

## LynkUp API Access and Developer Terms

Last Updated: April 1, 2025.

These LynkUp API Access and Developer Terms (these “**Terms**”) govern Your use of the LynkUp Developer Portal and the tools provided thereon (“**Developer Portal**”) located at developer.lynkup.com (or any successor URL that links to these Terms). These Terms are a binding agreement between the natural person accessing the Developer Portal and the entity on whose behalf You access the Developer Portal (“**You**”, “**Your**”, or “**Customer**”) and Last Mile Ventures LLC, d/b/a Delivery Solutions, registered address 6009 W Parker Rd, #149-370, Plano, Texas 75093, United States (“**We**”, “**Us**,” “**Our**,” “**Company**” or “**LynkUp**”). By signing up for a Developer Portal account, signing in to the Developer Portal, or by accessing the Developer Portal, You are agreeing these Terms.

In order to be eligible to access the Developer Portal and access and use the LynkUp Developer Materials, You must be a current subscriber of the LynkUp service located at hub.lynkup.com (or any successor URL) (“**LynkUp Service**”) and be authorized and invited by Us to access the Developer Portal. As more specifically described below, You may only use the LynkUp Developer Materials to (i) develop and integrate interfaces with Your internal information technology systems in order to use the LynkUp APIs (as defined below) to exchange data from the LynkUp Service with Your internal information technology systems, and (ii) develop and use interfaces and APIs for the purpose of receiving data originating from certain applications, products, or services approved by LynkUp (each an “**Integrated Application**”) within the LynkUp Service, and only within Your own internal business (collectively, “**Internal Purposes**”).

For clarity, Your access to and use of the LynkUp Service is subject to the separate terms and conditions therefor. None of those terms and conditions will have the effect of limiting, encumbering or otherwise restricting Company’s rights and remedies or Your obligations under these Terms.

### 1. ACCESS TO THE DEVELOPER PORTAL.

- 1.1 These Terms govern Your use of all items and associated materials made available by Us on the Developer Portal, which include, without limitation, (A) software development kit files, tools, programs and utilities; (B) any plug-ins or other application programming interfaces (“**LynkUp APIs**”); (C) the API access credential assigned to Your Developed Materials and linked to Your User ID, which is used by Us to associate, validate and authenticate Your LynkUp API activity and Developer Materials (“**API Keys**”); (D) header or JAR files; (E) sample images, sounds, or similar assets; (F) object code or source code, excluding Company-provided audio, visual, video, or other content files for use in tutorials, demonstrations, and for other trial purposes, which may be identified as sample files (“**Sample Files**”), that We include for You to incorporate into Your Developed Materials in accordance with these Terms; (G) any related documentation, technical specifications, notes and explanatory materials; and (H) any modifications, updates, derivative works, upgrades or copies of any of the foregoing items (collectively, “**LynkUp Developer Materials**”). “**Developed Materials**” means any and all interfaces You develop with or using the LynkUp Developer Materials or otherwise through Your access to the LynkUp Portal and that are intended to access, function or interoperate with (i) the LynkUp Service, or (ii) software that We include as part of the LynkUp Services, as well as any applications, including, without limitation, mobile applications, Sample Files, assets, scripts, instruction sets, and related documentation (“**LynkUp Software**”).
- 1.2 You represent and warrant to Us that: (A) the entity on whose behalf You access the Developer Portal is a current subscriber of the LynkUp Service and that the entity has been authorized by Us to access the Developer Portal; (B) You have the authority and capacity to accept these Terms on behalf of the entity on whose behalf You access the Developer Portal; (C) You have provided accurate information to Us.

### 2. PORTAL ACCESS AND DEVELOPER CREDENTIALS.

- 2.1 **Access.** Access to the Developer Portal is permitted on a temporary basis, and We reserve the right to withdraw or amend the service We provide on the Developer Portal without notice. We will not be liable if for any reason Our portal is unavailable at any time or for any period. From time to time, We may restrict access to some parts of the Developer Portal, or the entire Developer Portal, to users who have registered with Us, or close it indefinitely. We may update the Developer Portal at any time, and We may change the content at any time. Any of the material on the Developer Portal may become out of date at any time, and We are under no obligation to update such material.

