

# Terms of Use

Last Modified 07.26



## Terms of Use

Last modified July 2026

These Terms of Use ("Terms") are entered into by and between you and Clair Inc. and its subsidiary Maverick Payments Inc. d/b/a Clair (together with Clair Inc., "Company," "We," or "Clair"). These Terms govern your access to and use of the [www.getclair.com](http://www.getclair.com) website (the "Site") and any related web or mobile application experience offered by Clair (together with the Site, the "Applications"), as well as any content, functionality, products and services offered by or through the Applications (the "Services").

Please read these Terms carefully before you use the Applications or Services. These Terms form a legally binding agreement between Clair and you regarding your use of the Applications or Service. "You" and "your" refer to any person who accesses or uses the Applications or Service.

**ARBITRATION NOTICE.** Except for certain kinds of disputes described in Section 12, you agree that disputes arising under these Terms will be resolved by binding, individual arbitration, and BY ACCEPTING THESE TERMS, YOU AND CLAIR ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN ANY CLASS ACTION OR REPRESENTATIVE PROCEEDING. YOU AGREE TO GIVE UP YOUR RIGHT TO GO TO COURT to assert or defend your rights under this contract (except for matters that may be taken to small claims court). Your rights will be determined by a NEUTRAL ARBITRATOR and NOT a judge or jury. See Section 12 for additional details.

**Modification Notice.** We may revise and update these Terms from time to time in our sole discretion by posting revised terms on the Site, by providing notice by email or through the Applications, or by another reasonable method. All changes are effective immediately when we post them (but are not retroactive). Your continued use of the Applications or Service after Clair has posted the revised Terms constitutes your acceptance of the revised Terms changes. If you do not agree to a material change, you may close your account and stop using the Applications and Services without penalty, subject to any obligations that accrued before closure. We will exercise any modification right in good faith and in a commercially reasonable manner.

By clicking any button indicating acceptance (e.g., an "I Accept") or accessing, browsing, or using any of the Applications or Services, you represent that you are 18 years of age or older and that you have read and agree to be bound by these Terms in their entirety and all applicable laws, rules, and regulations governing its use. If you do not wish to agree to these Terms, you must not access the Applications or Services. Your use of the Applications or Services, and Clair's provisions of the Services to you, constitutes an agreement by Clair and by you to be bound by these Terms.

# Terms of Use

Last Modified 07.26



## 1. Content and Availability

We reserve the right to withdraw or amend any Services or the Applications, in our sole discretion without notice. We will not be liable if for any reason all or any part of the Applications or Services is not available at any time or for any period. From time to time, we may restrict access to some parts of the Applications or Services, or the entire Applications or Services, to users and customers.

To access the Applications or Services, you may be required to provide certain information. It is a condition of your use of the Applications or Services that all the information you provide is correct, current, and complete. You agree that all information you provide to register with Clair through the Applications is subject to our Privacy Policy and you consent to all actions we take with respect to your information consistent with the Privacy Policy. You understand that Clair may access your shift, pay and other workplace related data for the purposes set forth in Clair's Privacy Policy.

## 2. Licenses and Ownership

**(a) Licenses and Ownership.** Subject to your complete and ongoing compliance with these Terms, Clair grants a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to access and use the Applications or Services, solely for your personal, non-commercial use. Except and solely to the extent such a restriction is impermissible under applicable law, you may not: (i) reproduce, distribute, publicly display, or publicly perform the Services; (ii) make modifications to the Applications or Services; or (iii) interfere with or circumvent any feature of the Applications or Services, including any security or access control mechanism. If you are prohibited under applicable law from using the Applications or Services, you may not use it. Except for the limited license granted in these Terms, Clair retains all right, title, and interest, including all intellectual property rights, in and to the Applications or Services. The Applications and Services constitute Clair's valuable trade secrets. Accordingly, any unauthorized use or disclosure of information related to the Applications or Services would cause Clair irreparable harm. The license granted pursuant to these Terms is not a sale and does not transfer to you title or ownership of the Applications or Services. ALL RIGHTS NOT EXPRESSLY GRANTED UNDER THESE TERMS ARE RESERVED BY CLAIR.

