Software End User License Agreement/SaaS Agreement

This Software End User License Agreement/SaaS Agreement, including the Order Form (defined below), which is incorporated in this Agreement by this reference (this "**Agreement**"), is a binding agreement between MoneyThumb, LLC ("**MoneyThumb**" or "**Licensor**") and the person or entity identified on the Order Form as the licensee of the Software, Services, or API ("**Licensee**"), each a "**Party**" or together the "**Parties**."

1. **Definitions.** For purposes of this Agreement, the following terms have the following meanings:

    1.1 "**Aggregated Statistics**" means data and information related to Licensee's use of the Software, Services, or API that is used by MoneyThumb in an aggregate and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Software, Services, or API.

    1.2 "**API**" means the MoneyThumb application programming interface and any API Documentation or other API materials made available by MoneyThumb.

    1.3 "**Authorized User**" means those individuals who are authorized to use the Software, Services, or API under this Agreement and on the Order Form.

    1.4 "**MoneyThumb Marks**" means MoneyThumb's proprietary trademarks, trade names, branding, or logos made available under this Agreement for use in connection with the Software, Services, API, and Documentation.

    1.5 "**Documentation**" means user manuals, technical manuals, handbooks, guides, or any other materials about the Software, Services, or API provided to Licensee in electronic, hard copy, or other form.

    1.6 "**Evaluation Period**" means the period that begins on the date of the Order Form and ends fourteen (14) days after that date or on an earlier date as may result from termination of this Agreement according to Section 9.

    1.7 "**Evaluation Software**" means the Software or Services for which Licensee is obtaining an Evaluation License as set forth in this Agreement or on the Order Form.

    1.8 "**Intellectual Property Rights**" means any registered or unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

    1.9 "**Licensee's Applications**" means web or other software services or applications developed by Licensee to interact with the API.

    1.10 "**Licensee Data**" means information, data, and other content, in any form or medium, other than Aggregated Statistics, that is submitted, posted, or otherwise transmitted through the Software, Services, or API by or on behalf of Licensee or an Authorized User.

    1.11 "**License Fees**" means the license fees, including all taxes on them, paid or required to be paid by Licensee for the license granted under this Agreement.

1.12 "**Maintenance Release**" means any update, upgrade, release, or other adaptation or modification of the Software, Services, or API, including any updated Documentation, that MoneyThumb may provide to Licensee from time to time during the Term, which may contain, among other things, error corrections, enhancements, improvements, or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency, or quality of the Software, Services, or API, but does not include any New Version.

1.13 "**MoneyThumb IP**" means the Software, Services, API, and Documentation, and any intellectual property provided to Licensee or any Authorized User in connection with the foregoing. For the avoidance of doubt, MoneyThumb IP includes Aggregated Statistics and any information, data, or other content derived from MoneyThumb's monitoring of Licensee's access to or use of the Software, Services, or API, but does not include Licensee Data.

1.14 "**MoneyThumb Offering**" means the technology and application software made available by MoneyThumb

1.15 "**New Version**" means any new version of the Software, Services, or API that MoneyThumb may from time to time introduce and market generally as a distinct licensed product (as may be indicated by MoneyThumb's designation of a new version number), and which MoneyThumb may make available to Licensee at an additional cost under a separate written agreement.

1.16 "**Order Form**" means the electronic or hard copy order form filled out and submitted by or on behalf of Licensee, and accepted by MoneyThumb, for Licensee's evaluation or purchase of the license for the Software, Services, or API granted under this Agreement.

1.17 "**Permitted Evaluation Use**" means the testing, demonstration, trial and other evaluative (but not any developmental or productive) use of the Software or Services, including, without limitation, the assessment of the Software or Services compatibility with the Licensee's system, by an Authorized User for the benefit of Licensee, solely for the purpose of Licensee's evaluation of the Software or Services.

1.18 "**Person**" means any individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association, or other entity.

1.19 "**Services**" means the software-as-a-service offering that Licensee is evaluating or for which Licensee is purchasing a license as set forth on the Order Form.