- 2.2 **Account.** If You are authorized and invited by Company to access and use the Developer Portal, You must create a unique username, password (“**User ID**”) and online developer account profile to create a developer account to obtain and use the LynkUp Developer Materials and create Developed Materials (as defined below). We may withhold approval of Your User ID for any reason. You must keep Your account profile up to date with current account information (including, without limitation, current contact information) at all times. You are only allowed to register for and use one (1) User ID, unless otherwise permitted by Us in writing. You shall not make the Developer Portal or any components thereof available over a network or other environment permitting access or use by multiple users at the same time utilizing the same User ID. You are responsible for all activity that occurs via Your account, even if that activity is not authorized by You or is without Your knowledge or consent. You must notify Us immediately if You become aware of any unauthorized use of Your account. You may not: (A) share Your account information, whether intentionally or unintentionally; or (B) use another person’s account. You will access the LynkUp Developer Materials by the means required by Us and as otherwise described in the relevant documentation. When using APIs, You may not misrepresent or mask Your identity or that of Your API client, including without limitation using IP address fabrication, user-agent header manipulation, or any other act intended to circumvent source identification. Without limiting any of Our other rights under these Terms or otherwise, We have the right to disable any user identification code or password, whether chosen by You or allocated by Us, at any time, if in Our opinion You have failed to comply with any of the provisions of these Terms. We are not liable for any loss or damage arising from Your failure to comply with these requirements.
- 2.3 **API Key.** An API Key enables Your internal information technology systems or Your Integrated Applications, as applicable, to access and use the LynkUp API on a nonexclusive basis. If an API requires an API Key, You must obtain a separate API Key for each item of Developed Materials. Until We approve Your Developed Materials, You may only use the API Key for development and testing of Developed Materials. You must keep Your API Key confidential and You may not share it with any third party. You will use only a single account to request an API Key from Us. You are solely and entirely responsible for all uses of the API occurring under Your API Key.
- 2.4 **Aggregate and Usage Data.** We may collect aggregate usage data compile in connection with the Developed Materials and Your use of the Developer Portal; such data is associated with Your User ID and online developer account profile and allows Us to maintain security, monitor performance, and improve quality and features. In addition, We may collect data, for Our research, product development, and product improvement purposes.

### 3. LYNKUP DEVELOPER MATERIALS.

- 3.1 **License to You.** Upon completion of Your registration with the Developer Portal, during the Term (as defined below), and subject to these Terms and Your compliance with these Terms, We grant to You a nonexclusive, nontransferable, non-sublicensable, non-assignable, revocable limited license to: (A) use the LynkUp Developer Materials only for the development and testing of Your Developed Materials; and (B) subject to the approval rights in Section 4.1, use only the LynkUp Developer Materials (or portions thereof) solely in and with Your approved Developed Materials in object code form only and only for Internal Purposes. Except as otherwise expressly stated in these Terms, You are not granted any other rights to sublicense, distribute or make available the LynkUp Developer Materials to any third party or to facilitate the distribution or delivery of any materials in the Developer Portal without appropriate agreement(s) first being executed with Us by You. All rights in the LynkUp Developer Materials and all materials in the Developer Portal not expressly granted to You are reserved by Us.
- 3.2 **Ownership of Portal and LynkUp Developer Materials.** The Developer Portal and LynkUp Developer Materials are Our intellectual property and are protected by law, including, without limitation, copyright, trademark, trade secret, and patent law, international treaty provisions and applicable laws of the country in which they are being used. We retain title and ownership of these items, the media on which they are recorded, and all subsequent copies, regardless of the form or media in or on which the original and other copies may exist. We reserve all rights not expressly granted in these Terms. You agree to retain and reproduce in full any Company copyright notices or other proprietary notices or disclaimers in all copies of the LynkUp Developer Materials, or any portions thereof, reproduced by You in any form.
- 3.3 **Modifications.** We may modify, update or discontinue the LynkUp Developer Materials at any time without notice or liability to You or anyone else, and Your continued access to or use of the LynkUp Developer

Materials will constitute acceptance of such update or modification. Upon the release of any update or modification to any LynkUp Developer Materials, You are responsible for implementing the most current version of such LynkUp Developer Materials at Your sole cost and expense.

- 3.4 **Third-Party Tools.** The LynkUp Developer Materials may contain third-party software (such as free or open-source software) and may be subject to additional terms and conditions found in a separate license agreement (“**Third-Party License Terms**”). The Third-Party License Terms will control if there is a conflict between these Terms and such Third-Party License Terms.