**(b) Clair Intellectual Property.** The Applications and Services, including all information, software, text, displays, images, video, and audio, and the design, selection, and arrangement thereof (collectively, "Materials"), is owned by Clair, its licensors, or other providers of such material and may be protected by United States and international copyright, trademark, patent, trade secret, and other intellectual property or proprietary rights laws. Except as expressly authorized by Clair, you may not make use of the Materials. No right, title, or interest in or to the Application or Services or any content thereon is

# Terms of Use

Last Modified 07.26



transferred to you. Any use of the Application or Services not expressly permitted by these Terms is a breach of these Terms.

**(c) Feedback.** If you choose to provide input or suggestions regarding the Applications and Services, including but not limited to testimonials or proposed modifications or improvements to the Applications or Services ("Feedback"), then you grant Clair a perpetual, irrevocable, non-exclusive, worldwide, royalty-free, fully paid-up, fully sublicensable, and transferable right to use and incorporate Feedback into any products and services, to make, use, sell, offer for sale, import, and otherwise exploit such products and services, and to otherwise use, copy, distribute, and exploit the Feedback without restriction, including for Clair's own marketing purposes.

## 3. Communications

**(a) Overview.** Your acceptance of the [E-SIGN Disclosure and Agreement](#) is required to create an account using the Applications. By accepting these Terms, you expressly consent to be contacted by us or our affiliates at any telephone number, e-mail address, mailing address, or physical or electronic address you provide or at which you may be reached in accordance with these Terms. You agree that we, our affiliates, agents, or service providers may contact you in any way, including by e-mail, SMS messages (including text messages, subject to these Terms), calls using pre-recorded messages or artificial voice, and calls and messages delivered using automatic telephone dialing systems (auto-dialer) or an automatic texting system at any phone number you have provided to us, including any mobile phone number, as well as any address in our records or in public or nonpublic databases. Automated messages may be played when the telephone is answered whether by you or someone else. In the event that an agent or representative of ours calls you, he or she may also leave messages on your answering machine, voice mail, or send messages via text. You can revoke your consent at any time by contacting us at [support@getclair.com](mailto:support@getclair.com). You certify, warrant, and represent that the telephone numbers that you have provided to us are your contact numbers. You represent that you are permitted to receive calls at each of the telephone numbers you have provided to us. You agree to promptly alert us whenever you stop using a particular telephone number. You are responsible for any and all charges imposed by your communications service provider. You agree that we and our agents, representatives, affiliates or anyone calling on our behalf may contact you on a recorded or monitored line and that any incoming calls may also be recorded and monitored. For loan products, you expressly agree that the original lender, Pathward NA, any assignee or future holder or servicer of your account, and any of their affiliates, agents, or service providers may contact you using SMS text messages, pre-recorded messages, artificial voice/artificial intelligence-generated voice communications, and calls and messages delivered using automatic telephone dialing systems or an automatic texting system. You agree that these entities may contact you at any phone number you have provided to us, including any mobile phone number, as well as any phone number you may provide to any of these entities in the future. You represent that you are

# Terms of Use

Last Modified 07.26



permitted to receive calls at any telephone number you provide, and agree to promptly notify these entities if you stop using a particular telephone number.

**(b) SMS Terms of Service.** Clair may send SMS messages pertaining to the Services, your application status, products, and any promotions. You understand that you are not required to provide consent to marketing SMS messages as a condition to accessing the Service. YOU CAN CANCEL THE SMS SERVICE AT ANY TIME. JUST TEXT "STOP" or "UNSUBSCRIBE" OR "QUIT" OR "END" TO THE SHORT CODE FROM WHICH THE MESSAGE IS RECEIVED. After you send the SMS message "STOP" to us, we will send you an SMS message to confirm that you have been unsubscribed. After this, you will no longer receive SMS messages from us. If you want to join again, you may reach out to [support@getclair.com](mailto:support@getclair.com), and we will start sending SMS messages to you again. If you are experiencing issues with the messaging program you can reply "HELP" via text or get help directly at [support@getclair.com](mailto:support@getclair.com) or by calling 888-442-5247. Carriers are not liable for delayed or undelivered messages. As always, message and data rates may apply for any messages sent to you from us and to us from you. You are responsible for any and all such charges, including fees associated with text messaging, imposed by your communications service provider. Message frequency may vary. If you have any questions about your text plan or data plan, it is best to contact your wireless provider. See our Privacy Policy for more information on how we treat your data.

