

GENERAL TERMS OF SERVICE | BACK MARKET INC.

OCTOBER 2023

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Article 1. Who are we and what do we offer?

1.1 BACK MARKET Inc., a Delaware corporation (hereinafter referred to as “BACK MARKET”), operates a Platform that aims to put Buyers in contact with professional Sellers of Product(s).

1.2 BACK MARKET acts as an intermediary and is in no case the Seller or reseller of Products. **BACK MARKET is therefore not responsible for Products sold via the Platform.** In addition, unless otherwise specified, BACK MARKET is not a brand owner’s distributor of Products.

1.3 The purpose of these general terms of service (the “Terms of Service”) is to define (i) the rules applicable to access the Platform and use the Services offered on the Platform and (ii) the conditions of sale that apply between a Buyer and a Seller for the purchase of Product(s) on the Platform.

Article 2. Definitions

Unless otherwise defined in these Terms of Service, capitalized terms used in this Terms of Service in either singular or plural form have the following meanings:

Buyer	means any natural person or legal entity that is using the Platform to purchase Product(s) for non-commercial purposes. Natural person(s) must be 16 years old or older to be able to purchase Product(s) on the Platform and have the capacity to take legal actions or have the authority of their parent or legal guardian to transact if they are under 18 years old.
Platform	means the internet website accessible at the address www.backmarket.com through which Buyers and Sellers can be put in contact for the purchase of Product(s).
Product(s)	means product(s) sold on the Platform. Unless otherwise specified, products sold on the Platform are renewed products: they are second-hand products that have been refurbished.
Product Sheet	means a description of a Product, as provided by the Seller and displayed on the Platform.
Seller	means any professional seller of Products registered on the Platform.
Seller Sheet	means the information (such as trade name, address of establishment) on a Seller, as provided by the Seller and displayed on the Platform.
Services	means the services and resources available on the Platform, as further described in Article 3.
User	means any natural person or legal entity that accesses the Platform for non-commercial purposes, regardless of whether such person or entity has a customer account. For the avoidance of doubt, a Seller shall not be considered as a User for the purpose of these Terms of Service.

Article 3. Important information to use the Platform

3.1 PLEASE READ THESE TERMS OF SERVICE CAREFULLY. If needed, these Terms of Service can be downloaded from the Platform so that Users can keep a copy and refer to them as necessary.

BY ACCESSING OR USING THE PLATFORM IN ANY WAY, INCLUDING USING THE SERVICES OFFERED BY BACK MARKET ON THE PLATFORM, COMPLETING THE REGISTRATION PROCESS, AND/OR BROWSING THE WEBSITE, THE USER REPRESENTS THAT:

(1) THEY HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY THESE TERMS OF

SERVICE ; AND

(2) THEY HAVE THE AUTHORITY TO ENTER INTO THESE TERMS OF SERVICE PERSONALLY OR ON BEHALF OF THE LEGAL ENTITY THEY HAVE NAMED AS USER, AND TO BIND THAT LEGAL ENTITY TO THE TERMS OF SERVICE.

3.2 THESE TERMS OF SERVICE INCLUDE (1) THE USER'S AGREEMENT THAT THE SERVICES ARE PROVIDED "AS IS" AND WITHOUT WARRANTY (ARTICLE 15); (2) THE USER'S CONSENT TO RELEASE BACK MARKET FROM LIABILITY (ARTICLE 15); AND (3) THE USER'S AGREEMENT TO INDEMNIFY BACK MARKET FOR ANY MISUSE OF THE SERVICES (ARTICLE 16). THESE TERMS OF SERVICE INCLUDES A CLASS ACTION WAIVER AND A WAIVER OF JURY TRIAL AND REQUIRES BINDING ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES (ARTICLE 17).

3.3 BACK MARKET MAY MODIFY THESE TERMS OF SERVICE AT ITS SOLE DISCRETION AT ANY TIME. When changes are made, BACK MARKET will make a new version of the Terms of Service available on the Platform. PLEASE REGULARLY CHECK THE PLATFORM TO VIEW THE CURRENT TERMS OF SERVICE.

3.4 These Terms of Service are supplemented by various contractual documents, such as the BuyBack Terms and Conditions, available on the Platform. In the event of a conflict between these documents, the following order of priority shall apply: (a) the BuyBack Terms and Conditions shall prevail over these Terms of Service only in respect of the conditions of such BuyBack Service.

