the provisions of these Seller Terms.

22.5 When offering OnCommerce Companies' services to other parties, the OnCommerce Companies may disclose to them that an OnCommerce Company has acted for the Seller.

22.6 Nothing in these Seller Terms will prevent or restrict the OnCommerce Companies from providing services to other parties (including services which are the same or similar to those offered

OnCommerce Seller Terms

under these Seller Terms) or using or sharing for any purpose any knowledge, experience and skills used in, gained or arising from performing these Seller Terms subject to the obligations of confidentiality set out in Clause 22.1, even if those other parties' interests are in competition with the Seller. The Seller also agrees that to the extent that the OnCommerce Companies possess information obtained under an obligation of confidentiality to another client or other third party, the OnCommerce Companies are not obliged to disclose it to the Seller or make use of it for the Seller benefit, however relevant it may be to these Seller Terms.

22.7 The obligations of confidentiality in these Seller Terms shall remain in effect for 5 (five) years after the termination or expiry of the Seller Terms.

23 INTELLECTUAL PROPERTY RIGHTS

23.1 The Intellectual Property Rights in the Marketplaces the OnCommerce Companies' technology, templates, formats, and dashboards, and in any materials and other documents or items that OnCommerce Companies prepare or produce in any form whatsoever in connection with the OnCommerce Marketplaces, including any modifications or improvements to the foregoing, will belong to the relevant OnCommerce Company absolutely.

23.2 The Seller may not use OnCommerce Companies' Intellectual Property Rights without OnCommerce Companies' prior written consent.

23.3 Subject to Clause 23.7, the Seller acknowledges and accepts that the copyright, design rights and all other Intellectual Property Rights in a Listing will belong to the relevant OnCommerce Companies absolutely or have been licensed to one or more of the OnCommerce Companies. The Seller agrees that its placing of a Product against a Listing does not grant the Seller any Intellectual Property Rights in that Listing.

23.4 The OnCommerce Companies hereby grant the Seller a personal, royalty-free, non-exclusive, worldwide, revocable right to use each Listing and the Marketplaces for the sole purpose of advertising the Products through the OnCommerce Marketplaces.

23.5 Except as expressly stated in Clause 23.4, these Seller Terms do not grant the Seller any rights to, under or in, any copyright, designs, patents, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the OnCommerce Marketplaces.

23.6 The OnCommerce Companies represent, undertake and warrant that the legal ownership of all intellectual property in the OnCommerce Marketplaces (including without limitation the SCP) or

OnCommerce Seller Terms

has an irrevocable licence to use such intellectual property for the purposes for which it is used is held by one or more of the OnCommerce Companies.

23.7 The Seller's name, logo and all other Intellectual Property Rights that specifically relate to the Seller (including those in any materials and other documents or items that the OnCommerce Company prepares for the Seller in connection with the OnCommerce Marketplaces) will belong to the Seller absolutely.

23.8 The Seller grants the applicable OnCommerce Company a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, sublicensable right to use any materials Seller provides to the OnCommerce Companies or through the Marketplaces, including the Seller's logos, trademarks, brand names, data, text, information, usernames, graphics, images, photographs, profiles, audio, video, items, and links added by the Seller on the OnCommerce Marketplaces in all media.

24 GENERAL

24.1 **Force Majeure:** Subject to 6.5.13 and 6.5.14, no party shall be responsible if it is prevented from or delayed in performing any of its respective obligations hereunder, or from carrying on its business as a result of a Force Majeure Event.

24.2 **Counterparts:** These Seller Terms may be executed in any number of counterparts and by either or both parties on separate counterparts, each of which shall be an original and all of which shall together constitute a single contract.

24.3 **Entire Agreement:** These Seller Terms constitutes the entire agreement and understanding between the parties relating to its subject matter and supersedes any of the Seller's own terms, any previous agreement between the parties relating to any such subject matter. The Seller and the relevant OnCommerce Companies acknowledges and agree that in entering into these Seller Terms, all statements, representations, warranties and undertakings on which it relies are incorporated into these Seller Terms and it does not rely on (and shall have no remedy in respect of) any statement, representation, warranty or undertaking (whether negligently or innocently made) of any person (whether party to these Seller Terms or not) which is not expressly set out in these Seller Terms. Each party agrees that it shall have no claim for innocent or negligent misrepresentation, or negligent misstatement, based on any statement in these Seller Terms.

