

Vacation Rental Property Owner Agreement

Last Updated: May 18, 2016

This Vacation Rent Collection Agreement (this "Agreement") is made and entered into between YapStone, Inc., a Delaware corporation ("YapStone") and you ("You" or "Your") and is effective as of the date that You click through this Agreement (the "Effective Date"). You should read through all of the terms carefully. The terms constitute a legally binding agreement between You and YapStone.

BY CLICKING "I AGREE " AND COMPLETING THE ONLINE REGISTRATION FORM (the "Registration Form"), YOU AGREE TO BE BOUND BY THIS AGREEMENT, YAPSTONE'S WEBSITE TERMS OF USE LOCATED AT: WWW.YAPSTONE.COM/TERMS-OF-USE/, AND YAPSTONE'S PRIVACY POLICY LOCATED AT: WWW.YAPSTONE.COM/PRIVACY-POLICY/.

Background:

- YapStone owns and operates an on-line electronic payment service known as VacationRentPayment.com (the "WebSite") that facilitates the collection of rents, security deposits and other rent-related expenses on behalf of real estate property owners/managers from the individuals who desire to rent the property and stay as guests (the "Guests");
- You own and/or manage the real estate properties set forth on the Registration Form ("Property" or "Properties"); and
- You are owed Rents (as defined below) by a Guest as a result of a contract entered into between You and the Guest, and You would like YapStone to collect the Rents owed subject to the terms and conditions set forth in this Agreement.

You and YapStone agree as follows:

1. PAYMENT SERVICES.

- 1.1 Payments of Rents due.** During the term of this Agreement, You authorize YapStone to collect Rent payments via Credit Card, Debit Card, and Electronic Funds Transfer payments (together "Payments") from Guests on Your behalf in exchange for the fees and payments set forth in this Agreement ("Services"). "Rent(s)" are defined as rent, security deposits, application fees, property damage protection insurance, and all other amounts, agreed between You and the Guest.
- 1.2 Authorization for Debits and Credits.** You hereby authorize YapStone to access Your bank account designated on the Registration Form for the following purposes:
 - (a.) to deposit Payments due to You; and,
 - (b.) to debit any fees or charges owed to YapStone in accordance with this Agreement.
- 1.3 Right of Off-set.** In the event YapStone is unable to debit Your bank account for any fees or charges owed to YapStone, You authorize YapStone to deduct (off-set) such amounts from future Rent Payments. YapStone may offset any payment obligation that YapStone may have to You under this Agreement against (1) Fees owed by You, (2) amounts overpaid to You due to a later reversal, refund, chargeback or other adjustment to prior Payment transactions, and (3) any other amounts owed by You to YapStone under this Agreement or any other agreement.
- 1.4 Provision of Information.** You agree to keep Your bank account information current and up-to-date with YapStone. Failure to do so will result in Rents being misdirected, held by YapStone pending confirmation, or returned to the Guests. YapStone disclaims all liability for Payments if Your bank account information is not

kept current. YapStone may suspend or terminate without notice Your ability to accept Payments if You fail to keep this information current or block YapStone's ability to debit or credit Your bank account. You shall provide YapStone with such information as YapStone may lawfully require in order to promptly and accurately perform the Services. You shall promptly notify YapStone of any and all inaccuracies in, or changes to, the information provided by You on the Registration Form. YapStone shall in no event be liable for any damages directly or indirectly resulting from Your failure to provide current and correct information.