Article 4. What Services are offered on the Platform?

BACK MARKET offers various Services:

- To Users, BACK MARKET offers access to and use of its Platform, a customer account, a secure payment method, and several quality services that are detailed on the Platform. Buyers who place an order via the Platform are charged a service fee for these Services. The exact amount of such service fee is specified to the Buyer before they confirm the order.
- To Sellers, BACK MARKET offers access to and use of its Platform, a back office, an installment payment service and others services such as the BackCare service (where BACK MARKET assists the Seller in the management of their customer service on behalf of the Seller), the BackShip service (where BACK MARKET puts the Seller in relation with a partner to ship the Product(s)). A fee is charged for these Services to the Seller. The conditions for these services are covered by the general terms and conditions applicable to Sellers. Sellers are the only persons liable for the Product(s) sold to the Buyer, whether they subscribed to the Services or not. Sellers are charged a commission for these Services. The exact amount of such commission in accordance with the terms agreed upon between BACK MARKET and the Sellers.

Article 5. What are the conditions of use of the Platform?

5.1 The User needs an email address and a password to create their customer account. Login credentials are strictly personal and the User undertakes to keep their password confidential. The User must take all appropriate measures to ensure that their password remains confidential and that access to their computer and other devices is restricted. If the User becomes aware of unauthorized access to their customer account by a third party, the User undertakes to immediately change their password and inform BACK MARKET by filing the form available [under this link](#).

5.2 Unless BACK MARKET expressly agrees otherwise, the User undertakes to create and use no more than one customer account. If a customer account is closed by BACK MARKET, such User agrees not to create a new account unless specifically authorized by BACK MARKET.

5.3 The User undertakes that they will not (i) harass the Platform's other Users, (ii) make disparaging, slanderous, defamatory, false, misleading, inaccurate, discriminatory or racist remarks or comments on the Platform, and more generally, that they will not make any comments contravening applicable laws, rights of other individuals and/or public order, (iii) obtain information about other Users, either manually or using automated methods, (iv) access personal accounts belonging to other Users, or (iv) attempt to jeopardize the functioning of the Platform.

5.4 The User acknowledges that all the elements contained on the Platform, including, but not limited to, texts, comments, illustrations, images, sound elements, company names, brands and other distinctive signs, as well as elements composing the Platform, such as databases and any underlying technology (hereinafter, the "Elements") are potentially protected by intellectual property rights, such as copyright, trademark, etc. Consequently, the User acknowledges that the following are strictly prohibited:

- Any reproduction, representation, modification or adaptation of the Platform and / or all or part of the Elements without BACK MARKET's prior written consent.
- Any use of the Elements for commercial or professional purposes without BACK MARKET's prior written authorization.
- Any use of software, devices, scripts, robots or any other means or process (including crawlers, browser plug-ins, or any other technology) aimed at performing "web scraping" on the Platform.

5.5 By using the Platform, the User represents and warrants that (i) they 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 and (ii) they are not listed on any U.S. government list of prohibited or restricted parties. The User will not use the Platform for any purpose prohibited by U.S. law, including the development, design, manufacture or production of missiles, or nuclear, chemical or biological weapons. The User acknowledges and agrees that Services or technology provided by BACK MARKET are subject to the export control laws and regulations of the United States. The User must comply with these laws and regulations and will not, without prior U.S. government authorization, export, re-export, or transfer Product(s), Services or technology, either directly or indirectly, to any country in violation of such laws and regulations.

Article 6. How do I order Product(s) on the Platform?

6.1 These Terms of Service must be accepted without reservation by each Buyer prior to ordering any Product(s).

6.2 Sellers are fully and solely liable for (i) the veracity and completeness of (a) the information provided in the Seller Sheet and (b) the Product description in the Product Sheet, as well as (ii) the Product's full compliance with their description in the Product Sheet. The price of the Product(s) is fixed freely by the Seller.

6.3 When ordering, the Buyer selects the Product(s) they wish to purchase. The Buyer must click "Buy", and then must provide the required information when prompted (desired delivery address, payment method, etc.). The amount of tax and service fees appear in the final basket before the Buyer confirms the payment. Once the Buyer has confirmed the payment and their payment method, an authorization hold is placed on the Buyer's payment.

