

Terms and Conditions for Avalara Fiscal Representation

Last Updated September 9, 2020

These Terms and Conditions for Avalara Fiscal Representation (these “**Terms**”) constitute a binding agreement between AFTC, Inc. (“**Avalara**”) and the person or entity who sells products or services on Amazon and elects to subscribe (“**Merchant**” and, together with Avalara, “**Parties**”) for access to and use of Avalara Fiscal Representation (as defined below). By using Avalara Fiscal Representation, Merchant agrees to be bound by these Terms and all terms or documents incorporated herein by reference.

The following appendices constitute part of these Terms:

Appendix A – Information and Documents Required Per Transaction

1. Definitions.

“**Affiliate**” of a Party means an entity that controls, is controlled by, or is under common control with that Party. For this definition, “control” means direct or indirect ownership of more than 50% of the voting interests of the subject entity.

“**Avalara Fiscal Representation**” means the service where Avalara or its Affiliate acts as Merchant’s tax representative within the meaning of Article 204 and others of Directive 2006/112/EC in the Selected Countries purchased by Merchant.

“**EU**” means the European Union.

“**Payment Services**” means, (i) within the EU, any Avalara Fiscal Representation service relating to or involving payment services including without limitation such services that may be regulated in accordance with Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, and (ii) outside the EU, any Avalara Fiscal Representation service relating to or involving money remittance, money transmission, issuing of payment instruments and/or acquiring of payment transactions, payment initiation services and/or the executing of payment transactions.

“**SaaS**” means software as a service.

“**Selected Country**” means the one or more countries for which Avalara will provide Avalara Fiscal Representation when such Country has been selected by Merchant.

“**VAT**” means, within the EU, such value added tax as levied in accordance with Directive 2006/112/EC, and outside the EU, any tax levied by reference to added value, sales and/or consumption.

“**VAT Obligations**” mean, for a Selected Country, payments or other obligations related to VAT, applications for VAT refund amounts, penalties and interest on VAT payments that are overdue for any reason, and similar obligations or liabilities for that Selected Country.

2. Fiscal Representation Provided by Avalara.

- (a) **Use of Avalara Fiscal Representation.** Avalara grants Merchant a nonexclusive, nontransferable, worldwide right to access and use Avalara Fiscal Representation for the Selected Country(ies) during the Term, solely for Merchant’s internal business operations. Avalara reserves all other rights, including without limitation those specified below. Merchant is not permitted to access Avalara Fiscal Representation on behalf of its Affiliate unless such Affiliate separately agrees to be bound by the Terms and Avalara separately agrees to provide Avalara Fiscal Representation to such Affiliate.
- (b) **Avalara VAT Compliance Terms and Conditions.** Avalara will only provide Avalara Fiscal Representation under these Terms to Merchant in Selected Countries where Merchant has subscribed to Avalara’s VAT Compliance Service in those Selected Countries, governed by the VAT Compliance Service Terms and Conditions (the “*VAT Compliance Terms*,” available on Amazon’s Seller Central website). Provision of the VAT Compliance Service and payment of the fees for this service will be governed by such terms and conditions.
- (c) **Avalara Obligations.** Avalara may carry out the following activities on behalf of Merchant in each of the Selected Countries, as Avalara determines to be required to comply with applicable VAT laws:
- i. providing Avalara Fiscal Representation to Merchant;
 - ii. completing and processing supporting documents, including documents related to termination of Avalara Fiscal Representation as applicable;
 - iii. facilitating the provision of Payment Services by a duly licensed third party (“*Third Party PSP*”) to collect and remit amounts of VAT Obligations due by Merchant to tax authorities, based on estimated data. Any amounts of overpayments made by Merchant following Avalara’s processing of VAT Obligation payments will be refunded or otherwise credited to Merchant from Merchant’s overpayment amounts, and any amounts of underpayments will be payable by Merchant, in each case in accordance with Avalara’s procedures; and
 - iv. assisting Merchant to comply with local VAT requirements related to fiscal representation in the Selected Countries as Avalara determines to be appropriate.
- (d) **Appointment as Fiscal Representative; Use of Affiliates and Third Parties.** Merchant appoints Avalara as Merchant’s exclusive fiscal representative solely to assist Merchant with its VAT compliance obligations in the Selected Countries. Avalara may appoint its Affiliate as its agent to carry out any activities under these Terms, and in such case all applicable references to “Avalara” in these Terms relating to such activities are deemed to reference such Affiliate. Avalara or such Affiliate may engage any of their Affiliates or third parties, including Third Party PSP, as subcontractor to perform certain obligations under these Terms. Avalara or its Affiliate may invoice Merchant for the services provided under these Terms, and Merchant shall pay all invoices to the Avalara entity that issued the invoice. Avalara is responsible for its Affiliate’s compliance with and performance of these Terms when acting as agent or subcontractor, and Merchant shall bring any claims it may have solely against Avalara and not against such Affiliate. Merchant will provide such Affiliates or third parties with any documentation or agreement required to permit them to perform certain obligations of Avalara Fiscal Representation in the Selected Countries, including a power of attorney and an appointment letter in the format required in the Selected Country.