24.4 **Variation:** All Seller proposed changes to these Seller Terms shall be made in writing and shall not have effect unless and until agreed in writing by the relevant OnCommerce Company. With the exception of clauses 15.2.5 (Monthly Subscription) and 15.3.3 (Sales Fee), the OnCommerce Companies may amend any of the terms of these Seller Terms by giving the Seller at least 15 (fifteen) days' prior written notice, after which the amendment shall be considered incorporated into these Seller Terms.

OnCommerce Seller Terms

24.4.1 The 15-day notice period set out in Clause 24.4 shall not apply where:

- a. OnCommerce is subject to a legal or regulatory obligation which requires it to amend these Seller Terms in a manner which does not allow it to respect the 15-day notice period; or
- b. Any exceptional or unforeseen circumstances which causes the OnCommerce Company to amend these Seller Terms to address an unforeseen and imminent danger related to protecting itself, the Seller and other sellers, Customers and other business users from fraud, malware, spam, data breaches or other cybersecurity risks. If any variation proposed by an OnCommerce Company is unacceptable to the Seller, the Seller shall be entitled to terminate these Seller Terms.

24.5 **Order of precedence:** In the event and only to the extent of any conflict between parts of the following order of precedence shall apply:

24.5.1 The Seller Terms (highest)

24.5.2 The Schedules

24.5.3 Documents that are included as links within these Seller Terms.

24.6 **Anti-Bribery, Modern Slavery and Anti-Money Laundering:** Both parties will comply with the Bribery Act 2010 and have and shall maintain in place throughout the duration of these Seller Terms respective policies and procedures, to ensure compliance with the Bribery Act 2010, the Modern Slavery Act 2015 and applicable anti-money laundering Law.

24.7 **Assignment:** The Seller shall not assign, transfer, charge, sub-contract or deal in any other manner with any of its rights or obligations under these Seller Terms without the OnCommerce Company's prior written consent.

24.8 **Notices:** Any notice or other communication required or permitted to be given to a party pursuant to these Seller Terms shall be deemed to have been validly given if served personally on that party or if sent by first class pre-paid post to that party's registered office (if a company) or its principal place of business (in any other case) or if sent electronically to that party's email address as notified to the other party in writing, or through the SCP in accordance with this Clause. References in these Seller Terms to "writing" also include email (provided the email is supported by a valid server delivery receipt). Any notice or other communication shall be deemed to have been received:

24.8.1 if served personally, on signature of a delivery receipt;

OnCommerce Seller Terms

24.8.2 if sent by first class pre-paid post, two Business Days after the date of posting; and

24.8.3 if sent electronically, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this Clause, business hours mean 9.00am to 5.00pm (UK time) on a Business Day.

24.9 **No Waiver:** No failure or delay by a party to exercise any right or remedy provided under these Seller Terms shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

24.10 **Invalidity:** If any provision of these Seller Terms (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part provision shall, to the extent required, be deemed not to form part of these Seller Terms, and the validity and enforceability of the other provisions of these Seller Terms shall not be affected.

24.11 **Headings:** The headings contained in these Seller Terms are for reference purposes only and shall not affect in any way the meaning or interpretation of these Seller Terms.

24.12 **No Partnership:** Nothing in these Seller Terms is intended or shall be deemed to create a partnership or joint venture of any kind between the parties, nor authorise the Seller to act as agent for any OnCommerce Company, and the Seller shall have no authority to act in the name of, or on behalf of an OnCommerce Company, or otherwise to bind an OnCommerce Company in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

24.13 **No Third-Party Rights:** These Seller Terms shall not be enforceable by a person who is not a party to them.

24.14 **Governing Law and Jurisdiction:** These Seller Terms shall be governed by and construed in accordance with English Law. The OnCommerce Companies and the Seller irrevocably agree that the courts of England shall have exclusive jurisdiction to resolve any dispute or claim arising out of or in connection with the subject matter of these Seller Terms (including noncontractual disputes and claims).