The Buyer is informed that the sale is not completed at this point. Indeed, the Seller may have limited availability of Product(s). The Seller therefore has 24 business hours to confirm that the Product(s) are available and that they can honor the order.

The contract of sale of Product(s) are concluded when the Seller has confirmed the availability of the Product(s) and the Buyer is charged the amount of their order. If the Product(s) are not available or if the Seller does not confirm availability within the aforementioned 24 business hours period, the order is automatically canceled and the sale is deemed never to have been completed. The authorization hold in respect of the Buyer's payment is then immediately released. The payment may take several days to be released to the Buyer by their bank.

Orders made by a Buyer are independent of each other and if an order contains several Products, each Product order is independent from the other. Thus, if one or more orders have not been confirmed by a Seller(s), the Buyer's other Product(s) order(s) are not canceled and the Buyer is obliged to pay for order(s) that have been confirmed.

6.4 The order may also be canceled by Back Market or the Seller for a legitimate reason, including:

- an obvious mistake in the Product(s) and/or the price (e.g., a pricing error or any other error regarding an essential characteristic of the Product(s));
- a claim regarding payment of the order; and/or
- the creation of multiple Users accounts or a fraudulent use of discount codes.

Article 7. What are the delivery terms?

7.1 The Product(s) presented for sale on the Platform can only be shipped to the 48 contiguous states of the United States.

7.2 The Product(s) are delivered at the delivery address indicated by the Buyer when ordering. Delivery times and methods are indicated by the Seller. The risk of loss or damage passes from the Seller to the Buyer upon delivery. If a Buyer has opted for a tracked delivery method, they may track the delivery of the ordered Product(s) directly on the Platform through its customer account and/or the email and/or website.

7.3 The Buyer will be informed of the delivery date after they have selected a shipping method. The delivery of the ordered Product(s) shall not be subject to any unjustified delay.

7.4 Unless otherwise mentioned when ordering, shipping fees are charged. The shipping fees are communicated to the Buyer prior to any payment.

7.5 **In the event that Product(s) are damaged in transit (damaged or opened package / missing or damaged Product(s)), the Buyer shall make all possible reservations upon delivery of the Product(s). BACK MARKET ALSO ASKS THE BUYER TO FILE A COMPLAINT WITHIN THREE BUSINESS DAYS VIA THE PLATFORM ONCE THE PRODUCT(S) HAVE BEEN RECEIVED.**

7.6 Title to the Product(s) is transferred when the price is paid by the Buyer and delivery is complete, i.e., when the ordered Product(s) have been physically delivered to the Buyer or any third party designated by the Buyer.

7.7 For returns: in case of a change of mind, the risk of loss passes from the Buyer to the Seller upon reception of the Product(s) by the Seller; for any other cause, the risk of loss passes from the Buyer to the Seller as soon as the Product(s) are shipped by the Buyer.

Article 8. How do I pay on the Platform?

8.1 The payment methods on the Platform are made available by BACK MARKET's payment partners and are specified on the Platform (for instance, payment in installments, Paypal, credit card). BACK MARKET's payment service providers collect payments in the name and on behalf of the Sellers and of BACK MARKET and ensure security of the transaction.

8.2 Promotional or discount codes. When purchasing Product(s) on the Platform, the User can use a discount or promotional code. Unless otherwise specified, these codes are valid for all Product(s) offered for sale on the Platform until the code's expiration date. Unless otherwise specified, (i) codes cannot be combined, (ii) codes cannot be applied to shipping fees, (iii) codes are neither exchangeable nor refundable (i.e., if the order paid for using a code is refunded, the code may not be used again) unless the order is canceled by the Seller due to unavailability of the Product(s) ordered, (iv) codes having a monetary value must be used all at once (i.e., if the monetary value of the code exceeds the price for the Product(s), the code's unused value will be lost), and (v) codes cannot be retroactively used for an order already placed by the Buyer.

8.3 If payment is made in installments, the terms and conditions applicable to the payment are specified by the payment service provider before the associated loan agreement is entered into.

Article 9. Can I change my mind?

9.1 Buyers may return Product(s) **within 30 days of receipt of the Product(s) even in cases where there are no defects or other discrepancies with the order ("Right to cancel")**. The date the Product(s) are received is not counted when determining the 30 day period. If this period ends on a Saturday, Sunday or a public holiday, such period is extended until the next business day.