3. Payment Services.

- (a) Payment Services offered hereunder will be provided in accordance with applicable laws by Third Party PSP, duly licensed in the relevant European Union member state(s). Merchant may be required to enter into separate agreements with Third Party PSP and to pay Third Party PSP certain fees, charges and expenses for the provision of the Payment Services.
- (b) Where in a Selected Country Third Party PSP is engaged by Avalara to collect and remit amounts of VAT Obligations due by Merchant to tax authorities, Merchant agrees to pay, and to release and relinquish, amounts of VAT Obligations to Third Party PSP in accordance with instructions received from Avalara. Such VAT Obligations collected by Third Party PSP may be deducted from amounts that Third Party PSP holds on behalf of Merchant. As between Avalara and Merchant, Merchant acknowledges Avalara will have the sole power and authority to issue instructions to Third Party PSP for collection and remittance of such VAT Obligations to tax authorities and, where applicable, to instruct the return of any overpayments to Merchant in accordance with Section 3(b)(iv). In connection with such collection and remittance activities, Merchant further agrees to adhere and be subject to the following processes and requirements:
 - i. Merchant will receive instructions from Avalara related to Merchant's VAT Obligations that indicate the amount of VAT Obligations owed by Merchant and the date by which Third Party PSP must be in receipt of such VAT Obligations as described below;
 - ii. Except where Third Party PSP is able to deduct sufficient amounts Third Party PSP holds on behalf of Merchant, Merchant will timely fund the amount of such VAT Obligations by way of a credit transfer to an account designated by Third Party PSP, on or before the due date determined by Avalara;
 - iii. Third Party PSP will confirm to Avalara that the designated account has been credited with an amount equal to the amount specified in Avalara's instruction to Merchant described under Section 3(b)(i); and
 - iv. Subject to the payment requirements of a Selected Country, and upon instructions issued by Avalara, Third Party PSP will process the VAT Obligations amount either by transferring the VAT Obligations amount to the bank account of the respective tax authorities or by arranging for the direct debit of this amount by the respective tax authorities, such direct debit being processed by Third Party PSP and confirmed to Avalara when it is completed.

4. Avalara's Rights.

- (a) Avalara reserves the right, in its discretion, to impose rules or limits for, or change, suspend, or discontinue any aspect of Avalara Fiscal Representation at any time. If Avalara identifies any questions or ambiguities related to the application of VAT to Merchant's activities, Avalara may apply VAT rates Avalara determines to be appropriate in the filing of a VAT return or amendment of a VAT return previously filed.