24.15 **Language:** If any of the terms or conditions set forth within these Seller Terms are translated into a language other than English then the English version will be controlling in all respects and will prevail in the event of discrepancies and/or inconsistencies between the English and the translated versions, if any. The Seller hereby agrees that under no circumstances shall the relevant

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be responsible for any damage or loss caused by any error, inaccuracy, misunderstanding, or misspelling resulting from or related to translations of these Seller Terms.

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SCHEDULE 1

Term	Definition
"Agreement"	The legally binding contract between the Seller and the OnCommerce Company as set out in these Seller Terms.
"Application Fee"	The non-refundable payment made by the Seller to the relevant OnCommerce Company to process the Seller's application to sell on the OnCommerce Marketplaces. If the Seller's application is successful, the Application Fee shall be used by the relevant OnCommerce Company as payment for the Seller's first Monthly Subscription Fee.
"Boost"	Enhanced promotional activity performed by the relevant OnCommerce Company to increase the visibility of the Seller's Listing. Boost is optional by the Seller. Boost is further described in Part 2 of Schedule 3.
"Business Day"	Any day except any Saturday, any Sunday, or any day which is a public holiday in England or any day on which banks in London are closed for business.

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"Cancellable Products"	Cancellable Product means a Product that is capable of return but excludes Non-Cancellable Products.
"Chargeback Fee"	The sum of £14.00 payable by the Seller to the relevant OnCommerce Company for the OnCommerce Company's administrative costs in the event of a Customer Dispute Chargeback. In the case of Other European Sales, the Chargeback Fee shall be €17.
"Commencement Date"	The date upon which the Seller's application to sell on the OnCommerce Marketplaces pursuant to these Seller Terms are accepted.
"Confidential Information"	Information about the other party that is by its nature confidential or is designated as such by the other party (whether in writing or orally).
"Customer"	A person who makes purchases from Sellers via the OnCommerce Marketplaces.
"Customer Care Team"	The OnCommerce Companies' dedicated team of staff that seeks to resolve Customer disputes.

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"Customer Dispute Chargeback"	Chargeback claims made by customers to banks/card providers in relation to Orders for Products that are either defective, not as described or undelivered.
"Customer Terms"	The legally binding agreement between the Seller and the Customer for the sale/purchase of Products on the OnCommerce Marketplaces.
"Delivery Timeframes"	The timescale for delivery selected by the Customer based upon the options the Seller offers in the SCP. The Delivery Timeframe begins from the time of Seller acceptance of the Order and ends upon delivery
"Dispute"	Dispute between the Seller and the Customer.
"Dispute Fee"	The sum of £6.50 payable by the Seller to the relevant OnCommerce Company if the Customer raises a dispute and the relevant OnCommerce Company reasonably believes the Seller may be in breach of these Seller Terms. In the case of Other European Sales, the Dispute Fee shall be €8.
"Force Majeure Event"	Any event that: (i) is beyond the reasonable control of, and is not due to the fault or negligence of, such party, and (ii) could not have been avoided by such party's exercise of due diligence, including, but not limited to, a labour controversy, strike, lockout, boycott, transportation stoppage, action of a court or public authority, fire, flood, earthquake, storm, war, civil strife, terrorist action, epidemic, or act of God; provided that a Force Majeure Event will not include economic hardship, changes in market conditions, or insufficiency of funds.

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	Notwithstanding the foregoing sentence, a Force Majeure Event does not excuse any obligation to make any payment required by these Seller Terms and will not affect either party's right to terminate these Seller Terms pursuant to Clause 20 (Termination).
"Fraud Related Chargebacks"	Chargeback claims made by Customers to banks/card providers in relation to fraudulent transactions and/or stolen cards.
"GBP"	Great British Pounds Sterling
"Handling Time"	The time selected by the Seller for the processing of an Order. This timeframe may not exceed ten days.
"Intellectual Property Rights"	All patents, trademarks, service marks, trade names, design rights, copyright, rights in software, database rights, rights in know-how and other intellectual property right forms of protection of whatever nature arising anywhere in the world, whether registered or unregistered and including applications for the grant of any such rights, and Confidential Information.
"Law"	Laws of the country in which the applicable OnCommerce Marketplace(s) is/are located or where the Customer is located including: a. the common law and the law of equity as applicable to the parties;

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	b. any binding court order, judgment or decree; c. any applicable industry code, guidance, policy or standard which, in each case, is enforceable by law; d. any applicable direction, policy, rule or order that is legally binding on the OnCommerce Companies and that is made or given by any Regulator; or e. all statutes, statutory instruments, regulations, by-laws, rules, ordinances, guidance or subordinate legislation from time to time made or issued to which a party is subject.
"Listing"	The Seller's posting against Product for sale on the OnCommerce Marketplaces. The Listing includes but may not be limited to: a. Stock Keeping Unit; b. Condition c. Price d. Stock e. Delivery weight f. Handling Time g. Return Time
"Listing Price"	The price the Seller places against each Listing.

