PLATFORM AGREEMENT

xPay is a platform that enables you to accept payments globally through multiple customer payment options. These terms ("**Platform Agreement**") govern the Merchant's access to and use of the xPay platform and the Services. They are entered into between PayPort Inc., a corporation incorporated under the laws of the State of Delaware, United States of America, having its registered office at 8 The Green, Ste A, Dover, County of Kent, Delaware 19901, United States of America (or such other PayPort entity as is identified in the Purchase Order) ("**PayPort**"), and the entity identified as the merchant in the Purchase Order (the "**Merchant**"). PayPort and the Merchant are each a "**Party**" and together the "**Parties**".

Please read these Platform Terms carefully. They allocate risks and liabilities between the Parties.

1. STRUCTURE AND ACCEPTANCE

1.1. **The Agreement.** The agreement between the Parties (the "**Agreement**") comprises of:

(a) these Platform Terms;
(b) the Purchase Order and any subsequent purchase order, order form, statement of work or written amendment executed by the Parties;
(c) Schedule 1 (Service Model Terms), to the extent applicable to the Service Model made available to the Merchant;
(d) the Policies listed in Schedule 2, as published and updated by PayPort from time to time; and
(e) the Payment Partner Terms applicable to the Merchant.

1.2. **Acceptance.** The Merchant accepts and is bound by the Agreement on the earliest of the date on which it (a) executes the Purchase Order; or (b) accepts these Platform Terms electronically during onboarding or through the Merchant Portal; or (c) first accesses the Platform or submits a Transaction. The person accepting represents that they are authorized to bind the Merchant.

1.3. **Commercial terms.** All Fees, settlement cycles, minimum commitments, exclusivity, service-specific commercials and other commercial terms are set out in the Purchase Order. Where the Purchase Order is silent, the Pricing Page applies.

1.4. **Order of precedence.** In the event of conflict, the following order of precedence applies, in descending order: (a) the Network Rules; (b) the Payment Partner Terms; (c) the Purchase Order; (d) these Platform Terms (with the Schedules taking precedence); and (e) the Policies.

1.5. **Amendment.** PayPort may amend these Platform Terms, Schedule 1 and the Policies by giving the Merchant due notice by posting the amended version on its website or the Merchant Portal. An amendment takes effect on the date stated in the notice, which shall be not less than 7 (seven) days after the notice, except where the amendment is required by Applicable Law, the Network Rules or a Payment Partner, or is required to address a risk, fraud or security concern, in which case it may take effect immediately. If an amendment materially and adversely affects the Merchant, the Merchant may terminate the Agreement by written notice given before the amendment takes effect. Continued use of the Services after the effective date constitutes acceptance. The Purchase Order may be amended only in writing signed by both Parties, save as provided in Clause 8.3.

1.6. **Transition.** Where the Parties have previously entered into a master services agreement, merchant agreement or similar arrangement in respect of payment or receivables-related services (a "**Prior Agreement**"), the Agreement supersedes the Prior Agreement with effect from the date the Merchant is migrated to a Service Model under the Agreement, as notified by PayPort. The Prior Agreement continues to govern transactions processed under it before that date, together with all rights, liabilities, security and indemnities in respect of those transactions.

1.7. **No advice.** PayPort does not provide legal, tax, accounting or regulatory advice. The Merchant is responsible for obtaining its own advice on the Agreement, the Services and its own compliance obligations.

2. DEFINITIONS AND INTERPRETATION

2.1. DEFINITIONS:

(a) "**ABAC Laws**" means anti-bribery and anti-corruption laws applicable to either Party and any equivalent law of any jurisdiction in which either Party conducts business.

(b) "**Acquirer**" means a bank or financial institution licensed by one or more Networks to acquire, process, clear or settle Transactions.

(c) "**Affiliate**" means, in relation to a Party, an entity that directly or indirectly Controls, is Controlled by, or is under common Control with, that Party; where "**Control**" denotes the direct or indirect beneficial ownership of, or the right to vote in respect of, more than 50% (fifty percent) of the voting rights or securities of a person, or the power to control the majority of the composition of its governing body, or the power to direct its management or policies by contract or otherwise.

(a) "**Applicable Law**" means all laws, regulations, rules, orders, judgments, notifications, directions, licenses, permits, guidelines and other governmental requirements having the force of law that apply to a Party, a Transaction, a Buyer or the Services, in each jurisdiction in which the Merchant, PayPort or a Buyer is located or to which a Transaction is targeted, and includes ABAC Laws, money transmission and payment services laws, exchange control laws, sanctions and export control laws, consumer protection laws, tax laws and data protection laws, whether in force on the Effective Date or thereafter.

(b) "**Business Day**" means a day other than a Saturday, Sunday or public holiday on which banks are open for general business in the United States of America.

(c) "**Buyer**" means a person who purchases, or seeks to purchase, goods or services offered by or through the Merchant, or who otherwise makes or attempts to make a payment through the Services in respect of such goods or services.

