



## Change Terms of Use

IMPORTANT: PLEASE READ THESE TERMS OF USE (“**TERMS OF USE**” OR “**TERMS**”) CAREFULLY BEFORE USING ANY SERVICES OR PRODUCTS OFFERED BY GETCHANGE CORP. D/B/A CHANGE AND/OR ITS SUBSIDIARIES AND AFFILIATES (COLLECTIVELY, “**CHANGE**,” “**WE**,” “**OUR**,” AND “**US**”). THESE TERMS OF USE GOVERN ACCESS TO AND/OR USE OF CHANGE’S WEBSITE LOCATED AT [WWW.GETCHANGE.IO](http://WWW.GETCHANGE.IO), AND ANY PROPRIETARY INFORMATION, TECHNOLOGY AND APPLICATIONS CHANGE NOW HAS OR ACQUIRES IN THE FUTURE (COLLECTIVELY, THE “**SERVICES**”). BY ACCEPTING THESE TERMS, SUBMITTING INFORMATION TO CREATE AN ACCOUNT, CLICKING TO CONFIRM ASSENT ONLINE, EXECUTING A PARTNERSHIP AGREEMENT OR OTHER ORDERING DOCUMENT THAT REFERENCES THESE TERMS, AND/OR USING ANY OF THE SERVICES, YOU AGREE TO THESE TERMS OF USE AS AN INDIVIDUAL OR ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY (“**CLIENT**”). IF YOU ARE ENTERING INTO THESE TERMS ON BEHALF OF AN ENTITY, YOU REPRESENT YOU HAVE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS OF USE. THESE TERMS OF USE, ALONG WITH ANY PARTNERSHIP AGREEMENT OR ORDERING DOCUMENT THAT REFERENCES THESE TERMS (AS WELL AS ALL OTHER APPLICABLE RULES, POLICIES, TERMS AND CONDITIONS THAT ARE OR MAY BE ESTABLISHED BY CHANGE FROM TIME TO TIME AND THE FOREGOING SHALL BE INCORPORATED HEREIN BY REFERENCE), (COLLECTIVELY, THE “**AGREEMENT**”) WILL APPLY TO ALL ACCESS AND USE OF THE SERVICES. IF YOU DO NOT AGREE WITH THESE TERMS OF USE, YOU MUST NOT ACCEPT THE AGREEMENT AND YOU MAY NOT ACCESS OR USE THE SERVICES.

These Terms of Use were last updated on **November 13, 2024**. If you purchased Change Services prior to November 13, 2024, please refer to the terms and conditions at this link: <https://link.getchange.io/tos-nov-23>

**If you are a bona fide 501(c)(3) charitable organization, the applicable terms of use are at:**

Licensing terms: <https://link.getchange.io/licensing>

Our Change Foundation terms: <https://link.getchange.io/tos-nonprofit>

### 1. Use of the Services.

1.1 Access to Services. Change retains the right, in its sole and absolute discretion, to deny service and/or access to and/or use of the Services to anyone at any time and for any reason. While we use reasonable efforts to keep the Services accessible, the Services and/or Client’s Account may be unavailable from time to time. Client understands and agrees that there may be interruptions to the Services and/or access to Client’s Account due to circumstances within Change’ control (e.g., routine maintenance) and outside of Change’ control. Client acknowledges and agrees that the use of the Services is at Client’s own risk. The Services may be modified, updated, suspended and/or discontinued at any time as determined by Change in its sole and absolute discretion and without notice and/or liability and Client acknowledges and agrees that it is aware of this and any risks related thereto.

1.2 Right to Use. The Services may contain material owned by or licensed to Change or to which Change otherwise has permission to use. By using the Services and accepting these Terms of Use: (a) Change grants Client a limited, nonexclusive, non-transferable, non-sublicensable, revocable right to access and/or use of the Services for enabling donations to 501(c) (3) non-profit organizations located in the 50 U.S. States or the District of Columbia (“Organizations”), that are in good standing with the Internal Revenue Service (“IRS”); and (b) Client agrees not to reproduce, distribute, create derivative works from, publicly display, publicly perform, license, sell and/or re-sell any content, software, products and/or services obtained from and/or accessed through the Services without the express written permission of Change.

