



TERMS AND CONDITIONS:

This document is part of Merchant Service Agreement

E-Comprocessing is a division of emerchantpay Limited.

www.e-comprocessing.com

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TERMS AND CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1.1. In the Merchant Service Agreement, unless the context otherwise requires the listed terms will have the following meanings:

3DS Protocol	is a messaging protocol that promotes frictionless payer authentication and enables payers/cardholder to authenticate themselves with their card issuer when making Card Not Present E-commerce Payment Transaction
Account: Merchant Account	means the account that governs the Services provided to you and records your Transactions, fees, charges. Each account you may have will have a merchant identification number ('MID')
Account: Payment Account	means an account held by an Authorised Institution which is used for the execution of Payment Transactions in your favour
Action	means any claim, demand, lawsuit or other action by a party that may lead to occurrence of Financial Liability
Affiliate	means any entity directly or indirectly controlled by, controlling or under direct or indirect common control with us, where control means the ability to direct the affairs of another whether by ownership of 25% or more of the issued shares, by contract or otherwise (whether directly or indirectly) and 'Controlled' and 'Controlling' will mean the same
Agreement, Merchant Service Agreement	the Merchant Application Form (MAF), and these Terms and conditions (T&C`s) and the Schedule: Financial Conditions, as added to and amended from time to time in writing are together collectively referred to as 'Merchant Service Agreement' or 'Agreement'
Allowed Jurisdiction	is any jurisdiction where the Merchant should be incorporated and operate within in order to use our Services; the list of jurisdictions will be updated from time to time
Application Program Interface, API	an 'application program interface' which you or a third party appointed by you uses to host the internet payment pages necessary to facilitate your use of Online Payments
Authorisation	means confirmation from the Issuer, to a request to effect a transaction, that a transaction is within the Cardholder's available credit limit and that the Cardholder has not reported the card lost or stolen; or the Authorisation of a Refund to a Cardholder
Authorised Institution	is an umbrella term for Payment Institutions, Electronic Money Institutions, Credit Institutions and Equivalent Institutions
Authorised Institution: Agent of AI	means any legal entity that acts on behalf of AI(s) in provision of services and is registered by them with the respective competent authority

Authorised Institution: Credit Institution (bank)	means a legal entity that has been granted authorisation by the competent authority in its country of incorporation to take deposits or other repayable funds from the public and to grant credits for its own account
Authorised Institution: Electronic Money Institution	means a legal entity that has been granted authorisation to issue electronic money by the competent authority in its EU country of incorporation
Authorised Institution: Equivalent Institution	means a legal entity that has been granted authorisation to issue electronic money and/or to provide and execute payment services throughout non-EU country/ies listed in List C
Authorised Institution: Payment Institution	means a legal entity that has been granted authorisation to provide and execute payment services throughout the EU
Business Days	means any day we are open for business which is a day other than (i) Saturday or Sunday, or (ii) a public holiday in the United Kingdom and/or in the country where the Merchant has its establishments, (iii) a day on which banking institutions in the United Kingdom are authorised by Regulatory Requirements to be closed
Card Issuer	means a member of a Card Scheme that enters into a contractual relationship with a Cardholder for the issuance of one or more cards
Card Scheme: Mastercard	Mastercard International Inc., a company organised and existing under the laws of the State of Delaware, USA
Card Scheme: UnionPay International	UnionPay International Co. Ltd, a subsidiary of China UnionPay, organised and existing under the laws of Republic of China
Card Scheme: Visa	Visa Inc., a company organised and existing under the laws of the State of Delaware, USA
Card Schemes	is an umbrella term for Visa, Mastercard, UnionPay International and any other scheme notified by us to you
Card Security Code or CVV2/CVC2	is a three- or four-digit security code printed on the signature panel on the back of a Card
Card, Payment Card	means a payment card, which can complete a Payment Transaction and is Visa Card, Mastercard Card or other
Cardholder	means a person who is issued with and Authorisation to use a valid Card and is a Customer purchasing products and/or services from you
Chip	means an electronic component designed to perform processing or memory functions
Currency: Processing Currency	is the currency in which the Transaction was originated
Currency: Account Currency	is the currency of your Merchant Account

Currency: Payment Currency	is the currency of your Payment Account
Customer	is an umbrella term for Cardholders that use the products and/or services provided by the Merchant
Data Security Event	means any event where Cardholder Data or Transaction Data (including any Card data or Personal Data) is stolen, misused or disclosed to an unauthorised person
Data: Account Data	The term includes (1) Cardholder Data (primary account number (PAN); Cardholder name; service code; expiration date) and (2) Sensitive Authentication Data (including full track data from the magnetic stripe, equivalent data on the Chip, or elsewhere; CAV2/CVC2/CVV2/CID4 - the three- or four-digit value printed on the front or back of a Payment Card; PIN/PIN Block - personal identification number entered by Cardholder during a card-present transaction, and/or encrypted PIN block present within the transaction message)
Data: Acquiring Data	means all data relating to submitted transactions, transaction fees, account fees and settlement
Data: Personal Data	means any information relating to an identifiable natural person, including identifiers such as name, identification number, location data, online identifier; physical identity factors such as height, colour of eyes; physiological identity factors such as biometric data, medical record; economic identity factors such as source of funds, source of wealth, account balance, transaction history; cultural identity factors such as level of education; social identity factors such as marital status, children, criminal convictions and offences
Data: Sensitive Payment Data	is an umbrella term for Account Data and Transaction Data
Data: Transaction Data	means all data relating to submitted transactions
Director	means person who is duly authorised to direct, control and coordinate business activities of the Merchant
Effective Date	means the date on which the Agreement enters into force
Exchange Rate	means the foreign exchange rate provided to us by our foreign exchange rate service providers
Fallback	means a procedure where you can manually process a Transaction and obtain Authorisation where the initial process fails
Fee: Card Scheme Fee	means fees paid to the Card Schemes by ECP for the services rendered by them for the processing of a payment transactions. Card Schemes fees include variable and fixed fees per transaction and are applied on pass-through basis to Merchants

Fee: Processing Service Fee	means fee charged for processing of payment transactions
Fee: Interchange Fee	means a fee, set by the Card Schemes, paid by the acquirer (i.e. ECP) to the issuer of the Payment Card for each Transaction, directly or indirectly (i.e. through a third party)
Financial Liabilities	mean any claims, losses, liabilities, penalties, costs, expenses, charges (including fees, charges, assessments and the like of the Card Schemes) or damages (including reasonable legal fees)
Floor Limit	means the transaction amount limit for all card transactions that must be sent to ECP for Authorisation. To the extent that Merchants process Card Not Present Transactions, those transactions shall have zero-floor-limit, which means that they are to be sent to ECP for Authorisation
Group, our Group	means us and each of our Affiliates
Interchange ++ Pricing Model	is a dynamic pricing model which is based on real cost of different parties involved in the processing of a transaction. The fee paid by you will consist of: Interchange, Card Scheme Fee and Processing Service Fee
Merchant Location, Point of Sale	means: <ul style="list-style-type: none"> · for Face to Face (F2F) Transactions – the physical location at which you accept Transactions; · for MO/TO Transactions – the physical location at which you receive Card and Cardholder Information; · for E-commerce Transactions – your domain name host website
Merchant, you and your	means any legal entity entering into the Agreement with us and, where applicable, their duly authorised representatives and successors
Merchant: Inactive Merchant	inactive Merchant is a Merchant that has not submitted any Transaction during a period of three consecutive months. We consider as an Inactive Merchant also: (i) terminated Merchant for which the security period is expired, has a residual balance, but has no active company and/or no active Payment Account; (ii) any Merchant to which we are prevented to pay for a reason beyond our control
Normal Working Hours	being no less than 9.00 a.m. to 5.00 p.m. on Monday to Friday each week
Party	each party under the Agreement - E-Comprocessing, the Merchant, including any payment service provider/independent sales organisation that signs the Agreement, are individually referred as a 'Party'
Payment Card Industry Data Security Standard (PCI-DSS)	means a worldwide information security standard defined by the payment card industry security standards council and applies to all organisations which hold, process, or exchange Cardholder information from any card

Payment System	the computer hardware and software operated by and on behalf of the Card Schemes for the routing, processing, and settlement of Transactions
Principal Place of Business	means the fixed location at which a legal entity's executive officers direct, control, and coordinate the entity's activity
Regulatory Requirements	means any law, statute, regulation, order, judgement, decision, recommendation, rule, policy or guideline passed or issued by parliament, government or any competent court
Reserve	means an amount which is determined by us (in our sole discretion) for the purpose of securing any claims that we might have against you
Security	means any form of security requested by us (in our sole discretion) from you: Reserve, guarantee other such security
Service Provider, E-Comprocessing, ECP, we, us and our	means the company which provides the Services to you
Services	mean the Acquiring Services and Ancillary Services provided by us under the agreement
Services: Acquiring Services	means the acquisition of transactions and related services that ECP provides you in order to manage your access to the Payment Systems and acceptance of payments via Payment Cards
Services: Ancillary Services	means services necessary to support the Acquiring Services
Services: Processing Services	means services provided by ECP to supply and process Authorisations for transactions from Merchant
Standards	means: (i) Card Scheme Standards - any operating rules, regulations, procedures of the relevant Card Schemes including, but not limited to any manuals, guides, bulletins, member letter as may be amended from time to time; and the Standards established by the Payment Card Industry Security Standards Council: (ii) PCI-DSS - the Payment Card Industry Data Security Standards and (iii) PA-DSS - Payment Application Data Security Standards (PA-DSS)
Terminal	means the software or device used to process a transaction. A terminal can be either a Point of Sale Terminal (POS Terminal, including devices enabling swiping cards over mobile phones and other handheld similar devices) or an Online Payment Terminal or both
Terminal: Online Payment Terminal	means the software used at Merchant's website to accept and process a transaction

Terminal: Payment Page	means an electronic data capture software solution approved by us and used at your merchant location to capture and to submit Transaction Data to us
Terminal: POS Terminal	means an electronic data capture device approved by us and used at your merchant location to capture and to submit Transaction Data to us
Terminal: Virtual Terminal	An online portal you input Cardholder data to so that MO/TO Transactions can be processed
Third-Party Service Provider	means provider of services that is not Party to the Agreement
Transaction Receipt	means an electronic record of a Transaction
Transaction: Aggregated Transaction	A Transaction that combines all purchases made by the same Cardholder on the same Account Number during a defined time-period and up to a defined amount into a single Transaction before submitting it for Clearing
Transaction: Card Not Present Transaction, CNP Transaction	means a transaction between you and a Cardholder which is completed when neither the Cardholder nor the Cardholder's card are present at your location at the time of the Transaction, e.g. mail order/telephone order (MO/TO) Transactions, E-commerce (internet) Transactions or pre-authorized recurring order transactions
Transaction: Card Present Transaction, Over the Counter Transaction, Face to Face Transaction, F2F transaction	means a transaction in which the Card is swiped through a Point of Sale (POS) Terminal capturing the card information encoded in the Chip or on the magnetic stripe
Transaction: Chargeback	means a Transaction that is disputed by a Cardholder or Card Issuer and is returned to us under the Standards
Transaction: E-commerce Transactions	means a Card Not Present Transaction carried out over the internet via a fixed or mobile device in which Card details are transmitted by the Cardholder via the Internet, or any other public or private network
Transaction: MO/TO Transactions	means a Card Not Present Transaction in which Card details are provided to you via mail or telephone
Transaction: Payment Transaction	means the acceptance of a Card or information embossed on the Card, for payment for products sold and/or leased and/or services provided to Cardholders by Merchant. Transaction can be either a F2F Transaction or a CNP Transaction or both. The term Transaction also includes credits, errors, returns and adjustments