(d) "**Buyer Protection Policy**" means the buyer protection, refunds and disputes policy published by PayPort at the link in Schedule 2, as updated from time to time.

(e) "**Buyer Data**" means information relating to a Buyer that is submitted to, collected by or processed through the Platform in connection with a Transaction, including personal data, payment credentials, contact details, and device and transaction information.

(f) "**Chargeback**" means the reversal, return, cancellation or repudiation of a Transaction, in whole or in part, initiated or effected by a Buyer, issuer, Network, Acquirer, Payment Partner or bank, whether or not the Merchant is ultimately held liable for the underlying claim.

(g) "**Confidential Information**" means information relating to the Disclosing Party, including information concerning its business, services, technology, systems, integrations, policies, service providers, banking and payment arrangements, customers, pricing and the terms of the Agreement, disclosed in any form, but excluding information that (a) is or becomes public other than through the Receiving Party's act or omission (a compilation of public information in a form not publicly known remaining Confidential Information), (b) was lawfully in the Receiving Party's possession before disclosure, or (c) the Parties agree in writing is not confidential.

(h) "**Designated Person**" means a person that is the subject of Sanctions, including a person owned or controlled by, or acting on behalf of, such a person.

(i) "**Dispute**" means a Chargeback, retrieval request, pre-arbitration, arbitration, compliance case, inquiry, claim, complaint, reversal, recall, return, cancellation or other challenge raised in respect of a Transaction by a Buyer, issuer, Network, Acquirer, Payment Partner, bank or governmental authority, and includes any Refund demanded or effected in consequence.

(j) "**Effective Date**" means the date stated in the Purchase Order or, where none is stated, the date of acceptance under Clause 1.2.

(k) "**Event of Default**" means an event or circumstance listed in Clause 18.

(l) "**Fees**" means the fees, charges, commissions, or any other amounts payable by the Merchant to PayPort under the Purchase Order, the Pricing Page or otherwise under the Agreement.

(m) "**Losses**" means all losses, liabilities, damages, claims, demands, deficiencies, Refunds, Chargebacks, reversals, adjustments, fines, penalties, assessments, levies, fees, interest, costs and expenses (including reasonable attorneys' fees, forensic investigation costs and collection costs) that PayPort or any PayPort Affiliate suffers, incurs or becomes subject to, arising out of or in connection with the Merchant, any Transaction, the Merchant Account, the Merchant's goods or services, or any act or omission of the Merchant.

(n) "**Merchant Account**" means the account established and maintained by PayPort for the Merchant on the Platform, through which Transactions are recorded, balances (if any) are held, and from which Payouts are effected.

(o) "**Merchant Content**" means the Merchant's names, trademarks, logos, product and service descriptions, images, pricing, policies, terms and other content supplied by the Merchant or made available through the Merchant's integration.

(p) "**Merchant Portal**" means the online dashboard made available by PayPort for access to the Platform, the Merchant Account and the Services.

(q) "**Negative Balance**" means the amount by which the aggregate of Refunds, Disputes, Fees, Losses and other amounts owing by the Merchant exceeds the funds available in the Merchant Account and the Reserve (if any).

(r) "**Network**" means Visa, Mastercard, American Express, Discover, JCB, UnionPay, any other card network or scheme, any automated clearing house or bank transfer scheme (including NACHA, UPI, SEPA and Faster Payments), any digital wallet, buy-now-pay-later or other alternative payment method provider.

(s) "**Network Rules**" means the bye-laws, rules, operating regulations, standards, policies, procedures, manuals, technical specifications and risk and compliance programs issued by any Network, Acquirer or Payment Partner, as amended from time to time, including the Payment Card Industry Data Security Standard and related standards (the "**PCI Standards**").

(t) "**Payment Method**" means any method of payment enabled on the Platform from time to time, including credit and debit cards, digital wallets, bank transfers and debits, real-time payment schemes, buy-now-pay-later and instalment products, and other alternative payment methods.

(u) "**Payment Partner**" means any payment service provider/processor, payment aggregator, payment facilitator, alternative payment method provider, Network, bank, foreign exchange provider, payout provider, or other third party engaged, integrated with or used by PayPort (directly or indirectly, and whether or not disclosed to the Merchant) in connection with the Services.

(v) "**Payment Partner Terms**" means the terms, policies, notices and consents of a Payment Partner that are presented, made available or notified to the Merchant during onboarding or thereafter, and which the Merchant is required to accept or comply with as a condition of accessing the Services.

(w) "**Payout**" means the transfer of a Settlement Amount to the Payout Account.

(x) "**Payout Account**" means the bank account, held in the Merchant's own legal name, notified by the Merchant and accepted by PayPort, into which Payouts are to be made.

(y) "**Platform**" means the proprietary technology platform owned and operated by PayPort and made available under the "xPay" brand, including the Merchant Portal, application programming interfaces, checkout, software development kits, plug-ins, documentation, and all associated tools.