# CHANGE

1.3 Certain Restrictions. The rights granted Client in the Terms are subject to the following restrictions:

- Client shall not decompile, modify, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Services;
- Client may not access all or any part of the Services in order to build a product or service which competes with the Services;
- Client shall not copy or imitate part or all of the design, layout, or look-and-feel of the Services or individual sections of it, in any form or media;
- Client shall not access any content on the Services via automated means including without limitation crawling, scraping and/or caching.
- Client shall not cache, index or store any data or other content or portion of the Services without our prior express written consent;
- Client agrees not to intentionally hold Change and/or their employees and/or directors up to public scorn, ridicule or defamation;
- Client will use commercially reasonable efforts to prevent unauthorized access to and/or use of the Services, and notify Change promptly of any such unauthorized access and/or use;
- Client will not attempt to do any of the following: access data not intended for Client, monitor the Services for data gathering purposes in an effort to track sales, usage, aggregate, pricing and/or similar information, and/or interfere with the Services in relation to any Client in any manner; and/or
- Client shall not use the Services for any unlawful purpose and/or to violate any federal, state, international law, code of conduct and/or other guidelines which may be applicable to the Services provided.

1.4 Third-Party Materials. As a part of the Services, Client may have access to materials that are hosted by another party. Client agrees that it is impossible for Change to monitor such materials and that Client accesses these materials at Client's own risk.

## 2. Registration.

2.1 Account Creation. In order to use the Services Client must set up an account ("Account"). Such Account requires the Client to submit authentication of its identity, as determined by Change in its sole and absolute discretion.

2.2 Registration Data. Client agrees to provide true, accurate, and current information in connection with the Account. Client is responsible for updating and correcting information submitted to create and/or maintain an Account. Client is solely responsible for maintaining the security and confidentiality of the password used to access its Account. Client acknowledges and agrees that Change shall have no responsibility for any incident arising out of, and/or related to, the Account settings. Change will assume that anyone using the Services and/or transacting through the Account is authorized by the Client, including without limitation any fees charged, or purchases made. Therefore, the Client agrees to immediately notify Change of any unauthorized use of passwords and/or Account and/or any other breach of security. No disguised identities are allowed to be used in connection with the Services. Change may refuse to grant an Account with a name that impersonates someone else, if it may be illegal, vulgar, offensive, and/or if it may be protected by trademark or other proprietary rights, as determined by Change in its sole and absolute discretion. Accounts are non-transferrable and may not be sold, combined and/or otherwise shared with any other person. If the Client violates these Terms of Use, Change may terminate such Account immediately. Upon termination, the provisions of these Terms of Use are by their nature intended to survive termination (including without limitation any disclaimers, limitations of liability and indemnities) shall survive such termination.

# CHANGE

## 3. Partnership with Our Change Foundation.

Our Change Foundation (“OCF”) is a Donor Advised Fund and an organization described in Section 501(c)(3) of the Internal Revenue Code located in the United States that raises new funds for charities through technology. If Client has entered into a Partnership Agreement with Change, OCF will receive donations from Client and/or customers of Client and will only grant funds to those Organizations designated by Client that meet OCF’s standard charitable organization vetting processes as further described below. Change does not perform, permit, or otherwise enable acts of solicitation on its own platform, but rather processes contributions made via Clients’ own platform(s). OCF receives donations from customers of Client and/or Client and grants funds to those qualified charities, as defined below, suggested by Client and/or customers of Client. Donations to OCF from Client and/or customers of Client are processed via Change and sent to OCF, which receives the donations and grants the funds to the Organization(s) suggested by Client and/or customers of Client that meet OCF’s standard charitable organization vetting processes (each a “qualified charity”).

