



## Terms of Service

*THE FOLLOWING TERMS OF SERVICES SETS FORTH THE LEGALLY BINDING TERMS AND CONDITIONS FOR YOUR USE OF THE SERVICE. YOU UNDERSTAND AND AGREE THAT BY USING WHOLLY OR ANY PART OF THE SERVICES PROVIDED BY OR THROUGH THE PLATFORM, YOU ARE AGREEING TO BE LEGALLY BOUND BY ALL OF THESE TERMS AND CONDITIONS. IF YOU DO NOT AGREE TO THESE TERMS, YOU WILL HAVE NO LICENSE TO USE THE PLATFORM.*

You have arrived at [www.eMerge.com.com](http://www.eMerge.com.com) and/or are otherwise interacting with our Platform (defined below), which is owned and operated by iiMerge S.r.l. (“Emerge” “we,” “our,” or “us”).

This Terms of Service (“Terms”) govern your use of any online service location that posts a link to these Terms (“Site”), and also applies to all features, widgets, plug-ins, applications, content, downloads and other services make available through a Site, and/or that post or link to these Terms (collectively, the “Platform”), regardless of how you access or use it, whether via computer, mobile device or otherwise.

These Terms are an agreement between you (i.e., the corporation, business, other entity, or natural person) who (i) develops or supplies products for sale to retailers (“Supplier”) that will be incorporated onto the Platform or (ii) the retailer/buyer who utilizes this site (“Retailer” and collectively with the Supplier, “you” or “your”) and Emerge, and sets forth your rights and obligations with respect to the use of the Platform and/or other third party platform.

We operate the Platform, which includes our product discovery and category management tools, our tools for the curation and optimization in showcasing Suppliers’ products to Retailers, including, without limitation, the interfaces and APIs provided to access the Platform, and any associated services, results or reports provided to you in any way.

Capitalized terms have the meanings given to them where defined in these Terms.

Each time you access and/or use the Platform, you agree to be bound by and comply with the Terms and any Additional Terms (defined below) then posted. Therefore, do NOT use the Platform if you do not agree. The business realities associated with operating the Platform are such that, without the conditions that are set forth in these Terms, we would not make the Platform available to you.

In some instances, both these Terms and separate guidelines, rules, or terms of service or sale setting forth additional or different terms and/or conditions, if any, may apply to

your use of the Platform or to a service or product offered via the Platform (in each such instance, and collectively “Additional Terms”).

To the extent there is a conflict between these Terms and any Additional Terms, the Additional Terms will control unless the Additional Terms expressly state otherwise. Please also review the terms of the Platform’s Privacy Policy, which you accept by using the Platform.

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## **Platform Terms**

### *1. Registration, User Information, Privacy and Profile Pages.*

A. Registration. In order to access or use some (or potentially all) of the features on the Platform, you must first register through our online registration process at [www.emerge.biz](http://www.emerge.biz). If you register for any feature that requires a password and/or username, then you will select your own password at the time of registration (or we may send you an e-mail notification with a randomly generated initial password) and you agree that: (i) you will not use a username (or e-mail address) that is already being used by someone else, may impersonate another person, belongs to another person, violates the intellectual property or other right of any person or entity, or is offensive. We may also reject the use of any password, username, or e-mail address for any other reason in our sole discretion; (ii) you will provide true, accurate, current, and complete registration information about yourself and your Product(s) in connection with the registration process and, as permitted, to maintain and update it including on your Profile Page (defined below), continuously and promptly to keep it accurate, current, and complete; (iii) you are solely responsible for all activities that occur under your account, password, and username – whether or not you authorized the activity; (iv) you are solely responsible for maintaining the confidentiality of your password and for restricting access to your Device so that others may not access any password protected portion of the Platform using your name, username, or password; (v) you will immediately notify us of any unauthorized use of your account, password, or username, or any other breach of security; and (vi) you will not sell, transfer, or assign your account or any account rights.

B. User Information. You acknowledge and agree that you are solely responsible for the accuracy and content of all such personal information, and you agree to keep it up to date. If any information that you provide, or if we have reasonable grounds to suspect that any information that you provide, is false, inaccurate, outdated, incomplete, or anyway violates these Terms, any Additional Terms, or any applicable law or regulation, then we may suspend or terminate your account. We also reserve the more general and broad right to terminate your account or suspend or otherwise deny you access to it or its benefits – all in our sole discretion, for any reason, and without advance notice or liability. We will not be liable for any loss or damage (of any kind and under any legal theory) to you or any third party arising from your inability or failure for any reason to comply with any of the foregoing obligations.

C. Data & Privacy. In the course of using the Platform or certain services or functionalities made available on or through the Site, you may provide certain personal

information to us. Emerge's policies for collection and use of such personal information are set forth in our Privacy Policy for the Site ("Privacy Policy"), located at <https://www.emerge.biz/platform-login>. Our Privacy Policy is incorporated herein by this reference. In addition and in consideration for the Services and license to the Platform, you agree that we may collect data related to an end user's or Buyer's use of the Platform and your Product(s) (collectively, the "Data").

Our data collection, use and disclosure practices are described more fully in <https://www.emerge.biz/platform-login>, located at and include the use of log information and cookies and other tracking technologies that record device or other persistent identifiers and usage information about end users. When an end user visits a page on the Platform, we may deploy tracking technologies on our own behalf or on behalf of one of our data partners, to record information about how an end user uses the web, such as the web search that landed the end user on a particular page, categories of the end user's interests and third party site visitations by the user's device, in the respect the applicable laws and regulation. We may use the Data to target actions and advertising and promotional material toward the end user or Retailer or authorize others to do the same.