**(c) Email.** We may send you emails concerning the Services and our other products and services, as well as those of third parties. You may opt out of promotional emails by following the unsubscribe instructions in the promotional email itself.

**(d) Digital Services and Communications.** Clair offers an interactive online chat service ("Chat") to enhance your experience. This service may involve interactions with a bot, chatbot, virtual assistant, or other AI-based tools (each, a "Chatbot"). These Chatbots assist with inquiries, provide information, and offer recommendations. While we strive for accuracy, certain complex issues may require human intervention.

Please note that the Chat service is provided for your convenience and may not be available at all times or be free from errors. Chats are monitored and retained, and any personal information shared will be subject to our Privacy Policies in compliance with applicable law. The use of the Chat service does not constitute consent for the use of electronic records and signatures as a substitute for written documents.

Users under the age of 13 are not permitted to use the Chat service and must leave the site if invited. Additionally, you agree not to use the Chat service to send any abusive, defamatory, dishonest, or obscene messages, which may result in the termination of your Chat session.

# Terms of Use

Last Modified 07.26



We are committed to transparency and will disclose the use of Chatbots as required by applicable law. By using the Chat service, you acknowledge and accept these terms and our efforts to ensure your privacy and security in compliance with relevant regulations.

Please do not submit sensitive personal identifiers or information such as Social Security numbers, financial account information, or any other confidential data through the Chat service.

## 4. Using Your Account

**(a) Account Access.** To access most features of the Services, you must apply for an account ("Account"). When applying for your Account on the Services, you may be required to provide us with some information about yourself, such as your email address, home address, a valid, government-issued photo ID, and other contact information. You agree that: (a) the information you provide to us is accurate and that you will keep it accurate and up to date at all times; (b) you are solely responsible for maintaining the confidentiality of your Account and for restricting access to it; and (c) you accept responsibility for all activities that occur in your Account or under your access credentials. When you register, you may also be asked to provide a password. You acknowledge and agree that Clair is not responsible for any third-party access to your Account that results from theft or misappropriation of your Account. You agree to immediately notify us at [support@getclair.com](mailto:support@getclair.com) of any unauthorized use of your access credentials or otherwise of your Account or any other known or suspected breach of security. We will not be liable for any loss or damage arising from your failure to comply with this section.

**(b) Credit Services.** After submitting information to us and creating an Account, you may be able to request a loan offer from our bank partner, Pathward N.A. Creating your Account is not an application for credit. To be eligible to submit an application for credit, you understand that you must meet certain basic eligibility criteria, which include, but are not limited to, requirements that you: (i) create and maintain your Account in good standing; (ii) satisfactorily complete all KYC and fraud checks; (iii) reside in a state where our bank partner's credit product is available; and (iv) successfully connect verifiable employment, direct deposit, and bank information that is required for our bank partner's consideration of a request for credit. Loan offers are made to eligible individuals who submit an application for credit and satisfy our bank partner's credit policy.

**(c) Prohibited Uses.** You may use the Applications or Services only for lawful purposes and in accordance with these Terms. You agree not to:

- Use the Applications or Services in any way that violates any applicable federal, state, local, or international law or regulation.

# Terms of Use

Last Modified 07.26



- Engage in any conduct that restricts or inhibits anyone's use or enjoyment of the Applications or Services, or which, as determined by us, may harm Clair or users of the Applications or Services or expose them to liability.
- Cause the Applications or Services or portions of it to be displayed on, or appear to be displayed by, any other website or mobile app, for example, framing, deep-linking, or in-line linking.
- Otherwise take any action with respect to the materials on the Applications or Services that is inconsistent with any other provision of these Terms.
- Impersonate or attempt to impersonate the Company, a Clair employee, another user or customer, or any other person or entity (including, without limitation, by using email addresses associated with any of the foregoing).