Transaction: Recurring Transactions	means a Transaction which a Cardholder has agreed can be debited to their Card at agreed intervals or on agreed dates. The Transaction can be for a specific amount or for an amount due to you for the on-going provision of products and/or services
Transaction: Refund	means the return of funds to a Cardholder of an earlier Transaction between you and the Cardholder
Website, E-commerce Website	means the website operated by or on behalf of you (as amended from time to time) through which your Customers can make Transactions

1.2. In the Agreement, the following abbreviations are used:

EEA	European Economic Area
FX	foreign exchange
ISO	Independent Sales Organisation
MATCH	Mastercard Member Alert to Control High-risk Merchants
MID	Merchant Identification Number
PCI SSC	Payment Card Industry Security Standards Council
PCI-DSS	Payment Card Industry Data Security Standards
RAM	Remote Access Module
VMSS	Visa Merchant Screening Service

1.3. In the Agreement, unless the context otherwise requires:

- a. any reference to the applicable Regulatory Requirements, the Standards and agreements will be interpreted as a reference to such applicable Regulatory Requirements, Standards and agreements as amended, extended, consolidated or re-enacted from time to time and will extend to any subordinate legislation made under it;
- b. references to clauses and schedules are to clauses of and schedules of the Agreement, and references to paragraphs are of paragraphs in the Schedules in which such references appear;
- c. a reference to a person (including a party hereto) includes a reference to (i) that person's legal personal representatives, successors and permitted assigns and (ii) corporate, unincorporated associations, natural persons, firms and partnerships;
- d. unless the contrary intention appears, words in the singular include the plural and vice versa; words importing the masculine gender include the feminine and neuter and vice versa;
- e. the headings in the Agreement are for convenience only and will not affect the construction or interpretation of the Agreement;
- f. any phrase introduced by the term 'included', 'including', 'in particular' or any similar expression will be construed as illustrative only and will not limit the sense of the words preceding that term;

- g. subject to applicable Regulatory Requirements, in construing the Agreement, the so-called 'contra proferentem' rule will not apply and accordingly no term, condition or provision of the Agreement will be construed against a party hereto solely on the basis that the party drafted and/or is relying upon the relevant term, condition or provision;
- h. in the case of any conflict or ambiguity between the Agreement and the Standards, the Standards will prevail, provided that the Agreement will be interpreted to give as full effect as is possible to both the Standards and the Agreement;
- i. in the case of any conflict or ambiguity between the Standards and the applicable Regulatory Requirements, the Regulatory Requirements will prevail.

2. SERVICE PROVIDER

- 2.1. The Acquiring Services under the Agreement are provided by E-Comprocessing, acquiring division of emerchantpay Ltd.
- 2.2. emerchantpay Ltd is a company, organised and existing under the laws of England and Wales and having its registered office address at 29, Howard Street, North Shields, Tyne and Wear, NE30 1AR, United Kingdom, registered with Companies House under number 05153270 (hereinafter referred to as the 'Service Provider').
- 2.3. The Service Provider is duly authorised as an electronic money institution and is subject to the prudential supervision of the UK Financial Conduct Authority (Financial Services Register No. 900778).

3. SERVICES

General provisions

- 3.1. Subject to the terms and conditions of the Agreement we agree to provide you with services to manage your access to the Payment Systems and acceptance of payments via Payment Cards ('Services').
- 3.2. The Services include Acquiring Services and may include Ancillary Services.
- 3.3. We will provide you with Acquiring Services, consisting of:
 - a. acquiring of Payment Transactions;
 - b. registration with Card Schemes, when required;
 - c. provision of real-time access to Acquiring Data through Remote Access Module (RAM);
 - d. payment for acquired Transactions.
- 3.4. Where expressly agreed so, we will ensure provision of the following Ancillary Services:
 - a. application processing and due diligence;
 - b. integration and gateway services;
 - c. POS Terminal(s) and payment page(s);
 - d. Merchant plug-in (MPI) service;
 - e. risk management and chargeback (dispute) management;
 - f. customer support;
 - g. trainings and educational support.
- 3.5. We will provide the Services as set out in the Agreement and we will not be obliged to provide any other services, unless expressly agreed between you and us in writing. We are not responsible for the provision of any advices, such as legal, accounting, or taxation matters, or services not specified in the Agreement.

- 3.6. We will provide the Services with reasonable skill, care and diligence in compliance with Regulatory Requirements and Standards, following good business practices and to your reasonable satisfaction.

Suspension of Services

- 3.7. We may suspend or limit the Services at any time and at our sole discretion due to your:
- a. Deterioration in your financial responsibility, including: (i) pending full payment of any outstanding Financial Liabilities by you to us; (ii) failure to file your annual accounts with the business register, when due;
 - b. Material Changes - any changes to: (i) your business, including any change of control or constitution; (ii) business model; (iii) the products and/or services you provide; (iv) your Payment Account, including when it ceases to be acceptable to the financial institutions we work with; (v) Regulatory Requirements or Standards which you are subject to, including but not limited to, changes to or the revocation of the licences required for your business; (vi) your credit and/or financial standing, including your insolvency, liquidation, winding up, bankruptcy, administration, receivership or dissolution, or where we reasonably consider that there is a threat of the same in relation to you; or (vii) where anything occurs which in our opinion suggests that you will be unable to provide your products and/or services and/or otherwise fulfil the contacts that you have with your Customers or you have with us, such as significant volume drop or cease of processing;
 - c. Breach of the Agreement, including (i) you do not provide us with required information and documents; (ii) you do not comply with the Security requirements;
 - d. Non-compliance with the Regulatory Requirements or the Standards, including without limitation: (i) breach of financial crime prevention measures, fraud or other illegal activities; (ii) excessive levels of Chargebacks or Refunds; (iii) submission of Transactions that are not valid or not completed by you; (iv) reasonable suspicion of non-compliance with the Regulatory Requirements or the Standards.
- 3.8. We may suspend or limit the Services at any time and at our sole discretion for security reasons – when we believe it is necessary or desirable to protect the security of Account Data, Transaction Data, Personal Data or your Merchant Account.
- 3.9. We may suspend or limit the Services at any time upon request from the Card Scheme(s) or instruction from a competent regulatory body.
- 3.10. We may suspend or limit the Services at any time when we are required to do so due to:
- a. order from competent regulatory body or court;
 - b. under relevant and applicable Regulatory Requirements or Standards.
- 3.11. We will make reasonable efforts to inform you of any such suspension in advance, or if this is impossible or impracticable, immediately afterwards combined with the reasons for such suspension unless we are prohibited to do so by Regulatory Requirements.
- 3.12. We will reinstate the Service, as soon as practicable after the reasons for the suspension cease to exist.

4. ELIGIBILITY

General provisions

- 4.1. You will only be eligible to use the Services subject to your status and after you have met relevant eligibility criteria. Details on the applicable eligibility criteria may be varied from time to time.

- 4.2. If at any point, you fail to fulfil all the eligibility criteria, we may terminate the Agreement and stop providing Services.
- 4.3. If you conduct your business through separate lines or you have separate Websites, entering into separate agreements may be required.

Merchant profile

- 4.4. Our Services are intended for legal entities of any size that conduct sale of products and/or services and receive payments via Payment Cards based on Transactions that occur at their merchant location ('Merchant').
- 4.5. The Merchant must be all of the following:
 - a. incorporated and operates within an Allowed Jurisdiction;
 - b. financially responsible;
 - c. with good reputation.
- 4.6. The Merchant must NOT
 - a. be engaged in any activity that could cause harm to the Payment System, Card Schemes` brands or our reputation;
 - b. be engaged in any activity that is considered illegal or brand-damaging;
 - c. be prohibited, including its known owners (principals) from participating in any Card Scheme programme;
 - d. be subject to financial sanctions and must not act directly or indirectly on behalf of a designated person;
 - e. misrepresent itself as being a member of the Card Schemes or misrepresent its Merchant Location(s).

Merchant Location

- 4.7. In order to use our Services, you must be located in Allowed Jurisdiction. You undertake not to misrepresent or alter your Merchant Location.
- 4.8. When determining your location, we will consider, among others, where you:
 - a. are incorporated/where your Principal Place of Business is;
 - b. have your registered office address;
 - c. hold a business licence or you are otherwise authorised to conduct business;
 - d. assess and pay respective taxes on the transaction activity;
 - e. maintain an office or other physical presence where your employees or agents conduct business activity directly related to providing the Cardholder with products and/or services and where you can receive business-related mail.
- 4.9. If you are F2F Merchant, we will determine your Merchant Location based also on the location at which your Transactions are completed. To verify your Merchant Location, we may perform a site visit or use a suitable alternative.
- 4.10. We expect that you have and maintain at least one Director who is domiciled in the country of your company's incorporation. If you are incorporated in EEA, your Director should be domiciled in one of the EEA countries.

Authorised persons

- 4.11. Unless otherwise notified, we will assume that the persons registered with your company's registry as company`s registered Directors are authorised to enter into the Agreement on your behalf and to exercise your rights and perform your duties under it, including to re-authorise third parties with such rights (e.g. procurator, proxy, attorney).

5. ACQUIRING SERVICES

Acquiring of Payment Transactions

- 5.1. We undertake to acquire all valid Transactions submitted to us from you in accordance with the Agreement.
- 5.2. We will support the acceptance of Card Present Transaction and Card Not Present Transactions (e-commerce, MO/TO, and Recurring Transactions and other Transactions with stored credentials).
- 5.3. We need to agree explicitly on the acceptance of each type of Transaction.
- 5.4. We will settle your Payment Transactions through the Payment System of the respective Card Scheme (VisaNet / Mastercard Interchange System).
- 5.5. In some circumstances the Card Issuer will have the right under the Standards to refuse to settle a payment or to request a reimbursement from us of a payment which has already been settled. In either case, the relevant amount is referred to as a 'chargeback'. Such circumstances can be: (i) the Cardholder denies authorising Card Not Present Transaction; (ii) the payment was for illegal Transaction; (iii) the Transaction involves using the Card by a person other than the Cardholder, etc.
- 5.6. If a Card Issuer exercises its right not to settle or to undertake a Chargeback, we will be entitled to Chargeback the Transaction immediately, and without notice, and we will debit your Merchant Account, or recover from you by any other means, the amount paid by us to you in respect of that Transaction.
- 5.7. Our Chargeback rights will not be affected by any arrangement between you and the Cardholder.
- 5.8. Despite the above: we shall not be obliged to notify you of any defect in any Transaction Data or other liability to Chargeback except where a Chargeback is in fact made; we may treat any defective Transaction Data as valid; and we are under no obligation to assist you in getting payment from a Cardholder where the relevant Transaction Data has been charged back.