1.20 "**Software**" means the downloadable software that Licensee is evaluating or for which Licensee is purchasing a license as set forth on the Order Form.

1.21 "**Term**" has the meaning set forth in Section 9.

1.22 "**Third Party**" means any Person other than Licensee or MoneyThumb.

2. **License.**

2.1 **Evaluation License and Scope.** If Licensee will evaluate the Software or Services for purchase, then subject to and conditioned on Licensee's payment of License Fees (if any) and compliance with all the terms and conditions of this Agreement,

MoneyThumb hereby grants to Licensee a non-exclusive, non-sublicensable, and non-transferable license during the Evaluation Period to use the Evaluation Software that MoneyThumb may deliver or make available to Licensee solely for the Permitted Evaluation Use (the "**Evaluation License**"). Subject to the limitations in this Section 2.1, the Evaluation License includes the rights to: (i) download, install, and use one (1) copy of the Software on one (1) computer owned or leased, and controlled by, Licensee; or (ii) to access and use the Services.

2.2 **Software License and Scope.** If Licensee purchased Software, then subject to and conditioned on Licensee's payment of License Fees and compliance with all the terms and conditions of this Agreement, MoneyThumb hereby grants to Licensee, solely by and through its Authorized users, and solely for Licensee's individual or internal business purposes, a non-exclusive, non-sublicensable, and non-transferable license during the Term to download, install, and use one (1) copy of the Software on up to three (3) computers owned or leased, and controlled by, Licensee. Each computer must be for a single Authorized User and all computers together may perform up to 1000 Conversions per calendar quarter ending on March 31, June 30, September 30, and December 31 of each year, where each financial document (for example, a single bank statement) converted is one "**Conversion**."

2.3 **Services License and Scope.** If Licensee purchased Services, then subject to and conditioned on Licensee's payment of License Fees and compliance with all the terms and conditions of this Agreement, MoneyThumb hereby grants to Licensee, solely by and through its Authorized users, and solely for Licensee's individual or internal business purposes, a non-exclusive, non-sublicensable, and non-transferable license during the Term to access and use the Services. MoneyThumb will provide to Licensee the necessary passwords and network links to allow Licensee access to the Services from any computer owned or leased, and controlled by, Licensee.

2.4 **API License and Scope.** Subject to and conditioned on Licensee's payment of License Fees and compliance with all the terms and conditions of this Agreement, MoneyThumb hereby grants to Licensee, solely by and through its Authorized Users, and solely for Licensee's individual or internal business purposes, a non-exclusive, non-sublicensable, and non-transferable license during the Term to use the API in developing Licensee's Applications that will communicate and interoperate with the MoneyThumb Offering. MoneyThumb will provide to Licensee the necessary API security key to allow Licensee access to the API from any computer owned or leased, and controlled by, Licensee.

2.5 **Documentation License and Scope.** Subject to and conditioned on Licensee's payment of License Fees and compliance with all the terms and conditions of this Agreement, MoneyThumb hereby grants to Licensee a non-exclusive, non-sublicensable, and non-transferable license during the Term to use the Documentation solely for Licensee's individual or internal business purposes in connection with Licensee's use of the Software, Services, or API.

2.6 **Use Restrictions.** Licensee must not, and must require its Authorized Users not to, directly or indirectly:

(A) Use the Software, Services, API, or Documentation beyond the scope of the license granted in this Agreement;

(B) Allow any Person to use or provide any Person with access to the Software, Services, API or Documentation;

(C) Rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Software, Services, API, or Documentation to any Third Party for any reason;

(D) Copy, modify, translate, adapt, or create derivative works of or improvements to the Software, Services, API, or Documentation, in whole or in part, whether or not patentable;

(E) Combine or incorporate the Software, Services, or API, or any part of the Software, Services, or API with or in any other programs not authorized by MoneyThumb;

(F) Reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the Software, Services, or API in whole or in part;

(G) Use the Software, Services, API, or Documentation for purposes of competitive analysis of the Software, Services, or API, to develop a competing software product or service, or for any other purpose that is to MoneyThumb's commercial disadvantage;

(H) Remove any MoneyThumb Marks from the Software, Services, API, or Documentation or otherwise display or fail to display the MoneyThumb Marks outside of any usage guidelines MoneyThumb may specify from time to time;

(I) Remove any intellectual property or proprietary rights notices from the Software, Services, API, or Documentation;

(J) Use the Software, Services, API, or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any Person, or that violates applicable law; or

(K) Use the Software, Services, API, or Documentation in violation of any law, regulation, or rule.