9.2 To return Product(s), Buyers must log into their account and indicate that they are returning the Product(s) because they have changed their mind (and not because of a defect or some other discrepancy) by clicking on the "Get Help" button for the order in question.

9.3 Buyers will then have a period of 14 days after having notified the Seller to ship the Product(s) to the Seller's address, unless the Seller requests that the Product(s) be sent to another address or proposes to collect the Product(s).

9.4 Buyers must package the Product(s) returned to the Seller with care. Buyers are free to select the method for sending the Product(s) and to decide to take out insurance in the event of loss, theft or destruction of the package. **ONLY PRODUCT(S) RETURNED WHOLE, WITH ALL THE ACCESSORIES THEY ARRIVED WITH, AND IN THE CONDITION IN WHICH THEY WERE SOLD ARE ACCEPTED (EXCEPT IF THE BUYER HAS INDICATED THAT THE PRODUCT(S) RECEIVED WAS IN A CONDITION DIFFERENT FROM THAT DESCRIBED IN THE PRODUCT SHEET). BUYERS MUST ALSO ENSURE THAT ANY PERSONAL DATA IS DELETED FROM THE PRODUCT(S) PRIOR TO RETURNING THE PRODUCT(S) AND THAT THE PRODUCT(S) ARE DISCONNECTED FROM ANY ACCOUNT.** Buyers will find guidelines on how to delete personal data regarding iCloud, Google, or Samsung accounts [under this link](#).

9.5 All costs and risks related to the return of Product(s) to the Seller are borne by the Buyer.

9.6 If all the conditions relating to the exercise of the Right to cancel are met, the Seller will refund the Buyer the total amount of their order (including delivery costs).

9.7 Buyers may be held liable for a loss in value of the Product(s) resulting from mishandling the Product(s) and/or their accessories.

Article 10. What warranties apply to Product(s) bought on the Platform?

10.1 Buyers benefit from a 12-month limited warranty granted by the Seller. To implement these rights, the Buyer must contact the Seller in accordance with Article 11. The content of this limited warranty is described in the "[Limited Warranty Agreement](#)", available on the Platform.

Except to the extent prohibited by applicable law, implied warranties and conditions (including warranties and conditions of merchantability and fitness for a particular purpose) shall be limited to the duration of this limited warranty (i.e., 12 months). Users are reminded that these limitations shall be enforceable to the extent permitted by law. Some states do not allow limitations on how long an implied warranty lasts, so the limitations or exclusions described above may not apply to you.

10.2 Is it possible to subscribe for an additional protection plan?

Besides the limited contractual warranty, when ordering on the Platform, the Buyer may subscribe to additional protection plan covering defects and accidents caused by normal handling (drops, spills, and cracked screens).

Article 11. How do I communicate with the Seller or make a claim?

11.1. Communication via the Platform. The Buyer and the Seller agree to only communicate via their respective accounts on the Platform. As an exception, if this method of communication is not possible, for example if the Buyer's customer account has been closed, the Buyer may contact Back Market by filling the form available [under this link](#) or call 1-855-442-6688 and must provide the order date and number. BACK MARKET will forward the claim to the Seller so the Seller can respond.

11.2 Handling of Buyer complaints by the Seller. The Seller must answer any Buyer complaint within 24 hours (weekends and holidays excluded). The Buyer is informed that the Seller is responsible for customer service on all subjects related to the Product(s) they sell, their warranties and other related complaints. **BACK MARKET is not liable for the Product(s) or their sale. However, as provided in article 11.3, BACK MARKET may get involved if a Buyer encounters difficulties with a Seller.**

11.3 BACK MARKET's intervention. When a Buyer encounters a difficulty with a Seller, BACK MARKET may intervene in the name and on behalf of the Seller if the following cumulative conditions are met: (i) the Buyer has an active account, (ii) the Buyer has made a claim on the platform within the warranty period using their customer account, (iii) the Seller has not replied to the Buyer within 24 hours (weekends and holidays excluded) after the request or has replied inadequately, and (iv) the Buyer's claim relates to a defective Product. If these conditions are met, the Buyer may request that BACK MARKET intervene by completing the questionnaire [available here](#). In such a case, if BACK MARKET considers that the Buyer's claim is justified and that the Seller has violated their obligations, BACK MARKET will ask the Seller to, depending on the Buyer's request, either (i) refund the price of the Product to the Buyer, (ii) send the Buyer a Product that matches the order, (iii) offer a repair or replacement solution, and/or (iv) offer a prepaid return label to enable the Buyer to return the Product. If the solution proposed by BACK MARKET satisfies the Buyer, that solution becomes binding upon the Seller. If the solution suggested by BACK MARKET is not implemented within 24 hours (weekends and holidays excluded) following its notification, BACK MARKET may then enforce the suggested solution in the name and on behalf of the Seller).