**D. Profiles.** After completing the registration process, you will then be able to create a profile page to (i) as per the Suppliers, showcase and provide information about your Product(s) and your Company information and (ii) as per the Retailers, discover and buy Suppliers' products (the "Profile Page"). Your Profile Page may not include any form of prohibited User-Generated Content, as outlined in Section 3 and in our Rules (Section 5). We may offer you the ability to set preferences relating to your profile or Platform activities, but settings may not become effective immediately or be error free, and options may change from time-to-time. We assume no responsibility or liability for users' Profile material.

Profile Pages may only be set up by an authorized representative of the individual that is the subject of the Profile Page. We do not review Profile Pages to determine if they were created by an appropriate party, and we are not responsible for any unauthorized Profile Pages that may appear on the Platform. If there is any dispute as to whether a Profile Page has been created or is being maintained by an authorized representative of the individual who is the subject of that Profile Page, then we shall have the sole right, but are not obligated, to resolve such dispute as we determine is appropriate in our sole discretion. Such resolution may include, without limitation, deleting or disabling access to Profile Pages, or any portion thereof, at any time without notice.

## *2. Platform Content, Ownership, Limited License, and Rights of Others.*

**A. Content.** The Platform contains a variety of: (i) materials and other items relating to Emerge and its products and services, and similar items from our licensors and other third parties, including all layout, information, articles, posts, text, data, files, images, scripts, designs, graphics, button icons, instructions, illustrations, photographs, audio clips, music, sounds, pictures, videos, advertising copy, URLs, technology, software, interactive features, the "look and feel" of the Platform, and the compilation, assembly, and the materials of the Platform and any and all copyrightable material (including source and object code); (ii) trademarks, logos, trade names, trade dress, service marks, and trade identities of various parties, including those of Emerge

(collectively, “Trademarks”); and (iii) other forms of intellectual property (all of the foregoing, collectively “Content”).

B. Ownership. The Platform (including past, present, and future versions) and the Content are owned or controlled by Emerge and certain other third parties. All right, title, and interest in and to the Content available via the Platform is the property of Emerge or our licensors or certain other third parties, and is protected by Italian and international copyright, trademark, trade dress, patent and/or other intellectual property and unfair competition rights and laws to the fullest extent possible. Emerge owns the copyright in the selection, compilation, assembly, arrangements, and enhancement of the Content on the Platform.

C. Limited License. Subject to your strict compliance with these Terms and the Additional Terms, Emerge grants you a limited, non-exclusive, revocable, non-assignable, personal, and non-transferable license to (i) download (temporary storage only), display, view, use, play, and/or print the Content (excluding source and object code in raw form or otherwise, other than as made available to access and use to enable display and functionality) on a personal computer, mobile phone or other wireless device, or other Internet enabled device (each, a “Device”) for your personal, non-commercial use only. The foregoing limited license (i) does not give you any ownership of, or any other intellectual property interest in, any Content, and (ii) may be immediately suspended or terminated for any reason, in Emerge’s sole discretion, and without advance notice or liability. In some instances, we may permit you to have greater access to and use of Content, subject to certain Additional Terms.

D. Rights of Others. In using the Platform, you must respect the intellectual property and other rights of Emerge and others. Your unauthorized use of Content may violate copyright, trademark, privacy, publicity, communications, and other laws, and any such use may result in your personal liability, including potential criminal liability. Emerge respects the intellectual property rights of others. If you believe that your work has been infringed by means of an improper posting or distribution of it via the Platform, then please see Section 8 below.

### *3. Content You Submit and Community Usage Rules.*

A. Trademark License. In order to use the Platform, you hereby grant to Emerge, and represent and warrant that you have the right to grant to Emerge, a revocable, royalty-free, non-exclusive, non-transferable, non-sublicensable, limited right and license to use, reproduce, and display as applicable, the names, logos, marks, nicknames, slogans, artwork, trademarks, trade names, service marks that at any time were or are owned, applied to be registered or registered, controlled, cleared for use by, or on behalf of, or licensed by you in connection with the Platform (collectively, the “User Marks”) and any User-Generated Content (defined below) provided by you such as any photographs and audiovisual content featuring your company and/or your products with your User Marks in connection with the Platform.

B. User-Generated Content. Emerge may now or in the future offer users of the Platform the opportunity to create, build, post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available on or submit through the Platform (collectively, “submit”) messages, avatars, text, illustrations, files, images, graphics, photos, comments, responses, videos, information, content, ratings, reviews, data,

questions, suggestions, or other information or materials and the ideas contained therein (collectively, but excluding Emerge Content included therein, “User-Generated Content”). Emerge may allow you to do this through your Profile Page, forums, blogs, message boards, social networking environments, content creation tools, social communities, contact us tools, e-mail, and other communications functionality. Subject to the rights and license you grant in these Terms, you retain whatever legally cognizable right, title, and interest that you have in your User-Generated Content and you remain ultimately responsible for it.