2.7 **Reservation of Rights.** MoneyThumb reserves all rights not expressly granted to Licensee in this Agreement. Except for the limited rights and licenses granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel or otherwise, to Licensee or any Third Party any Intellectual Property Rights or other right, title, or interest in or to the MoneyThumb IP.

3. **Third-Party Materials.** The Software, Services, or API may include software, content, data, or other materials, including related documentation that are owned by Persons other than MoneyThumb and that are provided to Licensee on licensee terms that are in addition to or different from those contained in this Agreement ("**Third-Party**

Licenses"). A list of all materials included in the Software, Services, or API if any, and provided under Third-Party Licenses is available at https://www.moneythumb.com/third-party-licenses and the applicable Third-Party Licenses are accessible via links from that list. Licensee is bound by and must comply with all Third-Party Licenses. Licensee's or an Authorized User's breach of any Third-Party License is also a breach of this Agreement.

4.   **Licensee Responsibility for Use of Software, Services, or API.** Licensee is responsible and liable for all uses of the Software, Services, API, and Documentation resulting from access to the Software, Services, or API provided directly or indirectly by Licensee to its Authorized Users or any other Person, whether the access is permitted by or in violation of this Agreement. Licensee must use reasonable efforts to make its Authorized Users aware of this Agreement's provisions and must cause its Authorized Users to comply with its provisions.

5.   **Compliance Measures.**
   5.1   **Protection and Security Features.** The Software, Services, and API contain technological copy protection or other security features designed to prevent unauthorized use of the Software, Services, or API, including features to protect against any use of the Software, Services, or API that is prohibited by this Agreement. Licensee must not, and must not attempt to, remove, disable, circumvent, or otherwise create or implement any workaround to any of these protection or security features.
   5.2   **Excess Use.** If any of the measures taken or implemented under this Section 5 demonstrate that Licensee's use of the Software, Services, or API exceeds or exceeded the use permitted by this Agreement, then MoneyThumb may terminate this Agreement and the license granted under it, effective immediately on written notice to Licensee, and invoice Licensee for any retroactive License Fees for the excess use (which Licensee must pay within thirty (30) days or receipt). If MoneyThumb does not terminate this Agreement under this Section 5.2, then MoneyThumb may require Licensee to obtain and pay for a valid license to bring Licensee's into compliance with this Agreement and pay any retroactive License Fees the excess use.
   5.3   **License Fees for Excess Use.** In determining the License Fees payable for excess use under this Section 5the rates for licenses will be without regard to any discount to which Licensee may have been entitled if Licensee's use had been properly licensed.

6.   **Aggregated Statistics.** Licensee acknowledges that MoneyThumb may, directly or indirectly through the services of Third Parties, monitor Licensee's use of the Software, Services, or API and collect and compile Aggregated Statistics. All right, title, and interest in Aggregated Statistics, including Intellectual Property Rights, belong to and are retained solely by MoneyThumb. Licensee agrees that Provider may use Aggregated Statistics to the extent and in the manner permitted under applicable law provided that

the Aggregated Statistics do not identify Licensee, Licensee's Data, or Licensee's Confidential Information.

7. **Security.** MoneyThumb's security measures are employed in accordance with applicable industry practice and MoneyThumb's privacy policy as amended from time to time, a current copy of which is set forth on MoneyThumb's website at https://www.moneythumb.com/privacy or a successor website address ("**Privacy Policy**"). Licensee Data is stored on secure servers behind firewalls. Payment transactions and financial data uploaded through the Software, Services, or API are encrypted using SSL technology.

8. **Fees and Payment.** All License Fees are payable in advance in the manner set forth in the Order Form and are non-refundable, except as may be set forth in this Agreement.