Registration with Card Schemes

- 5.9. Subject to the provisions of the Agreement, we undertake, when such registration is required, to register you with the Card Scheme(s) and to maintain the respective registration(s).
- 5.10. We will advise you whether registration is needed based on the description of your business, provided in the Merchant Application Form.
- 5.11. You acknowledge that the registration is subject to the sole discretion of the respective Card Scheme which may approve or reject any application or decline to renew the registration, if renewal is required.
- 5.12. We will neither be in breach of the Agreement nor liable for any failure or delay in performance of our obligations under it, in case the respective Card Scheme decides to reject your application or decline to renew your registration, if renewal is required.
- 5.13. You acknowledge that you will be entitled to submit Transactions to us after the receipt of written confirmation of your registration with the Card Schemes.
- 5.14. In all cases where registration fees are assessed by the Card Schemes, you undertake to reimburse us for this cost.

Merchant Name Assignment

- 5.15. We will assign you a name for identification purposes that will be your 'Doing business as name'. You undertake to use it to identify yourself to your customers and display it at each Merchant Location.
- 5.16. The name must be consistent, including in its spelling, in every place that it is used, including, but not limited to, the: transaction receipt provided to the Cardholder, authorisation request, clearing record, dispute, dispute response, and Acquirer-initiated pre-arbitration records.

Payment for transactions

- 5.17. We undertake to pay you the net amount of all Transactions that we acquire from you in accordance with the Standards and the Agreement by crediting your Payment Account.
- 5.18. We may withhold payment, in whole or in part, if in good faith we suspect that:
- any Transaction is fraudulent or involves any other criminal activity;
 - any Transaction was not in the ordinary course of your declared business;
 - the number or size of Transactions is significantly greater/less than expected;
 - your Merchant Account turns to negative balance; or
 - any of the events referred to in Clause 'Suspension of Services' or required for the immediate termination of the Agreement by us has happened (whether or not we have terminated the Agreement).
- 5.19. Payments may be retained until we are satisfied that:
- the relevant Transactions are legitimate;
 - the relevant Transactions are no longer liable to be the subject of a Chargeback;
 - your obligations to us have been satisfied in full.

Provision of Acquiring Data

- 5.20. Once your Merchant Application has been accepted, if you are eligible, we will send you details of how to access our online Remote Access Module (RAM).
- 5.21. During the term of the Agreement, through RAM (web-based application), we will provide you with access to all data relating to submitted transactions, a breakdown of your charges and fees for the Services - transaction fees, account fees and settlement.
- 5.22. Access credentials (user name and password) will be provided to the person designated in the Merchant Application Form. You are responsible for maintaining adequate security and control of your access credentials.

Provision of other information

- 5.23. We undertake to inform you about:
- any major changes in the Standards;
 - any major system changes implemented by us or by the Card Schemes in a timely manner;
 - any changes to the terms of the Agreement that result from changes made to the Standards, with at least 2 months' notice whenever possible;
 - the category (commercial, debit, credit or prepaid) of each card or payment application issued;
 - other information relevant to your use of our Services.
- 5.24. You agree and consent to receive this information electronically.

Supplying materials

5.25. We undertake to provide you with all materials (such as POS Terminals, PIN pads, Card acceptance decals, signage, and the like) necessary to signify card acceptance and to conduct POS Transactions in accordance with the Standards. You undertake to use only materials provided by us.

6. ANCILLARY SERVICES

Application processing and due diligence

- 6.1. Before entering into, extending, or renewing our Agreement with you and during the term in which the Agreement is in full force and effect, we will request to be provided with information and documents. ('Information').
- 6.2. You agree to provide us, upon reasonable request and at your expense, with accurate, precise, complete and updated Information.
- 6.3. We will impose certain requirements in respect of content, issuer, validity period, etc. for the documents that we will request you to provide us with. You undertake to comply with those requirements.
- 6.4. You acknowledge and agree that we will:
 - a. research your background including, but not limited to, credit background checks, banking relationships, and financial history;
 - b. collect data and/or information about you through automatic means, public registers, social media, data vendors or other data providers;
 - c. request information about you through VMSS and MATCH.
- 6.5. You must update us whenever the provided Information changes, including you must advise us immediately, but not later than 3 Business Days of the day on which:
 - a. you change your business or trading name;
 - b. you change your legal status (such as a change of entity, a sale or change of ownership to your business);
 - c. you change your contact details - business or trading address or telephone number;
 - d. your PCI DSS compliance status changes;
 - e. you commence and/or cease business activities;
 - f. you change the products and/or services, described in the Merchant Application Form;
 - g. you intend to use or cease to use Service Providers;
 - h. you fail or refuse to make payments in the ordinary course of business;
 - i. you make an assignment for the benefit of creditors;
 - j. you seek bankruptcy protection or similar protection
 - k. you became aware that any of your Directors or other authorised persons, shareholders or beneficial owners is politically exposed person or is subject of financial sanctions;
 - l. you establish a privately contracted agreement with an Issuer.

Integration with our processing platform

- 6.6. You are responsible for your technical integration with our processing platform and all costs and expenses directly or indirectly incurred in successfully completing the technical integration.

6.7. If we explicitly agree so, throughout the term of the Agreement we will provide you with software and systems required to enable your integration with our processing platform that will enable you to receive Acquiring Services. For these purposes we will rely on Affiliate(s).

Gateway services

- 6.8. You are required to connect to our processing platform through payment gateway. If you use or intend to use Service Providers (gateway or point-of-sale system integration, a webhost or any other person appointed to process or store any Sensitive Payment Data on your behalf or to provide a related service) for these purposes, you must notify us in advance.
- 6.9. You will give us twenty Business Days' notice of your intention to remove existing or to appoint new Service Providers responsible for processing Transactions or storing Sensitive Payment Data on your behalf.
- 6.10. We must register with the Card Schemes all your Service Providers that will have access to Sensitive Payment Data.
- 6.11. You are allowed to start using the services of Service Providers after we successfully register them with the Card Schemes.
- 6.12. You are responsible to validate that the Service Providers you use are certified as compliant with the PCI DSS or a similarly established data security standard. You will ensure that we, the PCI SSC assessor and each of their representatives and/or advisors:
- a. have access during your Normal Working Hours to all information relating to the Agent's processing or storage of any Transactions submitted to us; and
 - b. can carry out any necessary checks (at the Agent's premises) under the Standards and/or the PCI SSC's requirements.
- 6.13. If we explicitly agree so, throughout the term of the Agreement we will provide you with gateway services via Affiliate(s).
- 6.14. When we provide you with gateway services, we will be responsible for the security of the Sensitive Payment Data that we will store, process or transmit on your behalf to the extent that we could impact the security of your Cardholder Data environment.
- 6.15. We will provide you with RAM access to our payment gateway enabling:
- a. transaction monitoring;
 - b. transaction reports downloading;
 - c. other functionalities upon agreement.

POS Terminals and Payment Pages

General requirements

- 6.16. You must not use any POS Terminal/ Payment Page unless we have agreed to this in writing. You must request our agreement to make changes to approved POS Terminal(s)/ Payment Page(s) before submitting any Transaction Data to us.
- 6.17. If we allow you to use any POS Terminal/Payment Page, you are responsible for its security, safekeeping and maintenance to submit Transactions to us.

6.18. If we feel any agreed POS Terminal/Payment Page no longer meets our security standards in respect of Sensitive Payment Data, we may require you to replace it.

POS Terminal

6.19. In order to send Transaction Data relating to F2F Transactions you need to have a POS Terminal that is Chip-and-PIN compliant and is approved by us.

6.20. As a Card Present Merchant, you are obliged to perform (POS Terminal) device asset management on a regular basis, including all of the following:

- a. recording all stock and serial numbers of each PIN entry device;
- b. recording the location of each PIN entry device;
- c. undertaking basic electronic and physical identification, and authentication of each PIN entry device.

6.21. In order to provide maintenance and software updates to your POS Terminal we may need to use the telephone link. You will at all times maintain a telephone link to the POS Terminal to make sure all maintenance and software updates are successfully installed. You will be responsible for paying all charges you may have from your network operator for the maintenance and software updates.

6.22. If you would like to rent or lease a POS terminal, then you need to enter into a separate rent/lease agreement.

Payment page

6.23. In order to send Transaction Data relating to E-commerce Transactions you need to have a Payment Page that is hosted by you or by Third Party Service Provider on your behalf and is approved by us.

6.24. Where you are using Payment Page provided by us:

- a. we are responsible for ensuring that the Payment Page is PCI DSS Level 1 compliant in respect of the collection and storage of Sensitive Payment Data and will engage with the PCI SCC to the extent necessary to achieve this; and
- b. you must undertake all Transactions using 3DS Protocol, unless otherwise agreed in writing with us.

3DS MPI

6.25. To ensure your compliance with 3D-Secure verifications requirements we will provide you, upon your request, with merchant plug-in (MPI) software - product of a Third Party Service Provider.

Risk management

General provisions

6.26. When offering your products and/or services, you will be required to comply with certain rules set in the Standards regarding you as a Merchant, your relationships with Customers and third parties, use of Cards as payment method.

6.27. We will conduct monitoring of your business, including transaction processing to ensure its ongoing compliance with the Regulatory Requirements and the Standards and to support you on an ongoing basis to address the risks, to which you might be exposed, related to the conduct of your business.

6.28. You undertake to follow strictly our instructions regarding card acceptance and transaction processing that aim to ensure your compliance with the Standards and to reduce the level of your risk exposure.

Transaction limits

6.29. We may impose limits on the transactions we will process for you over a period of time. These limits can be:

- a. value (amount) limits - per single transaction, per card per day/ week/month
- b. volume (counts) limits - per card per day/week/month

6.30. We will review these limits and where we identify a need to amend them, we will do so.

6.31. If you exceed an established limit, processing may be suspended and we may retain settlement funds until new limits are agreed, or we may amend the charges and fees payable by you under the Agreement.

Fraud scrubbing tools

6.32. We will support your risk management, including by supplying you with available fraud scrubbing tools and supporting the implementation of security and fraud prevention methods.

Chargeback (dispute) management

6.33. We will support you in the process of chargeback management and defence.

Customer support

6.34. Our personnel will be available to answer your inquiries relating to the Services on Business Days during our Normal Working Hours, unless otherwise agreed.