**(d) Certain Third-Party Providers.** As part of your relationship with us, and to provide you with the services or products you requested, you acknowledge and agree that:

- We may use Method Financial ("Method"), a third party service, to validate your identity and prevent fraud. You authorize your wireless carrier to use or disclose information about you and your wireless device, if available, to Method or its service provider for the duration of your business relationship, solely to help them identify you or your wireless device and to prevent fraud. See Method's Privacy Policy for how they treat your data;
- You authorize Method to obtain a consumer report and information about you from one or more consumer reporting agencies ("credit pull"). You understand the credit pull is a soft inquiry that will not impact your credit score. Method will use this information solely in connection with identifying and obtaining data on your liability/debt accounts such as account number, type, balance, interest rate, payoff information, late fees, payment history, etc. ("Account Data");
- You authorize and direct Method to act on your behalf to access and obtain the Account Data from your financial institutions, lenders, creditors, and service providers, or any of their third parties, and you consent to Method sharing the Account Data with us. Your authorization, direction, and consent remains effective for the duration of your business relationship with us, solely for the purpose of providing you with services or products that you may request from us from time to time;

You acknowledge and agree to Method's Privacy Policy (<https://methodfi.com/legal/privacy>) and Terms of Service (<https://methodfi.com/legal/terms>)

## 5. Reliance on Information Posted

The information presented on or through the Applications or Services is made available solely for general information purposes. We do not warrant the accuracy, completeness, or usefulness of this information. Any reliance you place on such information is strictly at your own risk. We disclaim all liability and responsibility arising from any reliance placed on such materials by you or any other visitor to the Applications or Services, or by anyone who may be informed of any of its contents.

# Terms of Use

Last Modified 07.26



## 6. Links from the Services

If the Applications or Services contain links to other sites and resources provided by third parties, these links are provided for your convenience only. This includes links contained in advertisements, including banner advertisements and sponsored links. We have no control over the contents of those sites or resources and accept no responsibility for them or for any loss or damage that may arise from your use of them. If you decide to access any of the third-party sites linked to this Applications, you do so entirely at your own risk and subject to the terms and conditions of use for such sites.

## 7. Disclaimer of Warranties

YOUR USE OF THE APPLICATIONS OR SERVICES IS AT YOUR OWN RISK AND THE CONTENT AND ANY SERVICES OR ITEMS OBTAINED USING THE APPLICATIONS OR SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER CLAIR NOR ANY PERSON ASSOCIATED WITH CLAIR MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY, OR AVAILABILITY OF THE SERVICES. WITHOUT LIMITING THE FOREGOING, NEITHER CLAIR NOR ANYONE ASSOCIATED WITH CLAIR REPRESENTS OR WARRANTS THAT THE SERVICES, THE CONTENT, OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE SERVICES WILL BE ACCURATE, RELIABLE, ERROR-FREE, OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT OUR SERVICES OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT THE SERVICES OR ITEMS OBTAINED THROUGH THE SERVICES WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.

TO THE FULLEST EXTENT PROVIDED BY LAW, CLAIR HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR PARTICULAR PURPOSE. THE FOREGOING DOES NOT AFFECT ANY WARRANTIES THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW. TO THE FULLEST EXTENT PROVIDED BY LAW, WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES, OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECTION YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA, OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF OUR SERVICES OR ITEMS OBTAINED THROUGH OUR SERVICES TO YOUR DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY WEBSITE LINKED TO IT.

## 8. Limitation on Liability

TO THE FULLEST EXTENT PROVIDED BY LAW, IN NO EVENT WILL CLAIR, ITS AFFILIATES, OR THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS, OR DIRECTORS BE LIABLE FOR

# Terms of Use

Last Modified 07.26



DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE THE APPLICATIONS OR SERVICES, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT, OR OTHERWISE, EVEN IF FORESEEABLE.

THE FOREGOING DOES NOT AFFECT ANY LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

## 9. Indemnification

You agree to defend, indemnify, and hold harmless Clair, its affiliates, subsidiaries, licensors, and service providers, and its and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors, and assigns from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses, or fees (including reasonable attorneys' fees) arising out of or relating to your violation of these Terms.

## 10. Waiver and Severability

No waiver by Clair of any term or condition set out in these Terms shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of Clair to assert a right or provision under these Terms shall not constitute a waiver of such right or provision.

If any provision of these Terms is held by a court or other tribunal of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of the Terms will continue in full force and effect.

## 11. Governing Law and Jurisdiction

All matters relating to these Terms, and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction).