- (b) Avalara may suspend operations and activities on behalf of Merchant at any time if Merchant has not fully paid its VAT Obligations or other payment obligations under these Terms, or while any Merchant action or provision of information is outstanding, after the relevant deadline. If Avalara invokes such right to suspend operations or activities, Avalara will notify Merchant accordingly and may also notify affected third parties including Amazon.
- (c) If Avalara determines that Merchant fails or may fail to meet any of its obligations under these Terms, Avalara may offset any refunds from any tax authorities in any Selected Country of whatever nature accruing to Merchant in order to meet such obligations in whole or in part.
- (d) Avalara may consult or negotiate with the tax authorities in any Selected Country concerning tax levies, or other costs and matters arising under these Terms. Avalara will charge for such services at its then-standard rates and will provide notice to Merchant of such charges in the normal course. Avalara shall consult with Merchant regarding the engagement of third parties to handle claims and negotiations with the tax authorities in Selected Countries, all of which will be at the additional expense and risk of Merchant.
- (e) At any time, in Avalara's discretion, and without notice to Merchant, Avalara may report any information related to Merchant's use of Avalara Fiscal Representation or its Background Screen (as defined below) process to a regulator, law enforcement agency, or government department or unit in any Selected Country, in each case as Avalara determines to be appropriate and in accordance with applicable laws.

5. Merchant's Obligations.

- (a) Merchant is prohibited from conducting any activities in a Selected Country, whether through Amazon's marketplace or otherwise, that may give rise to any VAT Obligations that are not reported to Avalara, or that may give rise to any other form of tax representation. If at any time during the Term Merchant becomes aware of any such prohibited activities in any Selected Country that may require fiscal or tax representation, Merchant will immediately notify Avalara in writing. Further, Merchant will ensure that Avalara Fiscal Representation is properly configured with its systems to ensure that all VAT Obligations in a Selected Country for Merchant's specific circumstances are managed through Avalara Fiscal Representation, and it is solely Merchant's obligation to do so.
- (b) Merchant is required to settle all transactions on Amazon's marketplace that generate VAT Obligations in each Selected Country into one or more accounts maintained by Third Party PSP, as directed by Avalara. Merchant balances in such account(s) will be subject to Avalara's instructions as specified in these Terms, including in Sections 3 and 9.
- (c) Under these Terms and as between the Parties, Merchant is solely liable and responsible for all of its VAT Obligations in a Selected Country, including for timely and correct remittance of any VAT amount due to any tax authority in that Selected Country, and for any penalties and interest incurred in relation to any late VAT filing, payment or otherwise. Upon request, Merchant will provide proof of funding for any applicable VAT or other obligation, including for the period after termination of these Terms during which any tax authorities may impose tax assessments retroactively. Promptly upon Avalara's request, Merchant will provide Avalara with security for Merchant's VAT Obligations, or for any other payment obligations to Avalara, a tax authority, or any third party arising under these Terms. Avalara may require such security to be made in the form of one or more payments made to Third Party PSP pursuant