1.5 **Fraud and Risk Reviews.** You authorize YapStone to collect and verify the information provided by You on the Registration Form. YapStone will use this information to perform customer due diligence, verify Your identity, verify Your ownership of the Property, and perform various fraud and risk reviews on You and will monitor the transactions through the Services to protect the integrity of its systems and business. Based upon these reviews, YapStone will determine whether it is able to offer You the Services, and the manner in which it will settle Payments of Rents in its sole discretion. Upon successful completion of the required screening, You will be offered either of the following settlement timelines:

1. **Standard Payments:** Subject to banking processing delays and any fraud or risk holds imposed by YapStone, You will typically receive the Guest's Payment (minus processing Fees) in Your bank account within 2-3 business days following the day a Rent Payment is posted, in accordance with the terms of this Agreement.

or

2. **Check In Payments:** Subject to bank processing delays and any fraud or risk holds imposed by YapStone, You will receive the Guest's Payment (minus processing Fees) in Your bank account within 2-3 business days of the scheduled check-in date for the Guest at Your Property; provided however, in the event a Guest provides proper notice to the web site the Property was booked through within 24 hours of the scheduled check in that the Property is not as described, or there is some other issue with the property, You authorize YapStone to return the Electronic Payment to the Guest. In addition, for risk and fraud reasons, your initial disbursement may be delayed up to 30 days.

1.6 **Privacy & Data Security.** You and YapStone agree to be bound by and comply with the terms of the YapStone privacy policy (which can be viewed at <http://www.yapstone.com/privacy-policy/>) as may be updated by YapStone from time to time and is hereby incorporated by reference. YapStone will not be responsible for unauthorized use or access to Guest's personal data or financial data by You, Your employees, or any other party associated with You, except to the extent such use or access is due to YapStone's fault or negligence. YapStone may use any and all information gathered in the performance of the Services or the operation of the Website in accordance with its Privacy Policy. In addition, You agree that YapStone may use such information for any lawful purpose including marketing and deriving statistics regarding its Website and the Services.

1.7 **Proprietary Rights.** As between You and YapStone, YapStone owns and retains all proprietary rights in and to the Services, the Website, the application interface (API), and any other materials that YapStone may use or provide in connection with implementation and operation of the Services or the Website. You do not acquire any right, title, or interest in the Services or Website. You agree to not modify, adapt, translate, prepare derivative works from, decompile, reverse engineer, disassemble or otherwise attempt to derive source code from the Website, the API, or the Services

1.8 **Chargebacks and Reversals.** Any Payment by a Guest is subject to a right of chargeback if paid by credit or debit card or reversal if an ACH transaction, these rights exist between the Guest and their respective bank or credit card issuer. In the event of a chargeback or reversal of any Payment by a Guest, YapStone will automatically deduct such amount plus any fees associated with the chargeback or reversal from Your bank account. Thereafter, YapStone will use commercially reasonable efforts to dispute the chargeback on Your behalf. You agree to cooperate with YapStone and to provide any information that may be reasonably requested by YapStone in its investigation. You are liable for all chargeback or reversals of Payments processed on Your behalf by YapStone, including the Chargeback Fee listed in the Fees Schedule. You acknowledge that chargeback and reversal decisions are made by the applicable issuing bank or Card Networks and all judgments as to the validity of the chargeback or reversal is made at the sole discretion of the applicable issuing bank or Card Networks.

- 1.9 **Proprietary Rights.** As between You and YapStone, YapStone owns and retains all proprietary rights in and to the Services, the Website, the application interface (API), and any other materials that YapStone may use or provide in connection with implementation and operation of the Services or the Website. You do not acquire any right, title, or interest in the Services or Website. You agree to not modify, adapt, translate, prepare derivative works from, decompile, reverse engineer, disassemble or otherwise attempt to derive source code from the Website, the API, or the Services.
- 1.10 **Modification of the Services.** YapStone may from time to time without prior notice to You modify the Services and Website; provided, however, that YapStone will not modify the Services in a manner that would, in its sole discretion, significantly adversely affect Your use thereof, without providing at least ten (10) days prior notice to You of any such modification. In addition, YapStone reserves the right to modify the Fees, in its sole discretion, but shall not do so without providing at least ten (10) days prior notice to You. Such notice may be made by means of email or a posting on, or update to, the Website.
- 1.11 **Payment for Services.** In consideration for the Services, You agree to pay YapStone the fees and charges described in the relevant Fees Schedule:

Subscription Customers

Card Acceptance	YapStone Transaction Processing Rate
Visa/MasterCard/Discover/American Express	2.9% of transaction amount
International Surcharge	2% of transaction amount
Chargeback Fee	\$25.00 per chargeback

ACH/eCheck	YapStone Transaction Processing Rate
Basic ACH/eCheck Processing	0.0% of transaction amount
ACH Reversal Fee	\$25.00 per Reversal

Pay Per Booking Customers

Card Acceptance	YapStone Transaction Processing Rate
Visa/MasterCard/Discover/American Express	3% of transaction amount
Chargeback Fee	\$25.00 per chargeback

ACH/eCheck	YapStone Transaction Processing Rate
Basic ACH/eCheck Processing	0.0% of transaction amount
ACH Reversal Fee	\$25.00 per Reversal

You hereby authorize YapStone to automatically deduct all Fees due from the Payments collected by YapStone, as well as Fees related to Chargebacks and Non-Sufficient Funds ("NSF") prior to settlement to Your bank account. In the event YapStone is unable to recover Fees for any reason, You agree to pay all reasonable costs of collection, including reasonable attorneys' fees, incurred

by YapStone.

- 1.12 **Taxes.** You are responsible for any and all applicable taxes, including sales, use, personal property, value-added, excise, customs fees, import duties or stamp duties or other taxes and duties imposed by governmental entities of whatever kind and imposed with respect to the transactions under this Agreement, including penalties and interest, but specifically excluding taxes based upon YapStone's net income. On an annual basis, YapStone may be required to report any Payments processed on Your behalf to the IRS or other tax authorities. YapStone is not responsible for, and is not the entity collecting sales or income or other taxes with respect to the Payments. You will promptly provide YapStone with documentation as may be required by the applicable governmental entity in order for YapStone to process payments hereunder (including, without limitation, a valid certificate of Your exemption from obligation to pay taxes as authorized by the appropriate governmental entity), and YapStone may withhold any Payments until You have provided the required documentation.
- 1.13 **Limitation on Use of Services/Website.** You may only utilize the Services for the payment of Rents as defined herein. You may not use, and represent and warrant that You will not use the Services for any other purpose, including but not limited to the payment for any illegal activity, good, or service. You agree to comply with all YapStone policies, and any other limits concerning use of the Website and Services, as updated by YapStone from time to time, including without limitation: (i) YapStone requirements for data security; and (ii) any operating rules and/or policies of the card associations or networks that are used to process the Payments (as such may be updated from time to time). Notwithstanding anything any other terms of this Agreement, YapStone has the right (a) to change, suspend or discontinue the Services or Website, in whole or in part and (b) to impose limits on certain features or restrict access to parts or all of the Services or Website without notice and without liability when YapStone, in its sole discretion, determines necessary to protect the integrity of the Website and its operations, to avoid harm to others, or for any other reason. YapStone may decline to process any payment in connection with, among other reasons, fraud prevention activities, applicable law, or YapStone policies.
- 1.14 **Card Networks; Acquirer.** During the Term of this Agreement, the Services will be provided by YapStone in conjunction with a merchant acquirer (or PIN debit acquirer) and their respective designated member bank(s). You agree to comply with all YapStone policies with respect to the Services, and all applicable Visa U.S.A., Inc., Visa International, MasterCard International Incorporated, Discover Financial Services, inc., American Express Travel Related Services Company Inc. ("American Express"), (collectively, "Card Networks") and National Automated Clearing House Association (collectively, "NACHA") operating regulations, and other rules (collectively, "Operating Regulations") and all applicable federal, state, or local laws, rules, regulations, and regulatory guidance relating to the conduct of Your business. You agree and acknowledge that the Associations reserve the right to amend the Operating Regulations without notice to You. If You chooses to accept only certain types of payment cards, it is Your responsibility to properly indicate which payment cards are accepted.

