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13 Attorneys for Plaintiffs and the
proposed class along with other counsel

14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16 **SAN JOSE DIVISION**

18 MOISES ZEPEDA, MICHAEL SPEAR,
RONYA OSMAN, BRIAN PATTEE,
19 CASEY CHING, DENAE ZAMORA,
MICHAEL LAVANGA, and GARY
20 MILLER, on behalf of themselves and all
others similarly situated,

21 Plaintiffs,

22 vs.

23 PAYPAL, INC., a Delaware Corporation
and DOES 1 through 10, inclusive,

24 Defendants.
25

Case No. 10-cv-02500

**FIRST AMENDED CLASS ACTION
COMPLAINT**

JURY TRIAL DEMANDED

26
27 Plaintiffs, MOISES ZEPEDA, MICHAEL SPEAR, RONYA OSMAN, BRIAN
28 PATTEE, CASEY CHING, DENAE ZAMORA, MICHAEL LAVANGA, and GARY MILLER

1 (“Plaintiffs”), individually and on behalf of the Class described below, through counsel, make
2 the following allegations based upon information and belief, except as to allegations specifically
3 pertaining to Plaintiffs and their counsel, which are based on personal knowledge. Plaintiffs
4 bring this action for damages and injunctive relief against Defendant, demanding a trial by jury.

5 **NATURE OF THE ACTION**

6 1. Plaintiffs bring this class action against Defendant PAYPAL, INC. (“PayPal”) to
7 recover damages and other relief available at law and in equity on behalf of themselves as well
8 as on behalf of the members of the following classes defined herein.

9 2. PayPal operates an online payment processing service, providing individuals and
10 businesses the ability to accept payment for goods and services sold online. PayPal represents its
11 service as one that will allow its users easy access to their money.

12 3. This class action challenges PayPal’s practice of “holding” up to 180 days funds
13 in the accounts of entities and consumers that have collected payments for product and service
14 sales through the PayPal online payment system. PayPal’s holding of funds up to 180 days is a
15 breach of the contract between Plaintiffs and the Class and PayPal, it is a fraudulent act and
16 unjustly enriches PayPal since PayPal fails to refund interest earned while the users are denied
17 access to their accounts.

18 4. Money received through PayPal is to be available almost instantly, unless a
19 contractual exception applies allowing PayPal to hold the funds. None of those contractual
20 exceptions are applicable to Plaintiffs and the Class.

21 5. Class members who inquire of PayPal as to the reasons behind PayPal’s actions
22 are told PayPal will not explain its actions absent a subpoena. In other words, PayPal holds
23 money belonging to Plaintiffs and the Class and tells them they have to get a subpoena or court
24 order just to discover the reason why PayPal is denying Plaintiffs and the Class access to their
25 own money.

26 6. The amounts PayPal holds for up to 180 days (or more) before release may range
27 from a few dollars up to over a thousand dollars for each Class member. All the while, PayPal
28 keeps the interest generated by the funds owed to Plaintiffs and the Class.

1 approximately \$4,000 of Ching's funds.

2 13. Plaintiff Denae Zamora is a natural person and resident of South Carolina, who
3 has used PayPal as a seller since 2002. On or about August 1, 2008 Plaintiff received a
4 notification that PayPal was holding funds in her account for 180 days. PayPal is currently
5 holding approximately \$5,012 of Zamora's funds.

6 14. Plaintiff Michael Lavanga is a natural person and resident of New Jersey, who
7 has used PayPal as a seller since 2001. On or about August 1, 2008, Plaintiff received a
8 notification that PayPal was holding funds in his account for 180 days. PayPal is currently
9 holding approximately \$70,000 of Lavanga's funds.

10 15. Plaintiff Gary Miller is a natural person and resident of California, who has used
11 PayPal as a seller more than one thousand times since 1999. In or about July 2010 Plaintiff
12 received a notification that PayPal was holding funds in his account for 180 days. PayPal is
13 currently holding approximately \$8,300 of Miller's funds.

14 16. Plaintiffs are informed and believe and thereon allege that Defendant PayPal, Inc.
15 is a Delaware corporation doing business in the State of California. PayPal's corporate
16 headquarters are located in Santa Clara County, California.

17 17. Plaintiffs are informed and believe and thereon allege that Defendant PayPal, Inc.
18 is a Delaware corporation doing business in the State of California. PayPal's corporate
19 headquarters are located in Santa Clara County, California.

20 18. Plaintiffs do not know the true names or capacities of the persons or entities sued
21 herein as DOES 1 to 10, inclusive, and therefore sue such defendants by such fictitious names.
22 Plaintiffs are informed and believe and thereon allege that each of the DOE defendants is in
23 some manner legally responsible for the damages suffered by plaintiffs and the members of the
24 class as alleged herein. Plaintiffs will amend this complaint to set forth the true names and
25 capacities of these defendants when they have been ascertained, along with appropriate charging
26 allegations, as may be necessary.

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1 25. Typically, an online retailer will include a link to PayPal on its website. When
2 the website's customer is ready to make a purchase, the customer will click the PayPal link,
3 which will take the customer to a secure PayPal webpage. There, the customer will provide
4 PayPal payment information. Once the payment is processed, the customer is returned to the
5 online retailer's website.

6 26. PayPal is the "preferred" payment method for transactions completed on eBay.
7 eBay is the dominant online auction website, with a virtual monopoly over the online auction
8 industry. eBay has more than 90 million active users globally, making it the world's largest
9 online marketplace. In 2009, there was \$60 billion worth of goods sold on eBay, which is about
10 \$2,000 every *second*.

11 27. A PayPal user who uses the service to pay for something purchased online has
12 several payment options. According to the PayPal website "You can use your PayPal balance,
13 bank account, or a debit or credit card."

14 28. A PayPal user who uses the service to accept payment for something sold online
15 also has options on how to receive payment. According to the PayPal website, when selling on
16 eBay, "[m]oney from your eBay sales appears in your PayPal account after the item sells.
17 Choose to transfer the funds to your bank account, or keep them in your PayPal balance to pay
18 for sales costs or purchases – it's up to you."

19 29. Online retailers who sell products through their own websites, as opposed to sales
20 made on eBay, have similar payment options. Money can be transferred immediately to a linked
21 bank account or left in a PayPal account.

22 30. PayPal actively encourages sellers to leave the payments they receive in a PayPal
23 account, asserting that "PayPal is accepted at thousands of websites, and it provides a fast, secure
24 checkout," thus making it easier to "spend it through PayPal."

25 31. PayPal also offers a "PayPal Debit MasterCard Business Card [that] lets you
26 spend the money in your PayPal account or withdraw it as cash at ATMs."

27 32. When a balance is maintained in a PayPal account, PayPal keeps all interest that
28 these balances accrue. In fact, use of PayPal is contingent on granting PayPal an irrevocable

1 transfer “[of] any ownership right that you may have in any interest that may accrue” on the
2 balance maintained in a PayPal account. This transfer is “in consideration for your use of”
3 PayPal.

4 **PayPal’s User Agreement and Wrongful Holding of Funds**

5 33. Users of PayPal must agree to the PayPal User Agreement (“Agreement”),
6 attached as Exhibit 1. The Agreement states that “PayPal is only a Payment Service Provider.
7 PayPal helps you make payments to and accept payments from third parties. PayPal is an
8 independent contractor for all purposes, except that PayPal acts as your agent with respect to the
9 custody of your funds only.”

10 34. The Agreement lists numerous “Restricted Activities,” conduct a user agrees not
11 to engage in while using PayPal. PayPal also has an Acceptable Use Policy, which lists further
12 prohibited activity.

13 35. PayPal states in the Agreement that “[i]f we have reason to believe that you have
14 engaged in any Restricted Activities, we may take various actions to protect PayPal, eBay, a
15 User, a third party, or you from Reversals, Chargebacks, Claims, fees, fines, penalties and any
16 other liability.” These actions include closing, suspending, or limiting access to a user’s PayPal
17 account or holding funds “for up to 180 days if *reasonably needed* to protect against the risk of
18 liability.”

19 36. “Restricted Activities” are defined and delineated in Section 9 of the User
20 Agreement, which provides that PayPal users will not participate in the following activities:

- 21 • **Breach this Agreement**, the Commercial Entity Agreement, the Acceptable Use
22 Policy or any other agreement or policy that you have agreed to with PayPal;
- 23 • **Violate any law**, statute, ordinance, or regulation (for example, those governing
24 financial services, consumer protections, unfair competition, anti-discrimination or
25 false advertising);
- 26 • Infringe PayPal’s or any third party’s copyright, patent, trademark, trade secret or
27 other **intellectual property rights**, or rights of publicity or privacy;
- 28 • Sell **counterfeit goods**.
- Act in a manner that is **defamatory, trade libelous, threatening** or harassing;
- Provide **false, inaccurate or misleading information**;

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- Send or receive what we reasonably believe to be potentially **fraudulent funds**;
- **Refuse to cooperate** in an investigation or provide confirmation of your identity or any Information you provide to us;
- Attempt to **double dip** during the course of a dispute by receiving or attempting to receive funds from both PayPal and the seller, bank, or credit card issuer for the same transaction;
- Use an **anonymizing proxy**;
- **Control an Account that is linked to another Account** that has engaged in any of these Restricted Activities.
- Conduct your business or use the Services in a manner that results in or may result in **complaints, Disputes, Claims, Reversals, Chargebacks**, fees, fines, penalties and other liability to PayPal, a User, a third party or you;
- Have a **credit score** from a credit reporting agency that indicates a high level of risk associated with your use of the Services;
- Use your Account or the Services in a manner that PayPal, Visa, MasterCard, American Express, Discover or any other electronic funds transfer network reasonably believes to be an **abuse of the card system** or a violation of card association or network rules;
- Allow your Account to have a **negative Balance**;
- Provide yourself a **cash advance from your credit card** (or help others to do so);
- Access the Services from a **country that is not included on PayPal's permitted countries** list;
- **Disclose or distribute another User's Information** to a third party, or use the Information for marketing purposes unless you receive the Users express consent to do so;
- Send **unsolicited email** to a User or use the Services to collect payments for sending, or assisting in sending, unsolicited email to third parties;
- Take any action that imposes an **unreasonable or disproportionately large load on our infrastructure**;
- **Facilitate any viruses**, Trojan horses, worms or other computer programming routines that may damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or Information;
- Use any **robot, spider, other automatic device**, or manual process to monitor or copy our website without our prior written permission;
- Use any device, software or routine to **bypass our robot exclusion headers**, or interfere or attempt to interfere, with our website or the Services;
- Take any action that may **cause us to lose any of the services** from our internet service providers, payment processors, or other suppliers;
- Use the Service to **test credit card behaviors**.

1 (emphasis added). However, none of these restricted behaviors are applicable here, as *PayPal*
2 *has failed to identify any of these Restricted Activities* to Plaintiffs and the Class as the reason for
3 holding all funds in the account.

4 37. In opportune timing with the poor state of the economy, PayPal started holding
5 funds in sellers' accounts by placing reserves on accounts and/or limiting and/or suspending
6 seller's accounts and holding the funds in the accounts for 180 days (collectively referred to as
7 "holding funds").

8 38. PayPal has thus implemented a policy and practice of systematically and
9 arbitrarily closing, suspending, or limiting access to its users' accounts (collectively referred to
10 as "holding funds") without reason to believe that the user has engaged in a restricted activity.
11 During this time, funds cannot be withdrawn from a user's PayPal account.

12 39. Furthermore, contrary to the express and limiting language in the Agreement,
13 PayPal, through exploiting nonexistent contract terms or vague and unjustified contract language
14 and interpretation, holds funds for up to or in excess of 180 days. PayPal makes this decision to
15 hold funds at its sole discretion, in violation of the contract.

16 40. During this hold period in which users are prohibited from accessing their own
17 funds in their PayPal accounts, the funds continue to accrue interest. PayPal further benefits by
18 retaining the interest accrued.

19 41. PayPal's practice of placing holds on users' accounts has met widespread
20 disappointment and anger from consumers around the country, as evidenced by the numerous
21 websites created to protest PayPal's holding of funds. See, e.g., www.letsuepaypal.com,
22 www.paypalsucks.com, www.screw-paypal.com, www.aboutpaypal.org,
23 www.paypalwarning.com. Typical comments on these websites include:

- 24 • "I'm from Northern California. They're holding around \$18,000 of mine hostage
25 for 180 days as of a few days ago. I've uploaded every document under the
26 sun and after jumping through their hoops they decided to keep my money
anyways. I'm an honest seller with 100% positive feedback and ZERO charge
backs...." Taken from www.letsuepaypal.com.
- 27 • "PayPal keeps holding funds on my account even though i have 100% feedback
28 rating. They can't give me a reason, they just say it's policy...." Taken from
www.consumeraffairs.com.

- 1 • “I’ve been using paypal as my transactions processor for 3 years or so, and have
2 been pretty active the entire time, since I sell a lot of stuff on multiple sites. ... I
3 wake up Friday morning (January 29, 2010), planning to transfer the funds to my
4 bank account, since all sales for the month had been completed... Low and behold,
5 my Paypal account is frozen. ...Needless to say, it's now a paypal horror story on
6 the tune of \$2,455.63. It took them 1 whole day to say they will hold my money
7 for 180 days....” Taken from www.paypalsucks.com.
- 8 • “For no reason these [expletive] have decided to freeze all funds in my account
9 for 180 days for no reason whatsoever...their excuse “report of suspicious
10 activity”. Taken from www.aboutpaypal.org.
- 11 • “i have a paypal premier account and a paypal business account, on february 12th
12 my business paypal account was limited because of high risk security concerns, 9
13 days after my paypal premier accounts has been limited because of the same...my
14 business account remained frozen with over \$2,400 dollars and the premier
15 account was frozen with \$597.00 dollars for 180 days...” Taken from
16 www.consumeraffairs.com.
- 17 • “Holding auction funds to me from a buyer for (up to) 21 days.” Taken from
18 www.consumeraffairs.com.
- 19 • “For over 60 days now. Paypal has \$9,752.59 USD of my money!” Taken from
20 www.aboutpaypal.org.

21 42. PayPal informed account holders of the hold on their funds through use of form
22 emails or a prepared phone script which provided no information as to why there was going to be
23 a reserve placed on their account and/or why their account was going to be limited/suspended for
24 a period of time up to 180 days.

25 43. The email informs the users that their funds are being held for the following non-
26 explanatory reasons: “excessive risk involved”, “security issues”, or “suspicious activity.” These
27 terms are not defined in the PayPal User Agreement, and no further explanation is given. *See*
28 Exhibit 1, Paragraph 15 (“Definitions”).

44. When PayPal users inquire as to the reasons behind why their account has a hold
placed on it by contacting PayPal’s Resolution Center, as required by the User Agreement (*see*
Exhibit 1, Section 14.1 (“Contact PayPal First”)), users were met with non-responsive and
unhelpful customer service employees, “canned” responses, and/or a litany of requests for
additional documentation, including social security numbers, and other personal information.

45. Even after users provide the additional documents, PayPal continues to withhold
information regarding why the hold was placed, providing only a form email stating that they are
unable to provide more information as to why there is a hold on the users’ accounts: “If you

1 would like to obtain copies of the information we reviewed in deciding to place a limitation on
2 your account, you will need to obtain a court order or subpoena.”