9. **Term and Termination.**
    9.1   **Term.** The term of this Agreement and the license granted under it begin on the date of the Order Form and remain in effect for the Evaluation Period (if an Evaluation License), the term set forth in the Order Form (if a Software, Services, API, or Documentation license), or until earlier terminated as set forth in this Agreement (the "**Term**").
    9.2   **Termination.**
          (A)   **Termination for Convenience.** Either Party may terminate this Agreement at any time, without cause, by providing thirty (30) days' prior written notice to the other Party.
                Termination for Cause. Either Party may terminate this Agreement immediately on written notice to the other Party if: (i) the other Party breaches any provision of this Agreement and either the breach cannot be cured or, if the breach can be cured, the Party does not cure it within ten (10) days after it first receives written notice of the breach; or (ii) the other Party becomes insolvent, and generally unable to pay, or fails to pay, its debts as they become due, files, or has filed against it, a petition for voluntary or involuntary bankruptcy, or pursuant to any other insolvency law, makes or seeks to make a general assignment for the benefit of its creditors, or applies for, or consents to, the appointment of a trustee, receiver, or custodian for a substantial part of its property or business.
    9.3   **Effect of Termination; Survival.** On expiration or termination of this Agreement, the license granted under it will also terminate, and Licensee must cease using or accessing any Software, Services, or API and must destroy all copies of the Software and Documentation. Expiration or termination of this Agreement will not affect Licensee's obligation to pay all License Fees that were due before the expiration or termination, or entitle Licensee to any refund of License Fees. This Section 9.3, and Sections 1 (Definitions), 6 (Aggregated Statistics) 8 (Fees and Payment), 10 (Confidential Information), 11 (Intellectual Property Ownership;

Data; Feedback), 15 (Warranty Disclaimer), 17 (Indemnification), 18 (Limitations of Liability), 19 (Miscellaneous) will survive expiration or termination of this Agreement.

10. **Confidential Information.**

   10.1 **Definition of Confidential Information.** In connection with a proposed business relationship or from time to time during the Term, either Party may disclose or make available to the other Party technical or non-technical information about its business affairs, products, services, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, whether orally or in written, electronic, or other form or media, and whether or not marked, designated or otherwise identified as "confidential" (collectively, "**Confidential Information**"). Confidential Information does not include information that, at the time of disclosure is: (i) in the public domain; (ii) known to the receiving Party at the time of disclosure; (iii) rightfully obtained by the receiving Party on a non-confidential basis from a third party; or (iv) independently developed by the receiving Party.

   10.2 **Non-Disclosure and Non-Use Obligations.** Except as permitted in this Section 10.2, the receiving Party must not use or disclose to any person or entity the disclosing Party's Confidential Information. The receiving Party will treat the disclosing Party's Confidential Information with the same degree of care that the receiving Party accords to its own confidential information, but in no case less than reasonable care. The receiving may disclose the disclosing Party's Confidential Information to the receiving Party's employees who have a need to know the Confidential Information for the receiving Party to exercise its rights or perform its obligations under this Agreement.

   10.3 **Exclusions from Non-Disclosure and Non-Use Obligations.** Each Party may disclose Confidential Information to the limited extent required: (i) to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the Party making the disclosure pursuant to the order must first have given written notice to the other Party and made a reasonable effort to obtain a protective order; or (ii) to establish a Party's rights under this Agreement, including to make required court filings.

   10.4 **Ownership and Return of Confidential Information.** All the disclosing Party's Confidential Information is the sole and exclusive property of the disclosing Party. On the expiration or termination of this Agreement, and on the Disclosing Party's request, the receiving Party must promptly return to the disclosing Party all copies, whether in written, electronic, or other form or media, of the disclosing Party's Confidential Information, or destroy all those copies and certify in writing to the disclosing Party that the Confidential Information has been destroyed.

