

# Merchant Schedule

This Cleeng Merchant Schedule applies, in addition to the Cleeng Master Subscription Agreement, to Customers using Cleeng Merchant Module.

## Index

- Definitions
- Merchant services
- Payment Processing
- Fund collection and reimbursement
- Management of Refunds and Chargebacks
- Managing Users purchases
- Content
- Data
- User Terms

## 1. Definitions

In this Cleeng Merchant Schedule, the following terms written with a capital letter shall have the meaning as set out below:

**Funds Collected**, is defined in clause 4 a);

**Merchant Module**, a set of tools and services, provided by Cleeng to its Customers, to manage user profiles, data & payment compliance, web payment services, in one or multiple countries;

**Chargebacks**, these typically refer to the return of funds to Managed Users, forcibly initiated by the issuing bank of the payment method used by an Managed Users for his purchase;

**Refund**, Managed Users have the opportunity to request refunds if the content bought is not as described, or if the service/content wasn't delivered according to the SLA. Otherwise, terms written with a capital letter shall have the meaning as set out in the Agreement.

## 2. Merchant Services

a.If we provide Cleeng Merchant services we will act as a merchant of record on your behalf. This means that, User's will register to Cleeng's terms of service, and we will process their credit and debit card transactions and assume certain responsibilities regarding data privacy, online services compliance, and financial risks management. We

will also manage fraud settings, customer registration, billing, tax reporting (see further 4.h), fund collections, and fund payouts, and regarding transactions processing.

b. You acknowledge and accept that we will send on your behalf messages to your subscribers or pay-per-view buyers, or any other User, and that the Cleeng brand may be present in such communication. In no instances, Cleeng will send promotional marketing messages to your subscribers.

c. You are able to download your Managed User information (including offers entitlement and Customer Content history) via the Cleeng Application at any time during the Term. We do not store payment information such as credit card details.

d. You understand that Managed Users may need to enter into an end-user license agreement with us in order for them to be able to access Customer Content. The end-user license agreement is available via <https://cleeng.com/cleeng-user-agreement>.

### **3. Payment Processing**

a. Cleeng provides an online checkout, in different languages, with adapted payment options per country, that helps you manage the collection of funds with Managed Users.

b. Within our online checkout, we are the payment underwriting; and provide a payment data transmission service that helps you integrate with different payment processors (the "Processor(s)") as described more fully in this Agreement.

c. Our processors are namely Adyen B.V, and PayPal Inc. The processing and settlement of your Users transactions ("Payment Processing") are carried out by the Processors, and by accepting this Agreement, you are also accepting and agreeing to be bound by the Processor Terms of service (available [here](#) for Adyen, and [here](#) for PayPal). The Processor's role is to accept and process credit card, debit card and other types of card payments (collectively "Cards") with respect to sales of your products and services through internet-based transactions.

d. We reserve the right to change the Processor(s). In the event of any inconsistency between this Agreement and the Processor Terms concerning Payment Processing or the Processor Account, the Processor Terms shall prevail.

e. If a Processor terminates the Processor Terms or indicates its intention to do so, we have the right, to offer you a substitute Processor that is integrated with the Cleeng Application. Upon your acceptance of the terms of service of such substitute Processor they shall be deemed to have replaced the Processor contemplated herein provided that your liabilities to the Processor herein shall not be diminished on account of accepting the terms of the substitute Processor.

f. You understand that Managed Users are required to provide consent to be charged for a transaction in compliance with applicable legal requirements and Visa Europe Ltd., Visa U.S.A., Inc., Visa Canada Inc., Visa International, MasterCard International Incorporated, Discover, American Express or other applicable card network (collectively, the "Payment Networks") payment rules (the "Payment Schemes").

g. The Payment Networks have established rules and regulations in the form of the Payment Schemes. You are required to comply with all Payment Network Rules that are applicable to merchants (available upon request). In so far as the terms of the Agreement are inconsistent with the Payment Schemes, the Payment Schemes shall prevail.

h. Due to regulatory requirements with Payment Schemes, You must insert and keep at all time available the below processor statement in the agreement between You and Managed Users for which we act as a merchant of record. You will indemnify us, and hold us completely harmless from any failure to do so, from any failure to acquire the consent of your customers to be charged for a transaction and from any breach of the Payment Schemes:

*"[Our] monetization partner Cleeng B.V. ("Cleeng") handles the management of access to content and/or subscriptions and payment and billing on our behalf. For this purpose, Cleeng will act as the merchant of record on our request. The services of Cleeng are subject to the terms and conditions of Cleeng, which are hereby incorporated, please refer to <https://cleeng.com/cleeng-user-agreement>."*