Donations generated by activities which qualify as Solicitation Type A or B under California law (including funds raised via activities such as micro donations, round up donations, or donations raised via crowdfunding campaigns created by platform users engaging in peer-to-peer charitable fundraising) will be sent to the recipient charity within a maximum of thirty (30) days after the end of the month in which the donation was made, unless the recipient charitable organization is not eligible to be sent the funds. Change, as agent of OCF, will then issue charitable contribution receipts to donor Client and/or donor customers of Client reflecting OCF’s EIN number as the recipient charity. For example, if a Change Client customer makes a purchase from a Change Client and the customer decides to make a contribution to OCF at the point of sale, then the Change Client and/or customers of the Change Client may choose an organization of their choice and suggest that OCF grant the contribution to the suggested organization. The contribution will be made to OCF, and the donor will receive a receipt from OCF as the recipient charity, and OCF in turn will disburse the funds to the organization suggested by the Change Client and/or customer of the Change Client if it is a qualified charity and it has an account with Change.

Donations generated by activities which qualify as Solicitation Type C or D under California law (including funds raised via charitable sales promotions, co-venturing or cause marketing campaigns, or free action programs) will be sent to the recipient charitable organization on a quarterly basis or more frequently, unless the recipient charitable organization is not eligible to be sent the funds. “Quarterly basis” means sending donated funds no later than thirty (30) days after the end of a 90-day period. When such donated funds are subject to minimum threshold amounts before they are sent, such minimum threshold amounts shall not exceed ten dollars (\$10.00). Once the minimum amount is reached, OCF will send the donated funds to the recipient charitable organization on a quarterly basis or more frequently, unless the recipient charitable organization is not eligible to be sent the funds. If the minimum threshold amount is not reached after four consecutive quarters, the donated funds will be sent to a recipient charitable organization no later than 30 days after the fourth quarter ends, unless the recipient charitable organization is not eligible to be sent the funds. For example, in the context of a charitable sales promotion, the Change Client may represent that for each purchase of a hoodie sweatshirt, the Change Client will contribute \$1 to an organization via OCF. The purchaser of the Hoodie may choose an organization of their choice and suggest that OCF grant the Change Client’s contribution to the suggested organization. If OCF determines that the organization is a qualified charity and has an account with Change, OCF will disburse funds to the suggested qualified charity, provide to Change a confirmation of such successful donation, and the organization will receive the funds at a quarterly basis.

While OCF has ultimate discretion, control, and authority as to whether to grant the amount the Client and/or Client customer contributed to OCF to the Organization suggested by the Client and /or Client

# CHANGE

customer, it will do so unless the charity is not a qualified charity. For ease of description herein, most domestic public charities recognized as exempt under IRC 501(c)(3) will be a qualified charity. In very limited cases, Organizations other than OCF may receive contributions directly from Clients, Client customers, Change, and, in such, cases, public-facing representations at the point of sale will make it clear to which Organization any contribution will be made.

If it has been determined that an Organization suggested by Client and/or Client customers does meet OCF's standard charitable organization vetting processes and thus is not a qualified charity eligible to receive a grant from OCF, then OCF, or Change on behalf of OCF, for donations to OCF generated by activities which qualify as Solicitation Type A or B under California law, shall notify the Client and/or customers of Client in writing via email or otherwise as allowed under applicable law, no later than thirty (30) days after the determination of eligibility and request the Client and/or customers of Client to suggest an alternate organization. Client and/or customers of Client shall have thirty (30) days from the date of receipt of the email notification to recommend an alternate Organization. If an alternate is timely recommended, then OCF shall send the donated funds to the alternate Organization no later than thirty (30) days from the last date donors could timely recommend an alternate Organization, unless OCF determines the alternate is not a qualified charity. If an alternate is timely recommended and determined not to be a qualified charity, then OCF will select another alternate Organization, and send donated funds to the alternate selected by OCF no later than thirty (30) days from the last date donors could timely recommend an alternate Organization. If an alternate is not timely recommended, then OCF will select an alternate Organization, and send the donated funds to the alternate no later than thirty 30 days from the last date donors could timely recommend an alternate Organization.

If it has been determined that an organization suggested by a Change Client and/or Change Client customer does not meet OCF's standard charitable organization vetting processes and thus is not a qualified charity eligible to receive a grant from OCF, then OCF, or Change on behalf of OCF, for donations to OCF generated by activities which qualify as Solicitation Type C or D under California law, OCF shall then select an alternate charitable organization, and send the donated funds to the alternate no later than 30 days after the determination of eligibility.

See OCF's Terms of Use at <https://link.getchange.io/tos-nonprofit>.