11. **Intellectual Property Ownership; Data; Feedback.**

11.1   **Intellectual Property Ownership.** Licensee acknowledges and agree that the Software, Services, API, and Documentation are provided under license, and not sold, to Licensee. This Agreement does not provide Licensee with any ownership interest in, or any other rights to, the Software, Services, API, or Documentation, other than to use them in accordance with the license granted and subject to all terms, conditions, and restrictions under this Agreement. MoneyThumb reserves and retains its entire right, title, and interest in and to the Software, Services, API, and Documentation and all Intellectual Property Rights arising out of or relating to the Software, Services, API, and Documentation, except as expressly granted to the Licensee in this Agreement. Licensee must use commercially reasonable efforts to safeguard all Software, Services, API, and Documentation (including copies of them) from infringement, misappropriation, theft, misuse, or unauthorized access. Licensee must promptly notify MoneyThumb if Licensee becomes aware of any infringement of MoneyThumb's Intellectual Property Rights in the Software, Services, API, or Documentation and fully cooperate with MoneyThumb in any legal action taken by MoneyThumb to enforce its Intellectual Property Rights.

11.2   **Licensee Data.** MoneyThumb acknowledges that Licensee owns all right, title, and interest, including all Intellectual Property Rights, in and to the Licensee Data. Licensee hereby grants to MoneyThumb a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display the Licensee Data and perform all acts with respect to the Licensee Data as may be necessary for MoneyThumb to provide the Software, Services, or API to Licensee.

11.3   **Feedback.** If Licensee or any of its employees or contractors sends or transmits any communications or materials to MoneyThumb by email, telephone, mail, or otherwise, suggesting or recommending changes to the Software, Services, API, or Documentation, including, without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("**Feedback**"), MoneyThumb is free to use the Feedback, irrespective of any obligation or limitation between the Parties governing the Feedback. On behalf of Licensee and its employees, contractors, or agents, Licensee hereby assigns to MoneyThumb all right, title, and interest in any ideas, know-how, concepts, techniques, or other Intellectual Property Rights contained in the Feedback, and is free to use them without any attributions or compensation to any party.

12.   **Support and Maintenance.**

12.1   **Support.** Subject to the terms and conditions of this Agreement and conditioned on Licensee's and its Authorized User's compliance with this Agreement, during the Term, MoneyThumb will provide to Licensee MoneyThumb's standard support services (the "Support Services") in accordance with MoneyThumb's description of support services then in effect. MoneyThumb may amend the Support Services from time to time in its sole discretion. Licensee acknowledges and agrees that MoneyThumb provides its Support Services through electronic

communications or the Internet, and its Support Services do not include telephone or in-person support services.

12.2 **Maintenance.** Subject to the terms and conditions of this Agreement and conditioned on Licensee's and its Authorized User's compliance with this Agreement, during the Term, MoneyThumb will provide Licensee with Maintenance Releases. However, MoneyThumb is not obligated to develop and provide Maintenance Releases at all or for particular issues. Any Maintenance Releases will be deemed Software, Services, API, or Documentation and subject to this Agreement. MoneyThumb may provide some or all Maintenance Releases through download from a website designated by MoneyThumb and that Licensee's receipt of the Maintenance Releases will require an Internet connection, which Internet connection is Licensee's sole responsibility. MoneyThumb is not obligated to provide Maintenance Releases via any other media. Licensee does not have any right under or in connection with this Agreement to receive any New Versions of the Software, Services, API, or Documentation that MoneyThumb may, in its sole discretion, release from time to time.

12.3 **Exceptions.** MoneyThumb is not obligated to provide support or maintenance relating to errors that, in whole or in part, arise out of or result from any of the following:

(A) Software, Services, the API or the media on which they are provided, that are modified or damaged by Licensee or any Third Party;

(B) Any operation or use of, or other activity relating to, the Software, Services, or API other than as specified in the Documentation, including any incorporation in the Software, Services, or API of, or combination, operation or use of the Software, Services, or API in or with, any technology (including any software, hardware, firmware, system, or network) or service not specified for Licensee's use in the Documentation, unless otherwise expressly permitted in writing by MoneyThumb;

(C) any Third-Party Materials;