6.35. We will conduct our communications with you in a courteous, prompt and efficient manner and will use our best efforts to resolve any issue you might have with regards to the Services.

Trainings and educational support

6.36. We will provide you on an ongoing basis with trainings, educational support and notifications in order to ensure your compliance with the Regulatory Requirements, the Standards and the Agreement.

6.37. You undertake to familiarise yourself with all materials we provide you with under the Agreement and to participate in all trainings and workshops that we organise for you.

7. MERCHANT`S RIGHTS AND DUTIES

Compliance

7.1. You acknowledge that you are aware of and undertake to operate in compliance with the applicable Regulatory Requirements, Card Schemes` Standards, Data Security Standards and the Agreement, and to refrain from actions that could harm the safety, security and soundness of the Payment System.

Card acceptance

7.2. Our Agreement with you sets forth the terms pursuant to which you are authorised to accept Cards. You must display appropriate Card Schemes` marks at your Merchant Location where payment methods are listed to indicate which Cards are accepted for payments. You must honour all valid Cards without discrimination when properly presented for payment. Depending on the product/service offered you must disclose to a Cardholder certain information.

Cardholder

7.3. You are required not to request Cardholder identification as a condition of purchase. However, you may request Cardholder identification when:

- a. suspects fraud in a face-to-face environment;
- b. such information is required to complete the Transaction, such as for shipping purposes.

Transaction processing

General requirements

7.4. You must complete and process Transactions as defined in the Standards.

7.5. Transactions with all Cardholders must be processed in exactly the same manner.

7.6. You undertake to submit to us only records of valid Transactions completed by you. You must not submit any Transaction that:

- a. is from Customer with which you are not in an agreement, including when the agreement you had is terminated;
- b. is for products and/or services that do not fall within your business, as described in the Merchant Application Form;
- c. is recurring or unscheduled credential-on-file transaction and you have not fulfilled the conditions of your agreement with the Cardholder;
- d. is for payment of products and/or services that are not shipped or provided;
- e. was subsequently reversed for the full amount or represent the amount of the partial Authorisation reversal;
- f. was previously disputed and subsequently returned to the Merchant. However, the Merchant may pursue payment from the Customer outside the card Payment System;
- g. is illegal (transaction must be legal in both your Customer`s and your Merchant Location`s jurisdiction);
- h. is brand damaging;
- i. relates in any way to a country or a person subject to financial sanctions imposed by the authorities of the United Nations, the European Union, the United Kingdom or the United States.

Transaction amount

7.7. You must not establish a minimum or maximum transaction amount as a condition for honouring a Card.

Surcharges

7.8. You must clearly communicate any surcharge amount to the Cardholder, and the Cardholder must agree to the surcharge amount, before you initiate the Transaction.

Tax

- 7.9. You must not add any tax to transactions, unless applicable Regulatory Requirements expressly require that you are permitted to impose a tax. Any tax amount, if allowed, must be included in the transaction amount and not collected separately.

Cash-back

- 7.10. You must not provide cash to a Cardholder unless you provide cash-back or sell foreign currency and you have our explicit written permission to do so.
- 7.11. Authorisation must be sought on all Transactions with purchase with cash-back. Cash can be provided only if the Fallback procedure is followed.
- 7.12. You must not redeem and provide cash to a prepaid card Cardholder unless explicitly authorised to do so.

Solicitation materials

- 7.13. Your solicitation materials (such as advertisements, stationery, business cards, sales brochures, Website promotional content, etc.) must NOT include misleading statements, including statements:
- a. that you are a member/representative of any of the Card Schemes;
 - b. that your registration with any of the Card Schemes, if such, is endorsement of your products and/or services;
 - c. that imply that you are participating in an activity not permitted by the Standards.
- 7.14. You must not engage in potentially deceptive marketing practices.
- 7.15. We are entitled to suspend any marketing campaign if the content of the materials is not in compliance with the applicable Regulatory Requirements, the Standards and the Agreement.

Use of Card Schemes` Marks

- 7.16. You acknowledge that each Card Scheme is the sole owner of their respective trademarks.
- 7.17. You agree:
- a. to use one or more of the trademarks to indicate acceptance for payment, provided that the conditions in the Standards are met;
 - b. not to use Card Schemes` marks for promotional or advertising purposes in any media, unless the Card Schemes` Standards permit their use;
 - c. not to use Card Schemes` marks in a way that implies endorsement of your products and/or services;
 - d. not to contest the ownership of the trademarks for any reason;
 - e. that the Card Scheme(s) may prohibit you from using any of their trademarks for any reason.
- 7.18. You may use one or more of the trademarks in connection with your products and/or services, provided the trademarks are used:
- a. in accordance with the Standards, including all current reproduction, usage and artwork Standards; and
 - b. according to our express written instructions; and
 - c. solely in connection with the provision of your products and/or services.

Sensitive Payment Data security

7.19. You are solely responsible for the safety and security of the stored, processed and transmitted Sensitive Payment Data. To verify your compliance and/or the compliance of the service providers you are using with PCI-DSS we will require to be provided with necessary documents.

Use of Sensitive Payment Data

- 7.20. You must comply with all of the following:
- a. not request or use an account number for any purpose that is not related to payment for your products and/or services, except when for the products and/or services is paid by using that account number;
 - b. not display the full Account Number to the Cardholder online, if you are e-commerce Merchant;
 - c. not request the Cardholder to reveal their PIN;
 - d. not request a Card Verification Value 2 (CVV2) from the Cardholder on any written form;
 - e. store and reproduce Cardholder`s signature only for the transaction for which the signature was obtained; the signature can be reproduced only upon our specific written request or in response to a retrieval request;
 - f. reproduce the Cardholder`s signature only upon our specific written request or in response to a retrieval request;
 - g. store and use a stored credential only as agreed with the Cardholder;
 - h. must not extract, keep or reveal any security code, other than for the purposes of processing Transaction Data.

Data Security Event

- 7.21. If a Data Security Event occurs or if you suspect that a Data Security Event has occurred, you will notify us in writing immediately providing the following details:
- a. your full name, trading name (if any) and the MID(s) alleged to have been breached;
 - b. a full description of the actual or suspected Data Security Event;
 - c. details of the number of Cardholders affected by the actual or suspected Data Security Event; and
 - d. a copy of all correspondence between you and any Card Issuer or Cardholder concerning the actual or suspected Data Security Event.
- 7.22. You will provide us immediately with any additional information which we need in connection with the actual or suspected Data Security Event.
- 7.23. You must obtain our consent prior to incurring any expenses of any type for which we may be responsible in remedying a Data Security Event (we will give our consent unless there is a good reason not to).

Employees

7.24. You undertake full responsibility for your employees` actions and omissions while in your employ.

Audits

7.25. For the purpose of determining compliance, we may conduct one or more regular or periodic audits (on-site and/or on-desk inspections) of your recruitment; inventory; solicitation, sales and trading materials; operational controls; established fees; adherence to the Standards.

- 7.26. We shall give you a minimum of thirty (30) days written notice of any exercise of our rights under this section 'Audit', except where the requirements of a regulatory authority do not permit such notice, or we have immediate data security, compliance or fraud concerns, in which case we may give immediate or shorter notice.
- 7.27. We shall exercise our rights under section 'Audit' reasonably and usually no more than once a year during the term of the Agreement unless a regulatory authority requires otherwise or there are immediate data security, compliance or fraud concerns, in which case we may give immediate or shorter notice. Additionally, where matters are identified as requiring remediation in a shorter period we may, acting reasonably, exercise our rights more frequently to ascertain whether such remediation has been made.
- 7.28. Upon our request, you shall:
- a. permit or procure us or our duly authorised representatives to have access to all or any of your premises where, or systems on which, your business trades or where your records or stock are located, during your Normal Working Hours, to examine all or any such premises, systems, records or stock and those of any other business which we consider is or may be connected to you;
 - b. permit or procure us or our duly authorised representatives to take and retain copies of all or any such records; and
 - c. provide to us or our duly authorised representatives or procure that we or they are provided with honest and comprehensive answers to any enquiry we may make in relation to you and your business, for the purpose of ascertaining whether or not you are performing your obligations in accordance with all the provisions of the Agreement.

Forensic investigations

- 7.29. If undergoing a forensic investigation, you undertake to fully cooperate with the investigation until completed.

Cooperation with the Card Schemes

- 7.30. You undertake to cooperate fully with the Card Schemes in any investigation, inspection, audit, review that aims to ensure that you are complying with the Card Scheme Standards and operating in a safe and sound manner.
- 7.31. The cooperation with the Card Schemes includes providing access to the premises and to all pertinent records, including financial reports, and promptly supply them with all information and materials needed upon request within the stipulated timeframe.

8. FINANCIAL CONDITIONS

Fees and other charges

- 8.1. As consideration for the Services provided, you agree to pay us the applicable fees set forth in Schedule: Financial Conditions, or as otherwise provided by us along with the Agreement, or, if applicable, upon receipt of an invoice from us.
- 8.2. All fees payable to us under the Agreement are immediately due and payable on provision of the relevant Service. Our fees are non-refundable unless otherwise explicitly agreed.
- 8.3. Fees are quoted exclusive of Value Added Tax (VAT). We will charge VAT or comparable sales taxes where Regulatory Requirements require so. Where required, we will provide you with information on the net amount, the amount of tax and the tax rate applied.

- 8.4. Where possible, all fees due will be deducted from the available balance in your Merchant Account.
- 8.5. In case we are unable to deduct the Fees due, we will issue an invoice for the amount owed. Invoices must be paid within seven (7) days of the date of the invoice.
- 8.6. All fees owed by you to third parties, are your sole responsibility and are not covered by the Agreement.
- 8.7. If you do not pay us the due amounts in the abovementioned timeframe, we may charge default interest from the due date for payment at an annual rate of 8% above the base lending rate of National Westminster Bank PLC from time to time accruing at a daily rate until payment is made in full.
- 8.8. For Merchants operating under the Interchange ++ Pricing Model the Interchange and the Card Scheme Fees are applied on pass-through basis per transactions, meaning that they are not retained by ECP but are passed to the Issuer and the Card Schemes. The Interchange rates are set by the Card Schemes and are publicly available on the official website of each Card Scheme. The Card Scheme fees are applied by the Card Schemes for each transaction depending on the card brand, type, origin and type of transaction. The Card Scheme fees may be amended from time to time based on any fee updates from the Card Schemes. You agree to pay the exact amount of the Interchange and the Card Scheme Fees that has been charged.
- 8.9. Currency conversion. Currency conversion will be applied where: (i) Processing Currency is different from Account Currency, using Exchange Rate of the Card Schemes at the day when Transaction is settled to us (actual rate). The Exchange Rates of the Card Schemes are updated in RAM on daily basis, but these are indicative rates only, and may differ from the actual rates as Card Schemes Exchange Rates fluctuate. If the indicative rates differ from the actual rates the difference is posted to your Merchant Account as debit or credit record respectively. Mark-up may apply; or (ii) Payment Currency is different from Account Currency, using the Exchange Rate at the day of the payment. Mark-up may apply.
- 8.10. Inactivity fee. Inactivity fee is charged to Inactive Merchants. The inactivity fee is equal to 5% of the inactivity fee base, which is defined as the Merchant Account balance as at the last Tuesday of the month when a Merchant is classified as Inactive Merchant. The inactivity fee base will be adjusted for any amounts credited to the Merchant Account after the date when the initial inactivity base was determined. The inactivity fee is non-refundable and we will not accept any claims for reimbursement.
- 8.11. Early termination fee. If for any reason the Agreement is terminated on or prior to the third anniversary of the Effective Date, you shall pay to us, upon the date of the termination, an early termination fee in the amount of EUR 195. However, we will not charge you for the termination after the expiry of 36 months of the entering into the Agreement. The early termination fee shall not apply to merchants processing F2F transactions only.
- 8.12. We will not charge you for providing or making available information which is statutory required to be provided or made available. We may charge you for any information which is provided at your request where such information is: (i) additional to the information statutory required to be provided or made available to you; (ii) provided more frequently than is specified in the Agreement; or (iii) provided on paper. In all cases, any charges imposed for provision of information will reasonably correspond to our actual costs for its provision.

