

Mercury Terms of Use

Last Modified: March 2025

Mercury Technologies, Inc. and its affiliates (collectively, "**Mercury**," "**we**," or "**us**") welcome you. This page explains the terms by which you may use our website located at <https://mercury.com> (the "**Site**"), our mobile application (the "**App**"), and the services we provide or facilitate access to via our Site and App (collectively, the Site, App, and services are referenced as "**Services**").

By creating an account that will facilitate your use of the Services (an "**Account**"), or by otherwise manifesting your assent to these Terms of Use, you signify that you have read, understood and agree to be bound by these Terms of Use (the "**Agreement**"). By applying for any Service provided by our banking service provider(s), you signify that you have read, understood, and agree to be bound by the applicable agreements of the banking service provider(s) for your Account. These may include demand deposit accounts ("Deposit Account"), savings accounts ("**Savings Account**"), and/or charge and debit cards ("**Cards**") provided by one of our financial institution providers ("**Banking Provider**"), depending on what Services you use through Mercury (collectively, "**Provider Accounts**").

Mercury reserves the right to make modifications to these terms and will provide notice of these changes by posting an updated version to our [legal page](#). "**You**" means the legal entity or individual that is applying for or that has opened an Account to use the Services. You may use the Services only if you can form a binding agreement with Mercury. If you are opening the Account on behalf of a company, you represent and warrant that you are an authorized representative of the company with the authority to bind the company to this Agreement ("**Administrator**") and that company can form a binding contract with Mercury. PLEASE READ THIS AGREEMENT CAREFULLY TO ENSURE THAT YOU UNDERSTAND EACH PROVISION. THIS AGREEMENT CONTAINS A MANDATORY INDIVIDUAL ARBITRATION AND CLASS ACTION/JURY TRIAL WAIVER PROVISION THAT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS.

1. Use of the Services

Eligibility. This is a contract between you and Mercury. You must read and agree to these terms before using the Services. If you do not agree, you may not use the Services. You may only apply for an Account, and use the applicable Services under such Account, if you are a United States citizen and are at least 18 years of age (for personal accounts) or a legal entity

formed and registered in the United States or in another jurisdiction authorized by Mercury and/or its Banking Providers. You may only use the Services in compliance with this Agreement and all applicable local, state, national, and international laws, rules, and regulations. Except with respect to access to our Site and personal accounts, any use of or access to the Services for consumer or non-commercial purposes by anyone who is not your employee, contractor, agent, or other individual permitted to use your Account on your behalf ("**User**") is strictly prohibited and in violation of this Agreement.

Creating an Account. Your Account may give you access to certain Services, including Services provided through the Provider Accounts, and any other functionality that we may establish and maintain from time to time and in our sole discretion. You will need to provide certain company information and/or personal information (collectively, "**Customer Information**"), when you create an Account. Customer Information may include individual consumer information (for personal accounts), or your registered business name and state of incorporation, the business address, ownership details, the nature of the business, and other business information we may request from time to time; the name, contact information, and date of birth of Administrators, Users or beneficial owners, and other personal information; and a corporate registration certificate, proof of address, personal identification, and any other documentary information used to verify business and personal information. We provide Customer Information to our Banking Providers and other third-party service providers to determine your eligibility for access to certain Services. We rely on the accuracy of the Customer Information you provide us when opening and maintaining your Account. We may deny your applications, suspend provision of such Services to you, or close your Account if Customer Information is out of date, incomplete, or inaccurate. By creating an Account, you represent that you are a legal owner of, and that you are authorized to provide us with, all Customer Information and other information necessary to facilitate your use of the Services.

Account Management and Security. You must specify at least one Administrator to manage your Account when submitting your application. Administrators can add, remove, or manage additional Administrators and Users; request and manage Cards for Users; view transactions and run reports; provide or update Customer Information; connect third-party services, and other accounts to your Account; and perform other tasks to manage your Account. You are responsible for any actions or failure to act on the part of Administrators or Users, or those using their credentials to access your Account. You are solely responsible for the activity that occurs on your Account, and you must keep your Account secure. We encourage you to use "strong" passwords (for recommendations on what constitutes a strong password, check the National Institute of Standards and Technology (NIST)) with your Account. We require multi-factor authentication (MFA), a security process requiring multiple forms of verification for login ; we encourage you to use strong second factors such as security keys (<https://mercury.com/help/adding-security-keys>). You must notify Mercury immediately of any breach of security or unauthorized use of your Account. Mercury will not be liable for any

losses caused by any unauthorized use of your Account. We may suspend access to your Account if we believe that your Account has been compromised.