Article 12. What about personal data?

The Buyer's personal data is processed by BACK MARKET and by the Sellers. In addition, BACK MARKET uses cookies. The policies applicable to personal data and cookies are described in the documents "[Data Protection](#)" and "[Cookies](#)" available on the Platform.

Article 13. How do I close my account?

13.1 User's closing of their customer account. Users may freely close their customer account at any time without notice, through their customer account or by writing to legal@backmarket.com. So long as there are no outstanding orders or warranties, the account closure will take effect within 30 days maximum after the date the User notifies BACK MARKET that they wish to close their customer account.

13.2 BACK MARKET's closing of the customer account. BACK MARKET may close a customer account if the User has refused an update to these Terms of Service, and/or if

the User has breached the obligations imposed by these Terms of Service, and/or if the User has been inactive. BACK MARKET may also close a customer account without cause, with reasonable prior notice.

13.3 Informing the User. BACK MARKET shall inform the User of its intention to close the customer account by sending the User an email detailing the reasons for the closure. Before the account is closed, the User is invited to download information and invoices related to their orders. After the account is closed, the User retains the ability to make a claim. However, the User may no longer order Product(s) on the Platform or use the Services.

Article 14. How can I review Sellers?

Once a Buyer's order is finalized, the Buyer may review the Seller and the Product(s) through the reviewing system available on the Platform. The Buyer is informed that the date of their purchase and criteria for categorizing reviews are displayed with their review.

Article 15. What about liability for Products and Services?

15.1 Concerning the Services. BACK MARKET will make every effort to ensure that the Services and the Platform are available. BACK MARKET reserves the right to suspend or limit access to the Services and the Platform to carry out repairs, maintenance operations, and/or add and/or develop a function and/or a Service. BACK MARKET may not be held liable for any damage suffered by a User due to their inability to access or use all or part of a Service or the Platform.

THE USER EXPRESSLY UNDERSTANDS AND AGREES THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THEIR USE OF THE SERVICES IS AT THEIR SOLE RISK, AND THE PLATFORM IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS. WITH REGARDS TO THE SERVICES, BACK MARKET EXPRESSLY DISCLAIMS ALL WARRANTIES, REPRESENTATIONS, AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

BACK MARKET MAKES NO WARRANTY, REPRESENTATION OR CONDITION THAT: (1) THE PLATFORM AND THE SERVICES WILL MEET USERS' REQUIREMENTS; (2) USERS' USE OF THE PLATFORM AND SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; (3) ANY ERRORS WILL BE CORRECTED.

ANY CONTENT DOWNLOADED FROM OR OTHERWISE ACCESSED THROUGH THE PLATFORM IS ACCESSED AT THE USER'S OWN RISK, AND THE USER SHALL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO THEIR PROPERTY OR PERSON, INCLUDING, BUT NOT LIMITED TO, THEIR COMPUTER SYSTEM AND ANY DEVICE USED TO ACCESS THE PLATFORM, OR ANY OTHER LOSS THAT RESULTS FROM ACCESSING SUCH CONTENT.

THE SERVICES MAY BE SUBJECT TO DELAYS, CANCELLATIONS AND OTHER DISRUPTIONS. BACK MARKET MAKES NO WARRANTY, REPRESENTATION OR CONDITION WITH RESPECT TO SERVICES, INCLUDING BUT NOT LIMITED TO, THE QUALITY, EFFECTIVENESS, AND OTHER CHARACTERISTICS OF SERVICES.

NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM BACK MARKET OR THROUGH THE PLATFORM WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN.