8.13. You agree to repay us the full amount of any:

- a. Chargeback;
- b. Refund issued (if not already deducted from sums paid by us to you);
- c. payments made by us in respect of individual Transaction Data;
- d. fees, fines or other charges payable by us or our Third-Party Service Provider(s) to a Card Scheme or any other person as a result of the ratio of your Chargeback to Transactions exceeding the industry average (as determined by the Card Schemes from time to time);
- e. other fees, fines or other charges payable by us or our Third-Party Service Provider(s) to a Card Scheme (such as registration fees, non-compliance assessment, etc.), to Authorised Institutions (such as remittance fee), or any other person (such as disputes, lawsuits, etc.) in connection with this Agreement.

In addition, we may charge you administration fee as a percentage over the amount of the incurred Financial Liabilities.

8.14. You shall pay all costs of any audit or audits, conducted under the Agreement.

Security

General provisions

- 8.15. We may establish a Security in relation to you and your processing for the purpose of providing a source of funds to pay us for any and all, actual and reasonably anticipated Financial Liabilities. Such Security will be agreed in Schedule: Financial Conditions and held in a manner to be readily identified by you and controlled by us.
- 8.16. The Security may include: (i) establishment of a Reserve; (ii) provision of guarantee in our favour; (iii) other Security agreed between the parties.
- 8.17. When determining the Security and its amount we may take into account our risk assessment, including your overall financial standing.
- 8.18. You will undertake, at your own expense, any further action (including executing any necessary documents and registering any form of documents) necessary to establish such Security as is reasonably required.
- 8.19. The Security will remain in place regardless of any termination of the Agreement for as long as there are residual or contingent Financial Liabilities.
- 8.20. We may at any time by notice require you to give Security or to augment the provided Security, in a form we will determine, in respect of all sums due at any time under the Agreement or any loss or damage that we may suffer under the Agreement (including any future Chargeback risk). You must comply with our request within the timescale specified in the notice.
- 8.21. We will have the right, at any time without notice, to offset any Financial Liabilities from the balances (including Security) on any accounts held with us or with any party of our Group in respect of any liabilities of yours.
- 8.22. Our Group may set off, against any sums due from us (whether or not in connection with the Agreement) to you or your Affiliate, any sums due from you or your Affiliate to us or which in our reasonable opinion are likely to fall due but to remain unpaid by you or your Affiliate.
- 8.23. Where you incur a negative balance, meaning that your Financial Liabilities exceed the Security, you will be obliged to pay us immediately upon our request or demand for such payment. Failure to do so is a breach of the Agreement.

- 8.24. We may at any time send reminders or take debt collection measures including, but not limited to, mandating a debt collecting agency or solicitors to pursue the claim in court.
- 8.25. We will charge you the expenses reasonably incurred in connection with any debt collection or enforcement efforts.

Reserve

- 8.26. The amount of the Reserve will be determined either as: (i) Up-Front Reserve – as an absolute amount; and/or (ii) Rolling Reserve - as a percentage of proceeds of Transactions, net of any amounts due to us, which will be kept for an agreed period and released after the expiration of this period.
- 8.27. The Reserve will be determined by us from time to time at our sole discretion.
- 8.28. Where a Reserve has not been established at the Effective Date, we will notify you of the imposition of a Reserve, its method of calculation, its amount as well as any increase or reduction of the Reserve without undue delay in writing at any time during the term of the Agreement.

Guarantee

- 8.29. We may require the Security to be in the form of a guarantee in which case you will, upon request, procure such guarantee in our favour. The guarantee must be acceptable for us with regards to its issuer (Merchant`s owner(s) or affiliate(s), bank or other credit institution), form and amount.

Account freezing

- 8.30. We may defer any amount due to you where we reasonably believe that Transactions or related activities may be fraudulent or involve other criminal activity until the satisfactory completion of our investigation and/or that of any other financial institution, regulatory authority or Card Scheme.

Settlement

- 8.31. In order to place, transfer or withdraw funds related to the sale of your products and/or services you need account(s) held in your name ('Merchant Account') with us. You will have Merchant Accounts in various Account Currencies corresponding to your Processing Currencies. For all currencies in which you are processing and we are not able to open Merchant Accounts, USD will be used as Account Currency.
- 8.32. As a result of the processing of Transactions submitted to us, in your Merchant Account, you will:
- a. receive funds as a result of funding transactions or other payments that are due to you, collectively referred to as 'Pay-in Transactions'; and from there
 - b. funds will be withdrawn as a result of credit transactions, Chargebacks, Refunds, fees, fines imposed by Card Scheme(s) or other liabilities that are due by you, collectively referred to as 'Payout Transactions'.
- 8.33. The positive net balance between the Pay-in Transactions and the Pay-out Transactions will be settled to you and we shall initiate or procure the initiation of each payment by bank transfer to your Payment Account.

- 8.34. You undertake to open and maintain in your name a Payment Account throughout the term of the Agreement and for such period as may be required thereafter.
- 8.35. You need to provide us with the full and correct details of your Payment Account.
- 8.36. If you change your Payment Account:
- a. by changing the financial institution or its branch - you must notify us in writing immediately and must forthwith irrevocably authorise payments to be transferred to the new Payment Account;
 - b. with new one, that is held by another entity - then our pre-approval is required.
- 8.37. We will not be in default of our settlement obligations if our payment instructions, as specified by you, are not honoured by the financial institution(s) of which the settlement depends.
- 8.38. The parties will consider that we have acted with the due care if the payment instructions, as specified by you are promptly entered in the online platform of the financial institutions that serves ECP. If the payment instructions are not honoured, you undertake to provide us with new Payment Account and we will at no time be liable to find an alternative solution for settling.
- 8.39. We are responsible for providing settlement funds directly to you. That is why we request the Payment Account to be held in your name. Any payment at your instruction to the Payment Account held in the name other than yours will constitute good receipt by you of the sum due and to you in relation to our liability under the Agreement.
- 8.40. The settlement cycle is agreed in Schedule: Financial Conditions and may be daily or weekly with different days in arrears.
- 8.41. We may defer any payment if the amount due is less than the minimum payment threshold as per Schedule: Financial Conditions. The payment will be deferred until the due amount reaches that threshold. Where you have more than one Merchant Account with us, the account balances will not be aggregated to reach the payment threshold.
- 8.42. We, as well, may defer any payment due to the reason listed in section 'Suspension of Services'.
- 8.43. You acknowledge that by paying the due sum to the designated Payment Account we duly perform our contractual undertakings under the Agreement and our liability for payment of this particular sum will be extinguished, discharged or reduced. If such payment is performed, you will lose your right to seek further monetary or other relief from us. This is without prejudice to the Limitation of liability clause.
- 8.44. We will submit a Settlement Statement to you, which will contain information on the amount we owe to you and provide a specification of the invoice summary and transactions encompassed by the settlement.
- 8.45. All payments that we will make to you under the Agreement will be made in the Account Currency of the respective Merchant Account as long as you provide us with Payment account in the same currency and the financial institutions we work with accept payments in this currency for your subject of activities. Otherwise, the payments will be made in EUR or other Payment Currency, as agreed from time to time. When currency exchanges in needed, fees may apply.

Statements and reports

- 8.46. We will prepare in .pdf format and sent to you via e-mail a Settlement Statement on your activities in the relevant settlement period (hereinafter the 'Settlement Statement'). The Settlement Statement contains financial information that reflects your activity during the reporting period such as transactions Authorisation, Chargebacks, representments, Refunds, fees, release of Rolling Reserve, etc. You should keep a copy of the Settlement Statements for your records and future reference. We do not keep records of the Settlement Statements of the Merchants and we will not re-send Settlement Statements once provide.
- 8.47. You must promptly examine the received Settlement Statement and immediately notify us in writing of any inaccuracies and inconsistencies in this document, but not later than 60 days from the date of the Settlement Statement.
- 8.48. The notification under the previous article should be made in writing so that the details of the notification are clear and complete. The notification must include at least: (i) any unique identifying number, (ii) the amount of the asserted error (expressed in sterling or other applicable currency), (iii), a description of the asserted error; and (iv) an explanation of why you believe an error exists and the cause of it, if known. The notification should be addressed to finance@e-comprocessing.com.
- 8.49. You will be deemed to have accepted and confirmed the Settlement Statement if you do not notify us about any inaccuracies and inconsistencies within the agreed sixty (60) days term.
- 8.50. Any delay or failure to exercise your right to notification against the Settlement Statement will constitute and be considered as a waiver of your rights of claim which arise out of, or relate to, the inaccuracies and inconsistencies in the Settlement Statement and preclude these rights' further exercise.

Insurance

- 8.51. As far as reasonably practicable, both parties agree to maintain or procure the maintenance of adequate insurance to effectively cover their respective liabilities under the Agreement.

Safeguards of your funds

- 8.52. We safeguard your funds by applying the segregation method. These included:
- a. keeping your funds separate in our books/records – from the moment the funds are received;
 - b. depositing them in safeguarding account(s), opened with authorised credit institution, separate from our own accounts. In case of insolvency of emerchantpay Ltd, your claims as a customer shall be paid from the asset pool formed from the funds in the safeguarding accounts. Only costs in respect of the costs of distributing the asset pool will be paid with priority to the customers' claims.
- 8.53. You acknowledge and agree that:
- a. we are not a bank or credit institution and your Merchant Account is not a Payment Account;
 - b. Merchant Accounts are not insured by any government agency and the UK's Financial Services Compensation Scheme (FSCS) does not apply to your Merchant Account;
 - c. we do not act as a trustee, fiduciary or escrow holder in respect of balances in your Merchant Account; and
 - d. we do not pay interest on any balances in your Merchant Account.