# Terms of Use

Last Modified 07.26



## 12. DISPUTE RESOLUTION (ARBITRATION/CLASS ACTION WAIVER)

### (a) Notice of a Claim

Maintaining healthy relationships with our customers is very important to us. If you have a problem with your account or a service we provide, please let us know as soon as you can. Giving us a call helps to resolve the matter quickly and efficiently. However, if the matter is not resolved informally, before starting a lawsuit or arbitration, the party electing to commence a proceeding must give the other party written notice of the Claim as defined in Section (b)(ii) below (a "Claim Notice").

The Claim Notice must include: (1) the name, telephone number, mailing address, and email address of the party asserting the Claim; (2) the account number at issue; (3) reasonable detail of the Claim, including supporting facts; (4) the remedy sought and a good-faith calculation of the amount in controversy, expressed in United States Dollars; and (5) the original signature of the party making a Claim. You must send the notice in writing to Clair Inc., 228 Park Ave S, PMB 31693 New York, NY 10003, Attn: Legal - Arbitration Election. If we intend to make a Claim, we'll notify you in writing at the most recent address we have for you in our files. A notice or letter stating that any amount you owe us is past due will serve as a Claim Notice.

The Parties (you and us) must try to resolve the Claim on an individual basis and without filing an arbitration or lawsuit for at least 60 days after the Claim Notice is provided (the "Pre-Filing Period"). During the Pre-Filing Period, either party may require that the parties participate personally in a meeting (a "Meet-and-Confer"), which may occur in person, by video conference, or by conference call, to attempt in good faith to resolve the Claim. The Meet-and-Confer is limited to Claims between you and us. If you are represented by counsel, your counsel may also participate in the Meet-and-Confer. We may participate through any of our representatives. A party may not start an arbitration or lawsuit unless and until it complies in full with this requirement. This paragraph shall not apply to Claims that are asserted only as counterclaims in arbitration. The statute of limitations for any Claim will be tolled for 90 days following service of a proper Claim Notice. Any subsequent arbitration shall be governed by the terms of the Arbitration Agreement set forth in Section (b) below.

### (b) ARBITRATION AGREEMENT WITH CLASS ACTION AND JURY TRIAL WAIVER

PLEASE READ THIS PROVISION OF THE AGREEMENT CAREFULLY AS IT WILL HAVE A SUBSTANTIAL EFFECT ON YOUR RIGHTS IN THE EVENT OF A DISPUTE, UNLESS YOU PROMPTLY REJECT IT AS PROVIDED IN SECTION (b)(xiii) BELOW.

IF THE SCOPE OF THIS AGREEMENT IS LIMITED BY LAW, THE SCOPE OF THIS AGREEMENT SHALL APPLY TO THE BROADEST SCOPE PERMITTED BY SUCH LAW.

# Terms of Use

Last Modified 07.26



For purposes of this Arbitration Agreement and Class Action and Jury Trial Waiver ("Arbitration Agreement"), the terms "we," "us" and "our" mean Clair, Inc. on behalf of its affiliates, successors, assigns, officers, directors and employees, and/or any other holder or person or entity named as a co-defendant in a Claim made by you related to this Agreement or any interest in or receivable arising under your account.

## **(i) Agreement to Arbitrate Disputes**

If a Claim has not been resolved during the "Claim Notice" process described in Section (a) above, either you, we, or any beneficiary of this Arbitration Agreement may elect to arbitrate the Claim pursuant to this Arbitration Agreement, unless you have opted out of the Arbitration Agreement pursuant to Section (b)(xiii) below.

## **(ii) Claim**

A "Claim" under this section is any unresolved claim, dispute, or controversy between you and us whether past, present or future, arising out of or related to this Agreement, your account, products or services governed by this Agreement or the relationships resulting from this Agreement or your account. "Claim" has the broadest possible meaning and includes initial claims, counterclaims, cross-claims, and third-party claims whether based upon contract; tort; fraud; a constitution, statute, regulation, ordinance, common law, and/or equity (including any claim for injunctive or declaratory relief); or otherwise. Notwithstanding the foregoing, Claim does not include any individual actions brought by you or us in small claims court (or your state's equivalent court, if any). If the aforementioned individual action is transferred, removed, or appealed to a different court, it will be eligible for arbitration at either party's request. The bringing and/or maintenance of any such action shall not be a waiver of rights of any party to compel arbitration of any other Claim subject to this Arbitration Agreement. Subject to the preceding limitations, a "Claim" includes disputes concerning the validity or enforceability of this Arbitration Agreement.