3 46. During the holding period, money is permitted to enter into the accounts, but
4 users are unable to access the funds at any time until the holding period expires, up to 180 days.

5 47. Additionally, once funds are returned, PayPal retains the interest that accrued
6 while Plaintiffs and the Class were frozen from their accounts.

7 48. As a result of PayPal’s actions, Plaintiffs and the Class have suffered damages,
8 and eBay and PayPal have been enriched in the form of interest on the money held in the
9 accounts without reason.

10 49. PayPal has not provided any real explanation as to why the accounts have a hold
11 placed on them, and does not provide PayPal users with any guidance or criteria so that they can
12 select customers and conduct transactions in a way to avoid PayPal’s hold policies.

13 50. PayPal has left Plaintiffs and the Class with no opportunity to obtain access to
14 their funds prior to the expiration of the hold period, let alone understand the reasons for the hold
15 to be able to prevent a hold, in the form of a reserve or a limitation/cancellation of their account,
16 from being placed on their accounts in the future.

17 **California’s Substantive Law Applies To The Proposed Class**

18 51. California’s substantive laws apply to the proposed Class, as defined herein, and
19 Plaintiffs properly bring this Complaint in this District.

20 52. PayPal’s User Agreement provides that it “shall be governed in all respects by the
21 laws of the State of California, without regard to conflict of law provisions.” Exhibit 1, Section
22 14.3.

23 53. Also, California’s substantive laws may be constitutionally applied to the claims
24 of Plaintiffs and the Class under the Due Process Clause, 14th Amend., § 1, and the Full Faith
25 and Credit Clause, art. IV, § 1, of the US Constitution. California has significant contact, or
26 significant aggregation of contacts, to the claims asserted by Plaintiffs and all Class members,
27 thereby creating state interests that ensure that the choice of California state law is not arbitrary
28 or unfair.

1 **Natural Persons Class:** *All natural persons whose funds have*
2 *been held by Paypal or whose accounts were closed, suspended, or*
3 *limited by PayPal.*

4 58. Excluded from the Class are governmental entities, Defendant, any entity in
5 which Defendant has a controlling interest, and Defendant’s officers, directors, affiliates, legal
6 representatives, employees, co-conspirators, successors, subsidiaries, and assigns. Also excluded
7 from the Class is any judge, justice, or judicial officer presiding over this matter and the
8 members of their immediate families and judicial staff.

9 59. Plaintiffs reserve the right to modify the Class description and the Class period
10 based on the results of discovery.

11 60. Plaintiffs and the Class bring this action for equitable, injunctive and declaratory
12 relief pursuant to subdivisions (b)(1), (b)(2) and (b)(3) of rule 23 of the Federal Rules of Civil
13 Procedure.

14 61. **Numerosity:** The proposed Class is so numerous that individual joinder of all its
15 members is impracticable. The total number of Class members is at least in the hundreds of
16 thousands and members of the class are geographically dispersed across the United States.
17 While the exact number and identities of the Class members are unknown at this time, such
18 information can be ascertained through appropriate investigation and discovery. The disposition
19 of the claims of the Class members in a single class action will provide substantial benefits to all
20 parties and to the Court.

21 62. **Common Questions of Law and Fact Predominate:** There are questions of law
22 and fact common to the representative Plaintiffs and the Class, and those questions substantially
23 predominate over any questions that may affect individual Class members. Common questions
24 of fact and law include, but are not limited to, the following:

- 25 a. Whether PayPal has a practice of breaching the terms of the PayPal User
26 Agreement, or the covenant of good faith and fair dealing, by closing, suspending,
27 or limiting its users’ accounts without reason to believe that the users engaged in
28 activities prohibited by the agreement;

- 1 b. Whether PayPal has a practice of breaching the terms of the PayPal User
2 Agreement, or the covenant of good faith and fair dealing, by holding funds in its
3 users' accounts for up to 180 days without determining that such action is
4 reasonably necessary to protect against liability;
- 5 c. Whether PayPal breached the terms of the PayPal User Agreement by retaining
6 the interest generated by the funds in closed, suspended, or limited accounts;
- 7 d. Whether PayPal breached the fiduciary duties owed to Plaintiffs and the Class;
- 8 e. Whether PayPal is obligated to refund the interest generated on closed,
9 suspended, or limited accounts under theories of money had and received or
10 unjust enrichment;
- 11 f. Whether PayPal held electronically transferred funds in an unlawful manner;
- 12 g. Whether Plaintiffs and the Class entered into a contract with PayPal by agreeing
13 to its User Agreement;
- 14 h. Whether Defendant's conduct constitutes deceptive, unfair and/or
15 oppressive conduct as defined under the California Unfair Business
16 Practices Act (UCL) (Cal. Bus. & Prof. Code §17200 *et seq.*);
- 17 i. Whether Defendant was unjustly enriched by its scheme at the expense of
18 Plaintiffs and the Class;
- 19 j. Whether Plaintiffs and Class have been damaged, and if so, in what
20 amount;
- 21 k. Whether Plaintiffs and the Class are entitled to restitution of all monies
22 acquired by Defendant from Plaintiffs and the Class and the general public
23 as a result of Defendant's unlawful, unfair or fraudulent business
24 practices;
- 25 l. Whether Plaintiffs and the Class have been damaged, and if so, in what amount;
26 and
- 27 m. Whether PayPal owes Plaintiffs and the Class an accounting of the interest
28 accrued on their funds while their accounts were closed, suspended, or limited;

1 63. Typicality: Plaintiffs' claims are typical of the claims of the members of the
2 Class. Plaintiffs and all members of the Class have been similarly affected by Defendant's
3 common course of conduct since they all have or had money being held by Defendant pursuant
4 to its policy to hold funds.

5 64. Adequacy of Representation: Plaintiffs will fairly and adequately represent and
6 protect the interests of the Class. Plaintiffs have retained counsel with substantial experience in
7 prosecuting complex and class action litigation. Plaintiffs and their counsel are committed to
8 vigorously prosecuting this action on behalf of the Class, and have the financial resources to do
9 so. Neither Plaintiffs nor their counsel have any interests adverse to those of the Class.

10 65. Superiority of a Class Action: Plaintiffs and the members of the Class suffered,
11 and will continue to suffer, harm as a result of Defendant's unlawful and wrongful conduct. A
12 class action is superior to other available methods for the fair and efficient adjudication of the
13 present controversy. Individual joinder of all members of the class is impractical. Even if
14 individual class members had the resources to pursue individual litigation, it would be unduly
15 burdensome to the courts in which the individual litigation would proceed. Individual litigation
16 magnifies the delay and expense to all parties in the court system of resolving the controversies
17 engendered by Defendant's common course of conduct. The class action device allows a single
18 court to provide the benefits of unitary adjudication, judicial economy, and the fair and equitable
19 handling of all class members' claims in a single forum. The conduct of this action as a class
20 action conserves the resources of the parties and of the judicial system, and protects the rights of
21 the class member. Furthermore, for many, if not most, class members, a class action is the only
22 feasible mechanism that allows therein an opportunity for legal redress and justice.

23 66. Adjudication of individual class members' claims with respect to the Defendant
24 would, as a practical matter, be dispositive of the interests of other members not parties to the
25 adjudication, and could substantially impair or impede the ability of other class members to
26 protect their interests.

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1 **FIRST CAUSE OF ACTION**

2 **BREACH OF CONTRACT**

3 **(On Behalf of the Nationwide Class)**

4 67. Plaintiffs reallege the preceding paragraphs as if fully set forth herein and, to the
5 extent necessary, plead this cause of action in the alternative.

6 68. PayPal entered into a written contract with Plaintiffs and the Class.

7 69. Plaintiffs and the Class performed their obligations under the contract.

8 70. PayPal breached the express terms of the contract by closing, suspending, or
9 limiting access to Plaintiffs' and the Class' accounts without reason to believe that Plaintiffs and
10 the Class engaged in restricted activities and without providing notification of the reasons why
11 the accounts were closed, suspended, and/or limited.

12 71. PayPal breached the express terms of the contract by uniformly holding Plaintiffs'
13 and the Class' funds for up to 180 days when not reasonably needed to protect against the risk of
14 liability.

15 72. PayPal breached the express terms of the contract by retaining interest generated
16 by the balances contained in accounts that were closed, suspended, or limited despite the fact that
17 the transfer of the ownership rights to the accrued interest was in consideration for the ability to
18 use PayPal's services.

19 73. The contract also contains an implied covenant of good faith and fair dealing.
20 The covenant of good faith and fair dealing requires that PayPal will not take action that would
21 have the effect of injuring the rights of Plaintiffs and the Class to receive the benefits of the
22 contract.

23 74. PayPal breached the implied covenant of good faith and fair dealing by placing
24 holds on accounts and/or closing, suspending, or limiting access to Plaintiffs' and the Class'
25 accounts without reason to believe that Plaintiffs and the Class engaged in restricted activities.

26 75. PayPal also breached the implied covenant of good faith and fair dealing by
27 uniformly holding Plaintiffs' and the Class' funds for 180 days when not reasonably needed to
28 protect against the risk of liability.

1 **THIRD CAUSE OF ACTION**

2 **ACCOUNTING**

3 **(On Behalf of the Nationwide Class)**

4 84. Plaintiffs reallege the preceding paragraphs as if fully set forth herein and, to the
5 extent necessary, plead this cause of action in the alternative.

6 85. PayPal acted as the agent of Plaintiffs and the Class with respect to the custody of
7 the funds held by PayPal.

8 86. PayPal owes Plaintiffs and the Class interest accrued on accounts that have been
9 closed, suspended, or limited and this amount can only be ascertained by an accounting.

10 WHEREFORE, Plaintiffs and the Class pray for relief as set forth below.

11 **FOURTH CAUSE OF ACTION**

12 **VIOLATION OF CALIFORNIA CONSUMERS LEGAL REMEDIES ACT**

13 **(On Behalf of the Natural Persons Class)**

14 87. Plaintiffs reallege the preceding paragraphs as if fully set forth herein and, to the
15 extent necessary, plead this cause of action in the alternative.¹

16 88. Plaintiffs and other Class members are consumers within the meaning of the
17 CLRA given that Defendant’s business activities involve trade or commerce, are addressed to the
18 consumer market generally, and otherwise implicate consumer protection concerns. Plaintiffs
19 and other Class Members have used the service for personal, family and/or household purposes.

20 89. PayPal actively and extensively advertises, markets and promotes the service
21 based on promises that the service allows sellers to get paid “instantly and securely.”
22 Throughout the class period, PayPal has maintained a website that is the primary tool for
23 advertising and marketing the service. In describing the service on its website, PayPal entices
24

25 ¹ If the California act does not apply to non-California class members, then the consumer
26 fraud claims of absent, non-California Class members are brought under the consumer protection
27 statute(s) of their respective states. *See e.g.*, Fla. Stat. Ann. § 501.201 *et seq.* (Florida); 815 ILCS § 505/1
28 *et seq.* (Illinois); Mich. Stat. Ann. § 19.418(1) *et seq.* (Michigan); Mo. Rev. Stat. § 407.010 *et seq.*
(Missouri); N.Y. Gen. Bus. Law. § 349 *et seq.* (New York); N.C. Gen. Stat. § 75-1 *et seq.* (North
Carolina); Ohio Rev. Code Ann. § 1345.01 *et seq.* (Ohio); Wash. Rev. Code § 19.86.010 *et seq.*
(Washington)

1 sellers to use the service stating that it offers “maximum security.” PayPal’s website further
2 states that “PayPal enables any individual or business to pay and get paid online safely and
3 easily” and that “PayPal is the faster, safer and easier way to pay and get paid online.” In
4 promoting its business merchant services, PayPal’s website advertises that a seller can “Get your
5 money fast with PayPal. When the order is complete, the money usually shows up in your PayPal
6 account in a few minutes.” In its description regarding “How PayPal Works,” PayPal promises
7 that sellers “get paid instantly and securely” and “receive money instantly and ship items quickly
8 to buyers.”

9 90. PayPal expressly promotes the service for use with eBay, stating that sellers can
10 “Get Fast Access to Your Money” using PayPal for eBay sales because “Money from your eBay
11 sales show up in your PayPal account after the item sells” and that “PayPal is seamlessly
12 integrated into eBay checkout and your money shows up in your PayPal account after your sale
13 closes.”

14 91. Defendant omitted any information about the high likelihood of a hold being
15 placed on a user’s account.

16 92. Venue is proper pursuant to Section 1780(c) of the California Civil Code because
17 the transactions or a substantial portion thereof occurred in California. Plaintiffs’ declarations
18 establishing this Court as the proper venue for this action is attached hereto as Exhibit 2.

19 93. The acts and practices of Defendant as described above were intended to deceive
20 Plaintiffs and the Class members as described herein and have resulted and will result in
21 damages to Plaintiffs and the Class members. These actions violated and continue to violate the
22 CLRA in at least the following respects:

- 23 (a) In violation of § 1770(a)(5) of the CLRA, Defendant’s acts and practices
24 constitute representations that the Service has characteristics, uses and/or
25 benefits which it does not;
- 26 (b) In violation of § 1770(a)(7) of the CLRA, Defendant’s acts and practices
27 constitute representations that the Service is of a particular quality which it
28 is not; and

1 (c) In violation of § 1770(a)(9) of the CLRA, Defendant's acts and practices
2 constitute the advertisement of the service in question without the intent to
3 sell them as advertised.

4 94. By reason of the foregoing, Plaintiffs and the Class members have been
5 irreparably harmed.

6 95. By committing the acts alleged above, Defendants violated the CLRA.

7 96. In compliance with the provisions of California Civil Code § 1782, Plaintiffs
8 notified Defendant in writing of the particular violations of § 1770 of the Act and demanded
9 Defendant to rectify the actions described above by refunding the purchase price and give notice
10 to all affected consumers of their intent to do so. Plaintiffs sent this notice by certified mail,
11 return receipt requested, to Defendant's principal place of business on August 13, 2010. A true
12 and correct copy of this notice is attached as Exhibit 3.

13 97. Should Defendant fail to adequately respond to Plaintiffs' demand to rectify the
14 wrongful conduct described above on behalf of all Class members within thirty days after receipt
15 of the § 1782 notice, Plaintiff will amend this complaint to seek actual and punitive damages
16 against Defendant for violations of the CLRA.

17 98. Plaintiffs and Class members are entitled, pursuant to California Civil Code §§
18 1780(a)(2) and (3), to an order: (1) enjoining the above-described wrongful acts and practices;
19 and (2) requiring the payment of restitution to Plaintiff and the Class. Plaintiff and the Class are
20 also entitled to the payment of costs and attorneys' fees and any other relief deemed appropriate
21 and proper by the Court under California Civil Code § 1780(e).

22 WHEREFORE, Plaintiffs and the Class pray for relief as set forth below.

23 **FIFTH CAUSE OF ACTION**
24 **VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW**
25 **(On Behalf of the Nationwide Class)**

26 99. Plaintiffs reallege the preceding paragraphs as if fully set forth herein and, to the
27 extent necessary, plead this cause of action in the alternative.