9. OUR LIABILITY

- 9.1. We are liable to you for any Losses directly caused by our negligence, wilful default or fraud.
- 9.2. In no event our liability (including liability for negligence) arising out of the Agreement will exceed the fees you paid to us hereunder during the six (6) month period immediately preceding the event which gave rise to the claim for damages.
- 9.3. Nothing in the Agreement will exclude or limit any duty or liability that:
- we may have to you under Regulatory Requirements; or
 - Regulatory Requirements do not allow to be excluded or limited.
- 9.4. We are not liable (including for negligence) to you:
- for any losses due to unavailability of our Service arising out of any action or omission of third parties; or
 - for any losses due to settlement delays caused by third parties; or
 - for any losses due to transactions that were authorised, but not sent for clearing after the Suspension of Services;
 - for any losses due to transactions that were rejected for clearing or settlement by the Card Schemes for whatever reasons, although you have rendered the service or shipped the products;
 - for any losses arising out of any cause beyond our reasonable control and the effect of which is beyond our reasonable control to avoid; or for
 - any losses that we could not reasonably have anticipated when you gave us an instruction; or
 - if hardware, software or internet connection is not functioning properly;
 - loss of or corruption of data or information;
 - costs relating to wasted managerial, operational or other time;
 - loss of business, of production, of goodwill, of reputation of opportunity, of bargain, of profit, of revenue, of anticipated savings or loss of margin;
 - costs of procurement of substitute products and/or services,
 - claims made against you by third parties;
 - any indirect, incidental, consequential, punitive or special damages arising out of the Agreement.
- 9.5. We are not liable to you if we fail to take any action which in our opinion would breach any Regulatory Requirement or Standards. To the extent there is any conflict between the Agreement and our duties under any Regulatory Requirement or Standards, we will act in a way we reasonably consider necessary to comply with such Regulatory Requirement or Standards. We will not be treated as having breached the Agreement as a result.
- 9.6. In addition to this clause, depending on which Services you choose, different liability provisions may apply for particular services, as set out in the terms for those services.

10. INDEMNIFICATION

General provisions

- 10.1. The Parties agree, that when due, the indemnity will cover any and all Financial Liabilities incurred by reason of any Action by a third party (party other than the Indemnified Party).
- 10.2. The Party that is obliged to perform the indemnification will be referred to as Indemnifying Party and the party (its employees and Directors included) that is entitled to the indemnification will be referred to as Indemnified Party.

10.3. Each Party undertakes to:

- a. use reasonable efforts to notify the Indemnifying Party of such Action by a third party as early as possible and in writing;
- b. use reasonable efforts to mitigate the loss or amount of the Financial Liabilities;
- c. refrain from admitting any liability or settling any claim without the prior written consent of the Indemnifying Party;
- d. provide, at its own cost, reasonable cooperation in the defence or settlement of such claim.

10.4. If a Party comprises of more than one person then the liability of such persons will be joint and several.

11. PERSONAL DATA PROCESSING

General provisions

11.1. This 'Personal Data Processing' section is intended to outline the terms and conditions governing the processing of Personal Data between us as contracting Parties. Within the context of providing Acquiring and Ancillary Services to you, we qualify as data controller.

11.2. For the purposes of this Section the terms, 'Data Subject', 'Processing', 'Data Breach', 'Personal Data' have the same meaning as those assigned to them in the Privacy Regulations (as defined below). The following terms shall also be defined herein as follows:

- a. 'Security Measures' means the security measures contemplated in the Privacy Regulations and any other obligation envisaged by the Privacy Regulations to guarantee the security and confidentiality of the Personal Data, including activities to be performed in the event of Data Breaches, inter alia to prevent or reduce the negative effects of the Data Breach on the Data Subjects;
- b. 'Privacy Regulations' means UK Data Protection Act 2018 and EU Regulation 679/2016 concerning the protection of natural persons with respect to the processing of personal data, as well as the free circulation of such data ('GDPR'), as well as any other regulations on personal data protection applicable to the processing of personal data, already in force or which come into force during the period in which this document is effective, including measures, guidelines and opinions issued by the UK Information Commissioner Officer, the Working Party referred to in Article 29 of Directive 95/46/EC, the European data protection board referred to in Articles 68 and seq. of the GDPR, and by every other competent authority.

Controller obligations

11.3. Having regard to the specific nature of ECP's business activity, we obtain Personal Data as a result of the provision of our Services, obligations under the Regulatory Requirements (including AML/CTF regulations) and Card Schemes Standards.

Types of Personal Data

11.4. We will process Personal Data of:

- a. your Directors and other authorised representatives, your shareholders and beneficial owners;
- b. your Customers.

Use of Personal Data

11.5. We will use the collected Personal Data for the following purposes:

- a. to comply with our statutory obligations, including for due diligence purposes, to conduct sanctions screening;

- b. as reasonably necessary to provide our Services under the Agreement, including to carry out risk analysis, for fraud prevention and risk management, for the purpose of monitoring and evaluating your financial and credit status, to defend any claim made against us by any Cardholder, to obtain authentication and Authorisation of the Card Issuer for the Payment Transaction acquired from you;
- c. to protect our legitimate interest.

Anonymised data

- 11.6. We may use your Personal Data to create aggregated, anonymised data for ECP's own purposes.

Data sharing

- 11.7. We may use Personal Data and/or share it with third parties, where deemed applicable, for:
- a. billing purposes;
 - b. product enablement and build;
 - c. testing or product improvement purposes;
 - d. to reply to requests from public authorities.
- 11.8. When we perform Acquiring Services we will disclose Personal Data received from you and you entitle us to provide your Personal Data to:
- a. our employees, our Affiliates, service providers we use and their employees;
 - b. each of the Card Schemes, its employees, and its third-party subcontractors and their employees;
 - c. other entities to which it may be reasonably necessary to disclose and transfer Personal Data: credit reference agencies; law enforcement agencies; antiterrorism or organised crime agencies; fraud monitoring agencies; central banks.
- 11.9. When we carry out identity verification checks, Personal Data may be disclosed to providers of due diligence software as a service, credit reference agencies, fraud prevention agencies. These checks are identity checks only and therefore will have no adverse effect on the respective Data Subject. However, these service providers/agencies may keep a record of the information and a footprint may be left that an identity verifications check was carried out.

Use of sub-processors

- 11.10. You specifically authorise the engagement of Affiliates as sub-processors. You further authorise the engagement of Third-Party Service Providers as sub-processors in connection with the provision of the Services. When engaging sub-processors, we will ensure via a written contract that such sub-processors implement data protection terms that are no less protective than the terms set out in the Agreement and that the sub-processors are liable towards us for any processing activities subcontracted to it.

Security of Personal Data

- 11.11. We are committed to ensuring processing of Personal Data under the Agreement complies at all times with applicable Regulatory Requirements and Card Schemes Standards. Therefore, we implement and maintain appropriate physical, technical and administrative safeguards and maintain a record of all processing activities carried out in respect of Personal Data.
- 11.12. You undertake as a minimum to implement and maintain appropriate technical and organisational measures to keep Personal Data secure and protect it against unauthorised or unlawful processing or accidental loss, destruction or damage in relation to the provision of Services.

Data Breach

- 11.13. In the event a Party becomes aware of a Data Breach in connection with the processing of Personal Data under the Agreement, it will:
- a. notify the other Party without undue delay; and
 - b. take reasonable steps to mitigate the effects and minimise any damage.
- Notifications made hereunder shall describe, to the maximum extent possible, the details of the incident, including steps taken to mitigate potential risks. Notifications of a Data Breach shall in no case be construed as acknowledgement of fault or liability for said Data Breach.

Transfers of Personal Data

- 11.14. The processing of Personal Data may take place worldwide. However, the transfer of Personal Data outside the EEA, Switzerland and the UK shall be on the basis of either:
- a. an adequacy decision by the European Commission; or
 - b. appropriate or suitable safeguards as required by applicable regulatory requirements, where the Cardholders` access to such appropriate or suitable safeguards is ensured.

Data Subject rights

- 11.15. The Data Subjects have the following rights:
- a. right to be informed about the processing (collection and use) of their personal data;
 - b. right of access which gives individuals the right to obtain a copy of their personal data as well as other supplementary information;
 - c. right to rectification - the right to have the inaccurate personal data rectified and incomplete personal data completed;
 - d. right to complaint with a supervisory authority and to seek to enforce their rights through a judicial remedy.
- 11.16. When the personal data is processed based on statutory obligations, the individual has no right to be forgotten (right to erase), right to data portability, or right to object.
- 11.17. When the personal data is processed based on the Agreement, the individual has no right to object and no rights related to automated decision making, including profiling.

Data Subjects` requests

- 11.18. You, to the extent legally permitted, will promptly notify us if you receive a Data Subject request for access to, correction, amendment or deletion of its Personal Data. You will provide us with commercially reasonable cooperation and assistance in relation to handling of Data Subjects` requests. When legally permitted, you will be responsible for any costs arising with respect to handling of such requests.

Data storage period

- 11.19. Collected Personal Data will be stored for a period of five years after the termination of the agreement or 10 years of the date of the Transactions, whichever occurs first.

Data protection officer

- 11.20. For the purpose of handling of Data Subjects` requests we have designated a data protection officer. The latter should be addressed to dpo@e-comprocessing.com.

12. COMMUNICATION

Language

- 12.1. The Agreement is supplied in English, and all communication between you and us will be in English.
- 12.2. If we provide you for convenience with a translation of the Agreement or any communication, the English language version will be the only legally binding version and will prevail if there is any inconsistency.

Communication delivered to you

- 12.3. You agree and consent to receive electronically all communications, agreements, documents, notices and disclosures (collectively, 'Communications') that we provide in connection with your use of our Services.
- 12.4. We will provide these Communications to you:
 - a. by posting them on our website, if they are intended to all our clients; or
 - b. by emailing them to you at the email address listed in your Merchant Application Form, if they are intended only for you;
 - c. via the ISO that you have chosen to represent you before us.
- 12.5. If you withdraw your consent to receive Communications electronically, we may either terminate your Agreement or charge you additional fees for paper copies.
- 12.6. If, after you consent to receive Communications electronically, you would like a paper copy of a Communication we previously sent you, you may request a copy within 180 days of the date we provided the Communication to you by contacting us as described above.
- 12.7. We will send your paper copy to you by postal mail. In order for us to send you paper copies, you must have current postal address.

Contact details

- 12.8. The address to which we will send any electronic correspondence is the email address of the person you designated as contact person in the Merchant Application Form. For any correspondence that needs to be provided on paper your registered office address will be used as postal address. You can update your email address or provide other address as postal address at any time by informing your account manager.
- 12.9. It is your responsibility to keep your email and postal address up to date so that we can communicate with you.
- 12.10. You understand and agree that if we send you an electronic Communication, but you do not receive it because your email address on file is incorrect, out of date, blocked by your Third-Party Service Provider(s), or you are otherwise unable to receive electronic Communications, we will be deemed to have provided the Communication to you.
- 12.11. Please note that if you use a spam filter that blocks or re-routes emails from senders not listed in your email address book, you must add us to your email address book so that you will be able to receive the Communications we send to you.