Prohibitions. You agree that you will not: (a) use the Account or the Services for any purpose that is unlawful or prohibited by this Agreement; (b) use the Account or the Services for any personal, family, household, or other non-commercial purposes (with the exception of personal account(s)); (c) use the Account or the Services for the benefit, either directly or indirectly, of an individual, organization, or country identified on the United States Office of Foreign Asset Control's Specially Designated Nationals List or any other U.S. Government list of prohibited or restricted parties, (d) use the Account or the Services for any third parties (e) use the Account or the Services to collect any market research for a competing business, (f) impersonate any person or entity or falsely state or otherwise misrepresent your affiliation with a person or entity, (g) interfere with or attempt to interrupt the proper operation of the Services through the use of any virus, device, information collection or transmission mechanism, software or routine, or access or attempt to gain access to any Mercury IP, data, files, or passwords related to the Services through hacking, password or data mining, or any other means; (h) decompile, reverse engineer, or disassemble any software or other products or processes accessible through the Services; (i) circumvent, remove, alter, deactivate, degrade, or thwart any of the Content protections in the Services; (j) use any robot, spider, scraper, or other automated means to access the Services for any purpose without our express, written permission; provided, however, we grant the operators of public search engines permission to use spiders to copy materials from the public portions of the Services for the sole purpose of, and solely to the extent necessary for, creating publicly-available searchable indices of the materials, but not caches or archives of such materials; (k) take any action that imposes or may impose (in our sole discretion) an unreasonable or disproportionately large load on our technical infrastructure; (l) use the Account or the Services for any inappropriate, improper, discriminatory, illegal, or otherwise harmful purpose or to violate, or encourage the violation of, the rights of others, each as reasonably determined by Mercury; and (m) use the Account or the Services to engage in abusive, harassing, threatening, offensive, or otherwise improper conduct towards Mercury or its employees, agents, service providers, partners, or other customers.

Beta Services. Mercury may make certain Services, features, or functionalities available to you, which we may designate as a beta, pilot, limited release, evaluation, or by a similar description, to be used in conjunction with or separate from the Services ("**Beta Services**"). You may accept or decline any such Beta Services at your sole discretion. You acknowledge that Beta Services may be unstable, feature-incomplete, contain bugs, and subject to erroneous output and operation. Mercury may describe limitations that exist within a Beta Service; however, your reliance on the accuracy or completeness of these descriptions is at your own risk. You should not use Beta Services for any critical or important functions without taking appropriate precautions to prevent loss or damage resulting from such use.

2. Our Proprietary Rights

Subject to the terms and conditions of this Agreement, you are hereby granted a non-exclusive, limited, non-transferable, freely revocable license to use the Services as permitted by the features of the Services. Mercury reserves all rights not expressly granted herein in the Services and the Mercury IP (as defined below). Mercury may terminate this license at any time for any reason or no reason. The Services and all materials therein or transferred thereby, including, without limitation, software, images, text, graphics, illustrations, logos, patents, trademarks, service marks, copyrights, photographs, audio, videos, music, and User Content belonging to other Users (the "**Mercury IP**"), and all Intellectual Property Rights related thereto, are the exclusive property of Mercury and its licensors. Except as explicitly provided herein, nothing in this Agreement shall be deemed to create a license in or under any such Intellectual Property Rights, and you agree not to sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit or create derivative works from any Mercury IP. Use of the Mercury IP for any purpose not expressly permitted by this Agreement is strictly prohibited.

You may choose to, or we may invite you to, submit comments or ideas about the Services, including without limitation about how to improve the Services or our products ("**Feedback**"). By submitting any Feedback, you agree that your disclosure is gratuitous, unsolicited and without restriction, and will not place Mercury under any fiduciary or other obligation, and that we are free to use your Feedback without any additional compensation to you, or to disclose your Feedback on a non-confidential basis or otherwise to anyone. You further acknowledge that, by acceptance of your submission, Mercury does not waive any rights to use similar or related ideas previously known to Mercury, or developed by its employees, or obtained from sources other than you.