- to Section 3(b) in addition to payments of VAT Obligation amounts, and such amounts of security will be subject to the instructions of Avalara during the Term as Avalara determines to be appropriate. Avalara may also require such security to be in the form of a first demand bank guarantee or in such other form and in amounts Avalara determines to be appropriate in its discretion.
- (d) During the Term, at Avalara's request, Merchant will deliver to Avalara a tax certificate from its resident country or each Selected Country confirming that Merchant complies with its VAT Obligations or a certificate of outstanding tax liabilities or any other similar type of certificate. Also upon Avalara's request, Merchant will provide a copy of all information related to VAT matters in its resident country and any Selected Country, including without limitation information relating to VAT audits, copies of prior VAT returns, Intrastat returns, transactions that have already been performed, VAT credit that has already been asked for, and questions that have been raised by the tax authorities. Merchant will ensure its invoices are compliant with the EU VAT Directive, as amended from time to time, will provide VAT-compliant invoices to Avalara promptly upon request, and will follow all compliance-related requirements specified by Avalara. Merchant will provide Avalara information, in the format and manner specified by Avalara, for all transactions giving rise to VAT Obligations in each Selected Country, as required under relevant VAT regulations and in accordance with Appendix A, and in response to all other requests Avalara determines to be appropriate in connection with Avalara Fiscal Representation. Merchant will respond promptly, in no event later than 7 days from the date of the request, to all information requests from Avalara related to Avalara Fiscal Representation.
- (e) If Merchant fails under these Terms to (i) pay Merchant's VAT Obligations in a Selected Country to Third Party PSP in whole or in part, and/or (ii) provide to Avalara in a timely manner the information or documentation required by Avalara to determine Merchant's VAT Obligations in a Selected Country, Avalara may take action with respect to Merchant's local VAT requirements in such Selected Country as Avalara determined to be appropriate in its discretion, which actions may include reporting no VAT Obligations for a period (filing a "nil return") and/or filing additional or supplementary VAT returns. Any such activities undertaken by Avalara, as well as any VAT Obligations arising from such activities, shall be at the expense and risk of Merchant.
- (f) Prior to acceptance of these Terms and at all times thereafter upon request, Merchant will provide all information requested by Avalara or its subcontractor regarding Merchant's legal existence, equity owners and other affiliated persons, and otherwise related to its operations or circumstances, to conduct "know your customer," anti-money laundering, customer suitability, tax information exchange requirements or related checks or inquiries based on Avalara's legal and regulatory obligations or commercial considerations ("**Background Screen**"). Avalara may use Third Party PSP or another third party as a subcontractor for this purpose. Merchant expressly authorizes all such checks, inquiries and activities, will provide additional information or otherwise cooperate with Avalara or its subcontractor in connection with the Background Screen. If Merchant provides any information or data related to its Background Screen directly to Avalara's subcontractor, Merchant expressly authorizes Avalara to obtain copies of, transmit to its Affiliates and third parties for processing, and use such information and data from such subcontractor in connection with such Background Screen as Avalara determines to be appropriate. Merchant also expressly authorizes Avalara's subcontractor to provide to Avalara, and Avalara to obtain, any analyses, conclusions or assessments made by such subcontractor regarding Merchant relating to or arising out of the Background Screen process. At any time during the Background Screen process and the Term, Avalara may, in its

discretion, refuse to provide Merchant with Avalara Fiscal Representation or terminate Merchant under Section 8; provided that if Avalara refuses to provide Avalara Fiscal Representation for a reason other than failure to timely make VAT payments and/or provide requested documentation, Avalara will refund any prepaid unused fees related to Avalara Fiscal Representation (*excluding any activation or other one-time fees*).

6. Merchant's Representations and Warranties.

- (a) Merchant represents and warrants that none of Merchant, any of its Affiliates, or any of their respective officers, directors, owners, employees, representatives or agents (the "**Merchant Affiliated Parties**") is or has engaged in, been charged with or indicted for, or convicted of, any "criminal activity" as defined in Article 2 of the Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law, available at <https://eur-lex.europa.eu/eli/dir/2018/1673/oj>. Subject to this definition, for these purposes, "criminal activity" generally means any kind of criminal involvement in the commission of any offense or crime punishable, in accordance with relevant national law, by deprivation of liberty or a detention order for a maximum of more than one year or, as regards EU Member States that have a minimum threshold for crimes or offenses in their legal systems, any crime or offense punishable by deprivation of liberty or a detention order for a minimum of more than six months.
- (b) Merchant represents and warrants that it is not (i) established for VAT purposes or (ii) registered for VAT purposes in any of the Selected Countries, nor that it is in the process to do so, unless such establishment or registration is agreed to in writing by Avalara. Merchant will take all actions requested by Avalara to transition any prior VAT registrations to enable Avalara to provide Avalara Fiscal Representation. Unless separately notified to Avalara in writing prior to entering into these Terms, Merchant represents and warrants that it has no tax liability in each Selected Country.
- (c) Unless Merchant notifies Avalara to the contrary in writing, Merchant represents and warrants that none of the Merchant Affiliated Parties is a Politically Exposed Person ("**PEP**") as defined by the Financial Action Task Force and which definition is located in the document available at <https://www.fatf-gafi.org/documents/documents/peps-r12-r22.html>. Subject to this definition, a "PEP" generally refers to a current or former senior official in the executive, legislative, administrative, military, or judicial branch of a government (elected or not); a senior official of a major political party; a senior executive of a government owned commercial enterprise, being a corporation, business or other entity formed by or for the benefit of any such individual; an immediate family member of such individual; meaning spouse, parents, siblings, children, and spouse's parents or siblings; or any individual publicly known (or actually known by the relevant financial institution) to be a close personal or professional associate. Merchant represents and warrants that none of the Merchant Affiliated Parties is under sanction, prohibition, or restriction from any Selected Countries, the United Nations, the EU, any other EU member states, Canada, or the United States.
- (d) Merchant represents and warrants that all information and documentation provided to Avalara under these Terms, including without limitation in relation to Payment Services and to fulfil its obligations under Section 5, are true, correct and complete.
- (e) Merchant's representations and warranties in this Section 6 are deemed to be made continuously throughout the Term, and Merchant will immediately provide written notice in