C. Non-Confidentiality of Your User-Generated Content.

(i) Except as otherwise described in the Platform’s posted Privacy Policy or any Additional Terms, you agree that Emerge does not assume any obligation of any kind to you or any third party with respect to your User-Generated Content. Upon Emerge’s request, you will furnish us with any documentation necessary to substantiate the rights to such content and to verify your compliance with these Terms or any Additional Terms. You acknowledge that the Internet and mobile communications may be subject to breaches of security and that you are aware that submissions of User-Generated Content may not be secure, and you will consider this before submitting any User-Generated Content and do so at your own risk.

(ii) In your communications with Emerge, please keep in mind that we do not seek any unsolicited ideas or materials for products or services, or even suggested improvements to products or services, including, without limitation, ideas, concepts, inventions, or designs (collectively, “Unsolicited Ideas and Materials”). Any Unsolicited Ideas and Materials you post on or send to us via the Platform are deemed User-Generated Content and licensed to us as set forth below. In addition, Emerge retains all of the rights held by members of the general public with regard to your Unsolicited Ideas and Materials. Emerge’s receipt of your Unsolicited Ideas and Materials is not an admission by Emerge of their novelty, priority, or originality.

D. License to Emerge of Your User-Generated Content. Except as otherwise described in any applicable Additional Terms, which specifically govern the submission of your User-Generated Content, you hereby grant to Emerge, and you agree to grant to Emerge, the non-exclusive, unrestricted, unconditional, unlimited, worldwide, irrevocable, perpetual, and cost-free right and license to use, copy, record, distribute, reproduce, disclose, sell, re-sell, sublicense (through multiple levels), display, publicly perform, transmit, publish, broadcast, translate, make derivative works of, and otherwise use and exploit in any manner whatsoever, all or any portion of your User-Generated Content (and derivative works thereof), for any purpose whatsoever in all formats, on or through any means or medium now known or hereafter developed, and with any technology or devices now known or hereafter developed, and to advertise, market, and promote the same. Without limitation, the granted rights include the right to: (a) configure, host, index, cache, archive, store, digitize, compress, optimize, modify, reformat, edit, adapt, publish in searchable format, and remove such User-Generated Content and combine same with other materials, and (b) use any ideas, concepts, know-how, or techniques contained in any User-Generated Content for any purposes whatsoever, including developing, producing, and marketing products and/or services. You understand that in exercising such rights metadata, notices and content may be removed or altered, including copyright management information, and you consent

thereto and represent and warrant you have all necessary authority to do so. In order to further effect the rights and license that you grant to Emerge to your User-Generated Content, you also hereby grant to Emerge, and agree to grant to Emerge, the unconditional, and irrevocable right to use and exploit your name, persona, and likeness in connection with any User-Generated Content, without any obligation or remuneration to you. Except as prohibited by law, you hereby waive, and you agree to waive, any moral rights (including attribution and integrity) that you may have in any User-Generated Content, even if it is altered or changed in a manner not agreeable to you. To the extent not waivable, you irrevocably agree not to exercise such rights (if any) in a manner that interferes with any exercise of the granted rights. You understand that you will not receive any fees, sums, consideration, or remuneration for any of the rights granted in this Section 3.C.

E. Exclusive Right to Manage Our Platform. Emerge may, but will not have any obligation to, review, monitor, display, post, store, maintain, accept, or otherwise make use of, any of your User-Generated Content, and Emerge may, in its sole discretion, reject, delete, move, re-format, remove or refuse to post or otherwise make use of User-Generated Content without notice or any liability to you or any third party in connection with our operation of User-Generated Content venues in an appropriate manner. Without limitation, we may do so to address content that comes to our attention that we believe is offensive, obscene, violent, harassing, threatening, abusive, illegal or otherwise objectionable or inappropriate, or to enforce the rights of third parties or these Terms or any applicable Additional Terms, including, without limitation, the content restrictions set forth below in the Rules (defined in Section 5). Such User-Generated Content submitted by you or others need not be maintained on the Platform by us for any period of time and you will not have the right, once submitted, to access, archive, maintain, or otherwise use such User-Generated Content on the Platform or elsewhere.

F. Enforcement. Emerge has no obligation to monitor or enforce your intellectual property rights to your User-Generated Content, but you grant us the right to protect and enforce our rights to your User-Generated Content, including by bringing and controlling actions in your name and on your behalf (at Emerge's cost and expense, to which you hereby consent and irrevocably appoint Emerge as your attorney-in-fact, with the power of substitution and delegation, which appointment is coupled with an interest).

#### *4. Representations and Warranties Related to Your User-Generated Content and Products.*

A. Each time you submit any User-Generated Content, you represent and warrant that you are at least the age of majority in the jurisdiction in which you reside, (a) you are the sole author and legitimate owner of the intellectual property and other rights to the User-Generated Content, or you have a lawful right to submit the User-Generated Content and grant Emerge the rights to it that you are granting by these Terms and any Additional Terms, all without any Emerge obligation to obtain consent of any third party and without creating any obligation or liability of Emerge; (b) the User-Generated Content is accurate, true and not misleading; (c) the User-Generated Content does not and, as to Emerge's permitted uses and exploitation set forth in these Terms, will not infringe any intellectual property or other right of any third party; and (d) the User-Generated Content

will not violate these Terms (including the Rules) or any Additional Terms, or cause injury or harm to any person.