Technical requirement

- 12.12. In order to access and retain electronic Communications, you will need:
- a. a computer with an Internet connection;
 - b. sufficient storage space to save past Communications or an installed printer to print them;
 - c. a valid email address (your email address);
 - d. a current web browser with cookies enabled.
- 12.13. We will notify you if there are any material changes to the hardware or software needed to receive electronic Communications from us.

Communication delivered to us

- 12.14. Communications to us made in connection with the Agreement must be sent:
- a. via e-mail info@e-comprocessing.com or to the e-mail address of your account manager;
 - b. by postal mail to 1 London Bridge, 2nd Floor, London SE1 9BG United Kingdom - in all cases when hardcopies of documents are required.
- 12.15. You can also use our contact form provided in <https://www.e-comprocessing.com/contact-us/>

13. REPRESENTATIONS AND WARRANTIES

Mutual representations and warranties

- 13.1. Each Party represents and warrants to the other Party that:
- a. it is duly organised, validly existing and in good standing under the laws of its country of incorporation;
 - b. it has and will maintain all required rights, powers and authorisations to enter into the Agreement and to fulfil its obligations;
 - c. to the best of its knowledge there are no legal actions or regulatory investigations pending or threatened against its company that might affect its ability to perform its obligations under the Agreement;
 - d. it will perform its obligations with reasonable skill and care;
 - e. it has in place and will maintain adequate facilities to comply with its obligations under the applicable Regulatory Requirements, Standards and the Agreement, including data protection and confidentiality obligations;
 - f. it owns or has the right to use and sub-licence any Intellectual Property which it uses or licences for use to the other party.

Our representations and warranties

- 13.2. Except as specifically provided by the Agreement, we make no other warranty, guarantee or undertaking, express or implied, regarding the performance of the Services, and nothing contained in the Agreement will constitute such a warranty.
- 13.3. You expressly agree and acknowledge that all other conditions, terms, undertakings and warranties, express or implied, or statutory in respect of the services (including but not limited to quality, performance, suitability or fitness for a particular purpose) are hereby executed to the maximum extent permitted by the Regulatory Requirements.
- 13.4. We do not make or give, and hereby expressly disclaim, all warranties, representations, or conditions of merchantability, merchantable quality, or fitness for any purpose, particular, specific, or otherwise, or any warranty of title or non-infringement, for any of the products, processing, services, specifications, software, hardware, or firmware created or supplied by us, or referenced in the Agreement.

Your representations and warranties

13.5. You represent and warrant that you will:

- a. (a) maintain your legal entity active and solvent within the duration of the Agreement and at least 6 months after its termination;
- b. (b) have at all times all required licences and authorisations in place to engage in the advertising and conduct of your business;
- c. (c) have and maintain at least one (1) Director;
- d. (d) have and maintain at least one (1) Director who is domiciled in the place of your incorporation and registered address, respectively - in one of the EEA countries;
- e. (e) operate your business in compliance with the applicable Regulatory Requirements and Standards, including:
 - (i). use the Services to process only Transactions that are legal, valid, genuine (non-fraudulent) and duly authorised by your Customers;
 - (ii). use the Services to receive payments for products and/or services offered by you and not by third parties;
 - (iii). use the Services to receive only the total sale price of the products and/or services offered by you and not to collect from your Customers any fines, penalties, damages, non-disclosed fees, charges, etc.;
 - (iv). not use the Services to provide your Customers with cash, travellers` checks, cash equivalents, or other negotiable instruments;
 - (v). not be engaged in sale or exchange of information (Account Data, Transaction Data, Personal Data).

13.6. You represent and warrant that:

- a. carrying out the terms of the Agreement will not cause you to break any other enforceable agreements which you are a party to;
- b. all information provided in connection with the Agreement is true, accurate and complete.

14. CHANGES

14.1. We may update or amend the Agreement at any time for any reason. Any changes will be communicated to you:

- a. via our website - for any changes that come into effect immediately;
- b. via e-mail sent by us/ your ISO to your e-mail address - for any changes that come into effect after a two months' notice period.

14.2. Any proposed changes to the existing terms of the Agreement will be communicated to you no later than two months before the date on which they are to take effect.

14.3. Changes of the Agreement that do not require prior notice and shall come into effect immediately, if so stated in our change notice to you, are:

- a. changes that make the Agreement more favourable to you or that have no effect on your rights;
- b. changes that are necessary in order for us to comply with Regulatory Requirements or Standards;
- c. changes to our charges;
- d. changes to the currency exchange rates.

14.4. We may change the Agreement to make it more favourable to you by upgrading or enhancing the Services we provide to you if there are no increased costs to you.

- 14.5. We may also change any of the other terms of the Agreement if the change will have no effect on your rights for any of the following reasons:
- a. where we reasonably consider that: (i) the change would make the terms easier to understand or fairer to you; or (ii) the change would not be to your disadvantage;
 - b. to cover: (i) the improvement of any Service or facility we supply; (ii) the introduction of a new Service or facility; (iii) the replacement of an existing Service or facility with a new one; or (iv) the withdrawal of a Service or facility which has become obsolete, or has not been used by you at any time;
 - c. to enable us to make reasonable changes to the way we provide services as a result of changes in: (i) the banking, investment or financial system; (ii) technology; or (iii) the systems we use to run our business; or
 - d. as a result of a Regulatory Requirement (or where we reasonably expect that there will be a change in a Regulatory Requirement).
- 14.6. We may change our charges or introduce a new charge:
- a. if we provide new service or facility in connection with Services;
 - b. if there is a change in (or we reasonably expect that there will be a change in): (i) the costs we incur in carrying out the activity for which the charge is or will be made; (ii) the Card Schemes fees, charges, assessments and the like or (iii) Regulatory Requirements;
 - c. for other valid reasons which are not set out in this clause.
- 14.7. Any change or new charge (that will come into effect immediately as per 14.3 (c)) will be a fair proportion, as reasonably estimated by us, of the impact of the underlying change on the costs we incur by providing you Service(s). No provision of the Agreement will be deemed waived, altered, modified or amended unless: (a) the Agreement provides otherwise; or (b) we otherwise agree with you in writing.
- 14.8. The up-to-date version of these T&C`s will always be available to you upon request.
- 14.9. The Merchant Service Agreement is not effective and may not be modified in any respect without our express written consent.

15. TERMS AND TERMINATION

Term

- 15.1. The Agreement is effective as of the date on which the signature of ECP`s authorised representative is laid (hereinafter referred to as 'Effective Date') on the Agreement.
- 15.2. The Agreement enters into force on the Effective Date and will remain in force until terminated by either Party.

Termination by you

- 15.3. You may terminate the Agreement at any time by giving us one month written notice.

Termination by us

- 15.4. We may unilaterally terminate the Agreement with you by giving two months' written notice.
- 15.5. We may unilaterally terminate the Agreement with you immediately and without giving notice if we reasonably believe that you:
- a. fail to comply with Regulatory Requirements and Standards, including you breach or attempt to breach, or we reasonably believe that you have breached or are attempting to breach any provisions set forth in the Standards regarding:

- (i). fraud thresholds,
 - (ii). Chargeback thresholds; or you
 - (iii). deposition of illegal or prohibited transactions;
 - (iv). participation in fraudulent activities or other prohibited activities, such as transaction laundering;
 - (v). participation in any other activities that may result in undue economic hardship or damage to the goodwill of the Payment System(s);
 - (vi). fail to validate your compliance with PCI DSS.
- b. has seriously or persistently breached any terms of the Agreement, including by:
 - (i) giving us information that is inaccurate, imprecise or incomplete; (ii) using, or allowing anyone else to use our Services illegally or for criminal activity;
 - c. behaving in a manner that makes it inappropriate for us to provide you the Services, including: (i) if you operate in an improper, unsound, unsafe manner or if your Merchant Account remains inactive for 3 Months; (ii) failing to take corrective action, when instructed by us; (iii) putting us in a position where we might jeopardise ourselves including, but not limited to, violate any Regulatory Requirements, Standards or other duty which applies to us if we continue to provide you Acquiring Services; (iv) exposing us or any other member of our Group to action or censure from any government, regulator or law enforcement agency; (v) if it will be prejudicial to our interest or to the interest of any other member of our Group; (vi) by abusing people who work for us.
- 15.6. We may unilaterally terminate the Agreement with you immediately and without giving notice if we reasonably believe that:
- a. you will cease business activities due to insolvency, liquidation, winding up, bankruptcy, administration, receivership or dissolution, or where we reasonably consider that there is a threat of the same in relation to you;
 - b. you will fail to make payments in the ordinary course of business because of your credit and/or financial status.
- 15.7. We may unilaterally terminate the Agreement with you immediately and without giving notice if we are required to do so: (i) by the ISO that represents you; (ii) in order to comply with changes in the Regulatory Requirements.

Termination upon mutual consent

- 15.8. The Agreement may be terminated by the mutual consent of the Parties on such terms as they may agree.

Termination upon Card Scheme`s request

- 15.9. Upon Card Scheme`s request, an no later than the date specified by the Card Scheme, the Agreement with you will be terminated for activity performed by you that may result in undue economic hardship or damage of the goodwill of the Payment Systems.

Consequences of the termination

- 15.10. When the Agreement terminates, you will:
- a. cease using our Services;
 - b. cease all use of the Card Schemes` systems;
 - c. cease any use or display of our mark and the marks of the Card Schemes;
 - d. continue to be responsible for any financial or other obligations incurred as a result of your actions or omissions before the termination of the Agreement;

- e. promptly pay any outstanding and unpaid invoices, if any, due for our Services whether the invoice was submitted before or after the termination of the Agreement;
 - f. not be entitled to a refund of any fees previously paid to us;
 - g. continue to comply with all confidentiality provisions as specified in the Agreement.
- 15.11. In case of termination due to bankruptcy, insolvency, or other suspension of business operations, you undertake not to sell, transfer, or disclose any materials that contain Sensitive Payment Data to any other entity. You must return this information to us or to provide acceptable proof of secure destruction of this information.
- 15.12. Termination of this Agreement leads to termination of the Card Payment Services Agreement. If the Agreement is terminated before the expiration of the term of the Card Payment Services Agreement, the implications arising out of the surrender start to occur, including you will be liable to pay all charges set out in it.
- 15.13. If the Agreement is terminated by us, we may notify the Card Schemes and/or credit references agencies of the termination and the reasons for such termination.
- 15.14. If the Agreement is terminated by us or upon Card Scheme`s request, you may be listed on VMSS and/or MATCH.
- 15.15. When the Agreement terminates the Parties will return or destroy (at the option and request of the disclosing Party) any Confidential Information belonging to the other Party in its possession or control.
- 15.16. The termination of the Agreement neither affects the accrued rights, remedies and obligations or liabilities of the Parties existing at termination, nor will it affect the continuation in force of any provision of the Agreement that is expressly or by implication intended to continue in force after termination.
- 15.17. Where fees for the Services are levied on a regular basis, such fees will be apportioned up until the time of the termination of the Agreement and any fees paid in advance will be reimbursed proportionally.
- 15.18. Upon termination, we will suspend the release of the Rolling Reserve.
- 15.19. Upon termination, we will withhold up to 100 % of the residual positive net balance in your Merchant Account for a security period of 180 days. This period may be extended up to 18 months (540 days) from the date of the last Transaction. Where a Guarantee is provided, we may release the residual positive net balance before the expiration of this period.