reasonable detail to Avalara at any time that such statement ceases to be true, correct, or complete during the Term.

7. Term.

- (a) The term of the agreement hereunder between Avalara and Merchant (the “**Term**”) begins on the date that Merchant first subscribes for Avalara Fiscal Representation and ends on the last day of the final Transaction Period (as defined below), unless terminated earlier by Avalara in accordance with these Terms.
- (b) The Term will consist of one or more “**Transaction Periods**,” which are one-year time periods during which Avalara will provide Avalara Fiscal Representation with respect to a Selected Country. Multiple Transaction Periods may run concurrently for multiple Selected Countries, with the beginning and end date of such Transaction Periods determined by the date that Merchant first subscribed for Avalara Fiscal Representation for the applicable Selected Country. Merchant’s initial obligation (the “**Initial Merchant Term**”) for any Selected Country subscribed for will be one Transaction Period.
- (c) Unless terminated in accordance with these Terms, at the end of the then-current Initial Merchant Term or Renewal Merchant Term, the applicable subscription will automatically renew for an additional Transaction Period unless inactive (each a “**Renewal Merchant Term**”). Avalara Fiscal Representation offered under any Renewal Merchant Term and thereafter will be governed by the Avalara Fiscal Representation Terms and Conditions located on Amazon’s Seller Central website. Merchant’s subscription for Avalara Fiscal Representation for a Selected Country will not renew if Merchant fails to provide the information and documentation required to facilitate VAT registration or any other component of Avalara Fiscal Representation in that Selected Country before the end of the first Transaction Period for that Selected Country.

8. Termination and Suspension.

- (a) Either Party may terminate Avalara Fiscal Representation in a Selected Country for convenience with effect on the last date of the Transaction Period for the Selected Country upon written notice of not less than 30 days. These Terms will terminate automatically upon expiration or termination of Merchant’s final Transaction Period.
- (b) Avalara may suspend operations and activities on behalf of Merchant at any time if Merchant has not fully paid its VAT Obligations or performed its other obligations under these Terms, or while any Merchant action or provision of information is outstanding after the relevant deadline, or if Avalara has reasonable grounds to believe that Merchant will not be able to comply with its obligations under these Terms. If Avalara invokes such right to suspend operations or activities, Avalara will notify Merchant accordingly and may also notify affected third parties including Amazon.
- (c) Merchant acknowledges that Avalara may, at its option, terminate the agreement and Merchant’s use of Avalara Fiscal Representation for cause, for any or all Selected Countries at any time. Grounds for such termination include but are not limited to the following:
 - i. Merchant suffers from an insolvency event, i.e. (a) upon the filing of any voluntary petition by the Merchant under any bankruptcy laws; (b) upon the filing of any

involuntary petition against the Merchant under any bankruptcy laws that is not dismissed within sixty (60) days after filing; (c) upon any appointment of a receiver for all or a substantial portion of the Merchant's business or operations; (d) upon any assignment of all or substantially all the assets of the Merchant for the benefit of creditors or (e) in the event of a change of control over Merchant.