## 4. Fund collection and reimbursement

a. Except if specifically agreed otherwise, we will collect the funds for purchases of Customer Content from Managed Users on your behalf ("**Funds Collected**"). Depending on your preferences, Funds Collected will be accumulated in the selected currency (e.g., Euros, US Dollars, etc.). You understand that this may continue after the termination of the Agreement and you are responsible for migration of Managed Users to another service provider or another method of payment. Until you have done so, the terms of the Agreement will continue to apply to these transactions.

b. If Customer Content purchases are made by Managed Users in a different currency as set up in your Cleeng Application, such Funds Collected will be automatically converted into your preferred currency. The conversion price shall be calculated using the daily exchange rates of the European Central Bank and any direct banking costs or financial fees that we receive.

c. We will - if Funds Collected have been received in a given calendar month - send you a monthly electronic invoice containing the Funds Collected received on your behalf

during a calendar month. Such details are available via the Cleeng Application. The invoice shall include the amount of Funds Collected, the amount of transactions successfully completed, the amount of Refunds and Chargeback received, and applicable levies or taxes on Cleeng services.

d. If you do not dispute the electronic invoice before the 10th of each month, we will make payment to you before or on the 15th, provided you have correctly provided your bank transfer details. Payment shall be made by means of bank transfer to the bank account indicated by you or via PayPal if possible. Payment shall be made in Euro or US dollar or British Pound depending on your Cleeng Application preferences. Note, Cleeng will cover the bank transfer fees, yet certain banks may charge extra fees that Cleeng cannot be held liable for.

e. We shall not make payment if the sum to be paid is less than 100 Euros (or \$100, or its equivalent in publisher currency). To cover for claims of abuse, financial risks and ongoing transactions, we shall keep a deposit equivalent of 5% of the average monthly accumulated fees and in no event less than 50 Euros (or \$50, or its equivalent in publisher currency). Deposit amounts may be adjusted automatically at any time would the risk profile of your account reasonably justifies so. For example, if one or more previous deposits have proved insufficient, and/or if the amount of claims is significantly higher than what is usual in respect of comparable clients, and/or if there is a financial risk linked to the Customer Content, and/or if a third party payment processor increases our deposit, such a reasonable justification is present. If this would happen, and upon your request, we will provide you with the information, estimations and assumptions used to establish the then current deposit level.

f. Subject to timely payment of Funds Collected, you are not entitled to interest accrued over the Funds Collected we have collected on your behalf.

g. If we have agreed that we do not collect fees on your behalf, our responsibility regarding fee collection is limited to providing compatibility with the standard API's of providers of payment processing and fee collection services. We do not warrant the Services are or will remain compatible for use with all providers of payment processing and fee collection services.

h. You have sole and exclusive responsibility to determine what, if any, taxes apply to the sale of your goods and services and/or the payments you receive in connection therewith. On your behalf and on your risk and account, we apply the following regime:

- if you are selling in the European Union, by law, VAT is calculated based on the location of the Managed User (customer purchasing your content). Cleeng adheres to the VAT OSS scheme, and will collect and remit to the relevant authorities this VAT on your behalf based on the location of the Managed User;
- if you are selling in the United Kingdom and/or Switzerland, and/or United Arab

Emirates VAT is calculated based on the location of the Managed User (customer purchasing your content). Cleeng will collect and remit the applicable VAT to the relevant authorities on your behalf based on the location of the Managed User.

- if you are selling in the United States, we will apply sales tax as per the recommended calculations provided by our partner Avalara based on the location of the Managed User.

We will collect and remit tax per applicable state.

- if you are selling outside the US, the United Kingdom, Switzerland, United Arab Emirates and the European Union, you are responsible for setting up the right tax rate as part of your price and remit to authorities.

i. Whilst we are responsible for the performance of the obligations set out in 4h) we do not warrant that the application of any regime set out in 4h) enables you to comply with any applicable (sales) tax regime or any other fiscal obligation imposed on you in any jurisdiction. You are solely responsible for appropriate remittance of taxes and/or payment of any and all taxes due to the proper tax authority.

j. Ultimately, it is solely your responsibility to assess, collect, report, or remit the correct tax to the proper tax authority for your business.