B. If you post a Product and/or Company information, you represent and warrant that:

- your User-Generated Content about such Product(s) are truthful and not misleading, deceptive or materially inaccurate in any way, including in relation to the availability, nature, terms or conditions or any other matter relating to the Product being offered;
- you agree (i) to provide the Retailer with such other information as is reasonably necessary to ensure that the Retailer is fully informed as to the intended and proper use of the Product, including any lists of ingredients, components or materials and any applicable instruction booklets and/or warning labels concerning the Product, and (ii) to use commercially reasonable efforts to respond to additional Retailer Product inquiries;
- your Product has been produced, manufactured, packaged and supplied strictly in accordance with the relevant consumer protection and product safety regulations and good manufacturing practices and that it complies, and you comply, with all applicable laws and codes of conduct;
- your User-Generated Content does not contain links to any external website other than specified in the website field in the Product sign-up page, unless we have given our prior written consent;
- your User-Generated Content it is posted within the appropriate category(s). If we consider that you have posted a Product to an incorrect or inappropriate category, we may re-classify and re-post that post as we consider appropriate; and
- your Product(s) has been produced, designed, manufactured, packaged, and supplied in a way that does not infringe any intellectual property rights of any third party.

C. If You supply an edible Product, you will ensure that, at a minimum:

- it has been produced, manufactured, packaged and supplied strictly in accordance with all relevant food safety and hygiene regulations and applicable laws and good manufacturing practices with any relevant use by dates clearly shown;
- it has not been adulterated or contaminated, and is of good quality, edible, and otherwise fit for human consumption; and
- the marketing of such edible Products on the Platform does not violate any applicable laws or regulation.

## *5. Community Usage Rules.*

As a user of the Platform, these Community Usage Rules (“Rules”) are here to help you understand the conduct that is expected of members of the Platform’s online communities (“Communities”).

A. Nature of Rules. Your participation in the Communities is subject to all of the Terms, including these Rules:

- All of your User-Generated Content either must be original with you or you must have all necessary rights in it from third parties in order to permit you to comply with these Terms and any Additional Terms. Your User-Generated Content should not contain any logos, phrases, or trademarks that belong to third parties. Do not use any User-Generated Content that belongs to other people and pass it off as your own; this includes any content that you might have found elsewhere on the Internet. If anyone

contributes to your User-Generated Content or has any rights to your User-Generated Content, or if anyone appears or is referred to in the User-Generated Content, then you must also have their permission to submit such User-Generated Content to Emerge. (For example, if someone has taken a picture of your friend and your product, and you submit that photo to Emerge as your User-Generated Content, then you must obtain your friend's and the photographer's permission to do so.)

- All of your Platform activities must be venue appropriate, as determined by us. Be respectful of others' opinions and comments so we can continue to build Communities for everyone to enjoy. If you think your User-Generated Content might offend someone or be embarrassing to someone, then chances are it probably will and it doesn't belong on the Platform. Your User-Generated Content must not be defamatory, offensive, slanderous, indecent, obscene, pornographic, or sexually explicit.
- Don't copy the Platform or use the Platform, or any element thereof, to create (or allow third parties to create) any software product capable of emulating or competing with the Platform (or facilitating the emulation of or competition with the Platform), or use any of the Platform's components, files, modules, audio-visual content, or related licensed materials separately from the Platform.
- Your User-Generated Content must not promote any infringing, illegal, or other similarly inappropriate activity.
- Do not impersonate any other person, user, or company, and do not submit User-Generated Content that you believe may be false, fraudulent, deceptive, inaccurate, or misleading, or that misrepresents your Products or identity or affiliation with a person or company.
- We hope that you will use the Communities to exchange information and content and have venue appropriate discussions with Retailers. However, please remember that the semi-public and User-Generated Content that you submit on the Platform within a Community may be accessible and viewable by other Retailers. Do not submit personally identifying information (e.g., first and last name together, password, phone number, address, credit card number, e-mail address, or other personally identifiable information or contact information) on Community spaces and take care when disclosing this type of information to others.
- Your User-Generated Content must not submit viruses, Trojan horses, spyware, or any other technologies or malicious code that could impact the operation of the Platform or any computer or other Device. If you submit User-Generated Content that Emerge reasonably believes violates these Rules, then we may take any legally available action that we deem appropriate, in our sole discretion. We may require, at any time, proof of the permissions referred to above in a form acceptable to us. Failure to provide such proof may lead to, among other things, the User-Generated Content in question being removed from the Platform.

B. Additional Restrictions / Non-Compete. In addition to the restrictions on use set forth in Sections 3 and 6, use of the Platform is strictly prohibited by a competitor of Emerge's and you represents and covenants that you and your affiliates and/or agents or contractors (including, without limitation, outsourcers) are not, and will not become, competitors of Emerge. The license will automatically terminate upon a breach of this Section 5.B



C. Your Interactions With Other Users; Disputes. You are solely responsible for your interaction with other users of the Platform, whether online or offline. We are not responsible or liable for the conduct or content of any user. We reserve the right, but have no obligation, to monitor or become involved in disputes between you and other users, including any Retailers. Exercise common sense and your best judgment in your interactions with others (e.g., when you submit any personal or other information) and in all of your other online activities.

D. Alerting Us of Violations. If you discover any content that violates these Terms, then you may report it to us here. For alleged infringements of intellectual property rights, see Section 8 below.