2. DISCLAIMER OF WARRANTIES.

- 2.1 **No Warranties.** YOU ACKNOWLEDGE THAT YOUR USE OF THE SERVICES AND WEBSITE IS SUBJECT TO THE FOLLOWING DISCLAIMER OF LIABILITY: EXCEPT FOR ANY EXPRESS WARRANTIES CONTAINED IN THIS AGREEMENT, THE SERVICES AND WEBSITE (INCLUDING ALL CONTENT, SOFTWARE, DATA TRANSMISSION, FUNCTIONS, MATERIALS AND INFORMATION PROVIDED IN CONNECTION WITH OR ACCESSIBLE THROUGH THE SERVICE) ARE PROVIDED "AS IS" AND YAPSTONE, ITS AFFILIATES, AND ITS SUPPLIERS MAKE NO WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, REGARDING THE WEBSITE OR SERVICES PROVIDED HEREUNDER AND SPECIFICALLY DISCLAIM THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND AGAINST INFRINGEMENT, TO THE MAXIMUM EXTENT POSSIBLE BY LAW.
- 2.2 **World Wide Web Usage.** YapStone and its suppliers make no warranties regarding the quality, reliability, timeliness or security of the world wide web, the internet and other globally linked computer networks, or the web sites established thereon including the Web Site, will be uninterrupted or error free.
- 2.3 **Payments.** You acknowledge and agree that: (i) Your rental of Properties are transactions between You and the relevant Guest and not with YapStone or any of YapStone's affiliates; (ii) YapStone is a third-party Rent collector for You and is not a party to any transaction; (iii) YapStone will not be responsible for, and

does not control, if a Guest will make any Rent payment; (iv) YapStone is not a bank or other chartered depository institution; and (v) funds processed by YapStone or its service providers (including any bank service providers) in connection with the collection of Rents are not deposit obligations and are not insured for Your benefit by any governmental agency.

3. LIMITATION OF LIABILITY/INDEMNITIES.

3.1 YAPSTONE SHALL IN NO WAY BE LIABLE TO YOU DUE TO ANY DISRUPTION OR NON-AVAILABILITY OF THE SERVICES OR WEBSITE DURING WHICH GUESTS ARE UNABLE TO ACCESS OR USE THE SERVICES OR WEBSITE OR ANY FAILURES THAT MAY AFFECT THE RECEIPT, PROCESSING, ACCEPTANCE, COMPLETION OR SETTLEMENT OF A PAYMENT OR THE SERVICES.

3.2 IN NO EVENT WILL EITHER PARTY, ITS AFFILIATES OR ITS SUPPLIERS, BE LIABLE TO THE OTHER PARTY, OR TO ANY THIRD PARTY, FOR CONSEQUENTIAL, EXEMPLARY, INDIRECT, SPECIAL OR INCIDENTAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, EVEN IF THE PARTY OTHERWISE LIABLE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL YAPSTONE'S AGGREGATE LIABILITY ARISING OUT OF THIS AGREEMENT EXCEED THE FEES THAT YAPSTONE HAS RECEIVED AND RETAINED UNDER THIS AGREEMENT DURING THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE DATE ON WHICH THE CLAIM ARISES. THE FOREGOING LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. Each party acknowledges that the other party has entered into this Agreement relying on the limitations of liability stated in this paragraph and that these limitations are an essential basis of the bargain between the parties.