(D) Any negligence, abuse, misapplication, or misuse of the Software, Services, or API other than by MoneyThumb personnel, including any Licensee use of the Software, Services, or API other than as specified in the Documentation;

(E) Any Licensee Failure, including Licensee's failure to promptly install any Maintenance Release that MoneyThumb has previously made available to Licensee;

(F) The operation of, or access to, Licensee's or a third party's system or network;

(G) Any beta software, software that MoneyThumb makes available for testing or demonstration purposes, temporary software modules, or software for which MoneyThumb does not receive a license fee;

(H)   Any breach of or noncompliance with any provision of this Agreement by Licensee or any of its Authorized Users or representatives; or

(I)   Any Force Majeure Event (including abnormal physical or electrical stress).

13.   **Service Levels and Credits.**

13.1   **Service Levels.** Subject to the terms and conditions of this Agreement, MoneyThumb will use commercially reasonable efforts to make the Services available at least ninety-nine and one half percent (99.5%) of the time as measured over the course of each calendar month during the Term (each such calendar month, a "**Service Period**"), excluding unavailability as a result of any of the Service Exceptions described below in this Section 13.1 (the "Availability Requirement"). "Service Level Failure" means a material failure of the Services to meet the Availability Requirement. "Available" means the Services are available for access and use by Licensee and its Authorized Users over the Internet and operating in material accordance with the Documentation. For purposes of calculating the Availability Requirement, the following are "Exceptions" to the Availability Requirement, and neither the Services will be considered un-Available nor any Service Level Failure be deemed to occur in connection with any failure to meet the Availability Requirement or impaired ability of Licensee or its Authorized Users to access or use the Services that is due, in whole or in part, to any: (i) act or omission by Licensee or any Authorized User; (ii) Licensee's or its Authorized User's Internet connectivity; (iii) Force Majeure Event; (iv) failure, interruption, outage, or other problem with any software, hardware, system, network, facility, or other matter not supplied by MoneyThumb pursuant to this Agreement; or (v) Scheduled Downtime.

13.2   **Service Level Failures and Remedies.** In the event of a Service Level Failure, MoneyThumb will issue a credit to Licensee in the amount of two percent (2 %) of the License Fees for the Services due for the Service Period the Service Level Failure occurred (each a "**Service Credit**"), subject to the following:

(A)   MoneyThumb has no obligation to issue any Service Credit unless: (i) Licensee reports the Service Failure to MoneyThumb immediately on becoming aware of it; and (ii) requests such Service Credit in writing within two (2) days of the Service Level Failure; and

(B)   In no event will a Service Level Credit for any Service Period exceed fifty percent (50 %) percent of the License Fees that would be payable for that Service Period if no Service Level Failure had occurred.

Any Service Credit payable to Licensee under this Agreement will be issued to Licensee in the calendar month following the Service Period in which the Service Level Failure occurred. This Section 13.2 sets forth MoneyThumb's sole obligation and liability and Licensee's sole remedy for any Service Level Failure.

13.3   **Scheduled Downtime.** MoneyThumb will use commercially reasonable efforts to schedule downtime for routine maintenance of the Services between the hours of 10:00 p.m. and 2:00 a.m., Pacific Time (the "**Scheduled Downtime**").

14. **Data Backup.** The Software, Services, and API do not replace the need for Licensee to maintain regular data backups or redundant data archives. MONEYTHUMB HAS NO OBLIGATION OR LIABILITY FOR ANY LOSS, ALTERATION, DESTRUCTION, DAMAGE, CORRUPTION, OR RECOVERY OF LICENSEE DATA.