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"Monthly Subscription Fee"	The sum paid by the Seller to the relevant OnCommerce Company for each calendar month during which the Seller is a member of one or more OnCommerce Marketplaces. The first month shall be paid for as part of the Application Fee if the Seller's application is successful.
"Non-cancellable Products"	Any of the following: a. personalised items that are specifically made to a Customer's specification (e.g., a custom-made print), except where the Customer has chosen items from pre-determined upgrade options or standard off-the-shelf components; b. items sealed for health protection or hygiene purposes which a Customer has unsealed after they receive c. perishable items, including but not limited to food, drink and fresh flowers; d. audio or video recordings or computer software which a Customer has unsealed or opened after they receive them; e. newspapers, periodicals or magazines;
	f. items which by their nature cannot be returned (such as where it is physically impossible to return items or where items cannot be restored to the same physical state as they were supplied; and g. digital downloads that have been activated.

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“OnCommerce Companies” (each an “OnCommerce Company”)	(1) OnBuy Ltd a company registered at 167-169 Great Portland Street, 5th Floor, London, England, W1W 5PF (registration number 15611912); and (2) OnBuy (EU) Ltd a company registered at 25 North Wall Quay, Dublin 1, D01 H104 (registration number 764002)
“OnCommerce Marketplaces” (each an “OnCommerce Marketplace”)	The online marketplaces operated by the OnCommerce Companies, including OnBuy, easyShop.com, and Comet, together with any additional marketplace operated by an OnCommerce Company from time to time.
“Operational Costs Recovery Fee”	The fee paid by the Seller to the relevant OnCommerce Company if the Seller sells Prohibited Products. This fee is calculated at the rate of 7.5% per month of the total payments made by Customers for each Listing of a Prohibited Product. Such payments shall be up to a maximum of 100% of the total payments made by Customers to the Seller for each relevant Listing which has been subject to the sale of Prohibited Products by the Seller.
“Order”	The offer (made by the Customer) to purchase the Seller's Product which the Seller can accept or reject.

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"Other European Sales"	Sales made by the Seller which have a European delivery address but excluding for United Kingdom.
"Performance Metrics"	Ratings applied to each Seller based upon performance on the OnCommerce Marketplaces which may be used by the OnCommerce Companies and shared with Customers.
"Policies"	The policies applicable to the relevant OnCommerce Marketplace as published and updated from time to time, including but not limited to the Prohibited Products Policy, Reviews Policy, Privacy Policy and the applicable Website Terms of Use for the relevant OnCommerce Marketplace.
"Products"	Goods for sale by the Seller.
"Product Page"	A Product specific page on the relevant OnCommerce Marketplace(s) where Sellers can create a Listing.
"Refund Administration Fee"	20% of the Sales Fee refunded with a minimum fee of £0.25 per line item refunded and a maximum of £5.00 per line item on the Order a line item relates to each specific Product which may be of any quantity). For example, if the Seller refunds a Customer £20.00 for a Product which attracts a category fee of 12%, the Seller's Refund Administration Fee will be £0.48 ($£20.00 \times 12\% \text{ commission fee} = £2.40 \times 20\% \text{ Refund Administration Fee} = £0.48$).