3.3 Indemnification.

(a) You will indemnify, defend and hold YapStone, its directors, officers, employees, and agents (Yapstone Indemnified Parties) harmless from and against any and all third party claims, liability, loss, and expense (including damage awards, settlement amounts, and reasonable legal fees) brought against any of the YapStone Indemnified Parties, arising out of or related to (i) Your use of the Services or WebSite; and/or (ii) any breach of or non-compliance with this Agreement by You. YapStone may join in defense with counsel of its choice at its own expense. The indemnity obligations set forth in this section will not apply to the extent any claim, loss, liability, demand or expense is the result of the gross negligence or willful misconduct of any indemnified party. The indemnity obligations set forth in this section are contingent upon (1) YapStone providing prompt written notice to You of any such claim(s), loss(es), liability(ies), action(s), demand(s) or expense(s) (except that Your obligation to indemnify hereunder shall only be relieved to the extent it is prejudiced by YapStone's failure to provide such notice); and (2) Your having sole control of the defense or settlement of such claim(s), loss(es), liability(ies), action(s), demand(s) or expense(s), at its discretion; provided that any settlement requiring other than the payment of monetary amounts shall be subject to YapStone's consent, not to be unreasonably withheld. At Your request and expense, YapStone shall cooperate in the investigation, defense and settlement of such claim(s), loss(es), liability(ies), action(s), demand(s) or expense(s).

(b) YapStone shall defend, indemnify, and hold the You harmless from and against all third party claims, losses, liability, actions, demands or expenses arising as a result of (i) YapStone's breach of this Agreement or (ii) as a result of a breach of data security resulting in the unauthorized disclosure of cardholder information that occurs on YapStone's Website. This indemnity will not apply to any chargeback or reversal liability covered by Sections 1.3, 1.8, and 1.11 of this Agreement. This indemnity will not apply to the extent that any such claim, loss, liability, action, demand or expense is the result of the negligence or willful misconduct of any Guest or You, or to the extent liability is disclaimed or limited by either party under this Agreement. You may join in defense of any claim hereunder with counsel of Your choice at Your own expense. The indemnity obligations set forth in this section are contingent upon (1) You providing prompt written notice to YapStone of any such claim(s), loss(es), liability(ies), action(s), demand(s) or expense(s) (except that YapStone's obligation to indemnify hereunder shall only be relieved to the extent it is prejudiced by Your failure to provide such notice); and (2) YapStone having sole control of the defense or settlement of such claim(s), loss(es), liability(ies), action(s), demand(s) or expense(s), at its discretion; provided that any settlement requiring other than the payment of monetary amounts shall be subject to Your consent, not to be unreasonably withheld. At YapStone's request and expense, the You shall cooperate in the investigation, defense and settlement of such claim(s), loss(es), liability(ies), action(s), demand(s) or

expense(s).

4. TERM AND TERMINATION.

- 4.1 **Term.** This Agreement will begin on the Effective Date and shall continue until terminated by either party in accordance with Section 4.2 below.
- 4.2 **Termination.** Either party may terminate this Agreement at any time for convenience upon written notice, which may be via email to the addresses set forth below.
- 4.3 **Effect of Termination.** Termination of this Agreement will not relieve either party of any obligation to pay the other party any amounts, Fees or other compensation due and owing to the other party prior to such termination. YapStone will complete any Payments in process at the time of termination and will deduct any Fees owed to it at that time. However, You will remain liable for chargeback's, reversals, charges and any other obligations incurred by You after the expiration or termination of this Agreement and You authorize YapStone to automatically, without prior notice to You, deduct such amounts from Your bank account. Upon termination, YapStone will disable Your access to the Services.
- 4.4 **Survival.** Sections 1.6, 1.7, 1.8, 1.12, 2, 3, 4 and 5 shall survive termination or expiration of this Agreement, except where otherwise provided.

5. ARBITRATION: Please read this Section carefully. It affects your rights and will impact how claims you and we have against each other are resolved.