## **4. Payment and Taxes.**

**4.1 Payment.** Client agrees to pay Change via ACH ("Payment Method"), the fees set forth in the applicable Partnership Agreement or ordering document that references these Terms. All fees are due within thirty (30) days from the invoice date unless otherwise stated in the applicable Partnership Agreement or ordering document. Late payments on any undisputed amounts may be subject to interest charges of 1.0% per month (or the maximum permitted by law, whichever is lower) and the expenses associated with those collections. If Client believes that any fees are incorrect, Client must contact Change in writing within thirty (30) days from the invoice date to be eligible to receive an adjustment or credit.

**4.2 Taxes and Third-Party Fees.** Fees are exclusive of applicable taxes. Client is responsible for and must pay any applicable taxes, fees, duties, and charges, and any related penalties and interest, arising from the payment of any and all fees under these Terms of Use. Client shall also be responsible for all third-party fees (including, for example, mobile carrier fees, 'ISP' charges, data plan charges, credit card fees, foreign exchange fees, and foreign transaction fees). Change is not responsible for these fees if you have questions about fees please contact the applicable third party.

**4.3 Reporting.** Change will provide Client an aggregated non-profit performance report which shall be accessible through the Client's Account, which will include activity such as donation amounts, Organizations

# CHANGE

related to the donations.

## 5. Organization Database.

Client acknowledges and agrees that Change will be used as the third-party service provider for donation processing. Donations processed by Change are made to Our Change Foundation ("OCF") 501(c)(3) (EIN: 86- 3353394), a nonprofit organization that will make grants to Client's suggested nonprofits subject to OCF's standard charitable organization vetting processes as further described in Section 3 above.

## 6. Ownership.

6.1 Services. All rights, title and interest (including all intellectual property rights) in and to: (a) the Services and information provided by Change; (b) any data or metadata created, aggregated, or generated by access to and/or use of the Services; and (c) all source code, object code, software, content, copyrights, trademarks, patents, improvements, enhancements, derivatives, and any other intellectual property rights related to (a) and (b) or included therein; are the sole and exclusive property of Change and its licensors. Change reserves all rights not expressly granted herein and there are no implied rights or licenses in this Agreement. The Services and its content are copyrighted by Change and its providers, all rights reserved. Any redistribution or reproduction of part or all of the contents of the Services, including but not limited to text, graphics, images, photographs, videos, illustrations, trademarks, trade names, service marks, trade dress, logos, slogans, and/or proprietary technology currently used or which may be developed and/or used in the future in any form is prohibited.

6.2 Feedback. If Client chooses to submit any questions, comments, ideas, suggestions, inventions, or other information ("Feedback") to Change, such Feedback is non-confidential and will become the sole property of Change. Change will be able to use any Feedback for any purpose including the developing, creating and/or marketing of products or services and Client acknowledges Change will give no credit or compensation to Client and Client has no rights to the same. Change has no obligations to review any Feedback and may use and redistribute Feedback for any purpose without restriction in its sole and absolute discretion.

## 7. Client Conduct.

- Any use of the Services and/or information provided by Change other than as specifically authorized herein, without Change's prior written consent, is strictly prohibited. Without limiting the foregoing, Client is responsible for Client's actions (and the action of any person Client permits access to the Services) while accessing or using the Services, and Client shall not use the Services in any manner that violates applicable law, contract, intellectual property or other third-party rights. Client shall not (and Client shall not permit any other person to):
- restrict or interfere with another Change customer's ability to use or enjoy the Services;
- overburden Change' infrastructure in any manner and/or otherwise damage and/or impair the functionality of the Services;
- gather email addresses through harvesting or automated means;
- posting or transmitting unauthorized or unsolicited advertising, promotional materials, and/or any other forms of solicitation to other Change customers;
- attempt to access any portion of the Services that is not public and/or override any security measures that are in place;
- introduce any virus, 'Trojan Horse', worm or other similarly harmful programming routines or automated systems, including, 'robots' or 'botnets', that flood the system with information at an unreasonable rate;