#### 4. DEVELOPED MATERIALS.

- 4.1 **Approval by Company.** The use of any Developed Materials must be approved by Us. You may only use the Developed Materials in connection with the LynkUp Service and only for Your Internal Purposes. We also may require re-approval for any changes to Developed Materials, including, without limitation, bug fixes, updates, upgrades and new releases. As part of the approval process, We may review Developed Materials for compliance with these Terms, including, without limitation, identifying security issues that could affect Us or Our users. We may withdraw approval for any Developed Materials at any time for any reason, including, without limitation, failure to comply with these Terms. If We withdraw approval for any Developed Materials, You must stop using the Developed Materials and accessing the Developer Portal within five (5) days of notice of such withdrawal.
- 4.2 **No Distribution or Sublicensing.** For the avoidance of doubt, You may not (A) sublicense the Developed Materials for use by a third party or (B) distribute, license, sell, rent, lease, lend, or otherwise grant to any third party any rights in the Developed Materials.
- 4.3 **License to Company.** You grant Us and Our Affiliates a worldwide, perpetual, irrevocable, nonexclusive, royalty-free, fully paid-up license to: (A) use, reproduce, and otherwise test Your Developed Materials for approval for distribution; and (B) publicly display, modify, create derivative works, sublicense and distribute the Developed Materials through any channels approved by Us or Our Affiliates.
- 4.4 **Security of Developed Materials.** You are fully responsible for the security of data in the Developed Materials. You agree that at all times the Developed Materials will be compliant with all applicable laws, including, without limitation, bearing on data privacy and cybersecurity. At Our request, You will promptly provide Us with documentation evidencing Your compliance with applicable law. You will use and access of the LynkUp Developer Materials in accordance with the documentation and instructions provided by Us.

#### 5. REQUIREMENTS AND RESTRICTIONS.

- 5.1 **No Modifications or Reverse Engineering.** You may not (A) modify, port, adapt or translate any portion of any LynkUp Developer Materials; (B) reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code or any portion of any LynkUp Developer Materials not provided to You as source code; (C) create any Developed Materials with the capacity, or access the Developer Portal, to monitor any material or information, from the Developer Portal or elsewhere, using any bot, spider, scraper, or other automated means; (D) create any Developed Materials other than for use with the LynkUp Service; or (E) permit or enable private label versions of any Developed Materials.
- 5.2 **Other Restrictions.** Without limiting any other restriction herein, You shall not: (i) use the Developer Portal or any of the LynkUp Materials for any purpose for which it is not designed or intended; (ii) bypass or circumvent any technical limitations of the Developer Portal or any security mechanisms thereon; (iii) monitor, test, or otherwise benchmark the performance of the Developer Portal or any LynkUp Materials, or disclose or publish the results of any benchmark test related to the Developer Portal or any LynkUp Materials to any third party without Company’s prior written approval; or (iv) interfere with or disrupt the integrity or performance of the Developer Portal or any components thereof.
- 5.3 **Hosting.**
- (A) Subject to the restrictions set forth in these Terms, You may host, whether directly or through a third party (a “**Hosting Provider**”), Developed Materials solely for Your own Internal Purposes. You may authorize Your users to remotely access the Developed Materials solely for Your Internal Purposes.

Without limiting the other terms and restrictions set forth herein, You shall not host or use Developed Materials for third party training, commercial timesharing, outsourcing, rental, or service bureau use.

- (B) If Your Developed Materials are hosted by a Hosting Provider, You may authorize the Hosting Provider to, and will ensure that the Hosting Provider will only use, process, and copy information created by the Developed Materials as necessary to provide the services to You.
  - (C) You must have in place, and shall ensure Your Hosting Providers have in place, appropriate technical, physical, and organizational measures to protect Developed Materials against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure, or access. You shall, and shall ensure that Your Hosting Providers, comply with all applicable laws governing the collection, processing, storage, transmission, or use of personal information or data in any applicable jurisdiction, including but not limited to privacy laws, rules, and regulations.
- 5.4 **No Interference.** Except as expressly permitted by Us, You may not create Developed Materials that degrades, adversely affects, or otherwise negatively interferes with the functionality or appearance of any LynkUp Service or any Integrated Application. You may not use the LynkUp Developer Materials to create Developed Materials that enables interference with or modification of the default language available through the Developer Portal.
- 5.5 **No Unbundling.** The LynkUp Developer Materials may (A) include various applications, utilities and components; (B) support multiple platforms and languages; or (C) be provided to You on multiple media or in multiple copies. You may not unbundle the component parts of any LynkUp Developer Materials.
- 5.6 **Malware and Hacking.** You may not incorporate any malicious or harmful code, viruses, Trojan Horses, worms, time bombs, cancelbots, or other malware in Your Developed Materials. You must not attempt to gain unauthorized access to the Developer Portal, the server on which the Developer Portal is stored or any server, computer or database connected to the Developer Portal. You must not attack the Developer Portal via a denial-of-service attack or a distributed denial-of-service attack. In the event of such a violation of this Section, Your right to use the Developer Portal will cease immediately.
- 5.7 **Trade Controls.** Your Developed Materials is subject to Us and international laws, restrictions, and regulations that may govern its import, export and use. You represent and warrant that You have received all necessary permissions from the applicable governmental authorities for the import, export and use of the Developed Materials. In addition, You represent and warrant that You are not a citizen of, or located in, an embargoed nation or otherwise restricted territory.
- 5.8 **Viral Open-Source Software.** You may not integrate, use, distribute or otherwise combine the LynkUp Developer Materials with any Viral Open Source Software. For purposes of this section, (“**Viral Open Source Software**”) means software licensed under the GNU General Public License (GPL), GNU Affero General Public License (AGPL), GNU Lesser General Public License, or any other license that requires (as a condition of use, modification or distribution) that software be: (A) disclosed or distributed in source code form; (B) licensed for the purpose of making derivative works; or (C) redistributed at no charge.
- 5.9 **Usage Limits.** We may limit Your use of the LynkUp Developer Materials, such as by limiting the number or type of calls accepted by or to an API, if We believe that the number of API calls may negatively impact the performance of the LynkUp Developer Materials, LynkUp Software, or LynkUp Services. You shall not use the API in a manner that, in Our sole discretion, exceeds reasonable request volumes, constitutes excessive or abusive use, or otherwise fails to comply with or is inconsistent with these Terms.
- 5.10 **Competitive Software.** You may not create, and We may reject or remove, any Developed Materials that does not add significant functionality or features beyond those provided by the LynkUp Developer Materials or that is competitive with or similar to the product or service of Company or any Affiliate of Company, including, without limitation, a technology tool used by any mail, package, freight, shipping or other carrier or similar logistics service (“**Competitive Service**”). Without limiting any of the other restrictions in these Terms or enlarging Your rights to use the Developed Materials or the LynkUp Developer Materials as expressly stated in these Terms, You may not use the Developed Materials or the LynkUp Developer Materials to (either directly or indirectly) create, train or improve any Competitive Service.