- 5.1 **Contact YapStone First.** If a dispute arises between You and YapStone, our goal is to learn about and address your concerns and, if we are unable to do so to your satisfaction, to provide you with a neutral and cost effective means of resolving the dispute quickly. Disputes between You and YapStone regarding the Services may be reported to our legal department online through the following email: Legal@yapstone.com.
- 5.2 **Applicable Law.** You agree that the laws of the State of California, without regard to principles of conflict of laws, will govern this Agreement and any claim or dispute that has arisen or may arise between You and YapStone.
- 5.3 **Agreement to Arbitrate.** You and YapStone each agree that any and all disputes or claims that have arisen or may arise between You and YapStone shall be resolved exclusively through final and binding arbitration, rather than in court, except that you may assert claims in small claims court, if your claims qualify. The Federal Arbitration Act governs the interpretation and enforcement of this Agreement to Arbitrate.
- 5.4 **Arbitration Procedures.** Arbitration is more informal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, and court review of an arbitration award is very limited. However, an arbitrator can award the same damages and relief on an individual basis that a court can award to an individual. An arbitrator also must follow the terms of this Agreement as a court would. The arbitration will be conducted by the American Arbitration Association ("AAA") under its rules and procedures, including the AAA's Supplementary Procedures for Consumer-Related Disputes (as applicable), as modified by this Agreement to Arbitrate. The AAA's rules are available at www.adr.org. A form for initiating arbitration proceedings is available on the AAA's website at <http://www.adr.org>. The arbitration shall be held in the county in which you reside or at another mutually agreed location. If the value of the relief sought is \$10,000 or less, You or YapStone may elect to have the arbitration conducted by telephone or based solely on written submissions, which election shall be binding on You and YapStone subject to the arbitrator's discretion to require an in-person hearing, if the circumstances warrant. Attendance at an in-person hearing may be made by telephone by You and/or YapStone, unless the arbitrator requires otherwise. The arbitrator will decide the substance of all claims in accordance with the laws of the State of California, including recognized principles of equity, and will honor all claims of privilege recognized by law. The arbitrator's award shall be final and binding, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.
- 5.5 **Costs of Arbitration.** Payment of all filing, administration, and arbitrator fees will be governed by the AAA's rules, unless otherwise stated in this Agreement to Arbitrate.

- 5.6 **Opt-Out Procedure.** You can choose to reject this Agreement to Arbitrate ("opt out") by mailing us a written opt-out notice ("Opt-Out Notice"). For new YapStone customers, the Opt-Out Notice must be postmarked no later than 30 Days after the date You accept this Agreement. If you are already a current YapStone customer and previously accepted an Agreement prior to the introduction of this Agreement to Arbitrate, the Opt-Out Notice must be postmarked no later than July 1, 2013. You must mail the Opt-Out Notice to YapStone, Inc., Attn: Legal Department, 2121 N. Main Street, Suite 400, Walnut Creek, CA 94596. The Opt-Out Notice must state that you do not agree to this Agreement to Arbitrate and must include your name, address, phone number, and the email address(es) provided at registration or on file with YapStone. You must sign the Opt-Out Notice for it to be effective. This procedure is the only way you can opt out of the Agreement to Arbitrate. If you opt out of the Agreement to Arbitrate, all other parts of this Agreement, including all other provisions of this Agreement will continue to apply.