# CHANGE

- infringe any patent, trademark, trade secret, copyright, right of publicity or other right of any person or entity;
- impersonate any other person or entity and/or use any misleading and/or false information or statements for any purpose, including but not limited to, gaining access to another Change customer's account;
- provide content that is harmful, offensive, inaccurate, threatening, abusive, harassing, defamatory, libelous, invasive of another's privacy, tortious, obscene or otherwise
- inappropriate language, including without limitation bigotry, racism, discrimination, hatred or profanity;
- interfere with or attempt to interfere with proper functioning of the Services or use the Services in any way not expressly permitted by the Terms; or

## **8. Third Party Services.**

8.1 Third Party Content. Change may provide access to content provided by third parties, including, without limitation, information, dialogue, opinions, stories, advice, statistical data, text, software, music, sound, photographs, graphics, video, messages, and other materials, whether publicly or privately posted to or emailed or otherwise transmitted through the Services ("Third Party Content"). The third party from whom or which any such Third Party Content originates is solely responsible for it and Change assumes no responsibility to verify, has no control or influence over, makes no representations regarding, and does not guarantee the accuracy, integrity or quality of any Third Party Content. Accordingly, Change does not control or endorse such Third Party Content and has no liability of any kind to Client or any third party for any Third Party Content. Statements of opinion and commentary in Third Party Content are those of the third party and, not necessarily those of Change.

8.2 Linked Sites. Change may, from time to time, include hyperlinks ("Link(s)") to other websites operated and maintained by third parties. Change does not exert any control over third parties, and as such is not liable or responsible for any actions taken or omitted to be taken by any third parties. Any Links made available are provided for reference and convenience only. Change does not control and is not responsible for the contents, availability, or policies of any website or application accessed via a Link. Change has made no attempt to verify any information contained in any such Links. Furthermore, Change is not a party to or responsible for any access, use or transactions Client may engage in with third parties, even if Client learns of such parties from Change. If the Client clicks on Links, the Client does so at Client's own risk and Client acknowledges and agrees that Change is not liable for any claims and/or damages related thereto. Change encourages Client to be aware when leaving the Services and to read the terms and conditions and privacy policy of each Link that is visited. Change reserves the right to terminate any Link at any time in its sole and absolute discretion. Change disclaims all warranties, express and implied, as to the accuracy, validity, and legality and/or otherwise of any materials and/or information contained on such Links.

8.3 Third Party Products. There may be third-party products, services, software, and/or social networks (collectively "Third Party Products") integrated into the Services. Please be aware that Change is not affiliated with any Third Party Products or the companies or providers that own or control such Third Party Products. Client agrees to release Change and such third party providers from any liability related to Client's use of any Third Party Products or any costs or charges related to such Third Party Products. In order to use any Third Party Products, Client may be required to agree to that company's terms and conditions and/or privacy policy. Client agrees to comply with the foregoing when using the Services. Where Client decides to use such Third Party Products, Change is not a party to any contracts created between Client and such Third Party Products' companies or providers.

## **9. Indemnification.**

# CHANGE

9.1 By Change. Change agrees to indemnify, defend and hold Client and its affiliates, partners, if any, officers, directors, employees, representatives, and agents (collectively, the “Client Parties”), harmless from and against any and all claims, demands, proceedings, actions, costs, liabilities, losses, awards, fees, damages of any kind, expenses (including without limitation attorney’s fees) arising out of and/or in relation to a claim that the technology used to provide the Services infringes any United States patent, copyright, trademark or trade secret and Change shall pay any final judgment entered against such Client Parties in any such proceeding or agreed to in settlement. If Client’s use of the Services is, or is likely, in Change’s reasonable determination, to be enjoined, Change may, without limiting its indemnity obligations hereunder, procure the right for Client to continue to use the Services or modify the Services in a manner that has materially equivalent functionality so as to avoid such injunction. If the foregoing options are not available on commercially reasonable terms and conditions, Change may terminate the Agreement upon written notice and refund to Client on a pro-rata basis all pre-paid fees attributable to unused portion of the applicable subscription term. This section 9.1 states Change’s entire liability and client’s sole and exclusive remedy for intellectual property infringement and misappropriation claims based on the Services.