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"Sales Fee"	A percentage (based upon the Product category) of the Listing Price and any applicable delivery costs. The Sales Fee for each Product category is shown here .
"Seller"	The business that sells Products on the OnCommerce Marketplaces.
"Seller Control Panel"	Seller's own dedicated area of the OnCommerce Marketplaces which permits Sellers to amongst other things, list Products and communicate with Customers also known as "SCP".
"Seller Holiday Period"	The feature which allows a Seller to set specific days where they are unable to fulfil Orders. This allows a Seller to either extend their dispatch date or completely hide their Listings from the OnCommerce Marketplaces during periods of absence. It also allows the relevant OnCommerce Company to set specific holiday days for all sellers, such as an additional and unexpected public holiday.
"Seller Shop"	Customer facing page on the OnCommerce Marketplaces which provides the Seller's details.
"Seller Terms"	This legally enforceable agreement between the relevant OnCommerce Company and the Seller.
"UK Sales"	Sales made by the Seller which have a UK delivery address.

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"VAT"	Value Added Tax at the prevailing rate.
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SCHEDULE 2

OnCommerce Data Processing Agreement

THIS AGREEMENT is made between:

- (1) The Seller and
- (2) OnBuy Ltd in relation to UK Sales; and
- (3) OnBuy (EU) Ltd in relation to sales to Customers located in the European Union and the European Economic Area.

Each a "Party" and collectively hereafter referred to as the "Parties."

OnBuy Ltd and OnBuy (EU) Ltd (each an "OnCommerce Company" and together, the "OnCommerce Companies") which trade under the name 'OnBuy', 'easyShop.com' and 'Comet' (as applicable). Full information about the OnCommerce Companies is set out in Schedule 1 (above).

BACKGROUND

For UK Sales, OnBuy Ltd and the Seller shall each be considered Controller of Customers' personal data processed in connection with the relevant UK OnCommerce Marketplace for the Permitted Purposes.

For EU Sales, OnBuy (EU) Ltd and the Seller shall each be considered Controller of Customers' personal data processed in connection with the relevant EU OnCommerce Marketplace for the Permitted Purposes.

The relevant OnCommerce Company shall be the sole Controller of Customer's personal data processed in connection with the relevant OnCommerce Marketplace and the purpose of which is not listed in this Data Processing Agreement.

1 INTERPRETATION

Term	Definition
"Commencement Date"	The date upon which the Seller commenced selling pursuant to the Seller Terms;
"Controller"	Has the meaning given to it in the GDPR;

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"Data Protection Impact Assessment"	Means an assessment by a Controller, for the purposes of Article 35 of the GDPR, of the impact of certain envisaged Processing of Personal Data;
"Data Legislation"	Means all applicable data protection and privacy legislation and laws in force from time to time, as applicable to a Party or the services performed under the Seller Terms, including but not limited to: (a) the GDPR, the ePrivacy Directive 2002/58/EC, the UK Data Protection Act 2018 and the Privacy and Electronic Communications (EC Directive) Regulations 2003; (b) any laws which implement or supplement any such laws in any relevant jurisdiction; and (c) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing; and (d) any guidance or codes of practice issued by any Supervisory Authority from time to time;
"Data Subject"	Has the meaning given to it in the GDPR;
"Data Subject Access Request"	A request made by, or on behalf of, a Data Subject in accordance with the Data Subject's rights under the Data Protection Legislation to access their Personal Data;
"GDPR"	General Data Protection Regulation (Regulation (EU) 2016/679) ("EU GDPR") and/or the UK GDPR (as defined in Part 1, Section 3(10) of the Data Protection Act 2018), as the context permits and to the extent applicable to a Party;
"International Organisation"	Has the meaning given to it in the GDPR;
"Law"	Means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, (as applicable) any enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which both Parties are bound to comply;
"Personal Data"	Has the meaning given to it in the GDPR;

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"Personal Data Breach"	Has the meaning given to it in the GDPR and includes also any breach of Article 5(1)(f) (the integrity and confidentiality principle) of GDPR;
"Processing"	Has the meaning given to it in the GDPR, and the terms "Process" and "Processed" shall be construed accordingly;
"Processor"	Has the meaning given to it in the GDPR;
"Processed Data"	Means such item(s) forming part of the Personal Data being processed by either Party under this agreement as are more particularly specified in Annex 1 of this Schedule;
"Seller's Personnel"	Means all directors, officers, employees, agents, consultants and contractors of the Seller and/or of any Processor engaged in the performance of its obligations under this Agreement;
"Sub-processor"	Means any third party appointed to Process the Processed Data on behalf of the Seller;
"Supervisory Authority"	Means the UK Information Commissioner and otherwise (where relevant) has the meaning given to it in the EU GDPR;
"Third Country"	Means any country other than the UK, a European Union Member State or a member of the European Economic Area at the time of transfer of the Processor Processed Data.