For the purposes of this Agreement, "**Intellectual Property Rights**" means all patent rights, copyright rights, mask work rights, moral rights, rights of publicity, trademark, trade dress and service mark rights, goodwill, trade secret rights and other intellectual property rights as may now exist or hereafter come into existence, and all applications therefore and registrations, renewals and extensions thereof, under the laws of any state, country, territory or other jurisdiction.

3. Site Data and Privacy

As between you and Mercury, you will retain all rights, title, and interests in and to your Customer Information, personal information, and any other information submitted by you through the Services (collectively, "**User Content**"). By using the Services, you grant Mercury a non-exclusive, royalty-free, license during the Term to collect, use, disclose, combine,

transmit, format, and display User Content for the purposes provided in the [Privacy Policy](#). Additionally, you grant Mercury the right to aggregate data we collect from your use of the Services ("**Site Data**") and use such Site Data for our business purposes. You also acknowledge and agree that by using the Services, User Content and Site Data may be collected, used, transferred and processed for the purposes and as described in the [Privacy Policy](#). Mercury uses commercially reasonable physical, managerial, and technical safeguards to preserve the integrity and security of your Customer Information and implement your privacy settings. However, we cannot guarantee that unauthorized third parties will never be able to defeat our security measures or use User Content for improper purposes. You acknowledge that you provide User Content at your own risk. Your use of the Provider Accounts is subject to the privacy policies of our Banking Providers.

4. Third-Party Links and Information

The Services may contain links to third-party materials that are not owned or controlled by Mercury. Mercury does not endorse or assume any responsibility for any such third-party services, information, materials, or products. If you access a third-party website, application, or service from the Services, you do so at your own risk, and you understand that this Agreement and Mercury's Privacy Policy do not apply to your use of such third-party services. You expressly relieve Mercury from any and all liability arising from your use of any third-party websites, applications, services, or content. Additionally, your dealings with or participation in promotions of advertisers found on the Services, including payment and delivery of goods, and any other terms (such as warranties) are solely between you and such advertisers. You agree that Mercury shall not be responsible for any loss or damage of any sort relating to your dealings with such advertisers.

5. Promotional Offers and Perks

Mercury offers exclusive promotions to eligible customers based on criteria like account status or transaction activity. Each offer will specify qualifications, restrictions, and expiration dates. To redeem an offer, you must follow the instructions and review any applicable limitations, including product restrictions, exclusions on combining promotions, and expiration dates. Expired offers cannot be reinstated.

Mercury may collect customer information to facilitate promotions in compliance with GDPR, CCPA, and our Privacy Policy.

6. Representations and Warranties; Indemnification

You hereby represent, warrant, and covenant that:

- a. You own or have the necessary licenses, rights, consents, and permissions to all trademark, trade secret, copyright, or other proprietary, privacy, and publicity rights in and to your User Content and any other works that you incorporate into your User Content, and all the rights necessary to grant the licenses and permissions you grant hereunder; and
- b. Use of User Content in the manners contemplated in this Agreement shall not violate or misappropriate the intellectual property, privacy, publicity, contractual, or other rights of any third party.
- c. You agree to defend, indemnify, and hold harmless Mercury and its subsidiaries, agents, licensors, managers, and other affiliated companies, and their employees, contractors, agents, officers and directors, our Banking Providers, and our third-party service providers, from and against any and all third-party claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising out of, related to, or resulting from: (i) your use of and access to the Services, including any data or content transmitted or received by you; (ii) your violation of any term of this Agreement, including without limitation your breach of any of the representations and warranties above; (iii) your violation of any third-party right, including without limitation any right of privacy or Intellectual Property Rights; (iv) your violation of any applicable law, rule or regulation; (v) your intentional misconduct; or (vi) any other party's access and use of the Services with your unique username, password or other appropriate security mechanism.