9.2 By Client. Client agrees to indemnify, defend and hold Change and its affiliates, partners, if any, officers, directors, employees, representatives, and agents (collectively, the “Change Parties”), harmless from and against any and all claims, demands, proceedings, actions, costs, liabilities, losses, awards, fees, damages of any kind, expenses (including without limitation attorney’s fees) arising out of and/or in relation to: (a) Client’s use, misuse and/or abuse of the Services; (b) any use of the Services in violation of these Terms of Use; (c) Client’s violation of any law and/or the rights of a third party; (d) Client’s use of the Services and/or any breach of these Terms of Use by Client, Client’s officers, agents, employees and/or contractors; (e) fraud Client commits and/or Client’s intentional misconduct and/or negligence; and/or (f) Client’s use of, or activities in connection with, OCF.

## **10. Disclaimer of Representations and Warranties.**

10.1 As Is. CLIENT EXPRESSLY UNDERSTANDS AND AGREES THAT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES, AND CHANGE’S INFORMATION ARE PROVIDED BY CHANGE TO CLIENT ON AN “AS IS,” “AS AVAILABLE” BASIS, THE CHANGE PARTIES AND ITS THIRD PARTY PROVIDERS, SUPPLIERS, RETAILERS AND VENDORS HEREBY EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES, EXPRESS AND IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF ACCURACY, AND FROM COURSE OF DEALING, USAGE AND/OR TRADE PRACTICE, COMPLETENESS OR RELIABILITY, TITLE, NONINFRINGEMENT, MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE, AND/OR ANY OTHER WARRANTY, CONDITION, GUARANTEE AND/OR REPRESENTATION, WHETHER ORAL, IN WRITING OR IN ELECTRONIC FORM. THE CHANGE PARTIES AND ITS THIRD PARTY SERVICE PROVIDERS, SUPPLIERS, AND VENDORS DO NOT REPRESENT AND/OR WARRANT THAT: (A) ACCESS TO THE SERVICES AND/OR CHANGE INFORMATION WILL BE CONSTANTLY AVAILABLE, UNINTERRUPTED, TIMELY, SECURE AND/OR ERROR-FREE; (B) LOSS AND/OR SECURITY BREACH OF TRANSMITTED INFORMATION WILL NOT OCCUR; AND/OR (C) NO VIRUSES WILL BE TRANSMITTED THROUGH ACCESS TO AND/OR USE OF THE SERVICES AND/OR CHANGE INFORMATION. NO ADVICE AND/OR INFORMATION, WHETHER ORAL AND/OR WRITTEN, OBTAINED BY CLIENT FROM CHANGE OR THROUGH CLIENT’S ACCESS TO AND/OR USE OF THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TERMS OF USE.

10.2 No Liability for Conduct of Third Parties. CLIENT ACKNOWLEDGES AND AGREES THAT CHANGE PARTIES ARE NOT LIABLE, AND CLIENT AGREES NOT TO SEEK TO HOLD CHANGE PARTIES LIABLE, FOR THE CONDUCT OF THIRD PARTIES, INCLUDING OPERATORS OF EXTERNAL SITES,

AND THAT THE RISK OF INJURY FROM SUCH THIRD PARTIES RESTS ENTIRELY WITH CLIENT.

## **11. Limitation of Liability.**

11.1 Disclaimer of Certain Damages. CHANGE, ITS AFFILIATES AND ITS SUBSIDIARIES, IF ANY, AND ITS THIRD PARTY SERVICE PROVIDERS SHALL NOT BE LIABLE TO CLIENT OR ANY THIRD PARTIES FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL AND/OR PUNITIVE DAMAGES ARISING OUT OF THESE TERMS OF USE, ANY DONATIONS THROUGH THE SERVICES, CLIENT'S ACCESS TO OR INABILITY TO ACCESS THE SERVICES AND/OR THE CHANGE' INFORMATION, INCLUDING THOSE RESULTING FROM LOSS OF USE, DATA AND/OR PROFITS, WHETHER OR NOT FORESEEABLE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE), WARRANTY, STRICT LIABILITY, AND/OR ANY OTHER LEGAL AND/OR EQUITABLE THEORY, EVEN IF CHANGE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