FROM TIME TO TIME, BACK MARKET MAY OFFER NEW "BETA" FEATURES OR TOOLS WITH

WHICH THEIR USERS MAY EXPERIMENT. SUCH FEATURES OR TOOLS ARE OFFERED SOLELY FOR EXPERIMENTAL PURPOSES AND WITHOUT ANY WARRANTY OF ANY KIND, AND MAY BE MODIFIED OR DISCONTINUED AT BACK MARKET'S SOLE DISCRETION. THE PROVISIONS OF THIS ARTICLE APPLY WITH FULL FORCE TO SUCH FEATURES OR TOOLS.

BACK MARKET USES THIRD PARTY SERVICES, NAMELY TO ALLOW THE PLATFORM TO FUNCTION. THE USER ACKNOWLEDGES AND AGREES THAT BACK MARKET IS NOT LIABLE, AND THE USER AGREES NOT TO SEEK TO HOLD BACK MARKET 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 THE USER.

15.2 Concerning the Products. As indicated above, **BACK MARKET is not the Seller or reseller of Products and acts solely as an intermediary. The Seller thus assumes full responsibility with regard to the Product(s) they offer for sale through the Platform, in particular regarding warranties that, according to the laws and regulations, rest with the Seller or manufacturer.** BACK MARKET MAKES NO WARRANTY REGARDING THE QUALITY OF ANY SUCH PRODUCT(S), OR THE ACCURACY, TIMELINESS, TRUTHFULNESS, COMPLETENESS OR RELIABILITY OF ANY INFORMATION RELATED TO THE PRODUCT(S) OBTAINED THROUGH THE PLATFORM.

15.3 Disclaimer. USERS UNDERSTAND AND AGREE THAT IN NO EVENT SHALL BACK MARKET BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE PLATFORM, OR ANY DAMAGES RESULTING FROM LOSS OF USE, DATA, OR PROFITS, WHETHER OR NOT BACK MARKET HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY DAMAGES FOR PERSONAL OR BODILY INJURY OR EMOTIONAL DISTRESS ARISING OUT OF OR IN CONNECTION WITH THE TERMS, OR FROM ANY COMMUNICATIONS, INTERACTIONS OR MEETINGS WITH OTHER USERS, ON ANY THEORY OF LIABILITY, RESULTING FROM: (1) THE USE OR INABILITY TO USE THE PLATFORM; (2) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES RESULTING FROM ANY GOODS, DATA, While BACK MARKET engages and supports SELLERS on our website in achieving the highest level of quality control over the Product(s) they sell, BACK MARKET DECLINES ANY RESPONSIBILITY RELATING TO THE SALE CONCLUDED BETWEEN THE SELLER AND THE BUYER ON THE PLATFORM. THUS, THE BUYER RELEASES BACK MARKET FROM ANY LIABILITY THAT MAY ARISE IN CONNECTION WITH THE EXECUTION OF THE SALE, IN PARTICULAR AS REGARDS THE CONFORMITY OF THE PRODUCT(S), THE DESCRIPTION AND THE CONFORMITY OF THE OFFER OF SALE, THE AVAILABILITY OF THE PRODUCT(S), THE PRODUCT(S) SAFETY, THE PRODUCT(S) OWNERSHIP AND INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS. INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED FOR TRANSACTIONS ENTERED INTO THROUGH THE PLATFORM; (3) UNAUTHORIZED ACCESS TO OR ALTERATION OF USER'S TRANSMISSIONS OR DATA; (4) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE PLATFORM; OR (5) ANY OTHER MATTER RELATED TO THE PLATFORM, WHETHER BASED ON WARRANTY, COPYRIGHT, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY. BACK MARKET IS ONLY LIABLE FOR DIRECT DAMAGES EXCLUSIVELY ATTRIBUTABLE TO A CONTRACTUAL FAULT BY BACK MARKET.

15.4 Limit on liability. UNDER NO CIRCUMSTANCES WILL BACK MARKET'S LIABILITY HEREUNDER EXCEED THE AMOUNT PAID BY THE BUYER THROUGH THE PLATFORM IN THE 12 MONTH PERIOD PRECEDING THE DATE OF THE CLAIM. CERTAIN JURISDICTIONS DO NOT

ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

Article 16. What about the user's liability?

16.1 The User undertakes to use the Services and the Platform in compliance with the Terms of Service and to not breach any law, regulation or public policy.