28 100. Any conduct that is unlawful, unfair or deceptive constitutes a violation of the

1 California Unfair Competition Law, Business and Professions Code §17200, *et seq.* (the “UCL”).

2 101. Plaintiffs have standing to pursue this claim as Plaintiffs have suffered injury in
3 fact and have lost money or property as a result of PayPal’s actions. Plaintiffs paid money for
4 the service based on claims that the service provides for secure and immediate transfer of funds.
5 Nevertheless, Defendant places unauthorized holds Plaintiffs’ accounts violating the security of
6 those accounts and significantly delaying the transfer of funds to Plaintiffs. Plaintiffs thus did
7 not obtain the value of the service for which they paid.

8 102. The violation of any law constitutes an unlawful business practice under
9 California Business & Professions Code § 17200.

10 103. As detailed more fully in the preceding paragraphs, the acts and practices alleged
11 herein were intended to and did result in the sale of the Service in violation of the CLRA.
12 Defendant’s conduct further constitutes breach of contract, breach of the implied covenant of
13 good faith and fair dealing and conversion.

14 104. By violating these legal duties, Defendant has engaged in unlawful business acts
15 and practices which constitute unfair competition within the meaning of Business & Professions
16 Code § 17200.

17 105. Under California Business & Professions Code § 17200, any business act or
18 practice that is unethical, oppressive, unscrupulous and/or substantially injurious to consumers,
19 or that violates a legislatively declared policy, constitutes an unfair business act or practice.

20 106. PayPal actively and extensively advertises, markets and promotes the service
21 based on promises that the service allows sellers to get paid “instantly and securely.”
22 Throughout the class period, PayPal has maintained a website that is the primary tool for
23 advertising and marketing the service. In describing the service on its website, PayPal entices
24 sellers to use the service stating that it offers “maximum security.” PayPal’s website further
25 states that “PayPal enables any individual or business to pay and get paid online safely and
26 easily” and that “PayPal is the faster, safer and easier way to pay and get paid online.” In
27 promoting its business merchant services, PayPal’s website advertises that a seller can “Get your
28 money fast with PayPal. When the order is complete, the money usually shows up in your PayPal

1 account in a few minutes.” In its description regarding “How PayPal Works,” PayPal promises
2 that sellers “get paid instantly and securely” and “receive money instantly and ship items quickly
3 to buyers.”

4 107. PayPal expressly promotes the service for use with eBay, stating that sellers can
5 “Get Fast Access to Your Money” using PayPal for eBay sales because “Money from your eBay
6 sales show up in your PayPal account after the item sells” and that “PayPal is seamlessly
7 integrated into eBay checkout and your money shows up in your PayPal account after your sale
8 closes.”

9 108. Defendant omitted any information about the high likelihood of a hold being
10 placed on a user’s account.

11 109. Defendant intended that Plaintiffs and the Class would rely on PayPal’s omissions
12 and misrepresentations by utilizing PayPal to collect payments from buyers, and not challenging
13 holds of their funds in violation of the User Agreement, unaware of the material facts described
14 above. This conduct constitutes consumer fraud, an unfair business practice and violation of the
15 UCL. Had Plaintiffs known that Defendant would arbitrarily hold their funds for up to 180 days,
16 Plaintiffs would have not used PayPal’s services and would have used alternative methods of
17 accepting payments.

18 110. Defendant’s failure to explain its payment hold policy, along with its promises of
19 funds being immediately made available is likely to deceive the Class. Defendant has thus
20 committed deceptive acts or practices within the meaning of the UCL by engaging in the acts and
21 practices alleged herein.

22 111. Defendant has engaged, and continues to engage, in conduct which is immoral,
23 unethical, oppressive, unscrupulous and/or substantially injurious to consumers. Defendant
24 promotes, markets and advertises the service as providing for secure and immediate transfer of
25 funds, yet Defendant intentionally obstructs the transfer of funds by placing unauthorized holds
26 on sellers’ accounts. This conduct violates the policies underlying the EFTA and CLRA.
27 Accordingly, Defendant’s conduct constitutes unfair acts under the UCL.

28 112. Under the UCL, any business act or practice that is likely to deceive members of

1 the public constitutes a fraudulent business act or practice.

2 113. Defendant's conduct adversely affects the public interest and is a proximate cause
3 of injury and money damages to Plaintiffs and the Class in an amount to be proven at trial.
4 Defendant is liable to Plaintiffs and the Class for all appropriate damages allowed under the law,
5 costs and attorneys' fees, including as private attorney generals under Cal. Code Civ. Proc.
6 §1021.5.

7 WHEREFORE, Plaintiffs and the Class pray for relief as set forth below.

8 **SIXTH CAUSE OF ACTION**

9 **UNJUST ENRICHMENT**

10 **(On Behalf of the Nationwide Class)**

11 114. Plaintiffs reallege the preceding paragraphs as if fully set forth herein and, to the
12 extent necessary, plead this cause of action in the alternative.

13 115. Through the actions described above, PayPal has received a benefit at the expense
14 of Plaintiff and the Class -- namely money belonging to Plaintiffs and the Class through the
15 retention of the interest that accrued on funds held in accounts that were closed, suspended, or
16 limited.

17 116. As a direct and proximate result of PayPal's misconduct as set forth above,
18 PayPal has been unjustly enriched at the expense of Plaintiffs and the Class.

19 117. Under principles of equity and good conscience, PayPal should not be permitted
20 to keep the full amount of money belonging to Plaintiffs and the Class which PayPal has unjustly
21 received as a result of its actions.

22 WHEREFORE, Plaintiffs and the Class pray for relief as set forth below.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiffs and members of the Class request that the Court enter an order
25 or judgment against the Defendant as follows:

26 1. Finding that this action satisfies the prerequisites for maintenance as a class action
27 set forth in Fed. R. Civ. P. 23(a) and (b)(3), and certification of the proposed class and notice
28 thereto to be paid by Defendant;

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Counsel for Plaintiffs and the Proposed Class

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DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury in the instant action.

DATED: August 13, 2010

KABATECK BROWN KELLNER LLP

By /s/ Alfredo Torrijos
Brian S. Kabateck
Richard L. Kellner
Alfredo Torrijos

Counsel for Plaintiffs and the Proposed Class

EXHIBIT 1



PayPal User Agreement

Last Update: May 11, 2010

This Agreement contains fifteen sections. You may jump directly to any section by selecting the appropriate link below. The headings and subheadings below are for reference only and do not limit the scope of each section. Some capitalized terms have specific definitions in Section 15. Underlined words in this Agreement and on our website hyperlink to relevant information.

Jump to section:

- [1. Our Relationship with You.](#)
- [2. Eligibility and Types of Accounts.](#)
- [3. Sending Money.](#)
- [4. Receiving Money.](#)
- [5. Account Balances.](#)
- [6. Withdrawing Money.](#)
- [7. Closing Your Account.](#)
- [8. Fees.](#)
- [9. Restricted Activities.](#)
- [10. Your Liability - Actions We May Take.](#)
- [11. Protection for Sellers.](#)
- [12. Unauthorized Transactions](#)
- [13. Protection for Buyers.](#)
- [14. Disputes with PayPal.](#)
- [15. Definitions](#)

This User Agreement ("Agreement") is a contract between you and PayPal and applies to your use of the PayPal Services. You must read, agree with and accept all of the terms and conditions contained in this Agreement. In addition, you must read, agree with and accept any applicable agreements on the [Legal Agreements](#) page.

We may amend this Agreement at any time by posting a revised version on our website. The revised version will be effective at the time we post it. In addition, if the revised version includes a Substantial Change, we will provide you with 30 Days' prior notice of any Substantial Change by posting notice on the "Policy Updates" page of our website.

This is an important document which you must consider carefully when choosing whether to use the PayPal Services. This Agreement also highlights certain risks of using the PayPal Services.

Please note the following risks of using the PayPal Services:

Payments received in your PayPal account may be reversed at a later time, for example, if such a payment is subject to a Chargeback, Reversal, Claim or otherwise invalidated. This means that for some of our Sellers, payments received into their Account may be returned to the sender or otherwise removed from their Account after they have been paid and/or delivered any goods or services sold.

You can help protect yourself from the risk of a payment being reversed from your Account by following the criteria set out in the Protection for Sellers section and by following the other guidance provided in the "Security Center" accessible via every page of the PayPal website.

We may close, suspend, or limit your access to your Account or the PayPal Services, and/or limit access to your funds for up to 180 Days if you violate this Agreement, the PayPal Acceptable Use Policy, or any other agreement you enter into with PayPal.

If you wish to open a Dispute through PayPal's Online Resolution Center you must do so within 45 days of making your payment.

You must consider such risks and guidance when using PayPal.

1. Our Relationship with You.

1.1 PayPal is Only a Payment Service Provider. PayPal helps you make payments to and accept payments from third parties. PayPal is an independent contractor for all purposes, except that PayPal acts as your agent with respect to the custody of your funds only. PayPal does not have control of, or liability for, the products or services that are paid for with the PayPal Services. We do not guarantee the identity of any User or ensure that a buyer or a Seller will complete a transaction.

1.2 Your Privacy. Protecting your privacy is very important to PayPal. Please review our [Privacy Policy](#) in order to better understand our commitment to maintaining your privacy, as well as our use and disclosure of your Information.

1.3 Privacy of Others. If you receive Information about another PayPal User through the PayPal Services, you must keep the Information confidential and only use it in connection with the PayPal Services. You may not disclose or distribute a PayPal User's Information to a third party or use the Information for marketing purposes unless you receive the User's express consent to do so.

1.4 Intellectual Property. "PayPal.com," "PayPal," and all logos related to the PayPal Services are either trademarks or registered trademarks of PayPal or its licensors. You may not copy, imitate or use them without PayPal's prior written consent. In addition, all page headers, custom graphics, button icons, and scripts are service marks, trademarks, and/or trade dress of PayPal. You may not copy, imitate, or use them without our prior written consent. You may use HTML logos provided by PayPal through our Merchant services, auction tools features or affiliate programs without prior written consent for the purpose of directing web traffic to the PayPal Services. You may not alter, modify or change these HTML logos in any way, use them in a manner that is disparaging to PayPal or the PayPal Services or display them in any manner that implies PayPal's sponsorship or endorsement. All right, title and interest in and to the PayPal website, any content thereon, the PayPal Services, the technology related to the PayPal Services, and any and all technology and any content created or derived from any of the foregoing is the exclusive property of PayPal and its licensors.

1.5 Assignment. You may not transfer or assign any rights or obligations you have under this Agreement without PayPal's prior written consent. PayPal reserves the right to transfer or assign this Agreement or any right or obligation under this Agreement at any time.

1.6 Notices to You. You agree that PayPal may provide notice to you by posting it on our website, emailing it to the email address listed in your Account, or mailing it to the street address listed in your Account. Such notice shall be considered to be received by you within 24 hours of the time it is posted to our website or emailed to you unless we receive notice that the email was not delivered. If the notice is sent by mail, we will consider it to have been received by you three Business Days after it is sent. You may request a paper copy of any legally required disclosures and you may terminate your consent to receive required disclosures through electronic communications by contacting PayPal as described in section 1.7 below. PayPal will charge you a Records Request Fee (per section 8) to provide a paper copy. PayPal reserves the right to close your Account if you withdraw your consent to receive electronic communications.

1.7 Notices to PayPal. Except as otherwise stated below in section 12 (Errors and Unauthorized Transactions) and section 14 (Disputes with PayPal), notice to PayPal must be sent by postal mail to: PayPal, Inc., Attention: Legal Department, 2211 North First Street, San Jose, California 95131.

1.8 Transaction History. You may view your transaction history by logging into your PayPal Account and looking at your Account History subtab on the Account Overview webpage. You agree to review your transactions through your Account History instead of receiving periodic statements by mail.

1.9 Calls to You. By providing PayPal a telephone number (including a wireless/cellular telephone), you consent to receiving autodialed and prerecorded message calls from PayPal at that number.

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2. Eligibility and Types of Accounts.

2.1 Eligibility. To be eligible for the PayPal Services, you must be at least 18 years old and a resident of the United States or one of the countries listed on the [PayPal WorldWide](#) page. This Agreement applies only to Users who are residents of the United States. If you are a resident of another country, you may access your agreement from our website in your country (if applicable).

2.2 Personal, Premier and Business Accounts. We offer three different types of Accounts: Personal, Premier and Business Accounts. You may only hold one Personal Account and either one Premier or one Business Account. By opening a Premier or Business Account and accepting the terms as outlined in this Agreement, you attest that you are not establishing the Account primarily for personal, family, or household purposes.

2.3 Identity Authentication. You authorize PayPal, directly or through third parties, to make any inquiries we consider necessary to validate your identity. This may include asking you for further information, requiring you to take steps to confirm ownership of your email address or financial instruments, ordering a credit report, or verifying your Information against third party databases or through other sources.

2.4 Credit Report Authorization. If you open a Premier or Business Account, you are providing PayPal with your written instructions in accordance with the Fair Credit Reporting Act and you are authorizing PayPal to obtain your personal and/or business credit report from a

credit bureau. You are also authorizing PayPal to obtain your personal and/or business credit report: (a) when you upgrade your Personal Account to a Premier or Business Account, (b) when you request certain new products, such as the PayPal Debit Card, or (c) at any time PayPal reasonably believes there may be an increased level of risk associated with your Premier or Business Account.

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3. Sending Money.

3.1 Sending Limits. We may, at our discretion, impose limits on the amount of money you can send through the PayPal Services. You can view your sending limit, if any, by logging into your Account and clicking on the View Limits link on the Account Overview page. If you have a Verified Account, we may increase your sending limits.

3.2 Default Payment Methods. When you make a payment, if you have not selected a Preferred Payment Method, PayPal will fund your transaction in this order:

- a. Balance
- b. Instant Transfer from your bank account
- c. PayPal Credit
- d. Debit card
- e. Credit card
- f. eCheck

Note: We will use your Balance first even if you have selected a Preferred Payment Method (unless your Preferred Payment Method is PayPal Credit or eCheck in which case we will use these Payment Methods first). If you don't want to use your Balance, you can withdraw it before making a payment.

3.3 Preferred Payment Method. If you would like to select a Preferred Payment Method you may do so in these instances:

- a. Each time you make a payment. Each time you make a payment, you may select a Preferred Payment Method. You may do so on the "Review Your Payment" page by clicking on the link to change your payment method and selecting from the available payment options.
- b. In your Account Profile – My Preapproved Payments. If you have set up a Recurring Payment, Automatic Payment, or, in most instances, a No Log-In Payment, you may select a Preferred Payment Method for all future payments to the Merchant. You may do so by logging in to your Account, selecting "Profile," selecting "My Preapproved Payments" and then by selecting the links to set a Preferred Payment Method (may be called "Backup Payment Method").
- c. In your Account Profile – PayPal Credit. If you have a PayPal Credit product, you may select it as your Preferred Payment Source for all future payments that you make through PayPal. You may do so by logging in to your Account, selecting "Profile," selecting your PayPal Credit product, and then by selecting the links to set it as a Preferred Payment Method.
- d. Limitations. If you have a Balance in your PayPal Account, PayPal will use your Balance instead of your Preferred Payment Method, unless your Preferred Payment Method is PayPal Credit or eCheck.
- e. Quick Pay. If you elect to use "Quick Pay" for any of your PayPal Mobile payments, you will not be able to select a Preferred Payment Method for your future PayPal Mobile payments made with Quick Pay. You may cancel your "Quick Pay" setting at any time from your mobile phone.