7. No Warranty

THE SERVICES, INCLUDING BETA SERVICES, ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. USE OF THE SERVICES IS AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES ARE PROVIDED WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM MERCURY OR THROUGH THE SERVICES WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED HEREIN. WITHOUT LIMITING THE FOREGOING, MERCURY, ITS SUBSIDIARIES, ITS AFFILIATES, AND ITS LICENSORS DO NOT WARRANT THAT THE INFORMATION PROVIDED TO YOU THROUGH THE SERVICES IS ACCURATE, RELIABLE OR CORRECT; THAT THE SERVICES WILL MEET YOUR REQUIREMENTS; THAT THE SERVICES WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, UNINTERRUPTED OR SECURE; THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; OR THAT THE SERVICES ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DOWNLOADED AT YOUR OWN RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR MOBILE DEVICE OR LOSS OF DATA THAT RESULTS FROM SUCH DOWNLOAD OR YOUR USE OF THE SERVICES.

MERCURY DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE SERVICES OR ANY HYPERLINKED WEBSITE OR SERVICE, AND MERCURY WILL NOT BE A PARTY TO OR IN ANY WAY MONITOR ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES.

8. Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL MERCURY, ITS AFFILIATES, AGENTS, DIRECTORS, EMPLOYEES, SUPPLIERS OR LICENSORS BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES, ARISING OUT OF OR RELATING TO THE USE OF, OR INABILITY TO USE, THE SERVICES. UNDER NO CIRCUMSTANCES WILL MERCURY BE RESPONSIBLE FOR ANY DAMAGE, LOSS OR INJURY RESULTING FROM HACKING, TAMPERING, OR OTHER UNAUTHORIZED ACCESS OR USE OF THE SERVICES OR YOUR ACCOUNT OR THE INFORMATION CONTAINED THEREIN.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MERCURY ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY (A) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT; (B) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO OR USE OF OUR SERVICES; (C) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION STORED THEREIN; (D) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE SERVICES; (E) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE THAT MAY BE TRANSMITTED TO OR THROUGH OUR SERVICES BY ANY THIRD PARTY; (F) ANY ERRORS OR OMISSIONS IN ANY CONTENT OR FOR ANY LOSS OR DAMAGE INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE THROUGH THE SERVICES; AND/OR (G) USER CONTENT OR THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY. IN NO EVENT SHALL MERCURY, ITS AFFILIATES, AGENTS, DIRECTORS, EMPLOYEES, SUPPLIERS, OR LICENSORS BE LIABLE TO YOU FOR ANY CLAIMS, PROCEEDINGS, LIABILITIES, OBLIGATIONS, DAMAGES, LOSSES OR COSTS IN AN AMOUNT EXCEEDING \$1000.00.

THIS LIMITATION OF LIABILITY SECTION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF MERCURY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH

DAMAGE. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.

9. Term and Termination

This Agreement is effective when you start using our Services and continues until terminated by either you or us, or in accordance with the Provider Account agreements or as otherwise set forth in this Agreement (the "**Term**"). You may terminate this Agreement by paying all amounts you owe and providing notice to us; except that you will still be responsible for any charges, fees, fines, and other losses caused by your action or inaction prior to terminating this Agreement. We may terminate this Agreement, or suspend your Account, at Mercury's discretion or as provided in the Provider Account agreements. We will provide notice of termination or suspension to the extent permitted by applicable law.

10. Changes to this Agreement

This Agreement is effective as of the Last Modified date stated at the top. We may change this Agreement from time to time. Any such changes will be posted on the Site. By accessing the Services after we make any such changes to this Agreement, you are deemed to have accepted such changes. Please refer back to this Agreement on a regular basis.

11. Governing Law, Arbitration, and Class Action/Jury Trial Waiver

Governing Law. This Agreement shall be governed by the internal substantive laws of the State of California, without respect to its conflict of laws principles. This Agreement constitutes a transaction in interstate commerce, and thus any arbitration conducted pursuant to the terms of this Agreement shall be governed by the Federal Arbitration Act (9 U.S.C. §§ 1-16). You agree to submit to the personal jurisdiction of the federal and state courts located in San Francisco County, California for any actions for which we retain the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation, or violation of our copyrights, trademarks, trade secrets, patents, or other intellectual property or proprietary rights, as set forth in the Arbitration provision below, including any provisional relief required to prevent irreparable harm. Subject to Section 10B, you agree that the federal or state courts located in San Francisco County, California is the proper forum for any appeals of an arbitration award or for trial court proceedings in the event that the Arbitration provision below is found to be unenforceable.