1.2 Clause, Annex and paragraph headings are illustrative and shall not affect the interpretation of this Agreement.

1.3 The Annexes form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Annexes.

1.4 Unless the context otherwise requires, words in the singular shall include the plural and vice versa.

1.5 A reference to a person shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.6 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision, and such statute, statutory provision and subordinate legislation as amended, updated or re-enacted from time to time during the Term.

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1.7 References to Clauses and annexes are to the Clauses and annexes of this Agreement and references to paragraphs are to paragraphs of the relevant Annex.

1.8 Any words following the terms “including”, “include”, “in particular”, “for example” or any similar phrase shall be construed as illustrative and shall not limit the generality of the related general words.

1.9 In the case of any ambiguity between any provision contained in the main body of this Agreement and any provision contained in the Annexes, the provision in the main body of this Agreement shall take precedence.

1.10 A reference to writing or written includes messages transmitted by email.

2 COMMENCEMENT AND DURATION

2.1 This Agreement shall commence on the Commencement Date and continue in force until one of the following events occurs:

2.1.1 the termination or expiry of the commercial relationship between the Controller and the Processor including the completion of any post-termination obligations of the Processor set out in the Seller Terms which require the Processor to

Process Processed Data; or

2.1.2 The Controller terminates the appointment of the Processor by giving not less than one (1) month's prior notice to the Processor, at which point this Agreement shall terminate with immediate effect.

2.2 On the expiry or termination of this Agreement, the Processor shall cease to Process the Personal Data.

3 DATA PROCESSING

3.1 For the purposes of the Data Protection Legislation, each Party shall be considered independent controller for the processing of Consumer's personal data in the framework of the Seller Terms and only for the purposes agreed between the parties and described in Annex 1 (as amended from time to time in accordance with Clause 5 of this Agreement). The relevant OnCommerce shall be the sole Controller of the Customer's Personal Data for any other Purposes not listed herein.

3.2 The Seller shall provide reasonable assistance to the relevant OnCommerce Company in the preparation of a Data Protection Impact Assessment where necessary.

3.3 The Seller shall take appropriate technical and organisational measures to ensure a level of security appropriate to the risks that are presented by any Processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Processed Data, taking into account the state of the art, the costs of implementation, the nature, scope, context and purposes of Processing as

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well as the risk of varying likelihood and severity for the rights and freedoms of the Data Subjects, including as appropriate:

3.3.1 the pseudonymisation and encryption of the Processed Data;

3.3.2 the ability to ensure the ongoing confidentiality, integrity, availability and resilience of Processing systems and services;

3.3.3 the ability to restore the availability and access to the Personal Data in a timely manner in the event of a physical or technical incident; and

3.3.4 a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the Processing;

3.4 The Seller shall ensure that its Personnel will comply with the present Data Processing Agreement and will not Process any personal data for purposes not listed herein and will keep said data confidential.

3.5 If the Seller transfers Personal Data to a Third Country or to any International Organization, the Seller shall ensure that any transfer is subject to one or more of the following appropriate safeguards:

3.5.1 The Third Country of destination is covered by an Adequacy Decision;

3.5.2 The existence of legally binding and enforceable instruments between public authorities or bodies;

3.5.3 The conclusion of Standard Contractual Clauses;

3.5.4 Binding Corporate Rules;

3.5.5 The existence of an approved Code of conduct;

3.5.6 Any other technical or organizational measures which ensures a protection of the Personal Data transferred higher or equivalent to the one provided by Privacy Laws referred herein.

3.6 The Parties shall assist one another, insofar as this is possible, for the fulfilment of the Parties' obligation to respond to requests for exercising data subject's rights, including Data Subject Access Requests.

3.7 Subject to Clause 3.8, the Seller shall notify the relevant OnCommerce Company immediately if the Seller:

3.7.1 receives any Data Subject Access Request (or purported Data Subject Access Request);

3.7.2 receives any request to rectify, block or erase any Processed Data;

3.7.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

3.7.4 receives any communication from any Supervisory Authority or any other regulatory authority in connection with Processed Data;

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3.7.5 receives a request from any third party for disclosure of Processed Data where compliance with such request is required by Law; or

3.7.6 becomes aware of any Personal Data Breach (and such notification shall be made not later than twenty-four (24) hours following the Seller becoming aware of each Personal Data Breach).