3.4 Payment Method Limitations. In order to manage risk, PayPal may limit the Payment Methods available for a transaction. In addition, Payment Methods may be limited if you make a PayPal payment through certain third party websites or applications. In such cases, you may choose to continue with the transaction with the understanding that you may have fewer avenues available for dispute resolution should the transaction turn out to be unsatisfactory.

3.5 Bank Transfers. When Instant Transfer or eCheck is used as your Payment Method, or when you initiate an Add Funds transaction, you are requesting an electronic transfer from your bank account. For these transactions, PayPal will make electronic transfers via ACH from your bank account in the amount you specify. You agree that such requests constitute your authorization to PayPal to make the transfers. Once you have provided your authorization for the transfer, you will not be able to cancel the electronic transfer. You give PayPal the right to resubmit any ACH debit you authorized that is returned for insufficient or uncollected funds.

3.6 Refused and Refunded Transactions. When you send money, the recipient is not required to accept it. You agree that you will not hold PayPal liable for any damages resulting from a recipient's decision not to accept a payment made through the PayPal Services. We will return any unclaimed, refunded or denied payment within 30 Days of the date you initiate payment. If a payment is unclaimed, denied or

refunded for any reason, we will return the money to your Balance or to the original Payment Method.

3.7 Merchant Processing Delay. When you send a payment to certain Merchants, you are providing an Authorization to the Merchant to process your payment and complete the transaction. The payment will be held as pending until the Merchant processes your payment. Some Merchants may delay processing your payment. In such an instance, your Authorization will remain valid for up to 30 Days. If your payment requires a currency conversion, the exchange rate (which includes a Currency Conversion Fee) will be determined at the time the Merchant processes your payment and completes the transaction.

3.8 Recurring Payments. A Recurring Payment is a payment in which you authorize a Merchant to directly charge your PayPal account on a one-time, regular, or sporadic basis. An example of a Recurring Payment is signing up for a service where you agree to allow a Merchant to directly charge your PayPal account each month for a particular service you have purchased. Recurring Payments are sometimes called "subscriptions", "preapproved payments, or "automatic payments."

3.9 Waiver of Notice for Certain Recurring Payments. When a Recurring Payment is made by Instant Transfer or eCheck, you have the right to contact the Merchant and insist on 10 Days advance notice before the Recurring Payment is made, if the amount of the payment may vary. This is designed to protect you from having insufficient funds in your bank account to cover the Recurring Payment. By establishing a Recurring Payment, you are agreeing to receive this advance notice only when your total payments to a Merchant exceed the limit established between you and the Merchant.

3.10 Canceling Recurring Payments. You may cancel a Recurring Payment at any time up to 3 Business Days prior to the date the payment is scheduled to be made. To cancel a Recurring Payment, log in to your Account, access the My Account tab, then access the Profile tab, then access the Financial Information column and click on "My Preapproved Payments" and follow the instructions to cancel the payment. Please keep in mind that Recurring Payments are sometimes referred to as "subscriptions" or "preapproved payments." In addition, if you cancel a Recurring Payment you may still be liable to the Merchant for the payment and be required to pay the Merchant through alternative means.

3.11 Sending Money in Multiple Currencies. When you are sending money to a Merchant who has requested a currency that is different than your primary currency, you will need to specify whether you want to pay the Merchant in the Merchant's requested currency, or in your primary currency (in some cases, the Merchant may not give you a choice). If you send money in a currency that is not your primary currency, we follow these practices:

- a. If you have a Balance in the requested currency, we will fund your transaction from your Balance.
- b. If you have a Balance in a different currency, we will perform a currency conversion and use it to fund your transaction.
- c. If you do not have a Balance, we will fund your transaction through your Default Payment Methods.
- d. If you are using your PayPal Debit Card or PayPal Plug-In your transaction will be funded with your U.S. Dollar Balance, even if you have a Balance in another currency. Any required currency conversion will be performed by Visa, MasterCard, or a similar third party and may be subject to a fee by that third party.

The Currency Conversion Fee in section 8 of this Agreement will apply whenever PayPal performs a currency conversion.

3.12 PayPal Mobile. PayPal Mobile is a PayPal Service that allows you to send and receive payments through your mobile phone. PayPal Mobile is not available in all countries. If you use PayPal Mobile to conduct a transaction that requires currency conversion, we will perform the currency conversion and will charge you the Currency Conversion Fee listed in Section 8. If you do not want us to perform the currency conversion, you should complete the transaction using a PayPal Service other than PayPal Mobile. If you use PayPal Mobile you are responsible for any fees that your phone service provider charges, such as fees for SMS, data services, and any other fees that your phone service provider may charge. Your phone service provider is not the provider of the PayPal Services.

3.13 Debit Card Processing. PayPal will process your debit card funded transactions through either the ATM debit network or the Visa/MasterCard network. If you would like to have your transaction processed through the Visa/MasterCard network, you may do so each time you make a payment by clicking the "View PayPal Policies" link on the payment confirmation page.

3.14 PayPal Plug-In. The PayPal Plug-In allows you to use your PayPal account to make payments on the internet everywhere that MasterCard is accepted - including websites that do not accept PayPal. The PayPal Plug-In works by issuing you a unique 16 digit number and an expiration date (called a "secure card") that you can use to make a purchase. The secure card cannot be used for any purchases where a physical card must be presented to a merchant for payment. When you use the PayPal Plug-In to send a payment, the payment will be funded from your Balance, bank account or PayPal Credit. You may not use a debit card or credit card as a Payment Method when sending a payment with PayPal Plug-in.

3.15 Credit Card Information. If your credit card account number changes or your credit card expiration date changes, we may acquire that information from our financial services partner and update your Account.

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4. Receiving Money.

4.1 Receiving Personal Payments.

If you are selling goods or services, you may not ask the buyer to send you a Personal Payment for the purchase. If you do so, PayPal may remove your ability to accept Personal Payments.

4.2 Use of PayPal on eBay. Sellers who offer PayPal as a payment method in their eBay listings must follow these requirements:

- a. Accept PayPal if the eBay listing includes PayPal as a payment method.
- b. Accept all PayPal Payment Methods from a buyer, including but not limited to eCheck and credit cards.
- c. Have a Premier or Business account or be willing to upgrade to a Premier or Business account upon receipt of a payment.
- d. Accept international PayPal transactions if the eBay listing offers shipping outside the US.
- e. Sellers may not charge a surcharge for accepting PayPal as a payment method.

4.3 Payment Review. Payment Review is a process by which PayPal reviews certain potentially high-risk transactions. If a payment is subject to Payment Review, PayPal will place a hold on the payment and provide notice to the Seller to delay shipping the item. PayPal will conduct a review and either clear or cancel the payment. If the payment is cleared, PayPal will provide notice to the Seller to ship the item. Otherwise, PayPal will cancel the payment and the funds will be returned to the buyer. All payments that clear Payment Review will be Seller Protection Policy eligible if they meet the Seller Protection Policy requirements. PayPal will provide notices to you by email or in the Transaction History tab of your PayPal account.

4.4 Risk of Reversals, Chargebacks and Claims. When you receive a payment, you are liable to PayPal for the full amount of the payment plus any Fees if the payment is later invalidated for any reason. This means that, in addition to any other liability, you will be responsible for the amount of the payment, plus the applicable Fees listed in section 8 of this Agreement if you lose a Claim or a Chargeback, or if there is a Reversal of the payment. You agree to allow PayPal to recover any amounts due to PayPal by debiting your Balance. If there are insufficient funds in your Balance to cover your liability, you agree to reimburse PayPal through other means. If a sender of a payment files a Chargeback, the credit card issuer, not PayPal, will determine who wins the Chargeback.

4.5 No Surcharges. You agree that you will not impose a surcharge or any other fee for accepting PayPal as a payment method. You may charge a handling fee in connection with the sale of goods or services, as long as the handling fee does not operate as a surcharge and is not higher than the handling fee you charge for non-PayPal transactions.

4.6 Receiving Money in Multiple Currencies. You do not need to maintain a Balance in a particular currency to accept payments sent in that currency. If you already maintain a Balance in the currency in which you receive a payment, we will credit all payments received in that currency to your Balance. If you receive a payment in a currency for which you do not have a Balance, the payment will remain pending and we will ask you to manually accept or deny the payment unless you have a Premier or Business Account and have already established a preference in your Profile to automatically accept payments in that currency. In addition, all refunds will be made in the same currency as the original transaction. If you refund a transaction and you do not have the correct currency available in your Balance, PayPal will perform a currency conversion.

4.7 Taxes. It is your responsibility to determine what, if any, taxes apply to the payments you make or receive, and it is your responsibility to collect, report and remit the correct tax to the appropriate tax authority. PayPal is not responsible for determining whether taxes apply to your transaction, or for collecting, reporting or remitting any taxes arising from any transaction.

4.8 Receiving Payments from Student Accounts. PayPal may block your ability to receive payments from Student Accounts if you sell goods or services that may be illegal for minors to purchase under any applicable laws or regulations. This includes, but is not limited to, alcohol, tobacco or adult oriented materials.

4.9 Your Refund Policy and Privacy Policy. We recommend that if you are selling goods or services you have a published return policy and a published privacy policy on your website or at your point of sale.

4.10 Receiving Recurring Payments. If you receive Recurring Payments you must comply with the following requirements:

- a. Authorization. You must receive your buyer's prior Authorization for the amount, frequency, and duration of the Recurring Payment.
- b. Notice Requirements. If the amount of the Recurring Payment varies, you must comply with one of the following three requirements:
 - i. You must allow your buyer to set both a minimum and maximum amount that you may charge for each Recurring Payment, and you must stay within that range; or
 - ii. You must inform your buyer of his/her right to receive notice of the amount and date of each Recurring Payment. If your buyer elects to receive such notice, you must provide the notice at least 10 Days prior to the date of the Recurring Payment; or

iii. You must provide your buyer with the ability to receive notice in each of the following instances:

1. For every Recurring Payment;
2. When the amount of the Recurring Payment will fall outside the minimum and maximum amount agreed to by your buyer; and
3. When the amount of the Recurring Payment will differ from the prior Recurring Payment by more than an amount agreed to by your buyer.

If your buyer elects to receive notice in any of these instances you must provide such notice at least 10 Days prior to the date of the Recurring Payment.

Required Cancellation Procedures for Recurring Payments. You must provide buyers with the ability to cancel a Recurring Payment within 3 Business Days of the scheduled date of the Recurring Payment. In addition, if your buyer signed up for the Recurring Payment through an online method, you must provide a simple and easily accessible online cancellation procedure. If your buyer cancels the Recurring Payment, you may not charge for the Recurring Payment.

4.11 No Log-In Payments. If you receive No Log-In Payments you must receive your buyer's Authorization to the payment amount prior to submitting the No Log-In Payment.

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5. Account Balances.

5.1 Balances. You do not need to maintain a Balance in your Account in order to make payments. If you do hold a Balance, PayPal will hold your funds separate from its corporate funds, will not use your funds for its operating expenses or any other corporate purposes and will not voluntarily make your funds available to its creditors in the event of bankruptcy. While your funds are in our custody, unless you enroll in the Money Market Fund sweep, PayPal will combine your funds with the funds of other Users and place those Pooled Accounts in one or more bank accounts in PayPal's name. Balances in U.S. Dollars that are held in Pooled Accounts may be eligible for FDIC pass-through insurance.

5.2 Assignment of Interest to PayPal. You agree that you will not receive interest or other earnings on the funds that PayPal handles as your agent and places in Pooled Accounts. In consideration for your use of the PayPal Services, you irrevocably transfer and assign to PayPal any ownership right that you may have in any interest that may accrue on funds held in Pooled Accounts. This assignment applies only to interest earned on your funds, and nothing in this Agreement grants PayPal any ownership right to the principal of the funds you maintain with PayPal. In addition to or instead of earning interest on Pooled Accounts, PayPal may receive a reduction in fees or expenses charged for banking services by the banks that hold your funds.

5.3 Money Market Fund. You will not receive any earnings on the funds that PayPal handles for you unless you enroll in the Money Market Fund. If you enroll in the Money Market Fund, PayPal's subsidiary, PayPal Asset Management Inc., will act as your agent to use any U.S. Dollar Balance in your Account on a daily basis to purchase shares in the Money Market Fund. In addition, your Money Market Fund holdings will be regarded by us as your Balance and as such all Balance funded payments that you make will be funded by redeeming your shares in the Money Market Fund. For more information on the Money Market Fund, please review the [prospectus](#).

5.4 Negative Balances and Multiple Currencies. If one of the currency Balances in your Account is negative for any reason, PayPal may set-off the negative Balance by using funds you maintain in a different currency Balance, or by deducting amounts you owe PayPal from money you receive into your Account, or money you attempt to withdraw or send from your Account. If you have a negative balance for a period of 21 Days or longer, PayPal will convert your negative Balance to U.S. Dollars.

5.5 Risks of Maintaining Balances in Multiple Currencies. You are responsible for all risks associated with maintaining Balances in multiple currencies. You agree that you will not attempt to use multiple currencies for speculative trading.

5.6 Setoff of Past Due Amounts. If you have a past due amount owed to PayPal or a PayPal affiliate, subsidiary, or parent company (eBay), PayPal may debit your Account to pay any amounts that are more than 180 days past due.

5.7 Security Interest. To secure your performance of this Agreement, you grant to PayPal a lien on and security interest in and to the funds held in your Account in the possession of PayPal.

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6. Withdrawing Money.

6.1 How to Withdraw Money. You may withdraw funds by electronically transferring them to your bank account, requesting a physical check through the mail, or using your PayPal Debit Card (eligible Users only). Generally, we will send checks only to Confirmed Addresses, unless you have a Verified Account. We will not send checks to P.O. Boxes. If you would like us to send a check to an address that does

not meet these criteria, you must contact Customer Service and provide the documentation that we request to verify your association with the address. If you fail to cash a check within 180 Days of the date of issuance, we will return the funds to your Balance (minus a Fee).

6.2 Withdrawal Limits. Depending on the degree to which you have Verified your Account, we may limit you to withdrawing no more than \$500.00 USD per month. You can view your withdrawal limit, if any, by logging into your Account and clicking on the "View Limits" link on the "Account Overview". In addition, we may delay withdrawals of large sums of money while we screen for risk.

6.3 Withdrawing Money in Multiple Currencies. If you have multiple currencies in your Balance, you will be able to choose from those when you withdraw funds, but the withdrawal will take place in your home currency.

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7. Closing Your Account.

7.1 How to Close Your Account. You may close your Account at any time by logging in to your Account, clicking on the "Profile" tab, clicking on the "Close Account" link, and then following the instructions. Upon Account closure, we will cancel any pending transactions and you will forfeit any Balances associated with Redemption Codes, unless otherwise legally prohibited. You must withdraw your Balance prior to closing your Account.

7.2 Limitations on Closing Your Account. You may not close your Account to evade an investigation. If you attempt to close your Account while we are conducting an investigation, we may hold your funds for up to 180 Days to protect PayPal or a third party against the risk of Reversals, Chargebacks, Claims, fees, fines, penalties and other liability. You will remain liable for all obligations related to your Account even after the Account is closed.