## **5. Management of Refunds and Chargebacks**

a. Managed Users are able to file Refund requests regarding Customer Content. Such Refund requests can be based on various circumstances such as the quality of Customer Content, availability of Customer Content, misleading descriptions of Customer Content etc.

b. You can access the refund request regarding your Customer Content in the Cleeng Application.

c. Within your dashboard, You have the opportunity to manage Refunds. You can do so within 72 hours of the initial Refund request. You acknowledge that Refund escalations with an End-User may result in a Chargeback. If you do not answer within that time, based on the conditions described in our standard [Refund Policy](#), we shall determine whether or not a Refund request should be considered valid or invalid. If we are of the reasonable opinion that a valid Refund request was issued, the price paid by the Managed User shall be reimbursed and deducted from the Collected Funds we owe you based on purchased Customer Content or otherwise.

d. By law, Users could be able to file a Chargeback through their bank, financial institution or PayPal. We may decide to defend to the best of your interest the received Chargeback, and provide evidences to financial institution about the legitimacy of the User purchase. If the defense is successful, the Collected Funds will be available to you, and no additional fee will apply.

e. You acknowledge that we do not have any control over a Chargeback request, nor the defense approval or refusal from the financial institutions. We cannot be held financially or operationally responsible for Chargebacks. If the Chargeback is granted to the Managed User, the price paid will be deducted from your Collected Funds. Would the deposit amount not be sufficient to cover your Chargeback, you are obliged to pay us the difference upon first request.

f. If the Managed Users is entitled to a Refund of their purchase, or if the Chargeback is successfully granted, we will – notwithstanding any other rights - retain a fixed 1 Euro fee (or \$1, or its equivalent in publisher currency) for processing such a refund or 8 Euro fee (or \$8, or its equivalent in publisher currency) for the management of a Chargeback. The Managed Users will receive back the entire amount of the payment (including our fees), and we will debit you for the amount of the Refund/Chargeback plus the fixed fee above for processing the Refund or Chargeback.

g. In case you experience excessive Refunds and Chargeback, outside Cleeng's responsibility, being:

- 5% or more of your Managed Users files a Refund; or
- 1% or more of your Managed Users files a Chargeback,

Cleeng – notwithstanding any other rights - reserves the right to charge an additional fee of 20 Euro fee (or \$20) per User request received.

## **6. Managing Users' purchases**

a. When choosing for the Merchant module, we will by default provide end-user care services (Hi5 Module), charged separately. We shall handle Managed Users purchases of Customer Content with care and according to the instructions provided by you. You understand that you are responsible for the management of the settings and preferences for purchases using the Cleeng Application.

b. For specific payment methods chosen by the Managed Users, for example PayPal or iDeal, we may automatically add transaction fees to the purchase, based on the actual cost paid to payment providers.

c. Together with the Processors, we are at all times compliant with applicable Payment Card Industry Data Security Standards ("PCI-DSS") and the Payment Application Data Security Standards ("PA-DSS"). You assume full responsibility for the security of data on your website or otherwise in your possession or control. You agree to comply with all applicable laws and rules in connection with your collection, security and dissemination of any personal, financial, payment, or transaction information.

## 7. Content

a. We believe in quality content. We would like to provide you and your Managed Users with a service that cannot be deemed, or associated with, offensive or improper behaviour and content. This is of value to you, us and the Managed Users.

b. You are solely responsible for all Customer Content. You represent and warrant that you are fully entitled to distribute and make public Customer Content. You shall obtain at your own expense any rights and consents from third parties necessary for the publication and distribution of Customer Content. You agree to indemnify us and hold us harmless from all third party claims related to Customer Content. You are responsible for the correct and timely payment of all taxes and levies applicable to the distribution and publication of Customer Content.

c. You are not allowed to use our Merchant Services in connection with content which may reasonably be considered - in our reasonable discretion - defamatory, discriminating, promoting bigotry, hatred or harm, pornographic, infringing, unnecessary aggrieving, which otherwise violates applicable laws, ordinances or regulations or is otherwise unfit for association with Cleeng.

c. Also, payment Processor prohibit the use of their services for Gambling, Virtual Game or Credits, Multi-level marketing, unauthorized goods, investments or money services. Use of our Services in this respect is prohibited and may result in an immediate termination of the Services.

## 8. Data

a. Cleeng operates as a data controller in respect of the Merchant Module Services. The privacy policy applicable to the Merchant Module Services is available via [\[link\]](#).

## 9. User terms

a. You warrant that you shall incorporate the User Terms available via [\[link\]](#) in the terms applicable to the receipt of Customer Content and that your Managed Users are legally bound to and adhere to these User Terms. You shall indemnify Cleeng and shall hold Cleeng completely harmless from and against any claims based on or resulting from a breach of this clause by you.

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