3.8 The Seller shall assist and co-operate with the relevant OnCommerce Company in relation to OnCommerce's compliance with its obligations under Data Protection Legislation (including each complaint, communication or request made under Clause 3.6 as well as any other complaint, communication or request relating to any Processed Data), and shall do so within the timescales reasonably required by the relevant OnCommerce Company. In particular, the Seller shall promptly provide the Controller with:

3.8.1 full details and copies of each complaint, communication or request received by the Seller (or received by the relevant OnCommerce Company and relating to any Personal Data);

3.8.2 such assistance as is reasonably requested by OnCommerce Company to enable OnCommerce to comply with each Data Subject Access Request within the relevant timescales specified in or under the Data Protection Legislation;

3.8.3 copies of any Processed Data specified by the relevant OnCommerce Company, and details of the Processing of such Processed Data by or on behalf of the Seller;

3.8.4 assistance as requested by the relevant OnCommerce Company in relation to any Personal Data Breach, including supporting OnCommerce in relation to any notifications it is required to make to Supervisory Authorities or affected Data Subjects;

3.8.5 assistance to ensure that Processing of Processed Data by or on behalf of the Seller complies with any exercise by any relevant Data Subject of any of his or her rights under Data Protection Legislation, including to ensure that the Personal Data relating to such Data Subject is (for example) deleted and/or rectified and/or made subject to restrictions in accordance with such exercise of such rights; and

3.8.6 assistance as requested by the relevant OnCommerce Company with respect to any request from a Supervisory Authority, or any consultation by OnCommerce with a Supervisory Authority.

3.9 The Seller shall maintain complete, accurate and up to date records and information of the Processing it carries out in connection with this Agreement, which shall contain, as a minimum:

3.9.1 its details, the relevant OnCommerce Company's details and the details of the Seller's data protection officer (if applicable) or, if the Seller is not subject to a mandatory requirement under Data Protection Legislation to appoint such an officer, the details of the person who has overall responsibility for the Seller's compliance with the Data Protection Legislation;

3.9.2 the categories of Processing of the Processed Data that are carried out by or on behalf of the Seller;

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3.9.3 the details of any transfers to any Third Countries, where applicable, and the safeguards in place for each such transfer; and

3.9.4 accurate records of the technical and organisational measures that the Seller has in place in accordance with clause

3.3.

3.10 The Seller shall make available to OnCommerce on request (and within three (3) days) all information necessary to demonstrate compliance by the Seller and the relevant OnCommerce Company with their respective obligations under Data Protection Legislation (including the copies of the records referred to in clause 3.9).

3.11 Each Party shall designate its own data protection officer if required by the Data Protection Legislation or (if not so required) shall designate one of its senior managers as being responsible for overseeing and managing the Party's compliance with Data Protection Legislation.

3.12 The Seller shall ensure that its processors will comply with applicable data protection legislation and shall ensure appropriate technical, legal and organizational measures are in place prior to disclosing any personal data to third parties in the framework of this Agreement.

3.13 The Seller shall remain fully responsible for, and liable in respect of, all acts or omissions of its Processors.

3.14 In the event of a notification under clause 3.7.6, OnCommerce shall at its sole discretion determine whether to provide notification to the Data Subject, any third party or Supervisory Authority, and the Seller shall not notify the Data Subject, any third party or Supervisory Authority unless such disclosure is required by Law or is otherwise agreed upon between the Parties.

3.15 At the written direction of the relevant OnCommerce Company given at any time (whether during the continuance of this Agreement, on the termination or expiry of this Agreement, or at any time after its termination or expiry), the Seller shall promptly securely return to OnCommerce and, if and when specified, securely delete, the Processed Data or any part of it that is specified by OnCommerce (together with all copies of such Processed Data), unless the Seller is required by Law to retain the Processed Data (in which case it shall securely erase it as soon as such purpose has been fulfilled).

3.16 Nothing in this clause 3 shall relieve either Party of its own direct responsibilities and liabilities under the Data Protection Legislation, where applicable.