## 6. *Platform Use Restrictions.*

A. Platform Use Restrictions. You agree that you will not: (i) use any meta tags or any other “hidden text” utilizing any Trademarks; (ii) engage in any activities through or in connection with the Platform that seek to attempt to or do harm any individuals or entities or are unlawful, offensive, obscene, lewd, lascivious, filthy, violent, threatening, harassing, or abusive, or that violate any right of any third party, or are otherwise objectionable to Emerge; (iii) reverse engineer, decompile, disassemble, reverse assemble, or modify any Platform source or object code or any software or other products, services, or processes accessible through any portion of the Platform; (iv) engage in any activity that interferes with a user’s access to the Platform or the proper operation of the Platform, or otherwise causes harm to the Platform, Emerge, or other users of the Platform; (v) interfere with or circumvent any security feature of the Platform or any feature that restricts or enforces limitations on use of or access to the Platform, the Content, or the User-Generated Content; (vi) harvest or otherwise collect or store any information (including personally identifiable information about other users of the Platform, including e-mail addresses, without the express consent of such users); (vii) attempt to gain unauthorized access to the Platform, other computer systems or networks connected to the Platform, through password mining or any other means; or (viii) otherwise violate these Terms or any Additional Terms.

B. Content Use Restrictions. You also agree that, in using the Platform: (i) you will not monitor, gather, copy, or distribute the Content (except as may be a result of standard search engine activity or use of a standard browser) on the Platform by using any robot, rover, “bot”, spider, scraper, crawler, spyware, engine, device, software, extraction tool, or any other automatic device, utility, or manual process of any kind; (ii) you will not frame or utilize framing techniques to enclose any such Content (including any images, text, or page layout); (iii) you will keep intact all Trademark, copyright, and other intellectual property notices contained in such Content; (iv) you will not use such Content in a manner that suggests an unauthorized association with any of our or our licensors’ products, services, or brands; (v) you will not make any modifications to such Content (other than to the extent of your permitted use of the Emerge Licensed Elements, if applicable); (vi) you will not copy, modify, reproduce, archive, sell, lease, rent, exchange, create derivative works from, publish by hard copy or electronic means, publicly perform, display, disseminate, distribute, broadcast, retransmit, circulate or transfer to any third party or on any third-party application or website, or otherwise use or exploit such Content in any way for any purpose except as specifically permitted by

these Terms or any Additional Terms or with the prior written consent of an officer of Emerge or, in the case of Content from a licensor, the owner of the Content; and (vii) you will not insert any code or product to manipulate such Content in any way that adversely affects any user experience.

C. Availability of Platform and Content. Emerge may immediately suspend or terminate the availability of the Platform and Content (and any elements and features of them), in whole or in part, for any reason, in Emerge's sole discretion, and without advance notice or liability.

D. Reservation of All Rights Not Granted as to Content and Platform. These Terms and any Additional Terms include only narrow, limited grants of rights to Content and to use and access the Platform. No right or license may be construed, under any legal theory, by implication, estoppel, industry custom, or otherwise. All rights not expressly granted to you are reserved by Emerge and its licensors and other third parties. Any unauthorized use of any Content or the Platform for any purpose is prohibited.

### *7. Subscriptions for Suppliers*

This Site uses a free product subscription plan (collectively, the "Subscription Plan") for Suppliers to create a profile and load products. In addition, Suppliers have the option to purchase a Promotion Plan (collectively, the "Promotion Plan") or Premium Plan (collectively, the "Premium Plan").

Suppliers purchase the Premium Plan and Promotion Plan online using any major credit card (unless other payment terms are agreed). The amounts charged to such credit card shown at the time of the transaction. Premium Plans will auto renew at the end of the subscription period unless they are suspended by the Supplier. Promotion Plans will terminate at the end of their period unless an auto renew is selected.

Purchases of usage subscriptions of the Platform are nonrefundable, have no monetary value (i.e., are not a cash account or equivalent), and are purchases of only a limited, non-exclusive, revocable, non-assignable, personal, and non-transferable right to use, even if such came with a durational term (e.g., a monthly subscription). We may change our prices at any time without notice to you. However, the rights attaching to a Premium Plan or Promotion Plan you have purchased do not change if there is a price change after your purchase date. Any further purchases will be at the revised price.

We use a secure third party service provider to process all payments you make from us. You should read and understand the terms on which that service provider accepts and processes that payment, a link to which is provided to you as part of the purchase process. By transacting on the Site, you are taken to have read and accepted those terms. We are not responsible to you for any breach of those terms by that service provider.

If we suspend or terminate any usage subscriptions, then you will forfeit the suspended or terminated subscription or items, except as may be set forth in any Additional Terms (such as any refund policies that may apply to a subscription service). Likewise, except as may be set forth in any Additional Terms or as required by applicable law, or providing you any credit or refund or any other sum, in the event of our modification of any usage subscriptions, or for loss or damage due to error, or any other reason.

You are solely responsible for payment of all sales, use, or other taxes assessed against or associated with your Product(s), subscription or any other services performed for us or a Retailer under this Agreement.

#### *8. Procedure For Alleging Infringement of Other Intellectual Property*

If you own intellectual property other than copyrights and believe that your intellectual property has been infringed by an improper posting or distribution of it via the Platform, then you may send us a written notice to the addresses set forth above that includes all of the following:

- (a) a legend or subject line that says: “Intellectual Property Infringement Notice”;
- (b) a description of the intellectual property that you claim has been infringed;
- (c) a description of where the material that you claim is infringing or is the subject of infringing activity is located that is reasonably sufficient to permit us to locate the material (please include the URL of the Platform on which the material appears);
- (d) your full name, address, telephone number, and e-mail address;
- (e) a statement by you that you have a good faith belief that use of the material in the manner complained of is not authorized by the owner of the intellectual property, its agent, or the law;
- (f) a statement by you, made under penalty of perjury, that all the information in your notice is accurate, and that you are the owner of the intellectual property at issue (or, if you are not the owner, then your statement must indicate that you are authorized to act on the behalf of the owner of the intellectual property that is allegedly infringed); and
- (g) your electronic or physical signature.