Arbitration. READ THIS SECTION CAREFULLY BECAUSE IT REQUIRES THE PARTIES TO ARBITRATE THEIR DISPUTES AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM MERCURY. For any claim, dispute, or controversy with Mercury (a "**Claim**"),

you agree to first contact us at legal@mercury.com and attempt to resolve the dispute with us informally. In the unlikely event that Mercury has not been able to resolve a dispute it has with you after sixty (60) days, such dispute will be finally and exclusively resolved by binding arbitration governed by the Federal Arbitration Act ("**FAA**"). Any election to arbitrate, at any time, shall be final and binding on the other party. NEITHER PARTY SHALL HAVE THE RIGHT TO LITIGATE SUCH CLAIM IN COURT OR TO HAVE A JURY TRIAL, EXCEPT EITHER PARTY MAY BRING ITS CLAIM IN ITS LOCAL SMALL CLAIMS COURT, IF PERMITTED BY THAT SMALL CLAIMS COURT RULES AND IF WITHIN SUCH COURT'S JURISDICTION. ARBITRATION IS DIFFERENT FROM COURT, AND DISCOVERY AND APPEAL RIGHTS MAY ALSO BE LIMITED IN ARBITRATION. All disputes will be resolved before a neutral arbitrator selected jointly by the parties, whose decision will be final, except for a limited right of appeal under the FAA. The arbitration shall be commenced and conducted by JAMS pursuant to its then current Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those rules, or, where appropriate, pursuant to JAMS' Streamlined Arbitration Rules and Procedures. All applicable JAMS' rules and procedures are available at the JAMS website www.jamsadr.com. Each party will be responsible for paying any JAMS filing, administrative, and arbitrator fees in accordance with JAMS rules. Judgment on the arbitrator's award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The arbitration may be conducted in person, through the submission of documents, by phone, or online. If conducted in person, the arbitration shall take place in the United States county where you reside. The parties may litigate in court to compel arbitration, to stay a proceeding pending arbitration, or to confirm, modify, vacate, or enter judgment on the award entered by the arbitrator. The parties shall cooperate in good faith in the voluntary and informal exchange of all non-privileged documents and other information (including electronically stored information) relevant to the Claim immediately after commencement of the arbitration. Nothing in this Section shall be deemed as preventing either party from seeking injunctive or other equitable relief from the courts as necessary to prevent the actual or threatened infringement, misappropriation, or violation of our data security, Intellectual Property Rights or other proprietary rights. Proceedings and information related to them will be maintained as confidential, including the nature and details of the Claim, evidence produced, testimony given, and the outcome of the Claim, unless such information was already in the public domain or was independently obtained. You and Mercury, and all witnesses, advisors, and arbitrators will only share such information as necessary to prepare for or conduct arbitration or other legal proceeding, or enforcement of the outcome, unless additional disclosure is required by law.

Class Action Waiver. You agree that any arbitration or proceeding shall be limited to the Claims between us and you individually. To the full extent permitted by law, (a) no arbitration or proceeding shall be joined with any other; (b) there is no right or authority for any Claim to be arbitrated or resolved on a class action-basis or to utilize class action procedures; and (c) there

is no right or authority for any Claim to be brought in a purported representative capacity on behalf of the general public or any other persons. YOU AGREE THAT YOU MAY BRING CLAIMS AGAINST US ONLY IN YOUR INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.