## **(iii) Commencing Arbitration**

If the parties do not reach agreement to resolve the Claim within 60 days after a Claim Notice is sent, the complaining party may initiate arbitration by submitting a demand for arbitration to the Arbitration Administrator at the address listed in Section (iv) below, subject to the terms of this Arbitration Agreement and the arbitration company's rules. If one party files or threatens a lawsuit, or files a counterclaim or motion to convert an individual action to a class action in an existing lawsuit, the other party may demand arbitration, including in a motion to compel arbitration. If the motion to compel arbitration is granted, the party prosecuting the Claim will be responsible for commencing

# Terms of Use

Last Modified 07.26



arbitration pursuant to the terms of this Arbitration Agreement and the arbitration administrator's rules. If either party fails to submit to binding arbitration following a lawful demand, the party who fails to submit will bear all costs and expenses incurred by the party compelling arbitration. The Parties agree that counsel initiating an arbitration shall certify that each demand for arbitration complies with the requirements of Federal Rule of Civil Procedure 11(b) and that the party has complied with the "Notice of a Claim" requirements of Section (a) above.

You can participate in arbitration without representation. However, if you choose to be represented, you may only be represented by a licensed attorney.

## **(iv) Governing Law and Arbitration Administrator**

This Arbitration Agreement is governed by the Federal Arbitration Act ("FAA"), and not by any state arbitration law. Arbitration shall be administered by the American Arbitration Association ("AAA"), 120 Broadway, Floor 21, New York, NY 10271 ((800) 778-7879), [www.adr.org](http://www.adr.org), under its rules that apply to consumer disputes. Moreover, in the event of a mass arbitration, the parties expressly agree that the AAA's Mass Arbitration Supplementary Rules shall apply. You can obtain a copy of the AAA's rules by visiting its website or calling it. The rules of this Arbitration Agreement will govern if there is any contradiction with the AAA procedures. A single arbitrator will be appointed. If the AAA is unavailable, and you and we can't agree on a replacement, then you or we may ask a court with jurisdiction to select the substitute arbitration administrator. All arbitrators must be practicing attorneys or retired judges and experienced and knowledgeable in the substantive laws applicable to the Claim.

Arbitration includes limited discovery compared to Court.

## **(v) Fees and Costs**

If you can't obtain a waiver of the AAA's or arbitrator's filing, administrative, hearing, and/or other fees, the AAA will decide each party's share of arbitration fees and costs for arbitration based on the law and its rules. Each party will bear the expense of its own attorneys, experts, and witnesses, regardless of which party prevails unless the arbitrator decides, based on applicable law, the rules of the AAA, or this Agreement, that the prevailing party has a right to recover any of those fees or costs from the other party.

## **(vi) Arbitration Hearings and Decisions**

Unless otherwise agreed by you and us, arbitration hearings will take place in a location that's reasonably convenient for you. The arbitrator will follow applicable substantive law, except if contradicted by the FAA; follow applicable statutes of limitations; honor valid privilege Claims; issue a

# Terms of Use

Last Modified 07.26



written decision; and, upon timely request of any party, write a brief explanation of the basis of the award. The arbitrator shall not have the power to commit errors of law or legal reasoning and the award may be vacated or corrected on appeal to a court of competent jurisdiction for any such error.

The following provisions will apply to all arbitrations between the Parties under this Agreement: (1) the provisions of Federal Rule of Civil Procedure 68 shall apply to any Claim and will be enforced by the arbitrator; (2) the arbitrator must apply state or federal substantive law applicable to the Claim(s) and may not be permitted to award any remedy that exceeds that which a court could award for the Claim(s) in an individual action; (3) a finding that a Claim or counterclaim is frivolous or intended to harass will entitle the other party to recover their attorneys' fees, costs and expenses; (4) the arbitrator may consider but shall not be bound by prior, separate arbitration decisions; and (5) failure or forbearance to enforce this Arbitration Agreement at any particular time or in connection with any particular Claims will not constitute a waiver of any rights to require arbitration at a later time or in connection with any other Claims. Either party may seek to enjoin the arbitration proceeding in a court with jurisdiction and the arbitration will be automatically stayed pending the outcome of that proceeding.