3.17 The Parties agree to take account of any guidance issued by the Supervisory Authority. The relevant OnCommerce Company may on not less than thirty (30) days' notice to the Seller amend this Agreement to ensure that it complies with any guidance issued by a Supervisory Authority.

3.18 In relation to processing by a Party of Personal Data of another Party's staff or representatives for contract administration purposes, each Party does so as an independent controller and shall do so in

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compliance with their respective obligations under Data Protection Legislation.

4 DISPUTE RESOLUTION

4.1 The Parties shall act in good faith to try and resolve any disputes.

5 VARIATION

5.1 Subject to Clause 3.17, any amendment or variation to this Agreement shall be in writing and signed by duly authorized representatives of each of the Parties.

6 NOTICES

6.1 Any notice or other communication given by either Party under or in connection with this Agreement shall be in writing and shall be:

6.1.1 delivered by hand, courier or by recorded post or other next working day recorded delivery service at its registered office (if a company) or its principal place of business (in any other case); or

6.1.2 sent by electronic mail to the Controller via the Seller's OnCommerce account and to the Seller at the email address linked to its OnCommerce account.

6.2 Any notice or communication shall be deemed to have been received: 6.2.1 if delivered by hand or courier, on the date on which the delivery receipt is signed;

6.2.2 if sent by recorded post or other next working day recorded delivery service, at the time recorded by the delivery service; and

6.2.3 if delivered by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when those business hours resume, and in this Clause 6.2 "business hours" means 9.00am to 5.00pm Monday to Friday on a working day, and in this Clause 6 "working day" means that is not a weekend or public holiday in the place of receipt.

6.3 This Clause 6 shall not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

ANNEX 1

Description	Details
Subject matter of the Processing	Transactions placed by the Seller's customers on the relevant OnCommerce Marketplace.
Duration of the Processing	Until terminated under the terms of the Data Processing Agreement.
Nature and purposes of the Processing	To fulfil the customer transactions by delivering goods to customers, to comply with relevant legal obligations and provide remedies based on statutory guarantees and any other purpose which can reasonably be deemed accessory to the above-referred purposes.
Type(s) of Personal Data	Customer Name; Customer Address; Customer Email Address; Customer Order Reference Number; Customer Phone Number(s); Customer Gender (by title e.g. Mr, Mrs, etc.) IP address
Categories of Data Subject	Consumers i.e., those customers that buy from sellers on the relevant OnCommerce Marketplace operated by the OnCommerce Companies.

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SCHEDULE 3

Boost - Additional Marketing Options

BACKGROUND

For the avoidance of doubt, this Schedule 3 applies in addition to, and in conjunction with, the Seller Terms. This Schedule 3 describes the specific terms pursuant to which OnCommerce offers the Seller the option to activate Boost. Boost may not be available on all OnCommerce Marketplaces; availability is indicated in the SCP.

BOOST

1.1 Boost enables Sellers to increase the profile of their Listings on the OnCommerce Marketplaces by accessing external marketing, i.e. outside of the OnCommerce Marketplaces which, if clicked, will direct customers to the Seller's Listing.

1.2 The Seller has the option to select which of its Listings are subject to Boost.

1.3 Selection is made by the Seller from the various options used or accessed through the Seller Control Panel.

1.4 The Seller can disable Boost at any time, although the system can take up to 8 hours to update across all channels (during which time the Boost will continue to apply).

1.5 When the Seller elects to Boost a Listing, the Seller agrees to pay the relevant OnCommerce Company the Boost Fee.

1.6 The relevant OnCommerce Company shall be entitled to use third party providers to operate and deliver Boost.

1.7 Each Boost option attracts a Boost Fee which is set out in paragraph 2 below.

2 The **Boost Fee** is a non-refundable fee paid by the Seller to the relevant OnCommerce Company each time the Seller sells a Product from a Listing which the Seller has elected to Boost, and the sale is made through a Boost channel i.e., OnCommerce Companies do not charge a Boost Fee if the sale is made independently of Boost. The Boost Fee is set by the Seller on an individual Listing basis. For the avoidance of doubt, the Boost Fee is an additional fee to the Sales Fee and is charged on the Listing Price and any applicable delivery costs.

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