16.2 The User agrees to indemnify and hold BACK MARKET, its direct and indirect parent companies, subsidiaries, affiliates, officers, employees, agents, partners and licensors harmless from any losses, costs, liabilities and expenses (including reasonable attorneys' fees) relating to or arising out of their misuse of the Platform; their violation of these Terms of Services, their violation of any rights of another party, including any Users; or their violation of any applicable laws, rules or regulations. This Article will survive any termination of the customer account or access to the Platform.

Article 17. Applicable law and dispute resolution

17.1 These Terms of Service and any action related thereto will be governed and interpreted by and under the laws of the State of New York, consistent with the Federal Arbitration Act, without giving effect to any principles that provide for the application of the law of another jurisdiction.

17.2 Users may report complaints related to the Services by filing the form available [under this link](#), or to the Division of Consumer Protection of the State of New York. In case of an issue with any Product(s), Buyers may report complaints to the Seller according to Article 11, or the Division of Consumer Protection of the State of New York.

17.3 Applicability of Arbitration Agreement. All claims and disputes (excluding claims for injunctive or other equitable relief as set forth below) in connection with the Terms of Service or the use of any Product(s) sold by a Seller or Service provided by BACK MARKET that cannot be resolved informally or in small claims court shall be resolved by binding arbitration on an individual basis under the terms of this arbitration agreement (the "Arbitration Agreement"). Unless otherwise agreed, all arbitration proceedings will be held in English. This Arbitration Agreement applies to Users, Sellers and BACK MARKET, and to any subsidiaries, affiliates, agents, employees, predecessors in interest, successors, and assigns, as well as all authorized or unauthorized Users or beneficiaries of Services or goods provided under the Agreement.

17.4 Notice Requirement and Informal Dispute Resolution. Before either party may seek arbitration, the party must first send to the other party a written Notice of Dispute (“Notice”) describing the nature and basis of the claim or dispute, and the requested relief. A Notice to BACK MARKET should be sent to: Legal Department, BACK MARKET, 41 Union Square W, 2nd Floor, New York, NY 10003. After the Notice is received, Users and BACK MARKET may attempt to resolve the claim or dispute informally. A Notice to the Seller should be sent to their address mentioned on the Seller’s Sheet on the Platform and/or mentioned on the invoice of the Product(s). If Seller and/or Users and/or BACK MARKET (where applicable) do not resolve the claim or dispute within thirty (30) days after the Notice is received, either party may begin an arbitration proceeding. The amount of any settlement offer made by any party may not be disclosed to the arbitrator until after the arbitrator has determined the amount of the award, if any, to which either party is entitled.

17.5 Arbitration Rules. Arbitration shall be initiated through the American Arbitration Association (“AAA”), an established alternative dispute resolution provider (“ADR Provider”) that offers arbitration as set forth in this Article. If AAA is not available to arbitrate, the parties shall agree to select an alternative ADR Provider. The rules of the ADR Provider shall govern all aspects of the arbitration, including but not limited to the method of initiating and/or demanding arbitration, except to the extent such rules are in conflict with these Terms Of Service. The AAA Consumer Arbitration Rules governing the arbitration are available online at www.adr.org or by calling the AAA at 1-800-778-7879. The arbitration shall be conducted by a single, neutral arbitrator. Any claims or disputes where the total amount of the award sought is less than Ten Thousand U.S. Dollars (\$10,000.00) may be resolved through binding non-appearance-based arbitration, at the option of the party seeking relief. For claims or disputes where the total amount of the award sought is Ten Thousand U.S. Dollars (US \$10,000.00) or more, the right to a hearing will be determined by the Arbitration Rules. Any hearing will be held in a location within 100 miles of a User’s residence, unless the User resides outside of the United States, and unless the parties agree otherwise.

If a User or a Seller resides outside of the U.S., the arbitrator shall give the parties reasonable notice of the date, time and place of any oral hearings. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. . Each party shall bear their own costs (including attorney’s fees) and disbursements arising out of the arbitration and shall pay an equal share of the fees and costs of the ADR Provider. Additional Rules for Non-Appearance Based Arbitration. If non-appearance based arbitration is elected, the arbitration shall be conducted by telephone, online and/or based solely on written submissions; the specific manner shall be chosen by the party initiating the arbitration.

The arbitration shall not involve any personal appearance by the parties or witnesses unless otherwise agreed by the parties.

17.6 Time Limits. If a User and/or a Seller and/or BACK MARKET pursue arbitration, the arbitration action must be initiated and/or demanded within the statute of limitations and within any deadline imposed under the AAA Rules for the pertinent claim.