11.2 Cap on Liability. CHANGE'S MAXIMUM AGGREGATE LIABILITY TO CLIENT FOR DAMAGES THAT CLIENT SUFFERS IN CONNECTION WITH THE SERVICES IS LIMITED TO THE LESSER OF: (A) THE AMOUNT PAID, IF ANY, BY CLIENT TO CHANGE IN CONNECTION WITH THE SERVICES IN THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE CLAIM; OR (B) FIFTY DOLLARS (US \$50.00). SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE EXCLUSIONS OR LIMITATIONS HEREIN MAY NOT APPLY TO CLIENT IN SUCH LIMITED CIRCUMSTANCE. IN SUCH STATES, CHANGE'S LIABILITY IS LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

11.3 Exclusion of Damages. CERTAIN JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO CLIENT, SOME OR ALL OF THE ABOVE EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO CLIENT, AND CLIENT MIGHT HAVE ADDITIONAL RIGHTS.

11.4 Basis of the Bargain. THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN CHANGE AND CLIENT.

## **12. Termination.**

Without limiting any other remedies, Change may suspend or terminate the Account without notice and liability if Change suspects, in its sole and absolute discretion, that Client (by information, investigation, conviction, settlement, insurance or otherwise) has violated any of Change' policies set forth in these Terms of Use, the Privacy Policy, or any other policy documents or guidelines, or if engaging in an improper or fraudulent activity in connection with Change. Change will use commercially reasonable efforts to provide prior notice of such suspension or termination based upon the nature and severity of the violation, provided, however that Client understands and agrees that imminent harm or danger may preclude any such notice. In the event Client shares the access granted with any person or entity, and/or misuse the Services by any means actionable under a federal, state, and/or local statute, code, regulation, law, and/or civil action, Change will consider Client's access as having been acquired by fraud and/or misrepresentation and will terminate Client's access immediately. In such event, Change retains the right to seek civil and/or criminal redress, the entire cost of which shall be borne solely by Client. If Change terminates Client's Account, if Client closes its Account, or if the payment of fees cannot be completed for any reason, the Client shall remain obligated to pay Change for all unpaid fees and expenses plus any penalties, if applicable. If the Account is not paid in full and becomes past due, Change reserves the right to attempt to collect past due fees by charging the Payment Method on file. Change may suspend and/or terminate such Account without liability and, in such event, the Client shall

# CHANGE

be responsible for fees, costs and expenses related to collection (including without limitation fees, costs and expenses related to retaining collection agencies and legal counsel). If any questions arise, please contact Change support at [hello@getchange.io](mailto:hello@getchange.io).

## **13. Dispute Resolution.**

Each party agrees that before it seeks any form of legal relief (except for a provisional remedy as explicitly set forth below) it shall provide written notice to the other party of the specific issue(s) in dispute (and reference the relevant provisions of the contract between the parties which are allegedly being breached). Within thirty (30) days after such notice, knowledgeable executives of the parties shall hold at least one meeting (in person or by video- or tele-conference) for the purpose of attempting in good faith, to resolve the dispute. The parties agree to maintain the confidential nature of all disputes and disagreements between them, including, but not limited to, informal negotiations, mediation or arbitration, except as may be necessary to prepare for or conduct these dispute resolution procedures or unless otherwise required by law or judicial decision. The dispute resolution procedures in this section shall not apply to claims subject to indemnification under Section 9 (Indemnification) or prior to a party seeking a provisional remedy related to claims of misappropriation or ownership of intellectual property

## **14. Governing Law & Exclusive Venue.**

These Terms of Use shall be governed by, construed, and enforced in accordance with the substantive laws of the State of California, without regard to its conflict of laws principles. The parties agree that any cause of action arising under these Terms of Use shall take place exclusively in the courts situated in San Francisco, California and the parties hereby submit to the venue of the courts situated therein.

CLIENT AND CHANGE HEREBY WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO AND HAVE A JURY TRIAL.

## **15. Miscellaneous.**

**15.1 Electronic Communications.** When accessing and/or using the Services, Client is communicating with Change electronically, and consents to receive communications from Change electronically. Change will communicate with Client by e-mail and/or by posting notices on the Services. Client acknowledges and agrees that all agreements, notices, disclosures and/or other communications that Change provide to Client electronically satisfy any legal requirement that such communications be in writing.