7.3 Escheatment of Dormant Accounts. If you do not log in to your Account for two or more years, PayPal may close your Account and send the Balance to your primary address. If PayPal does not close your Account and the Account remains dormant, or if PayPal does close your Account but your primary address is incorrect, PayPal may be required to escheat your Balance to your state of residency. PayPal will determine your residency based on the state listed in your primary address. If your address is unknown or registered as a foreign country, your funds will be escheated to the state of Delaware. Where applicable, PayPal will send you a notice prior to escheating or closing your Account. If you fail to respond to this notice, your Balance will be escheated to the state. If you would like to claim your funds from the state, please contact your state's Unclaimed Property Administrator.

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8. Fees.

8.1 Fees Overview.

Fees are based on whether you are making a Purchase Payment or a Personal Payment.

For Purchase Payments, the recipient of the payment will always pay the fee.

For Personal Payments, the following applies:

- The fee depends on the Payment Method you use.
- The fee is paid by either the sender or recipient, not both.
- The sender of the payment determines who pays the fee at the time the sender makes the payment.
- It is free to send a Personal Payment to someone in the United States in U.S. Dollars if you use your bank or balance as the exclusive Payment Method*. All other Personal Payments include a fee as noted below.
- Additional fees apply if you are sending or receiving money to or from a country outside the United States, or transacting in a foreign currency.
- If you use your credit card as the Payment Method for a Personal Payment, you may be charged a cash-advance fee by your credit card company.

*In some instances, Personal Payment pricing may not be available. In these instances, all payments must be Purchase Payments. Personal Payments may not be sent to recipients in India. In addition, Personal Payments may not be available on non-PayPal websites or other applications that offer you the ability to send a payment from your PayPal account.

Personal payments are always available when you go to our website, log in to your Account, click the "Send Money" tab, and select "Personal" when you send the money.

Some fees are expressed as a percentage of the payment amount. All fees are in U.S. Dollars unless otherwise stated.

8.2 Domestic Payments in U.S. Dollars.

This applies when both the sender and recipient are in the United States, and the payment is in U.S. Dollars.

a. Domestic Personal Payments in U.S. Dollars.

Activity	Payment Method	Personal Payment Fee
Sending or receiving*	Exclusively Balance or bank account	Free
	Other, including a fully or partially funded payment by credit or debit card, or PayPal Credit.	2.9% + \$0.30 USD
*Sender determines whether the sender or recipient pays the fee		

b. Domestic Purchase Payments in U.S. Dollars.

Activity	Purchase Payment Fee		
Sending (buying)	Free		
Receiving (selling)	Standard rate:	2.9% + \$0.30 USD	
	Merchant rates*:	Monthly Sales Volume	Fee
		\$0.01 - \$3,000.00	2.9% + \$0.30 USD
		\$3,000.01 - \$10,000.00	2.5% + \$0.30 USD
		\$10,000.01 - \$100,000.00	2.2% + \$0.30 USD
		Over \$100,000.00	1.9% + \$0.30 USD
*To qualify for our Merchant rates you must submit a one-time application, have qualifying monthly sales volume, and have an account in good standing.			

8.3 Domestic Payments in a Foreign Currency.

When both the sender and recipient are in the United States, but the payment is in a currency other than U.S. Dollars, then the fees above shall apply with the following change: The \$0.30 USD fixed fee portion of the fees above will be replaced by the fixed fee of the currency of the payment as described in Section 8.4(c) below.

8.4 International Payments.

The following fees apply when either the sender or recipient is outside the United States.

a. International Personal Payments.

The fee is based on the country of the recipient.

Activity	Country	Personal Payment Fee when Payment Method is exclusively Balance or Bank	Personal Payment Fee when another Payment Method is used to fully or partially fund the payment, including a credit or debit card, or PayPal Credit
Sending or receiving*	Australia	1%	3.4% + Fixed Fee**
	Canada	0%	2.9% + Fixed Fee**
	China	0.5%	3.9% + Fixed Fee**
	Germany	2%	3.9% + Fixed Fee**
	Hong	0%	3.4% + Fixed Fee**

Kong		
Singapore	0%	3.4% + Fixed Fee**
Taiwan	0%	3.4% + Fixed Fee**
U.S.A.	1%	3.9% + Fixed Fee**
Elsewhere	0.5%	3.9% + Fixed Fee**

* Sender determines whether the sender or recipient pays the fee.
** See section 8.4(c) below for detailed list of fixed fees for international payments.

b. International Purchase Payments.

Activity	Purchase Payment Fee		
Sending (buying)	Free*		
Receiving (selling)	Standard rate:	3.9% + Fixed Fee	
	Merchant rates**:	Monthly Sales Volume:	Fee
		\$0.01 - \$3,000.00	3.9% + Fixed Fee***
		\$3,000.01 - \$10,000.00	3.5% + Fixed Fee***
		\$10,000.01 - \$100,000.00	3.2% + Fixed Fee***
		Over \$100,000.00	2.9% + Fixed Fee***

* Except when the PayPal Plug-In is used to a non-US Seller, in which case a 1% fee will apply.
**To qualify for our Merchant rates you must submit a one-time application, have qualifying monthly sales volume, and have an account in good standing.
*** See section 8.4(c) below for detailed list of fixed fees for international payments.

c. Fixed Fees.

The Fixed Fee that applies is based on the currency of the payment:

Currency	Fee	Currency	Fee
Australian Dollar:	\$0.30 AUD	New Zealand Dollar:	\$0.45 NZD
Brazilian Real:	0.40 BRL	Norwegian Krone:	2.80 NOK
Canadian Dollar:	\$0.30 CAD	Philippine Peso:	15.00 PHP
Czech Koruna:	10.00 CZK	Polish Zlotych:	1.35 PLN
Danish Koruna:	2.60 DKK	Singapore Dollar:	\$0.50 SGD
Euro:	€0.35 EUR	Swedish Krona:	3.25 SEK
Hong Kong Dollar:	\$2.35 HKD	Swiss Franc:	0.55 CHF
Hungarian Forint:	90 HUF	Taiwan New Dollar:	10.00 TWD

Israeli Shekel: 1.20 ILS	Thai Baht: 11.00 THB
Japanese Yen: ¥40 JPY	U.K. Pounds Sterling: £0.20 GBP
Mexican Peso: \$4.00 MXN	U.S. Dollar: \$0.30 USD

8.5 Additional Fees.

Activity	Fee																																		
Currency Conversion	<p>2.5% added to the exchange rate</p> <p>The exchange rate is determined by a financial institution and is adjusted regularly based on market conditions. Adjustments may be applied immediately and without notice to you.</p>																																		
Withdrawing your Balance	Free to transfer to a bank. \$1.50 for a physical check.																																		
Chargeback	<p>The Chargeback fee applies at the time a Chargeback is filed for a payment you received and you are not eligible for PayPal Seller Protection. This Fee is based on the currency received as follows:</p> <table border="1"> <thead> <tr> <th>Currency</th> <th>Chargeback Fee</th> </tr> </thead> <tbody> <tr> <td>Australian Dollar:</td> <td>\$15.00 AUD</td> </tr> <tr> <td>Brazilian Real:</td> <td>20.00 BRL</td> </tr> <tr> <td>Canadian Dollar:</td> <td>\$15.00 CAD</td> </tr> <tr> <td>Czech Koruna:</td> <td>250.00 CZK</td> </tr> <tr> <td>Danish Koruna:</td> <td>60.00 DKK</td> </tr> <tr> <td>Euro:</td> <td>€11.25 EUR</td> </tr> <tr> <td>Hong Kong Dollar:</td> <td>\$75.00 HKD</td> </tr> <tr> <td>Hungarian Forint:</td> <td>2000 HUF</td> </tr> <tr> <td>Israeli Shekel:</td> <td>40.00 ILS</td> </tr> <tr> <td>Japanese Yen:</td> <td>¥1,300 JPY</td> </tr> <tr> <td>Mexican Peso:</td> <td>\$110.00 MXN</td> </tr> <tr> <td>New Zealand Dollar:</td> <td>\$15.00 NZD</td> </tr> <tr> <td>Norwegian Krone:</td> <td>65.00 NOK</td> </tr> <tr> <td>Philippine Peso</td> <td>500.00 PHP</td> </tr> <tr> <td>Polish Zlotych:</td> <td>30.00 PLN</td> </tr> <tr> <td>Singapore Dollar:</td> <td>\$15.00 SGD</td> </tr> </tbody> </table>	Currency	Chargeback Fee	Australian Dollar:	\$15.00 AUD	Brazilian Real:	20.00 BRL	Canadian Dollar:	\$15.00 CAD	Czech Koruna:	250.00 CZK	Danish Koruna:	60.00 DKK	Euro:	€11.25 EUR	Hong Kong Dollar:	\$75.00 HKD	Hungarian Forint:	2000 HUF	Israeli Shekel:	40.00 ILS	Japanese Yen:	¥1,300 JPY	Mexican Peso:	\$110.00 MXN	New Zealand Dollar:	\$15.00 NZD	Norwegian Krone:	65.00 NOK	Philippine Peso	500.00 PHP	Polish Zlotych:	30.00 PLN	Singapore Dollar:	\$15.00 SGD
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Polish Zlotych:	30.00 PLN																																		
Singapore Dollar:	\$15.00 SGD																																		

Swedish Krona:	80.00 SEK
Swiss Franc:	10.00 CHF
Taiwan New Dollar:	330.00 TWD
Thai Baht:	360.00 THB
U.K. Pounds Sterling:	£7.00 GBP
U.S. Dollar:	\$10.00 USD

2% up to a maximum amount of \$1.00 USD per recipient, or foreign currency equivalent as follows:

Currency	Fee
Australian Dollar:	\$1.25 AUD
Brazilian Real:	2.00 BRL
Canadian Dollar:	\$1.25 CAD
Czech Koruna:	24.00 CZK
Danish Koruna:	6.00 DKK
Euro:	€0.85 EUR
Hong Kong Dollar:	\$7.00 HKD
Hungarian Forint:	210 HUF
Israeli Shekel:	4.00 ILS
Japanese Yen:	¥120 JPY
Mexican Peso:	\$11.00 MXN
New Zealand Dollar:	\$1.50 NZD
Norwegian Krone:	6.75 NOK
Philippine Peso	50.00 PHP
Polish Zlotych:	3.00 PLN
Singapore Dollar:	\$1.60 SGD
Swedish Krona:	9.00 SEK
Swiss Franc:	1.30 CHF
Taiwan New Dollar:	33.00 TWD

Sending Payments
through Mass Payments

	<table border="1"> <tr> <td>Thai Baht:</td> <td>36.00 THB</td> </tr> <tr> <td>U.K. Pounds Sterling:</td> <td>£0.65 GBP</td> </tr> </table>	Thai Baht:	36.00 THB	U.K. Pounds Sterling:	£0.65 GBP
Thai Baht:	36.00 THB				
U.K. Pounds Sterling:	£0.65 GBP				
Credit Card and Debit Card Confirmation	<p>\$1.95</p> <p>This fee will be refunded if you successfully complete the credit card or debit card confirmation process</p>				
Records Request	<p>\$10.00 per item requested</p> <p>We will not charge you for records requested in connection with your good-faith assertion of an error in your Account</p>				

8.6 PayPal Debit Card Fees.

Activity	Fee
U.S. ATM Withdrawal	\$1.00 USD (plus any amounts charged by the ATM owner)
Signature Withdrawal	\$3.00 USD if a signature is required.
ATM withdrawal from an ATM machine that is not in the U.S.	<p>1%</p> <p>This fee will apply even if the transaction does not require a currency conversion.</p>
PayPal Debit Card purchase from a Seller who is not in the U.S.	<p>1%</p> <p>This fee will apply even if the transaction does not require a currency conversion.</p>
Currency Conversion	<p>2.5% added to the exchange rate</p> <p>The exchange rate is determined by a financial institution and is adjusted regularly based on market conditions. Adjustments may be applied immediately and without notice to you.</p>

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9. Restricted Activities.

9.1 Restricted Activities. In connection with your use of our website, your Account, or the PayPal Services, or in the course of your interactions with PayPal, other Users, or third parties, you will not:

- a. Breach this Agreement, the Commercial Entity Agreement, the [Acceptable Use Policy](#) or any other agreement or policy that you have agreed to with PayPal;
- b. Violate any law, statute, ordinance, or regulation (for example, those governing financial services, consumer protections, unfair competition, anti-discrimination or false advertising);
- c. Infringe PayPal's or any third party's copyright, patent, trademark, trade secret or other intellectual property rights, or rights of publicity or privacy;
- d. Sell counterfeit goods;
- e. Act in a manner that is defamatory, trade libelous, threatening or harassing;
- f. Provide false, inaccurate or misleading information;
- g. Send or receive what we reasonably believe to be potentially fraudulent funds;

- h. Refuse to cooperate in an investigation or provide confirmation of your identity or any Information you provide to us;
- i. Attempt to double dip during the course of a dispute by receiving or attempting to receive funds from both PayPal and the Seller, bank or credit card issuer for the same transaction;
- j. Use an anonymizing proxy;
- k. Control an Account that is linked to another Account that has engaged in any of these Restricted Activities;
- l. Conduct your business or use the PayPal Services in a manner that results in or may result in complaints, Disputes, Claims, Reversals, Chargebacks, fees, fines, penalties and other liability to PayPal, other Users, third parties or you;
- m. Have a credit score from a credit reporting agency that indicates a high level of risk associated with your use of the PayPal Services;
- n. Use your Account or the PayPal Services in a manner that PayPal, Visa, MasterCard, American Express, Discover or any other electronic funds transfer network reasonably believes to be an abuse of the card system or a violation of card association or network rules;
- o. Allow your Account to have a negative Balance;
- p. Provide yourself a cash advance from your credit card (or help others to do so);
- q. Access the PayPal Services from a country that is not included on PayPal's [permitted countries list](#);
- r. Disclose or distribute another User's Information to a third party, or use the Information for marketing purposes unless you receive the Users express consent to do so;
- s. Send unsolicited email to a User or use the PayPal Services to collect payments for sending, or assisting in sending, unsolicited email to third parties;
- t. Take any action that imposes an unreasonable or disproportionately large load on our infrastructure;
- u. Facilitate any viruses, Trojan horses, worms or other computer programming routines that may damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or Information;
- v. Use any robot, spider, other automatic device, or manual process to monitor or copy our website without our prior written permission;
- w. Use any device, software or routine to bypass our robot exclusion headers, or interfere or attempt to interfere with our website or the PayPal Services;
- x. Take any action that may cause us to lose any of the services from our internet service providers, payment processors, or other suppliers;
- y. Use the PayPal Services to test credit card behaviors.

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10. Your Liability - Actions We May Take.

10.1 Your Liability. You are responsible for all Reversals, Chargebacks, Claims, fees, fines, penalties and other liability incurred by PayPal, a PayPal User, or a third party caused by or arising out of your breach of this Agreement, and/or your use of the PayPal Services. You agree to reimburse PayPal, a User, or a third party for any and all such liability.