The arbitrator's award will be final and binding, except for any appeal right under the FAA. Any court with jurisdiction may enter judgment upon the arbitrator's award. Notwithstanding the above, in the event that an award involves a cost or benefit to any party for more than \$100,000 or involves injunctive relief, any party may appeal the award to a three-arbitrator panel of the Arbitration Administrator, provided the appeal is filed within 30 days of the original award. The panel may accept or reject any or all of the original award and any decision of the panel must be by majority vote. The appealing party must pay all costs unless the panel decides otherwise.

## **(vii) Confidentiality**

You and we agree to keep confidential all aspects of the arbitration, any confidential information produced in the arbitration and any arbitration award or decision. However, either party may disclose such information to the extent needed to pursue the arbitration, to appeal or confirm any award or to obtain professional services in connection with the arbitration. At either party's request, the arbitrator shall enter an order protecting confidential information, including from use in open-source artificial intelligence tools.

## **(viii) Mass Filing**

If a Claim is part of a Mass Arbitration under the AAA's Mass Arbitration Supplementary Rules, the Parties agree that they will jointly ask the AAA to apply the additional procedures in this Section (b)(viii) or substantially equivalent terms to the extent feasible. The Parties acknowledge that electing

# Terms of Use

Last Modified 07.26



to be part of a Mass Arbitration may delay the adjudication of a Claim. If Claims qualify as a Mass Arbitration, counsel for the Parties shall each select 10 Claims from each side (20 Claims total) to proceed in individual arbitrations as part of a staged process ("Stage One"). Remaining Claims shall be held in the Initiation stage. After Stage One is complete, the Parties shall promptly engage in a global mediation. If the remaining Claims are not resolved after the global mediation, counsel for each side shall each select 50 Claims (100 Claims total) to proceed in individual arbitrations ("Stage Two"). Remaining Claims shall be held in the Initiation stage. After Stage Two is complete, the Parties shall promptly engage in a second global mediation regarding the remaining Claims. If the remaining Claims are not resolved, the AAA shall administer the remaining Claims in concurrent batches of 50 Claims, with each batch assigned to one arbitrator, who shall conduct individual arbitrations. The parties agree to participate in this process in good faith and cooperate with the AAA and arbitrator(s). Consistent with these additional procedures, the parties may elect to meet and confer, enter into a "cooling off" period, and/or further mediate any or all of the remaining Claims at any time. They may also discuss potential modifications to this process to ensure efficiency and an open dialogue throughout this process.

## **(ix) Jury Trial Waiver**

YOU AND WE KNOWINGLY, VOLUNTARILY, INTENTIONALLY, AND IRREVOCABLY AGREE AND UNDERSTAND THAT YOU AND WE ARE GIVING UP THE RIGHT TO TRIAL BY JURY OF ANY LITIGATION ARISING OUT OF THE AGREEMENT, RELATED TO YOUR ACCOUNT, OR ANY OTHER DISPUTE ON CONTROVERSY BETWEEN YOU AND US.

## **(x) Public Injunctive Relief Requests**

If you or we seek public injunctive relief as a remedy for any Claim (a "Public Injunctive Relief Request") you and we agree that the Public Injunctive Relief Request cannot be arbitrated. Instead, that Public Injunctive Relief Request shall be adjudicated by a court after all other Claims to be decided in arbitration under this Arbitration Agreement are resolved in arbitration, including all causes of action pursuant to which a Public Injunctive Relief Request is made. You and we agree to jointly request that the court stay the Public Injunctive Relief Request until after the remaining Claims have been finally resolved in arbitration, and that the parties will only seek to lift the stay and request that the court resolve the Public Injunctive Relief Request if an arbitrator finds that one of them is liable for a Claim for which public injunctive relief is an available remedy. The validity, enforceability, and effect of this section shall be determined exclusively by a court, and not by any arbitration administrator or arbitrator.