5.11 **Development.** We may develop, acquire, license, maintain or distribute technologies or products, now or in the future, that have design or functionality similar to or competitive with Your Developed Materials and nothing in these Terms limits Our right to do so. You hereby agree, on a worldwide basis and in perpetuity, to unconditionally and irrevocably waive the enforcement of and not to assert any Intellectual Property Rights in, to or covering Developed Materials against Us, Our Affiliates, or their respective customers, agents or contractors for the manufacture, use, import, licensing, sale or offer for sale of any LynkUp Software, LynkUp Services, or other products or technologies. **“Intellectual Property Rights”** means any and all copyrights, trademarks, trade dress, patents, trade secrets, unfair competition, rights of privacy, rights of publicity, and any other intellectual property or proprietary rights.

5.12 **Maintenance.** You are solely responsible for maintaining Your Developed Materials.

5.13 **Compliance.** You must comply with all applicable laws and regulations and may not use the LynkUp Developer Materials to encourage or promote illegal activity or violate third-party rights, including but not limited to creating Developed Materials the rights of others when used as intended or marketed. You will not use the LynkUp Developer Materials to encourage or promote illegal activity. You specifically agree to comply with all applicable laws, rules and regulations regarding the transmission of technical data exported from the United States and the country in which You reside. Usage may be subject to the Export Administration Regulations (**“EAR”**) administered by the U.S. Department of Commerce and regulations administered by the U.S. Department of the Treasury’s Office of Foreign Assets Control (**“OFAC”**) and thus may not be provided to or used by any person in any countries that are subject to comprehensive economic sanctions under the EAR or OFAC. Moreover, any and all usage by any person or entity that is subject to U.S. or international sanctions regardless of location is prohibited.

5.14 **Integrated Applications.** Your use of the Integrated Applications or any data or information therefrom is at Your sole risk, and Company shall have no liability to You relating to the Integrated Applications. Your use of or access to any Integrated Application and rights with respect to such Integrated Application are solely between You and the applicable third party. You are solely responsible for the use of Integrated Applications, for the accuracy and quality of the data provided from or through any Integrated Applications, and for any and all authorized and unauthorized access, use, and activities associated with the Integrated Applications. Without limiting the foregoing, Company is not responsible for the privacy, security or integrity of any Integrated Application or the practices and policies of any Integrated Application. You agree that You will not use any Integrated Application in a manner that would infringe or violate the rights of any other party, and that Company is not in any way responsible for any such use by You. Company reserves the right to restrict or deny access to any third party content, data and services otherwise accessible through the Integrated Applications and related offerings, although Company has no obligation to restrict or deny access even if requested by You.

## 6. FEES.

6.1 **Fees Charged by Us.** At this time, the LynkUp Developer Materials are offered and provided without charge; however, We reserve the right to implement a fee and payment terms for use at any time in Our sole discretion. We may set prices or charge a fee for use of any features, components, or processing functions provided or enabled through the LynkUp Developer Materials.