We will act on such notices in our sole discretion. Any user of the Platform that fails to respond satisfactorily to Emerge with regard to any such notice is subject to suspension or termination. We may send the information that you provide in your notice to the person who provided the allegedly infringing material.

#### *9. Notices*

You agree that: (1) we may give you notices of new, revised or changed terms and other important matters by prominently posting notice on the home page of the Platform, or in another reasonable manner; and (2) we may contact you by mail or e-mail sent to the address provided by you. You agree to promptly notify us if you change your e-mail or mailing address by updating your Profile Settings. All legal notices to us must be sent to Via Francesco Ferrucci 2, 20145 Milano – Italia.

#### *10. Product Specifications; Pricing; Typographical Errors*

We do our best to describe every product or service offered on this Platform as accurately as possible. However we do not warrant that product specifications, pricing, or other content on the Platform is complete, accurate, reliable, current, or error-free. In the event of any errors relating to the pricing or product specifications, Emerge shall have the right to refuse or cancel your subscription and/or access to the Platform in our sole discretion.

You shall be liable for and indemnify Emerge against any and all losses, claims, costs and other liabilities whatsoever and howsoever caused and whether or not foreseeable or incurred by Emerge as a result of or in connection with any breach of this Section 4 above.

#### *11. Links By You to the Platform*

We grant you a limited, non-exclusive, revocable, non-assignable, personal, and non-transferable license to create hyperlinks to the Platform, so long as: (a) the links only incorporate text, and do not use any Trademarks, (b) the links and the content on your website do not suggest any affiliation with Emerge or cause any other confusion, and (c) the links and the content on your website do not portray Emerge or its products or services in a false, misleading, derogatory, or otherwise offensive matter, and do not contain content that is unlawful, offensive, obscene, lewd, lascivious, filthy, violent, threatening, harassing, or abusive, or that violate any right of any third party or are otherwise objectionable to Emerge. Emerge reserves the right to suspend or prohibit linking to the Platform for any reason, in its sole discretion, without advance notice or any liability of any kind to you or any third party.

## *12. Third-Party Sites; Dealings with Retailers*

A. Third-Party Content and Sites. The Platform may contain third party plug-ins and/or applications, and/or links to third-party websites that are not owned, controlled or operated by Emerge, and the Platform may also include links to third-party ads on the Platform or otherwise, to or from third-party websites (collectively, “Third-Party Sites”), including websites operated by Retailers, licensors, licensees, and certain other third parties who may have business relationships with Emerge. Emerge may have no control over the content, operations, policies, terms, or other elements of Third-Party Sites, and Emerge does not assume any obligation to review any Third-Party Sites. Emerge does not necessarily endorse, approve, or sponsor any Third-Party Sites, or any third-party content, information, materials, products, services, or other items. Furthermore, Emerge is not responsible for the quality or delivery of the services offered, accessed, obtained by or advertised at such Third-Party Sites. Finally, Emerge will under no circumstances be liable for any direct, indirect, incidental or special loss or other damage, whether arising from negligence, breach of contract, defamation, infringement of copyright or other intellectual property rights, caused by the exhibition, distribution or exploitation of any information or content contained within these Third-Party Sites. Any activities you engage in connection with any of the same are subject to the privacy and other policies, terms and conditions of use and/or sale, and rules issued by the operator of the Third-Party Sites. Emerge disclaims all liability in connection therewith.

B. Dealings between Suppliers and Retailers. Emerge transacts with Suppliers and Retailers of all shapes and sizes and in many forms. We do not act exclusively for any one Supplier or Retailer and nor are we affiliated with any particular Supplier or Retailer. Any interactions, correspondence, transactions, and other dealings that you have with any third parties found on or through the Platform (including on or via Third-Party Sites or advertisements) are solely between you and the third party (including issues related to the content of third-party advertisements, payments, delivery of goods, warranties (including product warranties), privacy and data security, and the like). Emerge disclaims all liability in connection therewith.

## *13. Dispute Resolution*

A. First – Try To Resolve Disputes and Excluded Disputes. If any controversy, allegation, or claim arises out of or relates to the Platform, the Content, your User-Generated Content, these Terms, or any Additional Terms, whether heretofore or

hereafter arising (collectively, “Dispute”), or to any of Emerge’s actual or alleged intellectual property rights (an “Excluded Dispute”), then you and we agree to send a written notice to the other providing a reasonable description of the Dispute or Excluded Dispute, along with a proposed resolution of it. Our notice to you will be sent to you based on the most recent contact information that you provide us. But if no such information exists or if such information is not current, then we have no obligation under this Section 13.A. Your notice to us must be sent to: Via Francesco Ferrucci 2, 20145 Milano – Italia.

B. For a period of forty-five (45) days from the date of receipt of notice from the other party, Emerge and you will engage in a dialogue in order to attempt to resolve the Dispute or Excluded Dispute, though nothing will require either you or Emerge to resolve the Dispute or Excluded Dispute on terms with respect to which you and Emerge, in each of our sole discretion, are not comfortable.