15. **Warranty Disclaimer.** THE SOFTWARE, SERVICES, API, AND DOCUMENTATION ARE PROVIDED TO LICENSEE "AS IS" AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, MONEYTHUMB HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, MONEYTHUMB PROVIDES NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE SOFTWARE, SERVICES, API, OR DOCUMENTATION, OR ANY PRODUCTS OR RESULTS OF THEIR USE, WILL MEET LICENSEE'S OR ANY OTHER PERSON'S REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE, OR WORK WITH ANY OTHER SOFTWARE, APPLICATIONS, SYSTEMS, OR SERVICES, OPERATE WITHOUT INTERRUPTION, BE SECURE, ACCURATE, COMPLETE, OR FREE OF HARMFUL CODE, OR MEET ANY PERFORMANCE OR RELIABILITY STANDARDS OR BE ERROR FREE, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

16. **Licensee Representations.** Licensee represents, warrants, and covenants to MoneyThumb that Licensee owns or otherwise has and will have the necessary rights and consents in and relating to the Licensee Data so that, as received by MoneyThumb and processed in accordance with this Agreement, they do not and will not infringe, misappropriate, or otherwise violate any Intellectual Property Rights, or any privacy or other rights of any third party or violate any applicable Law.

17. **Indemnification.** Licensee will indemnify, hold harmless, and, at MoneyThumb's option, defend MoneyThumb from and against any Losses resulting from any Third-Party claim that the Licensee Data, or any use of the Licensee Data in accordance with this Agreement, infringes or misappropriates that Third Party's intellectual property rights and any Third-Party claims based on Licensee's or any Authorized User's (i) negligence or willful misconduct; (ii) use of the Software, Services, or API in a manner not authorized by this Agreement; (iii) use of the Software, Services, or API in combination with data, software, hardware, equipment or technology not provided by MoneyThumb or authorized by MoneyThumb in writing; or (iv) modifications to the Software, Services, or API not made by MoneyThumb, provided that Licensee may not settle any Third-Party claim against MoneyThumb unless MoneyThumb consents to the settlement, and further provided that MoneyThumb will have the right, at its option, to defend itself

against any Third-Party claim or to participate in the defense of any Third-Party claim by counsel of its own choice.

18. **Limitation of Liability.** IN NO EVENT WILL MONEYTHUMB BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (i) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (ii) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (iii) LOSS OF GOODWILL OR REPUTATION; (iv) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (v) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER THOSE DAMAGES WERE FORESEEABLE AND WHETHER OR NOT MONEYTHUMB WAS ADVISED OF THE POSSIBILITY OF THOSE DAMAGES. IN NO EVENT WILL MONEYTHUMB'S AGGREGATE LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER, UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, EXCEED THE TOTAL AMOUNT PAID TO MONEYTHUMB PURSUANT TO THIS AGREEMENT FOR (i) THE SOFTWARE OR (ii) UP TO TWELVE (12) MONTHS OF THE SERVICES, THAT ARE THE SUBJECT OF THE CLAIM. THE LIMITATIONS SET FORTH IN THIS SECTION 18 WILL APPLY EVEN IF LICENSEE'S REMEDIES UNDER THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE.

19. **Miscellaneous.**
    19.1 **Entire Agreement.** This Agreement together with the Order Form and all annexes, schedules, or exhibits incorporated in this Agreement by reference constitutes the sole agreement of the Parties with respect to its subject matter. It supersedes any prior written or oral agreements or communications between the Parties. It may not be modified except in a writing signed by the Parties.
    19.2 **Waiver.** If either Party fails to require the other to perform any term of this Agreement, that failure does not prevent the Party from later enforcing that term. If either Party waives the other's breach of a term, that waiver is not treated as waiving a later breach of the term.
    19.3 **Severability.** If any part of this Agreement is held to be unenforceable: (i) that part must be deemed amended to achieve as nearly as possible the same economic effect as the original part, and (ii) the rest of this Agreement remains fully enforceable.
    19.4 **Interpretation.** Section headings are included for convenience only and do not affect the interpretation of this Agreement. Unless the context requires otherwise, the term "including" means "including but not limited to." This Agreement must be construed as if drafted jointly by the Parties after meaningful negotiations. Any rule of construction that a document is to be construed against the drafting party may not be applied to this Agreement.

19.5 **Assignment.** Licensee may not assign any of its rights or delegate any of its obligations under this Agreement, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the prior written consent of MoneyThumb. Any purported assignment or delegation in violation of this Section will be null and void. No assignment or delegation will relieve the assigning or delegating Party of any of its obligations hereunder. This Agreement is binding upon and inures to the benefit of the Parties and their respective permitted successors and assigns.