**15.2 Assignment.** Client may not assign Client's rights and/or obligations under these Terms of Use to any other party without Change's prior written consent. Change may assign Change's rights and/or obligations under these Terms of Use to any other party at Change's discretion.

**15.3 Force Majeure.** Change shall not be liable for any delay or failure to perform resulting from causes outside its reasonable control, including, but not limited to, acts of God, war, terrorism, riots, embargos, acts of civil or military authorities, fire, floods, accidents, strikes or shortages of transportation facilities, fuel, energy, labor or materials.

**15.4 Notice.** Where Change requires that Client provide an e-mail address, Client is responsible for providing Change with Client's most current e-mail address. In the event that the last e-mail address Client provided to Change is not valid, or for any reason is not capable of delivering to Client any notices required/permitted by the Terms, Change's dispatch of the e-mail containing such notice will nonetheless constitute effective notice. Client may give notice to Change at the following address: 548 Market St PMB 92031, San Francisco, California 94104. Such notice shall be deemed given when received by Change by letter delivered by nationally recognized overnight delivery service or first-class postage prepaid mail at the

# CHANGE

above address.

15.5 Waiver. No waiver by either Client and/or Change of any breach and/or default and/or failure to exercise any right allowed under these Terms of Use is a waiver of any preceding and/or subsequent breach and/or default and/or a waiver and/or forfeiture of any similar and/or future rights under these Terms of Use.

15.6 Severability. If any provision and/or term of these Terms of Use shall become or be declared illegal, invalid or unenforceable for any reason whatsoever, such term and/or provision shall be divisible from the other terms and conditions and shall be deemed to be deleted from them. If an applicable law is in conflict with any part of these Terms of Use, these Terms of Use will be deemed modified to conform to the law and the other provisions will not be affected by any such modification.

15.7 Export Control. Client may not use, export, import, or transfer the Services except as authorized by U.S. law, the laws of the jurisdiction in which Client obtained the Services, and any other applicable laws. In particular, but without limitation, the Services may not be exported or re-exported: (a) into any United States embargoed countries; or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Denied Person's List or Entity List. By using the Services, Client represents and warrants that: (i) Client is not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) Client is not listed on any U.S. Government list of prohibited or restricted parties. Client also will not use the Services for any purpose prohibited by U.S. law, including the development, design, manufacture, or production of missiles, nuclear, chemical, or biological weapons. Client acknowledges and agrees that products, services, or technology provided by Change are subject to the export control laws and regulations of the United States. Client shall comply with these laws and regulations and shall not, without prior U.S. government authorization, export, re-export, or transfer Change products, services, or technology, either directly or indirectly, to any country in violation of such laws and regulations.

15.8 Changes. Change reserves the right to modify these Terms at any time and in its sole discretion by posting revised Terms of Use at <https://link.getchange.io/tos> and notifying Customer of such modification via email or through presentation of the new Terms of Use upon Customer's next login to the Services. Any such changes shall become effective upon provision of such notice unless Customer objects in writing to such changes within thirty (30) days of such notification. In the event of such objection, Customer may continue using the Services under these Terms of Use for the remainder of Customer's then-current subscription term and the updated Terms of Use will apply upon Customer's renewal. Notwithstanding the foregoing, any changes to the Terms of Use made to ensure compliance with applicable law shall go into effect immediately. Change also reserves the right to post, from time to time, additional rules of usage that apply to specific parts of the Services, which may be posted in the relevant parts of the website and/or dashboard of Client's Account (if applicable). Client's continued use of the Services constitutes Client's agreement to comply with these additional rules. Those additional terms promulgated by Change will control in the event of any conflict with these Terms of Use.

15.9 Independent Contractors. The parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent and neither party's employees are eligible for any form or type of benefits, including, but not limited to, health, life or disability insurance, offered by the other party to its employees.

15.10 Entire Agreement. This Agreement, along with the Privacy Policy, constitute the complete and

# CHANGE

exclusive understanding and agreement between the parties regarding the subject matter herein and supersedes all prior or contemporaneous agreements or understandings written or oral, relating to its subject matter.