C. Disputes; Arbitration; Governing Law; Jury and Class Action Waivers; and Limitation of Time to Bring Claims. These Term as shall in all respects be governed by the laws of the Italian Republic without reference to its principles of conflicts of laws that could result in application of other law, regardless of your location. You irrevocably waives all rights to seek injunctive or other equitable relief and agree to limit your claims to claims for money damages (if any), if granted by the applicable law. You agree that any suit, action or proceeding arising out of or relating to these Terms or any of the transactions contemplated herein or related to the Platform or services herein (including, without limitation, statutory, equitable or tort claims) shall be resolved solely by the Court of Milan (Italy).

#### *14. Disclaimer Of Representations And Warranties*

The Site, including all services and the Products (including any information about the Products) and made available or accessed through the Site, is provided on an “AS IS”, “AS AVAILABLE” AND “WITH ALL FAULTS” BASIS. Therefore, to the fullest extent permissible by law, Emerge and each of its employees, directors, members, managers, shareholders, agents, vendors, licensors, licensees, contractors, customers, successors, and assigns (collectively, “Emerge Parties”) hereby disclaim and make no representations, warranties, endorsements, or promises, express or implied, including any warranty of performance, merchantability or fitness or suitability for a particular purpose, as to:

- (a) the Platform (including the Content and the User-Generated Content);
- (b) the functions, features, or any other elements on, or made accessible through, the Platform;
- (c) any products, services, or instructions offered or referenced at or linked through the Platform;
- (d) security associated with the transmission of your User-Generated Content transmitted to Emerge or via the Platform;
- (e) whether the Platform or the servers that make the Platform available are free from any harmful components (including viruses, Trojan horses, and other technologies that could adversely impact your Device);
- (f) whether the information (including any instructions) on the Platform is accurate, complete, correct, adequate, useful, timely, or reliable;

- (g) whether any defects to or errors on the Platform will be repaired or corrected;
- (h) whether your access to the Platform will be uninterrupted;
- (i) whether your use of the Platform is lawful in any particular jurisdiction; and
- (k) the volume, products or subject area of services accessible through the Site, nor do we guarantee that a subscription to our services will result in any purchase order or commitment from a Retailer.

EXCEPT FOR ANY SPECIFIC WARRANTIES PROVIDED HEREIN OR IN ADDITIONAL TERMS PROVIDED BY A EMERGE PARTY, EMERGE PARTIES HEREBY FURTHER DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES, TITLE, CUSTOM, TRADE, QUIET ENJOYMENT, SYSTEM INTEGRATION, AND FREEDOM FROM COMPUTER VIRUS.

#### *15. Limitations of our liability*

UNDER NO CIRCUMSTANCES WILL ANY EMERGE PARTIES BE RESPONSIBLE OR LIABLE FOR ANY LOSS OR DAMAGES OF ANY KIND, including personal injury or death or for any direct, indirect, economic, exemplary, special, punitive, incidental, or consequential losses or damages that are directly or indirectly related to:

- (a) the Platform (including the Content and the User-Generated Content);
- (b) your use of or inability to use the Platform, or the performance of the Platform;
- (c) any action taken in connection with an investigation by Emerge Parties or law enforcement authorities regarding your access to or use of the Platform;
- (d) any action taken in connection with copyright or other intellectual property owners or other rights owners;
- (e) any errors or omissions in the Platform's technical operation; or
- (f) any damage to any user's computer, hardware, software, modem, or other equipment or technology, including damage from any security breach or from any virus, bugs, tampering, fraud, error, omission, interruption, defect, delay in operation or transmission, computer line, or network failure or any other technical or other malfunction, including losses or damages in the form of lost profits, loss of goodwill, loss of data, work stoppage, accuracy of results, or equipment failure or malfunction.

The foregoing limitations of liability will apply even if any of the foregoing events or circumstances were foreseeable and even if Emerge Parties were advised of or should have known of the possibility of such losses or damages, regardless of whether you bring an action based in contract, negligence, strict liability, or tort (including whether caused, in whole or in part, by negligence, acts of god, telecommunications failure, or destruction of the Platform).

Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages of the sort that are described above, so the above limitation or exclusion may not apply to you. EXCEPT AS MAY BE PROVIDED IN ANY ADDITIONAL TERMS, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EMERGE PARTIES' TOTAL LIABILITY TO YOU, FOR ALL POSSIBLE DAMAGES, LOSSES, AND CAUSES OF ACTION IN CONNECTION

WITH YOUR ACCESS TO AND USE OF THE SERVICE AND YOUR RIGHTS UNDER THESE TERMS, EXCEED AN AMOUNT EQUAL TO THE AMOUNT YOU HAVE PAID EMERGE IN CONNECTION WITH THE AMOUNT PAID BY YOU TO EMERGE FOR THE SERVICES THAT UNDERLIE THE CLAIM(S).

#### *16. Updates to Terms.*

These Terms (or if applicable Additional Terms), in the form posted at the time of your use of the applicable services to which it applies, shall govern such use (including transactions entered during such use).