17.7 Authority of Arbitrator. If arbitration is initiated, the arbitrator will decide the rights and liabilities, if any, of a User and/or a Seller and/or BACK MARKET, and the dispute will not be consolidated with any other matters or joined with any other cases or parties.

The arbitrator shall have the authority to grant motions dispositive of all or part of any claim. The arbitrator shall have the authority to award monetary damages, and to grant any non-monetary remedy or relief available to an individual under applicable law, the AAA Rules, and the Arbitration Agreement. The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon Users and BACK MARKET.

17.8 Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY, instead electing that all claims and disputes shall be resolved by arbitration under this Arbitration Agreement. Arbitration procedures are typically more limited, more efficient and less costly than rules applicable in a court and are subject to very limited review by a court. In the event any litigation should arise between Users and BACK MARKET in any state or federal court in a suit to vacate or enforce an arbitration award or otherwise, USERS AND BACK MARKET WAIVE ALL RIGHTS TO A JURY TRIAL, instead electing that the dispute be resolved by a judge.

17.9 Waiver of Class or Consolidated Actions. ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS, AND CLAIMS OF MORE THAN ONE USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER USER.

17.10 Confidentiality. All aspects of the arbitration proceeding, including but not limited to the award of the arbitrator and compliance therewith, shall be strictly confidential. The parties agree to maintain confidentiality unless otherwise required by law. This paragraph shall not prevent a party from submitting to a court of law any information necessary to enforce these Terms of Service, to enforce an arbitration award, or to seek injunctive or equitable relief.

17.11 Right to Waive. Any or all of the rights and limitations set forth in this Arbitration Agreement may be waived by the party against whom the claim is asserted. Such waiver shall not waive or affect any other portion of this Arbitration Agreement.

17.12 Survival of Arbitration Agreement. This Arbitration Agreement will survive the termination of the relationship between Users and Sellers, and between Users and BACK MARKET.

17.13 Small Claims Court. Notwithstanding the foregoing, either a User or BACK MARKET may bring an individual action to small claims court.

17.14 Emergency Equitable Relief. Notwithstanding the foregoing, either party may seek emergency equitable relief before a state or federal court in order to maintain the status quo pending arbitration. A request for interim measures shall not be deemed a waiver of any other rights or obligations under this Arbitration Agreement.

17.15 Claims Not Subject to Arbitration. Notwithstanding the foregoing, claims of defamation, violation of the Computer Fraud and Abuse Act, and infringement or misappropriation of the other party's patent, copyright, trademark or trade secrets shall not be subject to this Arbitration Agreement.

17.16 Courts. In any circumstances where the foregoing Arbitration Agreement permits the parties to litigate in court, the parties hereby agree to submit to the personal jurisdiction of the courts located within Kings County, NY for such purpose.

17.17 Severability. If any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable by a court of competent jurisdiction, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Arbitration Agreement shall continue in full force and effect.

Article 18. Miscellaneous

18.1 Nothing in these Terms of Service creates any agency, joint venture, partnership or other form of joint enterprise, employment or fiduciary relationship between BACK MARKET and the User. Neither BACK MARKET on the one hand, and the User on the other hand, has any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other party, or to bind the other party to any contract, agreement or undertaking with any third party.

18.2 Communications between Users and BACK MARKET are made electronically. For contractual purposes, Users (1) consent to receive communications from BACK MARKET in an electronic form; and (2) agree that all terms and conditions, agreements, notices, disclosures, and other communications that BACK MARKET provides to Users electronically satisfy any legal requirements that such communications would satisfy if it were in writing.

18.2 If the User is a California resident, such User hereby waives California Civil Code Article 1542, which states, "*A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor*".

18.3 The User is responsible for providing BACK MARKET with their most current email address. In the event that the last email address provided to BACK MARKET is not valid, or for any reason BACK MARKET is unable to any notices required/ permitted by the Terms of Service, BACK MARKET's dispatch of the e-mail containing such notice will nonetheless constitute effective notice. Users may give notice to BACK MARKET at the following address: hello@backmarket.com.

18.4 Severability. If any provision of these Terms of Service is, for any reason, held to be invalid or unenforceable, the other provisions of these Terms of Service will remain enforceable, and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.