## **(xi) Class Action Waiver**

# Terms of Use

Last Modified 07.26



TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOU AND WE AGREE THAT ANY CLAIM ARISING OUT OF THE AGREEMENT, RELATED TO YOUR ACCOUNT, OR ANY OTHER COVERED DISPUTE OR CONTROVERSY BETWEEN YOU AND US WILL PROCEED ON AN INDIVIDUAL BASIS AND WILL NOT PROCEED AS PART OF A CLASS, REPRESENTATIVE, OR PRIVATE ATTORNEY GENERAL ACTION IN COURT OR ARBITRATION. If a court determines that this section's limits on a particular Claim is not fully enforceable, then, only after all appeals have been unsuccessfully made, (1) that Claim will be severed from arbitration and must be brought in court and (2) this paragraph otherwise will remain in force.

## **(xii) Survival and Severability of Terms**

This Arbitration Agreement shall survive: (1) termination or changes in the Agreement, your account, or the relationship between you and us concerning your account; (2) the bankruptcy of any party; and (3) any transfer, sale or assignment of your account or this Agreement, or any interest in or any amounts owed on your account or this Agreement, to any other person or entity. If any portion of this Arbitration Agreement (except for the Class Action Waiver set forth above) is deemed invalid or unenforceable, that portion of the Arbitration Agreement shall be severed and the remaining provisions of the Arbitration Agreement shall remain in force to the fullest extent permitted by law.

## **(xiii) RIGHT TO OPT OUT**

You may opt out of this Arbitration Agreement by mailing a signed opt out notice to Clair Inc., 228 Park Ave S, PMB 31693 New York, NY 10003, Attn: Legal - Arbitration Opt Out, which is received at the noted address within sixty (60) calendar days of the later of the date you applied for your account or the date that this Arbitration Agreement is made available to you. The opt out notice must include your name, address, email address, phone number, your account number, a statement of your rejection of this Arbitration Agreement, and your signature. Rejecting arbitration won't affect your other rights or responsibilities under this Agreement nor will it constitute rejection of any prior or future arbitration agreement between you and us regarding any other product and/or service.

## **13. Limitation on Time to File Claims**

TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY NON-STATUTORY CLAIM FOR BREACH OF THESE TERMS MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CLAIM ACCRUES.

THIS SECTION DOES NOT APPLY TO CLAIMS ARISING UNDER FEDERAL OR STATE CONSUMER PROTECTION, CREDIT, CREDIT REPORTING, ELECTRONIC FUND TRANSFER, PRIVACY, UNFAIR OR DECEPTIVE ACTS OR PRACTICES, OR OTHER STATUTES THAT PROVIDE A DIFFERENT LIMITATIONS PERIOD,

# Terms of Use

Last Modified 07.26



---

PROHIBIT WAIVER OR LIMITATION OF RIGHTS OR REMEDIES, OR OTHERWISE RESTRICT CONTRACTUAL LIMITATIONS PERIODS. FOR THOSE CLAIMS, THE APPLICABLE STATUTORY LIMITATIONS PERIOD, ACCRUAL RULE, TOLLING RULE, AND REMEDY PROVISIONS GOVERN. NOTHING IN THIS SECTION LIMITS ANY RIGHT, REMEDY, DEFENSE, RECOUPMENT RIGHT, SETOFF RIGHT, OR CAUSE OF ACTION THAT CANNOT BE WAIVED OR LIMITED BY AGREEMENT.

## 14. Platform Partners and Third-Party Beneficiaries

You acknowledge that you may be accessing the Services through a third-party platform, such as your employer's human resources, payroll, or timekeeping application (each, a **"Platform Partner"**).

You acknowledge and agree that each Platform Partner is an express and intended third-party beneficiary of this Agreement. This includes, without limitation, the provisions of Section 7 (Disclaimer of Warranties), Section 8 (Limitation on Liability), and Section 12 (Arbitration). You agree that any Platform Partner shall have the right to enforce such provisions directly against you as if it were a party to these Terms.

The Applications or Services is operated by Clair. All feedback, comments, requests for technical support, and other communications relating to the Applications or Services should be directed to:

228 Park Ave S, PMB 31693

New York, NY 10003

support@getclair.com

+1 (888) 442-5247

For those in South Carolina, per The South Carolina Department of Consumer Affairs SCDCA, call: 803-734-4200; <https://consumer.sc.gov>