Therefore, you should review the posted terms of service and any applicable Additional Terms each time you use the Platform (at least prior to each transaction or submission). The Additional Terms will be effective as to new use and transactions as of the time that we post them, or such later date as may be specified in them or in other notice to you. However, the Terms (and any applicable Additional Terms) that applied when you previously used the Platform will continue to apply to such prior use (i.e., changes and additions are prospective only) unless mutually agreed. In the event any notice to you of new, revised or additional terms is determined by a tribunal to be insufficient, the prior agreement shall continue until sufficient notice to establish a new agreement occurs. You should frequently check the home page, your Profile Page and the e-mail you associated with your account for notices, all of which you agree are reasonable manners of providing you notice. You can reject any new, revised or Additional Terms by discontinuing use of the Platform and related services.

#### *17. General Provisions*

A. Emerge's Consent or Approval. As to any provision in these Terms or any Additional Terms that grants EmERGE a right of consent or approval, or permits EmERGE to exercise a right in its "sole discretion," EmERGE may exercise that right in its sole and absolute discretion. No EmERGE consent or approval may be deemed to have been granted by EmERGE without being in writing and signed by an officer of EmERGE.

B. Applicable Law. These Terms and any Additional Terms will be governed by and construed in accordance with, and any Dispute and Excluded Dispute will be resolved in accordance with, the laws of the Republic of Italy, without regard to its conflicts of law provisions.

C. Indemnity. You agree to, and you hereby, defend, indemnify, and hold EmERGE Parties harmless from and against any and all claims, damages, losses, costs, investigations, liabilities, judgments, fines, penalties, settlements, interest, and expenses (including attorneys' fees) that directly or indirectly arise from or are related to any claim, suit, action, demand, or proceeding made or brought against any EmERGE Party, or on account of the investigation, defense, or settlement thereof, arising out of or in connection with, whether occurring heretofore or hereafter: (i) your User-Generated Content; (ii) your use of the Platform and your activities in connection with the Platform; (iii) your breach or alleged breach of these Terms or any Additional Terms; (iv) your violation or alleged violation of any laws, rules, regulations, codes, statutes, ordinances, or orders of any governmental or quasi-governmental authorities in connection with your use of the Platform or your activities in connection with the

Platform; (v) information or material transmitted through your Device, even if not submitted by you, that infringes, violates, or misappropriates any copyright, trademark, trade secret, trade dress, patent, publicity, privacy, or other right of any person or entity; (vi) any misrepresentation made by you, including any product specification misrepresentation described in Section 10; and (vii) Emerge Parties' use of the information that you submit to us (including your User-Generated Content) (all of the foregoing, "Claims and Losses"). You will cooperate as fully required by Emerge Parties in the defense of any Claim and Losses. Notwithstanding the foregoing, Emerge Parties retain the exclusive right to settle, compromise, and pay any and all Claims and Losses. Emerge Parties reserve the right to assume the exclusive defense and control of any Claims and Losses. You will not settle any Claims and Losses without, in each instance, the prior written consent of an officer of a Emerge Party.

D. Operation of Platform; Availability of Products and Platforms; International Issues. Emerge controls and operates the Platform from its Italy-based offices in Italy, and Emerge makes no representation that the Platform is appropriate or available for use beyond Italy. If you use the Platform from other locations, you are doing so on your own initiative and are responsible for compliance with applicable local laws regarding your online conduct and acceptable content, if and to the extent local laws apply. The Platform may describe products and services that are available only in Italy (or only parts of it) and are not available worldwide. We reserve the right to limit the availability of the Platform and/or the provision of any content, program, product, service, or other feature described or available on the Platform to any person, entity, geographic area, or jurisdiction, at any time and in our sole discretion, and to limit the quantities of any content, program, product, service, or other feature that we provide. You and we disclaim any application to these Terms of the Convention on Contracts for the International Sale of Goods.

E. Export Controls. Software related to or made available by the Platform may be subject to export controls of Italy. No software from the Platform may be downloaded, exported, or re-exported into (or to a national or resident of) any country or other jurisdiction to which Italy has embargoed goods, software, technology or services. You are responsible for complying with all trade regulations and laws both foreign and domestic.

F. Severability; Interpretation. If any provision of these Terms, or any Additional Terms, is for any reason deemed invalid, unlawful, void, or unenforceable by a court or arbitrator of competent jurisdiction, then that provision will be deemed severable from these Terms or the Additional Terms, and the invalidity of the provision will not affect the validity or enforceability of the remainder of these Terms or the Additional Terms (which will remain in full force and effect). To the extent permitted by applicable law, you agree to waive, and you hereby waive, any applicable statutory and common law that may permit a contract to be construed against its drafter. Wherever the word "including" is used in these Terms or any Additional Terms, the word will be deemed to mean "including, without limitation." The summaries of provisions and section headings are provided for convenience only and shall not limit the full Terms.

G. Communications. When you communicate with us electronically, such as via e-mail and text message, you consent to receive communications from us electronically. Please note that we are not obligated to respond to inquiries that we receive. You agree



that all agreements, notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.

I. Assignment. Emerge may assign its rights and obligations under these Terms and any Additional Terms, in whole or in part, to any party at any time without any notice. These Terms and any Additional Terms may not be assigned by you, and you may not delegate your duties under them, without the prior written consent of an officer of Emerge.

J. No Waiver. Except as expressly set forth in these Terms or any Additional Terms, (i) no failure or delay by you or Emerge in exercising any of rights, powers, or remedies under will operate as a waiver of that or any other right, power, or remedy, and (ii) no waiver or modification of any term of these Terms or any Additional Terms will be effective unless in writing and signed by the party against whom the waiver or modification is sought to be enforced.

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