- ii. Merchant violates any applicable laws, including in any Selected Country;
 - iii. Merchant breaches these Terms, including by failing to timely provide required information or fund VAT Obligations or other payments;
 - iv. Merchants uses Avalara Fiscal Representation in a manner that threatens the reputation or wellbeing of Avalara or its Affiliates or the integrity of Avalara Fiscal Representation, or that impairs the use of Avalara Fiscal Representation by other Merchants or other Avalara customers;
 - v. if the power of attorney granted by Merchant to Avalara or any Affiliate of Avalara terminates, or any appointment of Avalara or any Affiliate of Avalara is terminated for any reason;
 - vi. if the relationship between Merchant and Amazon terminates for any reason;
 - vii. any determination or finding Avalara makes based on Merchant's Background Screen;
or
 - viii. if the relationship between Avalara and Amazon terminates for any reason.
- (b) The Avalara Fiscal Representation termination date will be the earlier date on which either Merchant's access to Avalara Fiscal Representation is terminated in accordance with this Section 8 or the date on which the appropriate form(s) to terminate Avalara or any of its Affiliates as Merchant's fiscal representative are filed with the respective tax authorities. Termination of Avalara Fiscal Representation will automatically lead to termination of any appointment or any power of attorney granted under these Terms.
- (c) Upon any termination by Avalara under Section 8(c), Avalara will not refund any amount of fees to Merchant. Avalara expressly disclaims liability for any damages Merchant incurs related to such termination. If Merchant terminates Avalara Fiscal Representation, then Avalara may terminate Merchant's use of any other product or service offered by Avalara or any Affiliate immediately upon written notice.
- (d) If required under any applicable laws or requested by Avalara, Merchant will appoint another fiscal representative that assumes Avalara's obligations under these Terms immediately following Avalara's termination of Merchant's subscription to Avalara Fiscal Representation under these Terms, or at any other time specified by Avalara in its discretion. During any period in which Merchant fails to comply with this obligation, Merchant shall continue to comply with its obligations to Avalara and will be liable for all resulting Losses (as defined below).
- (e) Following any termination under this Section 8, Merchant remains subject to all obligations and liabilities, including VAT and other payment obligations and information requirements, arising out of or related to Avalara Fiscal Representation prior to termination.

9. Selected Countries; Fees. By purchasing access to or otherwise using Avalara Fiscal Representation, Merchant agrees to pay the applicable service fees for Avalara Fiscal Representation to Avalara or its appointed agent. Invoices or other order documents specifying such service fees may be issued and sent to Merchants on behalf of Avalara or its Affiliates by Third Party PSP or another service provider. Unless otherwise expressly set forth in an invoice or other order document, all services fees are exclusive of any VAT or other tax obligations applicable to the provision of Avalara Fiscal Representation, which constitute the additional payment obligations of Merchant. Merchant authorizes Third Party PSP to collect service fees and pay such amounts to Avalara or its Affiliate, provided that Merchant may also pay such amounts to Avalara or its Affiliate directly. Any service fees collected by Third Party PSP may be deducted from amounts that Third Party PSP holds on behalf of Merchant. Fees for other ancillary services, if any, will be charged at €150 per hour or British pound sterling equivalent as set forth on the applicable invoice, sales order, or other ordering documentation.