16. REDRESS

- 16.1. The Agreement and any other relationships between the Parties will be governed by the Laws of England and Wales.
- 16.2. During your relationship with us, you may wish to make a complaint. For this reason, we have procedures for handling your complaints fairly and promptly.
- 16.3. We prefer to receive your complaint in writing so that the details of your complaint are clear and complete. The complaints should be addressed to complaints@e-comprocessing.com, if you wish to submit a complaint by e-mail; or to 1 London Bridge, 2nd Floor, London SE1 9BG United Kingdom, if you wish to submit a complaint by post.

- 16.4. Once we have reviewed your complaint, we will provide you with written response in the form of:
- a. Summary Resolution Communication, if we managed to find appropriate solution to your complaint within a period of 3 Business Days; or
 - b. Final Response within 15 Business Days of receiving the complaint in which we may:
(1) accept your complaint and, where appropriate, offer redress or remedial action; or
(2) offer you redress or remedial action without accepting your complaint; (3) reject your complaint giving you our reasons for doing so.
- 16.5. We will endeavour to resolve complaints within 15 Business Days of receiving the complaint, but this will not be possible on all occasions. Where our review exceeds 15 Business Days, due to reasons beyond our control, we will contact you to inform you of the reasons for the delay, and indicate to you when we expect to be in a position to complete our review, which will not be later than 35 Business Days of receiving the complaint.
- 16.6. If you are dissatisfied with the manner in which your complaint has been handled or you consider that your concerns have not been fully addressed, you have the right to:
- a. ask for reconsideration of the response you have received; or
 - b. refer the matter to an external dispute resolution body, such as UK Financial Ombudsman Service (FOS).
- 16.7. The FOS is a free, independent service which might be able to settle a complaint between you and us. For further information visit the Financial Ombudsman Service website at: www.financial-ombudsman.org.uk or contact the administration using their e-mail: complaint.info@financial-ombudsman.org.uk or other contact options available on FOS website.
- 16.8. All disputes arising out of or in connection with the Agreement, including any question regarding its existence, validity or termination ('Dispute'), must be attempted to be solved through negotiation by the parties within thirty (30) calendar days after either party notifies the other in writing of the existence of the Dispute.
- 16.9. Any Dispute not resolved in the term abovementioned, shall be finally settled by arbitration under the LCIA Arbitration Rules 2014 by sole arbitrator appointed in accordance with the said Rules. The seat of arbitration shall be in London, United Kingdom. The language to be used in the arbitral proceedings shall be English.
- 16.10. In case of procedural lacunae (gaps) in the LCIA Arbitration Rules 2014, UNCITRAL Model Law on International Commercial Arbitration shall apply.

17. MISCELLANEOUS

Confidential information

- 17.1. The Parties acknowledge that in the course of fulfilling their obligations under the Agreement, they may have access to information or material that is commercially valuable and not generally known and that, if misused or disclosed, could reasonably be expected to affect either Party's business adversely ('Confidential Information'). Confidential Information also includes without limitation the identities of the Parties to the Agreement and ancillary documentation, the terms of the Agreement and ancillary documentation, all information provided in anticipation of the entering into the Agreement, all Sensitive Payment Data.
- 17.2. The Parties agree to cause their Directors, employees and other representatives to hold in strict confidence all Confidential Information obtained from each other and/or their Directors, employees, and representatives, and not to use, disclose, or permit any third party access to such Confidential Information for any other purpose than to fulfil their obligations.

- 17.3. Neither Party shall at any time, use for its own benefit, directly or indirectly, or divulge to any person or entity, orally or in writing, directly or indirectly, in whole or in part, any Confidential Information of the other Party, without the other Party's written consent.
- 17.4. You must not disclose Cardholder`s account number, Cardholder`s personal information or other Transactional Data to a third party without the prior consent of the Card Issuer and the respective Card Scheme, except when such data is used for support of loyalty programme, provision of fraud control service; completion of the initial merchant transaction.
- 17.5. Notwithstanding anything in the Agreement to the contrary, neither Party has any duty of non-disclosure with respect to Confidential Information that:
- was in that Party's possession or already known to that Party without an obligation to keep it confidential, before the information was disclosed, that is publicly available at the time of disclosure or that becomes publicly available after disclosure other than through breach of the Agreement or other wrongful act;
 - is disclosed by either Party with mutual written approval;
 - is disclosed to either Party by a third party who is not in breach of their own obligation of confidentiality;
 - either Party develops independently other than through breach of the Agreement; or
 - is required to be disclosed under Regulatory Requirements; further, we may disclose Confidential Information when requested by law enforcement or regulatory authorities or under the Standards.
- 17.6. The Parties agree to exercise the same degree of care to fulfil their obligations of confidentiality which they exercise to safeguard their own Confidential Information.
- 17.7. This 'Confidential information' Clause will survive the termination of the Agreement for whatever reason and will continue for so long as the either party remains in possession of Confidential Information.

Publicity

- 17.8. Neither Party to the Agreement shall issue a news release, public announcement, advertisement, or other form of publicity concerning the existence of the Agreement or services to be provided under the Agreement without obtaining the prior written approval of the other Party.

Intellectual property

- 17.9. Except as expressly stated, nothing in the Agreement will grant or be deemed to grant to any Party any right, title or interest in any Intellectual Property (including logos, trademarks, trade names or other) licenced to that Party by the other Party.
- 17.10. For the duration and strictly for the purpose of the Agreement, the Parties grant each other a non-exclusive, worldwide, royalty-free, non-transferable licence to copy, use and display any Intellectual Property owned by, or licensed to the other Party.
- 17.11. Any use of Intellectual Property is subject to prior written approval by the owner of the respective Intellectual Property.
- 17.12. In using the other Party's Intellectual Property, each Party shall follow other Party's reasonable instructions having regard to the purpose of such use under the Agreement and the jurisdiction in which other Party's intellectual property is used.

- 17.13. Neither Party will mention other Party in any public communication without receiving its prior written approval.
- 17.14. We reserve the right at any time and in our sole discretion to require you to suspend copying, making use of and displaying our Intellectual Property.

Non-solicitation of employees

- 17.15. The Merchant will not for the term of the Agreement and for a period of 12 months thereafter on its own behalf, or on behalf of any person directly or indirectly, canvass, solicit or endeavour to entice away from our Group any person who has at any time during the term of the Agreement been employed or engaged by us or our Group.

No waiver

- 17.16. Our failure to insist on you strictly complying with the Agreement or any failure or delay on our part to exercise any right or remedy under the Agreement will not amount to a waiver of our rights under the Agreement.

Assignment

- 17.17. You may transfer or assign any of your rights or obligations under the Agreement only with our prior written consent which will not be unreasonably withheld.
- 17.18. We may transfer any of our rights and obligations under the Agreement to any member our Group or another entity without your consent. You agree that you will promptly complete all documents that we reasonably require in order to make a transfer effective. We may also sub-contract any of our obligations under the Agreement to another person without your prior consent.
- 17.19. Where we propose to transfer a material part of our assets to a member of our Group, we may also transfer all of our rights, powers, obligations and liabilities under or in connection with the Agreement without your further consent.

Delegation

- 17.20. We may delegate any of our functions and responsibilities under the Agreement to a member of our Group (with or without a further power to sub-delegate), if we reasonably consider it capable of discharging those functions and responsibilities.
- 17.21. Where we delegate or allow sub-delegation: (a) it may be to persons or agents outside the jurisdiction where we provide the services to you; (b) it will not affect our liability to you for the matters delegated; and (c) it will be undertaken in accordance with applicable Regulatory Requirements.
- 17.22. We may employ members of our Group and third parties to perform dealing and administrative services that are necessary to enable us to perform the Agreement without further notice or consent.

Severability

- 17.23. Each provision of the Agreement is severable. If any provision of the Agreement or any part of it is or becomes illegal, invalid or unenforceable, the provision will be treated as if it was not in the Agreement. The legality, validity, enforceability and reasonableness of the remainder of the Agreement shall not be affected and shall remain in full force.

Third party rights

17.24. No other person will have any rights to enforce the conditions of the Agreement under or by virtue of the Contracts (Rights of Third Parties) Act 1999, except for any of our Affiliates.

Relationship of the parties

17.25. The Parties are independent contractors under the Agreement, and nothing herein will be construed to create a partnership, joint venture, agency relationship between them, or any other relationship covered by the Partnership Act 1890. Neither party has authority to enter into agreements of any kind on behalf of the other.

Force Majeure

17.26. For the purposes of the Agreement 'Force Majeure Event' means any of the following: acts of God, including but not limited to fire, flood, earthquake, windstorm or other natural disaster; epidemic or pandemic; war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions; terrorist attack, civil war, civil commotion or riots; government restrictions, legislative changes or any other cause beyond the reasonable control of the party that affect their performance.

17.27. Either Party, provided that it adheres to the provisions of clause 17.28 shall not be in breach of this Agreement nor liable for any failure or delay in performance of any of its obligations under this Agreement (and, subject to clause 17.29 the time for that Party's performance of its obligations shall be extended accordingly) arising from or attributable to a Force Majeure Event.

17.28. If either Party is subject to a Force Majeure Event it shall not be in breach of this Agreement provided that: (1) it promptly notifies the other Party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance; (2) it could not have avoided the effect of the Force Majeure Event by taking precautions which, having regard to all the matters known to it before the Force Majeure Event, it ought reasonably to have taken, but did not; and (3) it has used all reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.

17.29. If the Force Majeure Event prevails for a continuous period of more than three months, either Party may terminate the Agreement by giving 10 Business Days' written notice to the other. On the expiry of this notice period, the Agreement will terminate. Such termination shall be without prejudice to the rights of either Party in respect of any breach of the Agreement occurring prior to such termination.

Entire agreement

17.30. The Agreement constitutes the entire agreement between you and us in respect of its subject matter and supersedes and invalidates all other prior representations, arrangements, understandings and agreements relating to the same subject matter.

17.31. Each Party acknowledges that in entering into the Agreement it does not rely on any statement, representation, warranty or understanding other than those expressly set out in the Agreement.