## 7. TRADEMARKS; FEEDBACK.

7.1 **Developer Trademarks.** You grant to Us a nonexclusive, non-sublicensable, royalty-free, worldwide license to reproduce and use Your name, trademarks, service marks, trade names, logos, and other marks and descriptive materials to publicly refer to You or Your Developed Materials for the purpose of advertising and promoting LynkUp Services, LynkUp Software and Your Developed Materials, including, without limitation, listings of Your Developed Materials.

7.2 **Feedback.** You may provide ideas, bug or crash reports, suggestions, proposals and other information or materials provided by You to Us relating to Your access to and use of and evaluation of the LynkUp Developer Materials, along with all associated Intellectual Property Rights (**“Feedback”**) to Us. You hereby agree that We shall own all Feedback, and You hereby assign to Us all of Your right, title and interest thereto. You represent and warrant that You have all rights necessary to provide the Feedback to Us. We have no obligation to incorporate, use, or otherwise acknowledge any Feedback that You provide. You

agree to cooperate fully with Us with respect to signing further documents and doing such other acts as are reasonably requested by Us to confirm that We own the Feedback and to enable Us to register and/or protect any associated intellectual property rights.

## 8. CONFIDENTIAL INFORMATION.

- 8.1 **“Confidential Information”** means, whether in written, verbal, graphic or electronic form, (A) any information LynkUp marks as “confidential” or orally designates as confidential at the time of disclosure or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure; (B) LynkUp bug database; (C) discussions of potential features, product changes, the existence of any business discussions, negotiations, or agreements in progress between You and Us; (D) Feedback, and opinions stemming from the Feedback; (E) opinions stemming from the customer advisory boards organized by Us; (F) LynkUp Developer Materials and any APIs that are not publicly documented when You are given access to them; and (G) any derivative works of the above. “Confidential Information” does not include information that (i) is or becomes generally publicly available at the time of disclosure or subsequently through no fault of Your own; (ii) was known to You, free of any confidentiality obligations, before its disclosure by Us; (iii) becomes known to You, free of any confidentiality obligations, from a source other than Us; (iv) is necessary to publish the Developed Materials, including, without limitation, the Developed Materials itself; or (v) is independently developed by the You without use of Confidential Information.
- 8.2 **Non-Disclosure and Use Limitations.** You agree to hold Confidential Information in strict confidence and not disclose it to any other party. Except as expressly allowed in these Terms, You may not modify, create other works from, reverse engineer or disassemble any software programs provided or disclosed as Confidential Information without Our prior written consent. You agree to treat Confidential Information with the same degree of care as You treat Your own confidential, non-public materials but in no event with less than reasonable care. You will stop use of and return or destroy all tangible Confidential Information promptly upon request, together with any copies, except as otherwise required by law. You may disclose Confidential Information (A) as approved in a writing signed by Us or (B) as necessary to respond to a valid order by a court or other governmental body, as required by law, or as necessary to establish the rights of either party, provided that You promptly notify Us upon receipt of the disclosure order and requests confidential treatment of any affected Confidential Information. If there is any inconsistency between this section and any existing obligations of non-disclosure or confidentiality You already have to Us, those existing obligations take precedence.

## 9. WARRANTY AND INDEMNIFICATION OBLIGATIONS.

- 9.1 **Warranties.** By choosing to submit Developed Materials to Us, You represent and warrant that (A) You have all necessary licenses, rights and permissions to use all content that appears or is incorporated in Your Developed Materials and to grant the licenses in these Terms; and (B) the Developed Materials does not infringe any Intellectual Property Rights of Ours or a third party.
- 9.2 **Indemnification.** You will indemnify Us, Our Affiliates, and their respective officers, agents, employees, partners, licensors and customers from any claim, demand, loss or damage, including, without limitation, reasonable attorneys’ fees, arising out of or related to (A) any breach of these Terms by You, including, without limitation, any breach or alleged breach of any representations and warranties made by You concerning any aspect of the Developed Materials; (B) Your use or misuse of the LynkUp Developer Materials; (C) any alleged or actual violation of Your obligations of privacy to any third party; (D) any third party claim related to the Developed Materials; and (E) any breach of any third party agreement by You or Your users (including, without limitation, with respect to any Integrated Application). You shall not, without Our prior written consent, settle, compromise, or consent to the entry of any judgment or order that could impose any liability or obligation upon Us. If We are threatened with suit or are sued by a third party, We may seek written assurances from You concerning Your promise to indemnify Us, and any failure to provide such assurances will be considered to be a material breach of these Terms. We have the right to control the defense of any claim, action, or matter subject to indemnification by You with counsel of Our own choosing, and You will fully cooperate with Us in the defense of any such claim, action, or matter.