Liability for PayPal Claims. If you are a Seller and PayPal makes a final decision that you lose a Claim filed directly with PayPal, you will be required to reimburse PayPal for your liability. Your liability will include the full purchase price of the item and original shipping cost (and in some cases, you may not receive the item back). PayPal Seller protection may cover your liability, see section 11 below.

PayPal offers protection to buyers in the United Kingdom (UK) for Significantly Not as Described Claims for purchases made with any Merchant even if the purchase is not an eBay transaction. If you sell to a buyer with a UK PayPal Account and the buyer files a Significantly Not as Described Claim, you will generally be required to accept the item back and refund the buyer the full purchase price plus original shipping costs. You will not receive a refund on your PayPal fees. If you lose a Significantly Not as Described Claim because the item you sold is counterfeit, you will be required to provide a full refund to the buyer and you will not receive the item back (it will be destroyed).

Liability for claims filed directly with eBay through the eBay Buyer Protection resolution process. If you are an eBay Seller, eBay requires that you comply with the eBay Buyer Protection resolution process. As such, you have provided eBay with permission to make a final decision on a claim that a buyer files against you directly with eBay. If eBay makes a final decision that you lose a claim, you agree to allow PayPal to remove funds from your PayPal Account in order to reimburse eBay for your liability. "Item not received" claims filed directly with eBay are not covered by PayPal Seller Protection. See eBay Buyer Protection policy for more information. If your Balance isn't sufficient to reimburse eBay, PayPal will place a hold on your Account until the earlier of: (1) sufficient funds are added to your Balance to reimburse eBay for your liability at which time we will reimburse eBay in full, or (2) 40 days from the date of eBay's decision that you lose

the claim at which time we will remove your Balance to partially reimburse eBay for your liability.

Opt-Out. If you do not want to allow PayPal to reimburse eBay for your liability, you may opt-out by calling eBay at 1-866-643-0898. Your opt-out will be effective within 3 Business Days. If you opt-out then eBay will not use your PayPal Account to recover amounts that you owe due to an eBay claim that you lost. This opt-out will not affect other amounts that you pay to eBay using your PayPal Account (such as your eBay fees).

10.2 Temporary Holds for Disputed Transactions. If a buyer files a Claim, Chargeback or Reversal on a payment you received, PayPal may place a temporary hold on the funds in your Account to cover the amount of the liability. If you win the dispute or the transaction is eligible for PayPal Seller protection, PayPal will lift the temporary hold. If you lose the dispute, PayPal will remove the funds from your Account. This process also applies to claims that a buyer files directly with eBay through the eBay resolution process if your PayPal Account is your reimbursement method for buyer claims.

10.3 Reimbursement for Your Liability. In the event that you are liable for any amounts owed to PayPal, PayPal may immediately remove such amounts from your Balance. If you do not have a Balance that is sufficient to cover your liability, your Account will have a negative Balance and you will be required to immediately add funds to your Balance to eliminate the negative Balance. If you do not do so, PayPal may engage in collection efforts to recover such amounts from you.

10.4 Actions by PayPal. If we have reason to believe that you have engaged in any Restricted Activities, we may take various actions to protect PayPal, eBay, other Users, other third parties, or you from Reversals, Chargebacks, Claims, fees, fines, penalties and any other liability. The actions we may take include but are not limited to the following:

- a. We may close, suspend, or limit your access to your Account or the PayPal Services (such as limiting access to any of your Payment Methods, and/or your ability to send money, make withdrawals, or remove financial information);
- b. We may contact buyers who have purchased goods or services from you, contact your bank or credit card issuer, and/or warn other Users, law enforcement, or impacted third parties of your actions;
- c. We may update inaccurate Information you provided us;
- d. We may refuse to provide the PayPal Services to you in the future;
- e. We may hold your funds for up to 180 days if reasonably needed to protect against the risk of liability; and
- f. We may take legal action against you.

PayPal, in its sole discretion, reserves the right to terminate this Agreement, access to its website, or access to the PayPal Services for any reason and at any time upon notice to you and payment to you of any unrestricted funds held in custody for you.

10.5 Account Closure, Termination of Service, or Limited Account Access. If we close your Account or terminate your use of the PayPal Services for any reason, we will provide you with notice of our actions. If we limit access to your Account, we will provide you with notice of our actions and the opportunity to request restoration of access if appropriate.

10.6 eBay Item Hold. PayPal, in its sole discretion, may place a hold on a payment you receive for an eBay transaction when PayPal believes there may be a high level of risk associated with the transaction. If PayPal places a hold on your payment, it will show as "pending" in your PayPal Account.

- a. Release of eBay item hold. PayPal will release the eBay item hold after 21 days unless you receive a Dispute, Claim, Chargeback, or Reversal on the transaction subject to the hold. PayPal may release the hold earlier if either of the following applies:
 - i. The buyer leaves positive feedback on eBay, or
 - ii. PayPal can confirm delivery. PayPal will confirm delivery if you use USPS, UPS or FedEx to ship the item and use PayPal shipping labels or if you upload tracking information to PayPal via the transaction details page. This applies to US domestic transactions only.
- b. Additional hold period. If you receive a Dispute, Claim, Chargeback, or Reversal on the transaction subject to the eBay item hold, PayPal may hold the payment in your Account until the matter is resolved pursuant to this Agreement.

10.7 Reserves. If you receive Purchase Payments, PayPal, in its sole discretion, may place a Reserve on funds held in your Premier or Business Account when PayPal believes there may be a high level of risk associated with your Account. If PayPal places a Reserve on funds in your Account, they will be shown as "pending" in your PayPal Balance. If your Account is subject to a Reserve, PayPal will provide you with notice specifying the terms of the Reserve. The terms may require that a certain percentage of the amounts received into your Account are held for a certain period of time, or that a certain amount of money is held in reserve, or anything else that PayPal determines is necessary to protect against the risk associated with your Account. PayPal may change the terms of the Reserve at any time by providing you with notice of the new terms.

10.8 Acceptable Use Policy Violation - User Fines. If you violate the Acceptable Use Policy then we may hold your funds up to 180

Days, fine you up to \$2,500.00 USD for each such violation and/or take legal action against you to recover additional losses we incur. You acknowledge and agree that a fine up to \$2,500.00 USD is presently a reasonable minimum estimate of PayPal's damages, considering all currently existing circumstances, including the relationship of the sum to the range of harm to PayPal that reasonably could be anticipated and the anticipation that proof of actual damages may be impractical or extremely difficult. PayPal may deduct such fines directly from any existing Balance in the offending Account, or any other PayPal Account you control.

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11. Protection for Sellers.

11.1 PayPal Seller Protection.

PayPal Seller protection is protection we provide Sellers from Claims, Chargebacks, or Reversals that are based on

- Unauthorized Transaction or
- Item Not Received

Seller protection is available for eligible payments from buyers in any country.

11.2 Scope of Protection.

PayPal will protect you for the full amount of the eligible payment and waive the Chargeback Fee, if applicable. There is no limit on the number of payments for which you can receive coverage.

11.3 Eligibility Requirements.

To be eligible for Seller protection, you must meet all of the basic requirements listed below; plus, you must meet the Item Not Received requirements listed below to be covered for Item Not Received protection and you must meet the Unauthorized Transactions requirements listed below to be covered for Unauthorized Transaction protection.

Basic Requirements:

- You must ship the item to the shipping address on the Transaction Details Page.
- You must respond to PayPal's requests for documentation and other information in a timely manner.
- The item must be a physical, tangible good that can be shipped.
- Your primary residence, as listed in your PayPal Account, must be in the United States.

Item Not Received Additional Requirements:

- The payment must be marked "eligible" or "partially eligible" for Seller protection on the Transaction Details Page.
- You must have a Proof of Delivery as described below.
- You must ship the item within 7 days of receipt of payment. Or, if the payment is for pre-ordered or made-to-order goods, shipment is required within the timeframe specified in your item listing.

Unauthorized Transactions Additional Requirements:

- The payment must be marked "eligible" for Seller protection on the Transaction Details Page.
- You must have a Proof of Shipment or a Proof of Delivery.

11.4 Proof of Shipment, Proof of Delivery, and Signature Confirmation Requirements.

"Proof of Shipment" is online or physical documentation from a shipping company that includes all of the following:

- The date the item is shipped.
- The recipient's address, showing at least the city/state or zip code (or international equivalent).

"Proof of Delivery" is online documentation from a shipping company that includes all of the following:

- The date the item is delivered.
- The recipient's address, showing at least the city/state or zip code (or international equivalent).
- Signature Confirmation as described below for payments of \$250 USD or more or the following foreign currency equivalents:

350 Australian Dollar (AUD)	380 New Zealand Dollar (NZD)
500 Brazilian Real (BRL)	1,600 Norwegian Krone (NOK)
325 Canadian Dollar (CAD)	12500.00 Philippine Peso (PHP)
6,000 Czech Republic Koruna (CZK)	800 Polish New Zloty (PLN)
1,500 Danish Krone (DKK)	150 Pound Sterling – United Kingdom (GBP)
200 Euro (EUR)	400 Singaporean Dollar (SGD)
2,000 Hong Kong Dollar (HKD)	2,000 Swedish Krona (SEK)
55,000 Hungarian Forint (HUF)	330 Swiss Franc (CHF)
1,000 Israeli Shekel (ILS)	8250.00 Taiwan New Dollar (TWD)
28,000 Japanese Yen (JPY)	9000.00 Thai Baht (THB)
2,200 Mexican New Peso (MXN)	

“Signature Confirmation” is online documentation that can be viewed at the shipping company's website and indicates that the item was signed for on delivery.

11.5 Items/transactions not eligible for Seller protection.

The following are examples of items/ transactions not eligible for Seller protection.

- Claims or Chargebacks for Significantly Not as Described.
- Items that you deliver in person.
- Intangible items, licenses for digital content, and services.
- Payments through PayPal Direct Payment or Virtual Terminal.
- Items that are not shipped to the recipient address. If you originally ship the item to the recipient address but the item is later redirected to a different address, you will not be eligible for Seller protection. We therefore recommend not using a shipping service that is arranged by the buyer, so that you will be able to provide valid proof of shipping and delivery.

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12. Unauthorized Transactions

12.1 100% Protection for Unauthorized Transactions.

PayPal will cover you for the full amount of every eligible unauthorized transaction.

An unauthorized transaction is either:

- Money that was sent from your PayPal Account that you did not authorize and that did not benefit you, for example, if someone steals your password, uses the password to access your Account, and sends a payment from your Account; or
- A processing error that either incorrectly takes money from your PayPal account or incorrectly places money in your PayPal account, for

example, if you send a payment and it is debited twice from your Account.

You should regularly log into your PayPal account and review your Account history to ensure that there has not been an unauthorized transaction. PayPal will also send an email to the primary email address you have provided in order to notify you of each transaction from your Account.

12.2 Notification Requirements.

To be eligible for 100% protection for unauthorized transactions, you must notify us within 60 days after the unauthorized transaction first appears in your Account history. Otherwise, you will be liable for related losses that occur on day 61 and beyond, if we can prove that we could have stopped the losses had you told us in time. We will extend the 60-day time period if a good reason, such as a hospital stay, kept you from notifying us within 60 days.

For unauthorized transactions from your PayPal Account, notify us as follows:

- [Use this form](#) to file an unauthorized transaction report in the PayPal Resolution Center, or
- Write to PayPal, Attn: Error Resolution Department, P.O. Box 45950, Omaha, NE 68145-0950, or
- Telephone PayPal Customer Service at (402) 935-7733.

For unauthorized transactions involving your PayPal Debit Card, notify us as follows:

- Log into your Account, go to the "Account Overview" page, select the transaction details for the transaction you wish to dispute and then follow the directions. Please print and sign the completed form, then send it to us via postal mail (PayPal, Attn: PayPal Debit Card Department, P.O. Box 45950, Omaha, NE 68145-0950, United States) or fax to 303-395-2855.
- Telephone PayPal Customer Service at (402) 935-7733.

When you notify us, provide us with the following information:

- Your name and email address registered to your Account, and
- A description of the suspected unauthorized transaction and an explanation as to why you believe it is incorrect or why you need more information to identify the transaction, and
- The dollar amount of the suspected unauthorized transaction.

You should immediately notify PayPal if you believe (a) there has been an unauthorized transaction or access to your Account, (b) your password or PayPal Mobile PIN has been compromised; or (c) your PayPal Debit Card or PayPal Mobile-activated phone has been lost, stolen, or deactivated. If you notify us by telephone, we may request that you send us your complaint or question in writing within 10 Business Days. Please complete the affidavit form and submit it online or send it to PayPal, Attn: Error Resolution Department, P.O. Box 45950, Omaha, NE 68145-0950.

12.3 PayPal Actions after Receipt of an Unauthorized Transaction Notification.

Once you notify us of a suspected unauthorized transaction, or we otherwise learn of one, we will do the following:

- We will conduct an investigation to determine whether there has been an unauthorized transaction that is eligible for coverage under this section.
- We will complete our investigation within 10 Business Days of the date you notified us of the suspected unauthorized transaction (or within 20 Business Days for point of sale or foreign initiated transactions). If we need more time, we may take up to 45 Business Days to complete our investigation (or up to 90 Business Days for point of sale or foreign initiated transactions)
 - If we decide that we need more time to complete our investigation, we will provisionally credit your PayPal Account for the amount of the suspected unauthorized transaction. You will receive the provisional credit within 10 Business Days of the date we received your notice (or within 20 Business Days for point of sale or foreign initiated transactions). This will allow you to have use of the money until we complete the investigation. If we ask you to put your complaint or question in writing and we do not receive it within 10 Business Days, we will not provisionally credit your Account.
- We will inform you of our decision within 3 Business Days after completing our investigation.
 - If we determine that there was an eligible unauthorized transaction, we will promptly deposit the full amount of the unauthorized transaction into your Account. Or, if you have already received a provisional credit, you will be allowed to retain those amounts.

- If we decide that there was not an eligible unauthorized transaction, we will include an explanation of our decision in our email to you. If you received a provisional credit, we will remove it from your PayPal Account. You may request copies of the documents that we used in our investigation.

12.4 PayPal Processing Errors.

If we discover a processing error, we will rectify the error. If the error resulted in your receiving less money than you were entitled to, PayPal will credit your Account for the difference. If the error results in you receiving more money than you were entitled to, PayPal may debit the extra funds from your PayPal Account. If the error resulted in our not completing a transaction on time or in the correct amount, we will be liable for your losses or damages directly caused by this failure, unless: (a) through no fault of ours, you did not have enough available funds to complete the transaction, (b) our system was not working properly and you knew about the breakdown when you started the transaction, or (c) circumstances beyond our control (such as fire or flood or loss of Internet connection) prevented the transaction, despite our reasonable precautions.

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13. Protection for Buyers.

13.1 PayPal's Protection Programs for Buyers.

PayPal has two programs to help protect you:

- PayPal Buyer Protection (for eligible items purchased on eBay)
- PayPal Buyer Complaint Policy (for all other items purchased on or off eBay)

13.2 Types of problems covered.

PayPal's Protection Programs for Buyers help you if you encounter either of these problems:

- Item Not Received (INR)
- Significantly Not as Described (SNAD) (see definition below)

If your problem is a transaction that you did not authorize, please report the unauthorized transaction through the [PayPal Security Center](#).

13.3 PayPal Buyer Protection.

a. Eligibility Requirements.