6. Miscellaneous

- 6.1 **Binding Upon Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties, their successors and permitted assigns. Neither this Agreement nor any right, license, privilege or obligation provided herein may be assigned or transferred by You without YapStone's prior written consent, which consent shall not be unreasonably withheld, and any attempted assignment or transfer without such consent is void. YapStone may assign this Agreement at anytime.
- 6.2 **Force Majeure.** YapStone will not be responsible for any delays, errors, failures to perform, interruptions or disruptions in the Services or WebSite caused by or resulting from any act, omission or condition beyond YapStone's reasonable control, whether or not foreseeable or identified, including without limitation acts of God, strikes, lockouts, riots, acts of war, governmental regulations, fire, power failure, earthquakes, severe weather, floods or other natural disasters or the failure of Your, Guest's or any third party's hardware, software or communications equipment or facilities.
- 6.3 **Entire Agreement.** This Agreement, including the Schedules, contains the entire understanding and agreement between the parties with respect to its subject matter, superseding all prior or contemporaneous representations, understandings, and any other oral or written agreements between the parties with respect to such subject matter.
- 6.4 **Severability.** If any provision of this Agreement, or the application thereof, is found invalid or unenforceable, that provision will be amended to achieve as nearly as possible the same economic effect as the original provision and the remainder of this Agreement will remain in full force.
- 6.5 **Amendment and Changes.** You may not change, amend, supplement, discharge, terminate or otherwise altered by You except by a statement in writing signed by YapStone. YapStone will have the right, at its sole and absolute discretion, to change, modify, or amend any portion of this Agreement in accordance with the terms set forth above; provided, however, that if You do not agree to such change You shall have the right to terminate this Agreement upon written notice to YapStone delivered within thirty (30) days of notice of an amendment.
- 6.6 **Waiver.** The waiver by either party of any right under this Agreement or the failure to perform or of a breach of any provision of this Agreement will not operate or be construed as a waiver of any other right thereunder or of any other breach or failure whether of a similar nature or otherwise.
- 6.7 **Notices.** All notices and other communications required or permitted under this Agreement will be in writing, which will be an email. Notices to You will be delivered to the email address provided on the Registration Form or as modified by You through notice to YapStone at the following email: legal@yapstone.com. If to YapStone, via email at legal@yapstone.com or via certified mail to: YapStone, Inc., Attn: Legal Department, 2121 N. California Blvd., Suite 400, Walnut Creek, CA.
- 6.8 **American Express Terms.** You agree that if you accept American Express cards, you are bound by the American Express Merchant Operation Regulations (available at: www.americanexpress.com/merchantsopguide) and the attached American Express Terms.

American Express Terms

Client agrees to the American Express Merchant Operation Regulations (available at: www.americanexpress.com/merchanttopguide) and the American Express terms and conditions contained herein (the "American Express Terms"). American Express shall be a third party beneficiary to the Agreement and may enforce the terms of the Agreement against Client. Client agrees and acknowledges that it is not a third party beneficiary under any agreement that YapStone may have with American Express. Client agrees to only accept American Express cards in accordance with the terms of the Agreement and the American Express Terms. Except as expressly permitted by Applicable Law, Client must not process American Express card transactions or receive payments on behalf of, or (unless required by law) re-direct payments to any other party.

Limitation of Liability.

In no event shall Client, YapStone, American Express or its respective affiliate, successor, or permitted assigns (and in American Express's case, its third party licensees) be liable to another party for any incidental, indirect, speculative, consequential, special, punitive, or exemplary damages of any kind (whether based in contract, tort, including negligence, strict liability, fraud, or otherwise, or statutes, regulations, or any other theory) arising out of or in connect with the Agreement, even if advised of such potential damages. Neither Client, YapStone, or American Express will be responsible to another party for damages arising from delays or problems caused by telecommunications carriers to the banking system, except that American Express's rights to create reserves and exercise chargebacks will not be impaired by such events.

In no case will American Express be liable to Client for any claims, losses, liability, actions, demands or expenses arising as a result of (i) any breach of data security resulting from Client's act or omission, or (ii) the claim by an employee of Client that American Express is liable as a an employer or joint employer of such employee.

High CV Sponsored Merchants.

If YapStone or American Express requests that Client do so, Client will be converted to a High CV Sponsored Merchant (as defined by American Express's then effective Operating Regulations). Upon such conversion, Client will enter into a direct contractual relationship with American Express and be bound by its then standard card acceptance agreement and American Express may set different processing fees for Client. In that case, unless Client expressly informs YapStone otherwise, Client authorizes YapStone to continue to manage Client's American Express account on its behalf and to cause funds settled from American Express transactions to be deposited either directly into a bank account designated by Client or to a bank account held by YapStone for Client's benefit.