10. Disclaimer of Warranties and Limitation of Liability. AVALARA FISCAL REPRESENTATION AND THE CONTENT ARE MADE AVAILABLE TO MERCHANT ON AN “AS IS” AND “AS AVAILABLE” BASIS, UNLESS OTHERWISE SPECIFIED IN THESE TERMS. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, AVALARA DISCLAIMS ALL WARRANTIES EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. AVALARA SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES THAT (A) ANY GOVERNMENTAL INFORMATION (INCLUDING WITHOUT LIMITATION INFORMATION REGARDING TAX RATES OR THE APPLICABILITY OF CERTAIN TAXES), OR (B) ANY INFORMATION IMPORTED FROM ANY OTHER APPLICATION, SITE, OR SERVICE, IS ACCURATE, COMPLETE, CURRENT, OR APPLICABLE TO MERCHANT OR ITS BUSINESS. AVALARA SHALL NOT BE RESPONSIBLE FOR ANY UNAVAILABILITY OF THE SELLER CENTRAL SITE OR OTHER SERVICES PROVIDED BY AMAZON. THE REMEDIES DESCRIBED IN THIS SECTION ARE MERCHANT’S ONLY REMEDIES FOR ANY BREACH OF WARRANTY OR ANY OTHER CLAIM. AVALARA’S TOTAL LIABILITY ARISING OUT OF AVALARA FISCAL REPRESENTATION FOR A SELECTED COUNTRY, WHETHER ON WARRANTIES, CLAIM OF NEGLIGENCE, OR OTHERWISE, SHALL NOT IN ANY CASE EXCEED THE AMOUNT PAID BY MERCHANT TO USE AVALARA FISCAL REPRESENTATION FOR THAT SELECTED COUNTRY DURING THE TWELVE-MONTH PERIOD PRECEDING THE EVENTS GIVING RISE TO THE CLAIM IN THAT SELECTED COUNTRY. AVALARA SHALL NOT BE LIABLE TO MERCHANT OR ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, LOST PROFITS OR SPECIAL DAMAGES, EVEN IF MERCHANT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF SUCH DAMAGES ARE REASONABLY FORESEEABLE. FURTHER, AVALARA SHALL NOT BE LIABLE FOR ANY FEES, PENALTIES, INTEREST AND OTHER CHARGES ASSESSED BY A SELECTED COUNTRY DUE TO A LATE OR MISSED FILING RESULTING FROM MERCHANT’S FAILURE TO PROVIDE ANY REQUIRED INFORMATION OR TIMELY APPROVAL OF A RETURN, OR DUE TO LATE OR MISSED VAT OBLIGATIONS OR OTHER PAYMENT OWED BY MERCHANT. EXCEPT AS PROHIBITED BY APPLICABLE LAWS, MERCHANT MAY NOT BRING ANY CLAIM RELATING TO THESE TERMS OR AVALARA FISCAL REPRESENTATION MORE THAN TWO YEARS AFTER THE EVENTS GIVING RISE TO THE CLAIM OCCURRED.

11. Indemnification; Liability of Merchant; Security. Subject to the laws of each Selected Country, Avalara and Merchant may have joint and several liability to that Selected Country’s tax authorities for Merchant’s fulfillment of VAT Obligations. If Avalara incurs any liability, or is compelled to pay any amount related to Merchant’s actions, omissions, or obligations, Merchant shall indemnify and hold harmless, and at Avalara’s option shall defend, Avalara, each of its Affiliates, and each of its and their officers, directors, owners, employees, representatives and agents (each, an “*Avalara Indemnitee*”) from

and against any liability, loss, settlement payment (including any settlement an Avalara Indemnitee agrees to pay), interest, award, judgment, damages (including punitive damages), fines, fees, penalties, filing fees and court costs, witness fees, reasonable attorneys' and other professionals' fees, other reasonable investigation and defense costs, and any other fees, costs, expenses and charges ("**Losses**") incurred by, or pending or threatened against, any Avalara Indemnitee that arise out or relate to any (i) any VAT Obligations, (ii) any third-party claim or action arising out of or related to Merchant's actions or omissions or the provision of Avalara Fiscal Representation to Merchant under these Terms (including any claims or actions in connection with Avalara's termination of Merchant under these Terms), unless such claim or action results directly from the gross negligence or intentional misconduct of Avalara, or (iii) breach of any of Merchant's representations or warranties, or any failure or omission of Merchant to meet or perform any of its covenants, undertakings or obligations pursuant to the Terms or to Avalara Fiscal Representation, including without limitation the payment of any VAT Obligation or other liability hereunder or the provision of accurate VAT identification numbers and correct documents, information and data. If any Avalara Indemnitee incurs any liability in connection with the VAT Obligations or Merchant's actions or omissions hereunder, that Avalara Indemnitee shall have full recourse against Merchant and all other rights available at law and in equity to recover such liability. In order to secure the payment of any amount that is or may be due from Merchant to any Avalara Indemnitee under these Terms or otherwise, Avalara has a right of retention and offset, and a right of pledge over, all moneys and other items of value that Third Party PSP may hold on behalf of Merchant, or that may be due from Avalara to Merchant under these Terms or under any other current or future arrangement Merchant may enter into with Avalara or any of its Affiliates. Each Avalara Indemnitee is an intended third-party beneficiary under these Terms.