To be eligible for PayPal Buyer Protection you must meet all of the following requirements:

- Use PayPal to purchase an eligible item on eBay.
- Pay for the full amount of the item with one payment. Items purchased with multiple payments – like a deposit followed by a final payment – are not eligible.
- Send the payment to the Seller through:
 - The eBay "Pay Now" button, or
 - the eBay invoice,
- Open a Dispute within 45 days of the date you sent the payment – then follow the online dispute resolution process described below under Dispute Resolution.
- Keep your PayPal account in good standing.

b. Eligibility of Item Purchased on eBay.

Look for either a PayPal or eBay buyer protection message in the eBay listing. If you see a message, and you meet the eligibility requirements, then your purchase is covered by PayPal Buyer Protection. The buyer protection message will vary based on the eBay website. The message must appear on the top part of the listing and not under the "description" or "shipping and payments" tabs.

The following is an example of the PayPal Buyer Protection message:

Pay with **PayPal** and your **full purchase price** is covered | [See terms](#)

The following is an example of the eBay buyer protection message:



You can also view this message after you complete your purchase by logging in to your eBay account, going to "my eBay" and looking at the listing. If the listing does not include a buyer protection message, then it is not eligible for PayPal Buyer Protection.

c. Coverage Amount.

If you see the PayPal or eBay Buyer Protection message, and if PayPal finds in your favor on your Claim, PayPal will reimburse you for the full purchase price of the item and original shipping costs – with no cap on coverage. If the buyer protection message includes a cap on coverage, and if PayPal finds in your favor, then PayPal will reimburse you for the full purchase price of the item and original shipping costs, up to the coverage cap specified in the buyer protection message. The amount of coverage varies based on the eBay website where the purchase is made.

PayPal will not reimburse you for the return shipping costs that you incur to return a Significantly Not as Described item to the Seller or other party PayPal specifies. If the Seller presents evidence that they delivered the goods to your address, PayPal may find in favor of the Seller even if you did not receive the goods.

13.4 Dispute Resolution

If you are unable to resolve the problem directly with the Seller, go to the Resolution Center and follow this process:

○ **Open a Dispute.**

Open a Dispute **within 45 days** of the date you made the payment for the item you would like to dispute.

○ **Escalate the Dispute to a Claim.**

If you and the Seller are unable to come to an agreement, escalate the Dispute to a Claim **within 20 days** after opening the dispute.

You must wait at least 7 days from the date of payment to escalate a Dispute for an Item Not Received (INR), unless the Dispute is for \$2,500 or more. If you do not escalate the Dispute to a Claim within 20 days, PayPal will close the Dispute.

○ **Respond to PayPal's requests for information in a timely manner.**

During the Claim process, PayPal may require you to provide documentation to support your position. You may be asked to provide receipts, third party evaluations, police reports, or anything else that PayPal specifies.

○ **Comply with PayPal's shipping requests in a timely manner.**

For Significantly Not as Described (SNAD) Claims, PayPal may require you to ship the item back to the Seller - or to PayPal - or to a third party at your expense, and to provide proof of delivery.

For transactions that total less than \$250, proof of delivery is confirmation that can be viewed online and includes: the delivery address, delivery date, and the URL to the shipping company's web site if you've selected "Other" in the shipping drop down menu. For transactions that total \$250 or more, you must get signature confirmation of delivery.

○ **Claim Resolution Process.**

Once a Dispute has been escalated to a Claim, PayPal will make a final decision in favor of the buyer or the Seller. You may be asked to provide receipts, third party evaluations, police reports, or anything else that PayPal specifies. PayPal retains full discretion to make a final decision in favor of the buyer or the Seller based on any criteria PayPal deems appropriate. In the event that PayPal makes a final decision in favor of the buyer or Seller, each party must comply with PayPal's decision. PayPal will generally require the buyer to ship an item that the buyer claims is Significantly Not as Described back to the Seller (at the buyer's expense), and PayPal will generally require a Seller to accept the item back and refund the buyer the full purchase price plus original shipping costs. In the event a Seller loses a Claim, the Seller

will not receive a refund on his or her PayPal or eBay fees associated with the transaction. If you lose a Significantly Not as Described Claim because the item you sold is counterfeit, you will be required to provide a full refund to the buyer and you will not receive the item back (it will be destroyed).

13.5 PayPal Buyer Complaint Policy.

a. PayPal Buyer Complaint Policy.

The Buyer Complaint Policy is PayPal's process to help you resolve a problem directly with the Seller through the PayPal Resolution Center for purchases that are not eligible for PayPal Buyer Protection.

The PayPal Buyer Complaint Policy is similar to PayPal Buyer Protection in that it enables buyers to file Disputes for Items Not Received (INR), or for items that are Significantly Not as Described (SNAD). By filing a Dispute, you can communicate with the Seller and attempt to resolve the problem. If you are unable to resolve the problem, you may escalate an Item Not Received (INR) Dispute to a Claim – but you may not escalate a Significantly Not as Described Dispute to a Claim. You may not file a dispute for a Personal Payment.

Even though you may escalate an Item Not Received Dispute to a Claim, you are not guaranteed recovery. If the Claim is decided in your favor, your recovery is limited to the amounts that PayPal can recover from the Seller's Account.

b. Buyer Complaint Process.

Similar to PayPal Buyer Protection, you must file a Dispute in the PayPal Resolution Center within 45 days of the date you sent the payment. Once you have done so, you should attempt to resolve the Dispute directly with the Seller.

If you are unable to resolve the Dispute directly with the Seller then you may escalate the Dispute to a Claim within 20 days of the date you filed the Dispute. PayPal will make a final decision for some - but not all - Claims. You should not escalate a Dispute for Significantly Not as Described (SNAD) to a Claim because PayPal will not make a decision on a SNAD Claim under the PayPal Buyer Complaint Policy.

If PayPal makes a final decision in your favor, we will collect any available funds in the Seller's PayPal balance at that time. However, recovery is not guaranteed and is limited only to the amounts that PayPal can recover from the Seller's Account. Any amounts collected from the Seller will be placed in your Account.

13.6 Extended Buyer Protection

Extended Buyer Protection is additional coverage for eligible Buyer Complaint Policy Claims that is available to you when you make a payment through PayPal and use your PayPal Plus Card, PayPal Buyer Credit, PayPal Pay Later or Bill Me Later as your payment method.

If you win an Item Not Received (INR) Claim under the PayPal Buyer Complaint Policy, PayPal will reimburse you for the full purchase price of the item, plus original shipping costs.

13.7 SNAD Definition

An item is Significantly Not as Described if it is materially different than what the Seller described in the item listing. Here are some examples:

- You received a completely different item. Example: You purchased a book and received a DVD or an empty box.
- The condition of the item was misrepresented. Example: The listing said "new" and the item was used.
- The item was advertised as authentic but is not authentic.
- The item is missing major parts or features which were not disclosed in the listing.
- You purchased three items from a Seller but only received two.
- The item was damaged during shipment.

An item is **not** Significantly Not as Described if it is materially similar to the Seller's item listing description. Here are some examples:

- The defect in the item was correctly described by the Seller.
- The item was properly described but you didn't want it after you received it.
- The item was properly described but did not meet your expectations.

- The item has minor scratches and was listed as used condition.

13.8 Items Not Covered.

Items that do not have the PayPal Buyer Protection or eBay Buyer Protection message in the eBay listing are not covered by PayPal's Protection for buyers. In addition, the following items are prohibited under the PayPal Acceptable Use Policy and are not covered even if they do have the PayPal Buyer Protection message in the eBay listing: firearms and firearm parts, illegal and prescription drugs and drug paraphernalia, tobacco, offensive items, child pornography, and any illegal items.

13.9 Relationship between PayPal's protection programs and Chargebacks.

Credit card Chargeback rights, if they apply, are broader than PayPal's protection programs. Chargebacks may be filed more than 45 days after the payment, may cover unsatisfactory items even if they do not qualify as SNAD, and may cover intangible items.

You may pursue a Dispute/Claim with PayPal, or you may contact your credit card company and pursue your Chargeback rights. You may not pursue both at the same time or seek a double recovery. If you have an open Dispute or Claim with PayPal, and also file a Chargeback with your credit card company, PayPal will close your Dispute or Claim, and you will have to rely solely on your Chargeback rights.

If PayPal does not make a final decision on your Claim until after your credit card issuer's deadline for filing a Chargeback, and because of our delay you recover less than the full amount you would have been entitled to recover from the credit card issuer, we will reimburse you for the remainder of your loss (minus any amount you have already recovered from the Seller).

Before contacting your card issuer or filing a Dispute with PayPal, you should contact the Seller to resolve your issue in accordance with the Seller's return policy as stated on their auction or website.

13.10 No Double Recovery.

You may not file a Dispute/Claim, or receive a recovery, for a purchase under PayPal's protection for buyers if you have already received a recovery for that purchase directly from eBay or the Seller.

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14. Disputes with PayPal.

14.1 Contact PayPal First. If a dispute arises between you and PayPal, our goal is to learn about and address your concerns and, if we are unable to do so to your satisfaction, to provide you with a neutral and cost effective means of resolving the dispute quickly. Disputes between you and PayPal regarding the PayPal Services may be reported to Customer Service online through the [PayPal Help Center](#) at any time, or by calling (402) 935-2050 from 6 AM to midnight, Central Time.

14.2 Arbitration. For any claim (excluding claims for injunctive or other equitable relief) where the total amount of the award sought is less than \$10,000.00 USD, the party requesting relief may elect to resolve the dispute in a cost effective manner through binding non-appearance-based arbitration. If a party elects arbitration, that party will initiate such arbitration through an established alternative dispute resolution (ADR) provider mutually agreed upon by the parties. The ADR provider and the parties must comply with the following rules: a) the arbitration shall be conducted by telephone, online and/or be solely based on written submissions, the specific manner shall be chosen by the party initiating the arbitration; b) the arbitration shall not involve any personal appearance by the parties or witnesses unless otherwise mutually agreed by the parties; and c) any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

14.3 Law and Forum for Disputes. Except as otherwise agreed by the parties or as described in section 14.2 above, you agree that any claim or dispute you may have against PayPal must be resolved by a court located in either Santa Clara County, California, or Omaha, Nebraska. You agree to submit to the personal jurisdiction of the courts located within Santa Clara County, California, or Omaha, Nebraska for the purpose of litigating all such claims or disputes. This Agreement shall be governed in all respects by the laws of the State of California, without regard to conflict of law provisions.

14.4 Improperly Filed Litigation. All claims you bring against PayPal must be resolved in accordance with section 14 of this Agreement. All claims filed or brought contrary to section 14 shall be considered improperly filed a breach of this Agreement. Should you file a claim contrary to section 14, PayPal may recover attorneys fees and costs (including in-house attorneys and paralegals) up to \$1,000.00 USD, provided that PayPal has notified you in writing of the improperly filed claim, and you have failed to promptly withdraw the claim.

14.5 No Waiver. Our failure to act with respect to a breach by you or others does not waive our right to act with respect to subsequent or similar breaches.

14.6 Limitations of Liability. IN NO EVENT SHALL WE, OUR PARENT, EMPLOYEES OR OUR SUPPLIERS BE LIABLE FOR LOST PROFITS OR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH OUR WEB SITE, THE PAYPAL SERVICES, OR THIS AGREEMENT (HOWEVER ARISING, INCLUDING NEGLIGENCE). Some states do not allow the exclusion or limitation of incidental or consequential damages so the above limitation or exclusion may not apply to you. OUR LIABILITY, AND THE LIABILITY OF OUR PARENT, EMPLOYEES AND SUPPLIERS, TO YOU OR ANY THIRD PARTIES IN ANY CIRCUMSTANCE IS LIMITED TO THE ACTUAL AMOUNT OF DIRECT DAMAGES.

14.7 No Warranty. PAYPAL, OUR PARENT, EMPLOYEES AND OUR SUPPLIERS PROVIDE THE PAYPAL SERVICES AS IS AND WITHOUT ANY WARRANTY OR CONDITION, EXPRESS, IMPLIED OR STATUTORY. PAYPAL, OUR PARENT, EMPLOYEES AND OUR SUPPLIERS SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. PayPal does not have any control over the products or services that are paid for with the PayPal Services and PayPal cannot ensure that a buyer or a Seller you are dealing with will actually complete the transaction or is authorized to do so. PayPal does not guarantee continuous, uninterrupted or secure access to any part of the PayPal Services, and operation of our site may be interfered with by numerous factors outside of our control. PayPal will make reasonable efforts to ensure that requests for electronic debits and credits involving bank accounts, credit cards, and check issuances are processed in a timely manner but PayPal makes no representations or warranties regarding the amount of time needed to complete processing because the PayPal Services are dependent upon many factors outside of our control, such as delays in the banking system or the U.S. or international mail service. Some states do not allow the disclaimer of implied warranties, so the foregoing disclaimers may not apply to you. This paragraph gives you specific legal rights and you may also have other legal rights that vary from state to state.

14.8 PayPal Shopping. PayPal Shopping is part of the PayPal website that features Merchants' offers and enables product search. PayPal does not warrant that product descriptions, pricing, search results, User ratings and reviews or any other content on PayPal Shopping is accurate, complete, reliable or current. PayPal Shopping is provided for informational purposes only and does not constitute an endorsement by PayPal of any product, service or Merchant.

14.9 License Grant. If you are using PayPal software such as an API, developer's toolkit or other software application that you have downloaded to your computer, device, or other platform then PayPal grants you a revocable, non-exclusive, non-transferable license to use PayPal's software in accordance with the documentation. This license grant includes the software and all updates, upgrades, new versions and replacement software, as described herein for your personal use only. You may not rent, lease or otherwise transfer your rights in the software to a third party. You must comply with the implementation and use requirements contained in all PayPal documentation accompanying the PayPal Services. If you do not comply with PayPal's implementation and use requirements you will be liable for all resulting damages suffered by you, PayPal and third parties. You agree not to alter, reproduce, adapt, distribute, display, publish, reverse engineer, translate, disassemble, decompile or otherwise attempt to create any source code which is derived from the software. You acknowledge that all rights, title and interest to PayPal's software are owned by PayPal. If you are using the PayPal Services on the PayPal website, or other website or platform hosted by PayPal, or a third party, and are not downloading PayPal's software, then this section does not apply to your use of the hosted PayPal Services.

14.10 Indemnification. You agree to defend, indemnify and hold PayPal, its parent, officers, directors and employees harmless from any claim or demand (including attorneys fees) made or incurred by any third party due to or arising out of your breach of this Agreement and/or your use of the PayPal Services.

14.11 Assumption of Rights. If PayPal pays out a Claim, Reversal or Chargeback that you file against a recipient of your payment, you agree that PayPal assumes your rights against the recipient and third parties related to the payment, and may pursue those rights directly or on your behalf, in PayPal's discretion.

14.12 Release of PayPal. If you have a dispute with one or more Users, you release PayPal (and our officers, directors, agents, joint ventures and employees) from any and all Claims, demands and damages (actual and consequential) of every kind and nature arising out of or in any way connected with such disputes. In addition, you waive California Civil Code §1542, which says: A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if not known by him must have materially affected his settlement with the debtor.