19.6 **Notices.** Any notice required or permitted by this Agreement will be in writing and will be sufficient (and be deemed to have been duly given or made upon receipt) if delivered: in person, by a reputable overnight courier service, by registered or certified mail (postage prepaid, return receipt requested), or by email or confirmed facsimile (if the facsimile or email is sent during normal business hours of the recipient; if not, then notice by facsimile or email will be deemed to have been duly given or made on the next business day), to the attention of the Party intended as the recipient at the last known address given by that Party to the other.

19.7 **Force Majeure.** Neither Party will be liable for any delay or failure in its performance under this Agreement caused by events beyond the reasonable control of the party, including for example, terrorism, war, riots, labor strikes, interruption of utility services, fires, floods, earthquakes, and other natural disasters.

19.8 **Export Regulation.** The Software, Services, or API utilize software and technology that may be subject to U.S. export control laws, including the U.S. Export Administration Act and its associated regulations. Licensee must not, directly or indirectly, export, re-export, or release the Software, Services, or API or the underlying software or technology to, or make the Software, Services, or API or the underlying software or technology accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule, or regulation. Licensee must comply with all applicable federal laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing, or otherwise making the Services or the underlying software or technology available outside the U.S.

19.9 **U.S. Government Rights.** Each of the Documentation and the software components that constitute the Software, Services, or API is a "commercial item" as that term is defined at 48 C.F.R. § 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as those terms are used in 48 C.F.R. § 12.212. Accordingly, if Licensee is an agency of the U.S. Government or any contractor for an agency of the U.S. Government, Licensee only receives those rights with respect to the Software, Services, API, and Documentation as are granted to all other end users, in accordance with (a) 48 C.F.R. § 227.7201 through 48 C.F.R. § 227.7204, with respect to the Department

of Defense and their contractors, or (b) 48 C.F.R. § 12.212, with respect to all other U.S. Government users and their contractors.

19.10 **Equitable Relief.** Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under Section 10 (Confidential Information) or, in the case of Licensee, Section 2.5 (Use Restrictions), would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other Party will be entitled to equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. These remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.

19.11 **Governing Law; Jurisdiction**. California law applies to this Agreement without regard for any choice-of-law rules that might direct the application of the laws of any other jurisdiction. Exclusive jurisdiction must lie with the courts of California for all actions or proceedings arising out of or relating to this Agreement.

19.12 **Counterparts**. This Agreement may be signed by facsimile or electronic signature in counterparts, each one of which is considered an original, but all of which constitute one and the same instrument. The signatures of all of the Parties need not appear on the same counterpart, and delivery of an executed counterpart by electronic transmission in .pdf format or by facsimile (or any similar technology) is as effective as delivering the original.

MoneyThumb provides the Software, Services, and API solely on the terms and conditions set forth in this Agreement and on the condition that Licensee accepts and complies with them. By clicking the "accept" button or checking the "accept" box on the order form, or by signing the order form you (a) accept this Agreement and agree that Licensee is legally bound by its terms; and (b) represent and warrant that: (i) you are of legal age to enter into a binding agreement; and (ii) if Licensee is a corporation, governmental organization, or other legal entity, you have the right, power, and authority to enter into this Agreement on behalf of Licensee and bind Licensee to its terms. If Licensee does not agree to the terms of this Agreement, MoneyThumb will not and does not license the Software, Services, API, or Documentation to Licensee and you must not download, install, use, or access the Software, Services, API, or Documentation.

Notwithstanding anything to the contrary in this Agreement or your or Licensee's acceptance of the terms and conditions of this Agreement, no license is granted (whether expressly, by implication, or otherwise) under this Agreement, and this Agreement expressly excludes any right, concerning any Software, Services, API, or Documentation that licensee did not acquire lawfully or that is not a legitimate, authorized copy of MoneyThumb's Software, Services, API, or Documentation.

[“ACCEPT” BUTTON/“ACCEPT” CHECK BOX/ORDER FORM & SIGNATURE BLOCK]