## 10. DISCLAIMERS OF WARRANTIES. THE LYNKUP DEVELOPER MATERIALS AND ALL MATERIALS PROVIDED IN THE DEVELOPER PORTAL ARE PROVIDED “AS-IS” AND TO THE MAXIMUM EXTENT

PERMITTED BY LAW, WE DISCLAIM ALL WARRANTIES RELATED THERETO, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WE MAKE NO COMMITMENTS ABOUT THE PERFORMANCE OF THE LYNKUP DEVELOPER MATERIALS AND FURTHER DISCLAIM ANY WARRANTY THAT (A) THE LYNKUP DEVELOPER MATERIALS WILL MEET YOUR REQUIREMENTS OR WILL BE CONSTANTLY AVAILABLE, UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE; (B) THE RESULTS OBTAINED FROM THE USE OF THE LYNKUP DEVELOPER MATERIALS WILL BE EFFECTIVE, ACCURATE OR RELIABLE; (C) THE QUALITY OF THE LYNKUP DEVELOPER MATERIALS WILL MEET YOUR EXPECTATIONS; OR (D) ANY ERRORS OR DEFECTS IN THE LYNKUP DEVELOPER MATERIALS WILL BE CORRECTED. WE SPECIFICALLY DISCLAIM ALL LIABILITY FOR ANY ACTIONS RESULTING FROM YOUR USE OF THE LYNKUP DEVELOPER MATERIALS. YOU MAY USE AND ACCESS THE LYNKUP DEVELOPER MATERIALS AT YOUR OWN DISCRETION AND RISK, AND YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE USE OF AND ACCESS TO THE SERVICE OR LYNKUP DEVELOPER MATERIALS.

11. **LIMITATION OF LIABILITY.** EXCEPT WHERE PROHIBITED BY LAW, WE ARE NOT LIABLE TO YOU FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, MORAL, EXEMPLARY OR PUNITIVE DAMAGES WHATSOEVER, REGARDLESS OF CAUSE, INCLUDING WITHOUT LIMITATION LOSSES AND DAMAGES (A) RESULTING FROM LOSS OF USE, DATA, REPUTATION, CONTRACTS, INCOME, REVENUE, BUSINESS OR PROFITS; (B) BASED ON ANY THEORY OF LIABILITY, INCLUDING WITHOUT LIMITATION BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE, OR OTHER TORTIOUS ACTION; OR (C) ARISING OUT OF OR IN CONNECTION WITH YOUR USE OF OR ACCESS TO THE LYNKUP DEVELOPER MATERIALS AND DEVELOPER PORTAL. OUR TOTAL LIABILITY IN ANY MATTER ARISING OUT OF OR RELATED TO THESE TERMS IS LIMITED TO US \$100.

## 12. TERMINATION AND REMOVAL.

12.1 **Term.** These Terms shall commence on the date upon which You access the Developer Portal and shall continue in full force and effect until You are no longer a current subscriber of the LynkUp Service or earlier terminated herein ("**Term**").

12.2 **Termination by You.** You may terminate Your use of the LynkUp Developer Materials or Your access to LynkUp Services or LynkUp Software through Your Developed Materials at any time. Termination does not relieve You of any obligation existing prior to termination, including, without limitation, the obligation to pay any outstanding fees.

12.3 **Suspension/Termination by Us.** When a breach of these Terms has occurred, We may take such action as We deem appropriate. We may terminate Your rights under these Terms, deny use of the LynkUp Developer Materials or access to LynkUp Services or LynkUp Software through Your Developed Materials, or revoke Your assigned API Keys, at any time and for any reason.

12.4 **Effect of Termination.** Upon termination, You must immediately (A) stop distributing Your Developed Materials; (B) stop using, the LynkUp Developer Materials and the LynkUp trademarks; (C) stop accessing LynkUp Services and LynkUp Software through Your Developed Materials; (D) stop advertising compatibility with any LynkUp Services or LynkUp Software; and (E) stop use of and return or destroy all Confidential Information in Your possession.

12.5 **Survival.** All clauses which by their nature should survive the termination of these Terms will survive such termination. In addition, without limiting the generality of the preceding sentence, Sections 3.3 (Ownership), 3.7 (Third Party Terms), 5 (Requirements and Restrictions), 9 (Warranty and Indemnification Obligations), 10 (Disclaimers of Warranties), 11 (Limitation of Liability), 12.4 (Effect of Termination), and 13 (Miscellaneous) will survive termination of these Terms.