12. Governing Law; Arbitration. Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be London. The language to be used in the arbitral proceedings shall be English. The governing law of the Agreement shall be the substantive law of England and Wales.

13. Incorporation of Sections from VAT Compliance Terms. The following sections of the VAT Compliance Terms, including the defined terms used in such sections, are incorporated herein by reference (except that "Service" as used in such sections will be deemed to be "Avalara Fiscal Representation"): Section 6 (*Content*); Section 7 (*Communications*); Section 8 (*Data Transfers*); Section 9 (*Account Access*); Section 10 (*No Unlawful or Prohibited Use*); Section 11 (*No Professional Tax Opinion or Advice*); and Section 13 (*Entire Agreement*).

14. General. Merchant may not assign these Terms without the prior written consent of Avalara. Avalara may assign all or any part of these Terms to any other party upon notice to Merchant. If any provision of these Terms is held to be invalid, such invalidity will not affect the validity of the remaining provisions. The failure of either Avalara or Merchant to enforce any provision of these Terms will not constitute a waiver of such Party's rights to subsequently enforce such provision. Subject to the other provisions of these Terms, each of the remedies specified in these Terms are in addition to, and without limitation of any other remedies that may be available at law, in equity, under contract (including these Terms) or otherwise. These Terms do not create a partnership, joint venture, agency, or fiduciary relationship between the Parties. Any reference in these terms to the "discretion" of Avalara means the "sole and absolute discretion" of Avalara. All provisions that by their nature should survive termination of these Terms will do so (including, by way of example and not limitation, payment and indemnification obligations).

APPENDIX A

INFORMATION AND DOCUMENTS REQUIRED PER TRANSACTION

An authorization to act as fiscal representative may only be granted by local authorities if certain conditions are fulfilled. One of these conditions is that the fiscal representative keeps efficient and well-organized records. These must clearly and convincingly demonstrate to any tax authorities that VAT legislation and VAT regulations have been applied correctly. In many cases Avalara may not have the required documents, information and data at its disposal, but nevertheless shares responsibility to local tax authorities with respect to this information. Merchant therefore must provide these in the manner and format specified by Avalara no later than 7 days after expiry of the VAT return period. After termination of Avalara Fiscal Representation, Merchant shall continue to have the obligation, pursuant to Section 8, for the period during which the authorities may impose tax assessments retroactively, to cooperate in every way and if so required provide all documents, information, and data concerning the activities carried out within the framework of these Terms.

GENERAL

Description of any transactions for which Avalara is to act as fiscal representative for Merchant in a Selected Country pursuant to these Terms.

REQUIRED DOCUMENTS, INFORMATION AND DATA PER TRANSACTION CARRIED OUT BY MERCHANT IN A SELECTED COUNTRY, INCLUDING:

- all documents, information and data required for customs clearance;
- all customs declarations of goods imported or to be imported;
- VAT invoices issued and received;
- VAT identification numbers of Merchant's B2B customers performing intra-Community or domestic acquisitions;
- all information required for purposes of applying the exemptions laid down in Article 138 of Directive 2006/112/EC, including written statements from any acquirer stating that goods have been transported cross-border, a signed CMR document or note, a bill of lading, airfreight invoice or invoice from the carrier of the goods, insurance policy with regard to the dispatch or transport of the goods, or bank documents proving payment for the dispatch or transport of the goods, official documents issued by a public authority, such as a notary, confirming the arrival of the goods in the Member State of destination; a receipt issued by a warehouse keeper in the Member State of destination, confirming the storage of the goods in that Member State;
- all information required for the register prescribed in Article 243 of Directive 2006/112/EC;
- all information required for the recapitulative statement prescribed by Article 262 of Directive 2006/112/EC; and
- customs export documentation, validated by customs at EU border.