

# ShopHero Marketing Program Terms and Conditions

Last Updated 6/5/24

These Terms and Conditions (“**Terms and Conditions**”) apply to the ShopHero Marketing Services Program (the “**Services**”) provided by **ShopHero, INC.** or any of its subsidiaries and affiliates (“**ShopHero**”) for a supplier of ShopHero (“**Supplier**”) to market Supplier’s products (“**Products**”) sold by ShopHero to ShopHero’s customers.

1. **PREREQUISITE PACKAGE PURCHASES.** Some packages are subject to prerequisite package purchases. For more information regarding prerequisite purchase requirements, submit questions to [marketing@shophero.com](mailto:marketing@shophero.com).
2. **TERM & TERMINATION.** The term shall begin at any time in which Supplier is accepted by ShopHero by written confirmation and shall continue for the term or time period as provided in the package purchased. Either Party may terminate the relationship at any time with or without cause, with such termination to be effective upon satisfaction of all payment to ShopHero for all Services performed up to and through the termination date.
3. **PAYMENT.** ShopHero shall invoice Supplier for the Services and Supplier shall pay the invoice upon receipt. Alternatively, ShopHero may set off amounts owed to Supplier for purchase of Products by amounts owed by Supplier to ShopHero for the Services.
4. **LICENSE & SUBMISSIONS.** To perform the Services, Supplier hereby grants ShopHero a worldwide, royalty-free, non-exclusive, and perpetual license to use Supplier’s trademarks, data, images and other business intellectual property (collectively “Marketing Submissions”) to advertise, promote, market,

demonstrate and offer to sell and sell the Products. Such license includes the consent to modify such submissions as necessary and recommended by the ShopHero marketing team in collaboration with Supplier. This license will continue in perpetuity, unless either party terminates it by giving the other party thirty days' prior written notice. Supplier will retain all intellectual property rights Supplier may have in Marketing Submissions. Subject to those rights, ShopHero will be the exclusive owner of any permitted modifications that it may create.

5. **ACCEPTABLE USE.** Supplier agrees not to use the Services or the Sites for any unlawful purpose, any purpose prohibited under these Terms and Conditions, or in any way that could damage our Sites, products, services, or ShopHero's general business and reputation.

6. **SUPPLIER REPRESENTATIONS AND WARRANTIES.** Supplier represents and warrants that: (i) Supplier has all sufficient rights and permissions to participate in the Services and to grant to ShopHero the right to use and license the Marketing Submissions, and (ii) Supplier compliance with these Terms and Conditions will not conflict with any of Supplier existing agreements or arrangements.

7. **INDEMNIFICATION.** Supplier agrees to defend and indemnify ShopHero and hold us harmless against any and all legal claims and demands, including reasonable attorney's fees, which may arise from or relate to (i) alleged intellectual property infringement claims related to the Marketing Submissions, (ii) Supplier's use or misuse of the Services, (iii) Supplier's breach of these Terms and Conditions, or (iv) injury to persons or property to the extent caused by Supplier's misconduct or negligence.

8. **LIMITATION ON LIABILITY.** To the fullest extent permitted by law, ShopHero shall not be liable for any damages that may occur to Supplier resulting from the Services. ShopHero expressly disclaims any and all express or implied warranties of any kind, including, but not limited to the implied warranty of fitness for a particular purpose and the implied warranty of merchantability. Under no circumstances shall ShopHero be liable for Supplier lost profits or revenues, data loss, consequential or punitive damages, negligence, strict liability, fraud, or torts of any kind. ShopHero's maximum liability hereunder shall not exceed \$100.

9. **GOVERNING LAW; JURISDICTION.** This Agreement shall be governed by and construed in accordance with the laws of the United States and the State of Illinois. Any dispute arising under or related in any way to this Agreement shall be adjudicated exclusively in the state courts located in Sangamon County, Illinois. Is this what we normally do?

10. **RELATIONSHIP OF THE PARTIES.** Nothing contained within these Terms and Conditions shall be construed to form any exclusive relationship, partnership, joint venture, agency, franchise, or employment relationship.

11. **ELECTRONIC ACCEPTANCE.** These Terms and Conditions are an electronic contract that sets out the legally binding terms of the Services on Supplier and Dot. Supplier indicates acceptance of these Terms and Conditions by its use of the Services. This action creates an electronic signature that has the same legal force and effect as a handwritten signature.

12. **MODIFICATIONS TO THESE TERMS.** ShopHero may modify these Terms and Conditions at any time by posting a revised version on ShopHero's website (the "Sites"). The modified terms will become effective upon posting. By using the Services after the effective date of any modifications to these Terms, Supplier agrees to be bound by the modified terms. It is Supplier's responsibility to check our Sites regularly for modifications to these Terms and Conditions. ShopHero last modified these Terms and Conditions on the date listed at the beginning of these Terms and Conditions.

13. **ENTIRE AGREEMENT.** These Terms and Conditions are the entire agreement between Supplier and ShopHero regarding the subject matter of these Terms. These Terms and Conditions supersede all prior or contemporaneous representations, understandings, agreements, or communications between you and us, whether written or verbal, regarding the subject matter of these Terms and Conditions. We will not be bound by, and specifically object to, any term, condition, or other provision that is different from or in addition to the provisions of these Terms and Conditions (whether or not it would materially alter these Terms and Conditions).