## 13. MISCELLANEOUS.

13.1 **No Agency.** Nothing in these Terms creates a fiduciary, agency, joint venture, employee/employer, partnership, or trust relationship between You and Us. Neither You nor We may bind the other in any manner.

- 13.2 **Non-Assignment.** You may not assign or otherwise transfer these Terms or Your rights and obligations under these Terms, in whole or in part, without Our written consent, and any such attempt will be void. We may transfer Our rights under these Terms to a third party.
- 13.3 **Headings.** Headings used in these Terms are provided for convenience only and will not be used to construe meaning or intent.
- 13.4 **Severability.** If the application of any provision or provisions of these Terms to any particular facts or circumstances shall be held to be invalid or unenforceable by any court of competent jurisdiction, then: (i) the validity and enforceability of such provision or provisions as applied to any other particular facts or circumstances and the validity of other provisions of these Terms shall not in any way be affected or impaired thereby, and (ii) such provision or provisions shall be reformed without further action by the parties hereto and only to the extent necessary to make such provision or provisions valid and enforceable when applied to such particular facts and circumstances.
- 13.5 **No Waiver.** Our failure to enforce or exercise any provision of these Terms is not a waiver of that provision. A waiver with reference to a particular event shall not be construed as a continuing waiver of any right or remedy as to a subsequent event.
- 13.6 **Governing Law and Arbitration.**
- (A) **Governing Law.** These Terms shall be governed and construed under the laws of the State of Georgia, without regard to conflict of law principles, and shall benefit and be binding upon the parties hereto and their respective successors and assigns. The UN Convention on Contracts for the International Sale of Goods does not apply. Subject to and without waiver of the arbitration provisions below, with respect to any dispute or relief sought under these Terms, you agree that exclusive jurisdiction over and venue in any such legal proceeding shall be in the state or federal courts located in Fulton County, Georgia. Any claim by You under these Terms must be brought within two (2) years after the cause of action arises, or such claim or cause of action is barred.
- (B) **Disputes.** You agree that any claim, controversy, or dispute between You and Us ("**Disputes**"), except those that are resolved informally, will be arbitrated by a neutral arbitrator who has the power to award the same individual damages and individual relief that a court can. ANY ARBITRATION UNDER THESE TERMS WILL ONLY BE ON AN INDIVIDUAL BASIS; CLASS ARBITRATIONS, CLASS ACTIONS, REPRESENTATIVE ACTIONS, AND CONSOLIDATION WITH OTHER ARBITRATIONS ARE NOT PERMITTED. YOU WAIVE ANY RIGHT TO HAVE YOUR CASE DECIDED BY A JURY AND You WAIVE ANY RIGHT TO PARTICIPATE IN A CLASS ACTION AGAINST US. If any provision of this arbitration agreement is found unenforceable, the unenforceable provision will be severed, and the remaining arbitration terms will be enforced (but in no case will there be a class or representative arbitration).
- (C) **Pre-Filing Requirement to Attempt to Resolve Disputes.** Before an arbitration is commenced, You or We agree to attempt to avoid the costs of formal dispute resolution by giving each other a full and fair opportunity to address and resolve a Dispute informally. Both parties recognize that this is an important requirement, and that breach of this requirement would be a material breach of these Terms. To provide this opportunity, before commencing any arbitration or suit, each party agrees to send to the other party a written notice ("**Notice**"). Any Notice sent to You will be sent to the address on file for Your account. The Notice must: (i) include Your name and account number; (ii) provide detailed information sufficient to evaluate the merits of the claiming party's individualized claim and for the other party to determine if an amicable resolution is possible; and (iii) set forth the specific relief sought, including whatever amount of money is demanded and the means by which the demanding party calculated the claimed damages. Both parties agree that they will attempt to resolve a dispute through an informal negotiation within sixty (60) days from the date the Notice is sent. After that sixty (60) day period and not before, either party may commence arbitration.
- (D) **Scope of Arbitration.** If We are not able to resolve the Dispute by informal negotiation, all Disputes will be resolved finally and exclusively by binding individual arbitration with a single arbitrator (the "**Arbitrator**") administered by the American Arbitration Association (<https://www.adr.org>) according to this Section and the [Commercial Arbitration Rules](#) for that forum, except You and We will have the

right to file early or summary dispositive motions and to request that the AAA's Expedited Procedures apply regardless of the claim amount. Except as set forth above, the Arbitrator shall be responsible for determining all threshold arbitrability issues, including issues relating to whether these Terms (or any aspect thereof) are enforceable, unconscionable or illusory and any defense to arbitration, including waiver, delay, laches, or estoppel.