12. Downloading the App

We make the App available through the Google Play Store or Apple App Store. The following terms apply to the App when accessed through or downloaded from the Apple App Store where the App may now or in the future be made available. You acknowledge and agree that:

- a. These Terms of Use are between you and Mercury, and not with Apple, and Mercury (not Apple) is solely responsible for the App. Apple has no obligation to furnish any maintenance and support services with respect to the App.
- b. In the event of any failure of the App to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the App to you (if applicable) and, to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App. Any other claims, losses, liabilities, damages, costs, or expenses attributable to any failure to conform to any warranty will be the sole responsibility of Mercury.
- c. Apple is not responsible for addressing any claims you have or any claims of any third party relating to the App or your possession and use of the App, including, but not limited to: (i) product liability claims; (ii) any claim that the App fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.
- d. In the event of any third party claim that the App or your possession and use of that App infringes that third party's intellectual property rights, Mercury will be solely responsible for the investigation, defense, settlement, and discharge of any such intellectual property infringement claim to the extent required by this Agreement.
- e. Apple and its affiliates are third-party beneficiaries of this Agreement as related to your license to the Apps, and that, upon your acceptance of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement as related to your license of the App against you as a third-party beneficiary thereof.
- f. You represent and warrant that (i) you are 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; (ii) you are not listed on any U.S. Government list of prohibited or restricted parties; (iii) you are not an individual, or associated with an entity, designated under the UK's Terrorist Asset-Freezing Act 2010 (TAFSA 2010); and (iv) you are not otherwise subject to or affected in any way by any national security or terrorism-related rules whether applicable to you personally or to your location or other circumstances.
- g. You must also comply with all applicable third-party terms of service when using the App.

13. General

Assignment. This Agreement, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by Mercury without restriction. Any attempted transfer or assignment in violation hereof shall be null and void.

Notification Procedures and Changes to the Agreement. You consent to us providing notices to you under this Agreement electronically. We may provide notices to you electronically through your Account, or via email, text, or SMS to the email address or phone numbers provided to us by Administrators and Users. If you sign up to receive certain Mercury notifications or information via text or SMS, you may incur additional charges from your wireless provider for these notices. You agree that you are solely responsible for any such charges. You understand that you may not use the Services unless you consent to receive notices from us electronically. You may only withdraw consent to receive notices electronically by closing your Account. Notices may include alerts about the Services, your Account, and your Provider Accounts and may provide Administrators and Users the ability to respond with information about Provider Account transactions or your Account. Administrators and Users may disable certain notification preferences. Administrators and Users are required to maintain a regularly updated web browser, and computer and mobile device operating systems to receive notices correctly. Administrators and Users will be responsible for all costs imposed by internet or mobile service providers for sending or receiving notices electronically. Contact us immediately at help@mercury.com if you are having trouble receiving notices from us.

Entire Agreement/Severability. This Agreement, together with any amendments and any additional agreements you may enter into with Mercury in connection with the Services, shall constitute the entire agreement between you and Mercury concerning your Account and the Services. If any provision of this Agreement is deemed invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of this Agreement, which shall remain in full force and effect, except that in the event of unenforceability of the universal Class Action/Jury Trial Waiver, the entire arbitration agreement shall be unenforceable.

No Waiver. No waiver of any term of this Agreement shall be deemed a further or continuing waiver of such term or any other term, and Mercury's failure to assert any right or provision under this Agreement shall not constitute a waiver of such right or provision.

Legal Orders. We may respond to and comply with any subpoenas, warrants, liens, or any other legal order we receive related to your use of the Services. We are not responsible to you for any losses you incur due to our response to such legal order. We may hold funds or provide information as required by the issuer of the legal order or take any other actions we believe are

required of us under legal orders. Where permitted, we will provide you reasonable notice that we have received such an order.

Survival. Sections 1C (Account Management and Security), 2 (Our Proprietary Rights), 3 (Site Data and Privacy), 5 (Representations and Warranties; Indemnification), 6 (No Warranty), 7 (Limitation of Liability), 8 (Term and Termination), 10 (Governing Law, Arbitration, and Class Action/Jury Trial Waiver), and this Section 12 (General); and any other provisions of this Agreement giving rise to continued obligations of the parties will survive termination of this Agreement.

Electronic Documents and Signatures. Mercury facilitates the completion and/or execution of electronic documents between parties. Nothing in the Agreement may be construed to make Mercury a party to or liable for any electronic documents processed through the Services. Users consent to the use of electronic signatures and understand that this consent has the same legal effect as a physical signature. Mercury is not responsible for determining how long documents and other records are required to be retained or stored and is not responsible for or liable to produce any of Customer's electronic documents or other documents to any third parties.

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