14.13 State Agencies. In addition to reporting complaints against PayPal directly to PayPal as described above, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 400 R Street, Sacramento, California 95814, or by telephone at (800) 952-5210. Florida residents may contact the Florida Department of Financial Services in writing at 200 East Gaines Street, Tallahassee, Florida, 32399, or by telephone at 1-800-342-2762. If you are a California resident, you have a right to receive the same information in section 1.7 by email. To make such a request, send a letter to PayPal at the address listed in section 1.6, include your email address, and request the information provided in section 1.7.

14.14 Complete Agreement. This Agreement, along with any applicable policies and agreements on the Legal Agreements page on the PayPal website, sets forth the entire understanding between you and PayPal with respect to the PayPal Services. Sections 1, 7, 8, 10, 14 and 15, as well as any other terms which by their nature should survive, will survive the termination of this Agreement. If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced.

14.15 Translated Agreement. PayPal may provide you with the ability to translate this Agreement to a language other than English. Any translation of this Agreement is provided solely for your convenience and is not intended to modify the terms of this Agreement. In the event of a conflict between the English version of this Agreement and a version in a language other than English, the English version shall apply.

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15. Definitions

"ACH" means the Automated Clearing House network.

"Account" or **"PayPal Account"** means a Personal, Business or Premier PayPal account.

"Add Funds" means your ability to add money into your Account.

"Agreement" means this agreement including all subsequent amendments.

"Approved Shipper" means a shipping provider offering services that meet PayPal's standards herein for Viewable Online Proof of Delivery, and Viewable Online Signature Confirmation. Approved Shippers include USPS (United States Postal Service), UPS (United Parcel Service), and FedEx. For additional Approved Shippers visit PayPal's online Security Center.

"Authorize" or **"Authorization"** means you authorize a Merchant to collect a payment from your Account.

"Balance" means any money that you have in your PayPal Account. The terms "money" and "funds" are used interchangeably in this Agreement.

"Bill Me Later" means a credit account provided by Bill Me Later, Inc.

"Business Account" and **"Premier Account"** means an Account used primarily for business purposes and not for personal, family, or household purposes.

"Business Days" means Monday through Friday, excluding Holidays.

"Commercial Entity Agreement" means the agreement that commercial entities are required to enter into directly with PayPal's payment processor(s).

"Chargeback" means a request that a buyer files directly with his or her credit card company or credit card issuing bank to invalidate a payment.

"Claim" means a claim filed directly with PayPal in the Online Resolution Center pursuant to section 13 of this Agreement.

"Confirmed Address" means an address that has been reviewed by PayPal and found highly likely to be that of the User to which it is associated.

"Customer Service" is PayPal's customer support which can be accessed online through the [PayPal Help Center](#) at any time, or by calling (402) 935-2050 from 6 AM to midnight Central Time.

"Days" means calendar days.

"Default Payment Methods" means the order in which PayPal uses your Payment Methods to fund a transaction if you do not select a Preferred Payment Method.

"Dispute" means a dispute filed directly with PayPal in the [Online Resolution Center](#) pursuant to section 13 of this Agreement.

"eBay" means eBay Group Inc.

"eBay Gift Card" means an eBay branded physical gift card that is issued by PayPal.

"eCheck" means a payment funded from a sender's bank account that is held pending and not received by the recipient until it clears. When you send money using eCheck it will usually be held pending for 3-4 Business Days. The amount of time that it is held pending will increase if the payment is sent from a bank account outside the United States.

"Fees" means those amounts stated in section 8 of this Agreement.

"Holidays" means New Year's Day (January 1), Birthday of Martin Luther King, Jr. (the third Monday in January), Washington's Birthday (the third Monday in February), Memorial Day (the last Monday in May), Independence Day (July 4), Labor Day (the first Monday in September), Columbus Day (the second Monday in October), Veterans Day (November 11), Thanksgiving Day (the fourth Thursday in November) and Christmas Day (December 25). If a Holiday falls on a Saturday, PayPal shall observe the Holiday on the prior Friday. If the Holiday falls on a Sunday, PayPal shall observe the Holiday on the following Monday.

"Information" means any confidential and/or personally identifiable information or other information related to an Account or User, including but not limited to the following: name, email address, billing/shipping address, phone number and financial information.

"Instant Transfer" means a payment funded from the sender's bank account in which PayPal credits the recipient instantly.

"Item Not Received" means a challenge to a payment from a buyer claiming that the item purchased was not received.

"Mass Payments" means the ability to send multiple payments at the same time.

"Merchant" and **"Seller"** are used interchangeably and mean a User who is selling goods and/or services and using the PayPal Services

to receive payment.

"Merchant Processing Delay" means a delay between the time you Authorize a payment and the Merchant processes your payment.

"Money Market Fund" means the PayPal Money Market Fund offered to U.S. Users as an option for investing Balances in their PayPal Account, as further described in the [prospectus](#).

"No Log-In Payment" means a PayPal payment that is made to a Merchant without the buyer having to log into his/her PayPal Account.

"Payment Review" means the process described in section 4 of this Agreement.

"Payment Method" means the payment method used to fund a transaction. The following payment methods may be used to fund a transaction: Balance, Instant Transfer, eCheck, Buyer Credit, PayPal Pay Later, credit card, debit card, eBay Gift Card and Redemption Codes.

"PayPal," "we," "us" or "our" means PayPal, Inc. and its subsidiaries and affiliates.

"PayPal Debit Card" means a PayPal branded debit card that is accepted anywhere that accepts MasterCard.

"PayPal Buyer Credit" a personal credit account exclusively for PayPal Users.

"PayPal Credit" means PayPal Buyer Credit, PayPal Pay Later or PayPal Plus Credit Card, eBay MasterCard or Bill Me Later.

"PayPal Direct Payment" means a payment processed by PayPal that is funded directly by a credit or debit card and not through a PayPal Account, such as payments made through Website Payments Pro.

"PayPal Mobile" means a PayPal Service that allows you to send and receive payments through your mobile phone.

"PayPal Pay Later" means a personal transactional credit account exclusively for PayPal Users.

"PayPal Plug-In" means a PayPal Service that provides you with a secure card that is a unique 16-digit number, an expiration date and a card security code that you can use to make a purchase from your Account on any website that accepts MasterCard.

"PayPal Services" means all our products and services and any other features, technologies and/or functionalities offered by us on our website or through any other means.

"Personal Account" means an Account used for non-business purposes and used primarily for personal, family, or household purposes.

"Personal Payment" means amounts sent between two individuals (not to or from a business) without a purchase. Examples of Personal Payments include sending a gift to a friend or paying a friend back for your share of a lunch bill.

"Policy" or "Policies" means any Policy or other agreement between you and PayPal that you entered into on the PayPal website, or in connection with your use of the PayPal Services.

"Pooled Accounts" means Accounts at one or more FDIC-insured banks in which PayPal will place User Balances that are not invested in the Money Market Fund.

"Preferred Payment Method" means a Payment Method that you select to fund a payment instead of using the Default Payment Methods.

"Purchase Payment" means a payment received for any of the following:

- A payment for the sale of goods or services;
- A payment you received after using the "Request Money" tab on the PayPal website;
- A payment you received for a donation; or
- A payment that is sent to, or received by, a business or other commercial or non-profit entity.

"Quick Pay" means a PayPal Mobile setting that allows you to send money through PayPal Mobile with less clicks.

"Recurring Payments" means a payment in which a Merchant is provided advance Authorization to charge a buyer's PayPal Account directly on a one-time, regular, or sporadic basis in accordance with the Merchant's agreement with the buyer. Recurring Payments are sometimes called "subscriptions", "automatic payments", "automatic billing" or "preapproved payments."

"Redemption Code" means the electronic code needed to obtain the benefit of gift certificates or other promotional coupons.

"Reserve" means a percentage of the funds received into your Account that we hold in order to protect against the risk of Reversals, Chargebacks, Claims or any other liability related to your Account and/or use of the PayPal Services.

"Restricted Activities" means those activities described in section 9 of this Agreement.

"Reversal" means PayPal reverses a payment you received because (a) it is invalidated by the sender's bank, (b) it was sent to you in error by PayPal, its parent, or any direct or indirect PayPal subsidiary, (c) the sender of the payment did not have authorization to send the

payment (for example: the sender used a credit card that did not belong to the sender), (d) you received the payment for activities that violated this Agreement, the PayPal Acceptable Use Policy, or any other PayPal agreement, or (e) PayPal decided a Claim against you.

"Seller" and **"Merchant"** are used interchangeably and mean a User who is selling goods and/or services and using the PayPal Services to receive payment.

"Send Money" means your ability to send money through the PayPal Services.

"Significantly Not as Described" has the definition provided in section 13 of this Agreement.

"Substantial Change" means a change to the terms of this Agreement that reduces your rights or increases your responsibilities.

"Transaction Details Page" means the page on the PayPal website titled "Transaction Details" that displays information about the transaction. This page is accessible from the "Details" link on the "Overview" and "History" subtabs of the "My Account" tab on the PayPal website.

"Verified" means that you have completed our verification process to establish your identity with PayPal. Verification does not constitute an endorsement of a User, or guarantee a User's business practices.

"Viewable Online Proof of Delivery" means documentation that can be viewed online at the Approved Shipper's website and includes the address to which the package was delivered.

"Viewable Online Signature Confirmation" means documentation that can be viewed online at the Approved Shipper's website and includes the signature of the person who received the package.

"User" means any person or entity using the PayPal Services including you.

"Unauthorized Payment" means a challenge from a buyer claiming that he or she did not make the payment, and that the person who made the payment was not authorized.

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EXHIBIT 2

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7 Attorneys for Plaintiffs
and the Proposed Class
8

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 MOISES ZEPEDA, MICHAEL SPEAR,
12 RONYA OSMAN, BRIAN PATTEE, CASEY
13 CHING, DENAE ZAMORA, MICHAEL
LAVANGA, and GARY MILLER, on behalf of
themselves and all others similarly situated,

14 Plaintiffs,

15 vs.

16 PAYPAL, INC., a Delaware Corporation and
17 DOES 1 through 10, inclusive,

18 Defendants.

Case No.

CLASS ACTION

**DECLARATION OF MOISES ZEPEDA
RE VENUE**

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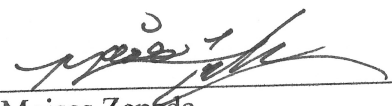
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I, Moises Zepeda, declare as follows:

1. I am a Plaintiff in this action and am a citizen of the State of California. I have personal knowledge of the facts herein and, if called as a witness, I could and would testify competently thereto.

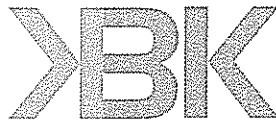
2. The Complaint in this action, filed concurrently with this Declaration, is filed in the proper place for trial under Civil Code Section 1780(d) in that Santa Clara County is a county in which Defendants are doing business.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Declaration was executed on August 2, 2010 at PASADENA, California.



Moises Zepeda

EXHIBIT 3



Kabateck Brown Kellner LLP

August 13, 2010

Via Certified Mail, Return Receipt Requested

Scott Thompson
President
PayPal, Inc.
2211 North First Street
San Jose, CA 95131

Re: *Consumers Legal Remedies Act Notice and Demand*

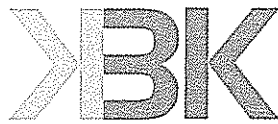
Dear Mr. Thompson:

We represent Gary Miller and Moises Zepeda on whose behalf we are sending this letter pursuant to California Civil Code §1782 in order to notify PayPal, Inc. (“PayPal”) of the nature of his claim, and to demand curative action. Mr. Miller and Mr. Zepeda intend to pursue violations of California Civil Code §1770 (the Consumers Legal Remedies Act or “CLRA”) against PayPal on behalf of himself and all other similarly situated consumers unless PayPal agrees within 30 days to take all of the corrective actions demanded herein.

Specifically, Mr. Miller and Mr. Zepeda hereby notify PayPal that PayPal has engaged in ongoing deceptive, unfair and unlawful conduct in connection with the sales and marketing of its online payment service (the “Service”). In its marketing and advertising of the Service, PayPal represents that the Service allows sellers to “get paid instantly and securely.” Nevertheless, PayPal is indiscriminately placing holds on sellers’ accounts for up to 180 days, thereby precluding sellers from obtaining instant payments and breaching the security of the sellers’ accounts.

The above acts and practices constitute violations of the following provisions of California Civil Code §1770(a):

a. In violation of Section 1770(a)(5) of the CLRA, PayPal’s acts and practices constitute representations that PayPal’s Service has characteristics, uses and/or benefits which it does not;



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b. In violation of Section 1770(a)(7) of the CLRA, PayPal's acts and practices constitute representations that PayPal's Service is of a particular quality which it is not;

c. In violation of Section 1770(a)(9) of the Act, PayPal's acts and practices constitute the advertisement of PayPal's Service without the intent to sell it as advertised;

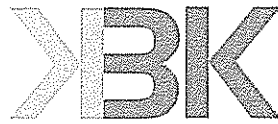
d. In violation of Section 1770(a)(14) of the CLRA, PayPal's acts and practices constitute representations that a subscription to PayPal's SDRAS confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law;

e. In violation of Section 1770(a)(16) of the CLRA, PayPal's acts and practices constitute representations that PayPal's Service has been supplied in accordance with previous representations when it has not; and

f. In violation of Section 1770(a)(19) of the Act, PayPal's acts and practices constitute inserting an unconscionable provision in a contract.

Pursuant to California Civil Code §1782, on behalf of himself and all similarly situated consumers, Mr. Miller and Mr. Zepeda hereby demand that PayPal correct and rectify its violations of California Civil Code §1770. Specifically, Mr. Miller and Mr. Zepeda demand that PayPal immediately undertake all of the following actions to satisfy the requirements of California Civil Code §1782(c):

1. Immediately identify or make a reasonable attempt to identify all persons nationwide who had registered accounts with PayPal and sold items using the Service during the relevant period of July 30, 2007 through the present;
2. Immediately notify all such identified purchasers that upon their request PayPal shall make appropriate remedy for its wrongful actions, including payment for all damages, interests, and costs to all affected purchasers of PayPal's Service (including but not limited to a refund of all amounts on which a hold was placed and interest on such amounts);
3. Immediately fulfill any requests received pursuant to number 2 above, including the payment of damages to all identified purchasers;



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4. Immediately engage in a corrective advertising campaign to inform consumers in California that despite's PayPal's promises provide sellers with immediate and secure access to funds from sales made using the Service, PayPal has indiscriminately placed holds on sellers' accounts; and
5. Immediately cease and refrain from its practice of indiscriminately placing holds on sellers' accounts and/or misrepresenting that the Service provides sellers with immediate and secure access to funds from the goods they sell.

If any of these items cannot be performed immediately, please state why it cannot be done immediately and promise to undertake such action within a reasonable time. Mr. Miller and Mr. Zepeda intend to seek actual damages, punitive damages, and any other damages permitted under the Act if you do not provide a full and adequate response to this letter showing compliance with California Civil Code §1782(c) within 30 days. Should you have any questions regarding this matter, please have your attorney contact me.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Alfredo Torrijos', with a large, sweeping flourish at the end.

Alfredo Torrijos

A second handwritten signature in black ink, which is more stylized and less legible than the first, with a long, horizontal flourish extending to the right.