- (E) **Arbitration Procedures.** The Federal Arbitration Act, 9 U.S.C. §§ 1-16, including, without limitation, its procedural provisions, fully applies. Any arbitration hearing will occur in Fulton County, Georgia, at another mutually agreeable location or, if both parties agree, by telephone or videoconference. The Arbitrator's award will be binding on the parties and may be entered as a judgment in any court of competent jurisdiction. Each of the parties shall maintain the confidential nature of the arbitration and shall not (without the prior written consent of the other party) disclose to any third party the fact, existence, content, award, or other result of the arbitration, except as may be necessary to enforce, enter, or challenge such award in a court of competent jurisdiction or as otherwise required by applicable law. While an Arbitrator may award declaratory or injunctive relief, the Arbitrator may do so only with respect to the individual party seeking relief and only to the extent necessary to provide relief warranted by the individual party's claim. The Arbitrator's decision and judgment thereon will not have a precedential or collateral estoppel effect. In accordance with the AAA Rules, the party initiating the arbitration (either You or Us) is responsible for paying the applicable filing fee.
- (F) **Opt Out.** You may reject this provision, in which case only a court may be used to resolve any Dispute. To reject this provision, You must send Us an opt-out notice within thirty (30) days after You create Your account.

- 13.7 **US Government Restricted Rights.** The Developer Portal was developed at private expense and is provided with RESTRICTED RIGHTS. Use, duplication, or disclosure by the government is subject to restrictions as set forth in subparagraphs (a) through (d) of the Commercial Computer Software - Restricted Rights clause at FAR 52.227-19 when applicable, or in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause of DFARS and in similar clauses in the NASA FAR Supplement, and their successors, and all other Federal laws and regulations that protect licensor rights in privately developed commercial software.
- 13.8 **Enforcement.** You consent and agree that We may monitor or audit Your use of the Developer Portal. You agree to cooperate with any monitoring or audit, and You will not interfere with or otherwise attempt to block any monitoring or audit. We reserve the right to investigate and take appropriate action, including, without limitation, legal action, in Our sole discretion, against anyone who violates these Terms.
- 13.9 **Remedies.** Notwithstanding any other provisions of these Terms, breach of these Terms by You may cause Us irreparable damage for which recovery of money damages will be inadequate, and that We will be entitled to seek timely injunctive relief to protect Our rights under these Terms in addition to seeking any and all remedies available at law. If any legal action is brought to enforce these Terms, the prevailing party will be entitled to receive its attorneys' fees, court costs, and other collection expenses, in addition to any other relief it may receive.
- 13.10 **Assignment and Subcontracting.** You may not assign or transfer in whole or part any of Your rights or obligations granted hereunder. Any attempted transfer in contravention of this provision shall be null and void and of no force or effect. Company may assign these Terms without restriction. Company may subcontract to an Affiliate or a third-party work to be performed under these Terms. As used herein, "**Affiliate**" means, as to a party, any entity that controls, is controlled by, or under common control with such party, where "control" means the possession, directly or indirectly, of the power to direct the management and policies of such other entity whether through the ownership of voting securities or otherwise.
- 13.11 **Amendment.** We reserve the right, in our sole and absolute discretion, to update or change any portion of these Terms according to the procedures set forth herein. We will provide You with reasonable advance notice of material changes to these Terms, such as by sending an email to the email address listed in Your account, providing notice through the Developer Portal, or by similar means. Any changes to the Terms will be effective immediately upon notice of such updates or as otherwise stated in our notice of such modification. Your continued access to or use of the Developer Portal after We provide such notice, if

applicable, or after We post such updated terms, constitutes Your acceptance of the changes and agreement to be bound by the Terms as amended. If You do not agree to the amended Terms, You must stop accessing and using the Developer Portal.

- 13.12 **Force Majeure.** Neither party will be responsible or liable for failure or delay of performance, loss or damage due to: an act of war, hostility, or sabotage; fire, explosion, flood, earthquake, or other act of God; pandemic or epidemic; electrical, power, internet, or telecommunication outage; government restrictions (including, without limitation, an embargo, economic sanction or the denial or cancelation of any export, import or other license); strike, labor disputes, acts of civil or military authority, war, terrorism, acts of God, or acts of a public enemy; acts or omissions of carriers or suppliers; or other event outside the reasonable control of the obligated party. Both parties shall use reasonable efforts to mitigate the effect of a force majeure event. This Section does not excuse Your payment obligations.
- 13.13 **Entire Agreement and Precedence.** These Terms constitute the entire agreement between the parties regarding the subject hereof and supersede all prior or contemporaneous agreements, understandings, and communication, whether written or oral. Nothing in this Agreement shall affect the rights and obligations of either party under any other agreement existing between You and Us so long as such agreement is in force.