(z) "**Policies**" means the terms, policies and lists listed in Schedule 2 and any other policy or documentation published by PayPort on its website or the Platform and stated to apply to the Merchant, as updated from time to time.

(aa) "**Pricing Page**" means PayPort's standard published pricing at https://www.xpaycheckout.com/pricing, as updated from time to time.

(bb) "**Prohibited and Restricted Businesses List**" means the list of prohibited and restricted businesses, activities, products and services published by PayPort at the link in Schedule 2, as updated from time to time.

(cc) "**Prohibited Business**" means a business, activity, product or service listed in Part A of the Prohibited and Restricted Businesses List, or which is unlawful under Applicable Law.

(dd) "**Purchase Order**" means the purchase order, order form or commercial schedule executed by the Parties which incorporates these Platform Terms and records the Merchant's details, the applicable Service Model, the Fees and other commercial terms.

(ee) "**Refund**" means the return of all or part of the amount of a Transaction to a Buyer, whether initiated by the Merchant, PayPort or a Payment Partner.

(ff) "**Reserve**" means funds established, withheld, required or applied by PayPort under Clause 11 as security for the Merchant's actual and contingent obligations.

(gg) "**Restricted Business**" means a business, activity, product or service listed in Part B of the Prohibited and Restricted Businesses List.

(hh) "**Risk Event**" means any of the following:

  (i) A notice of termination is served by either Party under Clause 19;

  (ii) The Merchant fails to comply with any requirement in or pursuant to Clause 4 (*Onboarding and Due Diligence*) or Clauses 10 (*Merchant's Conduct of Business*);

  (iii) The Merchant's financial condition has significantly deteriorated such that its ability to satisfy any contingent Chargeback/Dispute liability is affected in the reasonable opinion of PayPort;

  (iv) The monthly payment Transaction volume processed by the Merchant through the Platform dips below 40% of the payment Transaction volume in the preceding month;

(v) The Merchant Account of the Merchant has persistent and repeated fraudulent activity of any kind;
(vi) The Merchant Account is flagged by any of the Payment Partners for any investigations, penal action, risk oversight programs, acquirer monitoring programs, etc.
(vii) The Merchant receives Disputes, Chargebacks, or similar complaints or claims with respect to the Transaction in excess of 100 basis points for any one (1) month period; or
(viii) if any regulatory authority or court of competent jurisdiction takes any action or makes any statements, orders, requests, directives or demands regarding the activities of the Merchant and PayPort determines, in its sole and absolute discretion, that the actions or communications of such regulatory or court authority may harm or otherwise adversely affect, directly or indirectly, the (i) financial condition or payment Transaction volume of the Merchant; or (ii) reputation or goodwill of PayPort if PayPort continues to provide the Services to the Merchant.

(ii) "**Sanctions**" means economic or financial sanctions, trade embargoes, asset freezes or similar restrictive measures administered or enforced by any Sanctions Authority; where "**Sanctions Authority**" means the United Nations Security Council, the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Departments of State and Commerce, the Council of the European Union, the UK Office of Financial Sanctions Implementation, and any other authority with jurisdiction over either Party or a Transaction.
(jj) "**Service Model**" means the operating model under which PayPort makes the Services available to the Merchant from time to time, as determined under Clause 3.2 and further described in Schedule 1.
(kk) "**Services**" means the services made available by PayPort to the Merchant under the Agreement, as described in Clause 3.1 and the applicable Part of Schedule 1.
(ll) "**Settlement Amount**" means, in respect of any Payout, the aggregate amount of Transactions successfully processed, collected and made available for Payout, less all deductions applied pursuant to Clause 7.4.
(mm) "**Stored Credential**" means a payment credential of a Buyer that is stored, tokenized or registered for the purpose of initiating one or more subsequent Transactions, including for recurring payments, subscriptions, instalments, usage-based billing and unscheduled credential-on-file transactions.
(nn) "**Term**" has the meaning given in Clause 19.1.
(oo) "**Transaction**" means any payment, authorization, capture, sale, pre-authorization, Refund, reversal or credit submitted, initiated or processed through the Platform in respect of goods or services offered by or through the Merchant.
(pp) "**Transaction Data**" means all data and records relating to a Transaction, including amount, currency, timestamp, Payment Method, authorization and settlement details, descriptor, device and risk signals, and associated Buyer Data.

2.2. **Interpretation.** In the Agreement:

(a) headings do not affect interpretation;
(b) "person" includes any individual, firm, company, partnership, unincorporated body, government or agency;
(c) the singular includes the plural and vice versa;
(d) a reference to a Party includes its successors and permitted assigns;

(e) a reference to legislation includes it as amended or re-enacted and all subordinate legislation made under it;
(f) "writing" includes email and communications through the Merchant Portal;
(g) "including", "in particular" and similar expressions are illustrative and do not limit the preceding words;
(h) monetary amounts are in United States Dollars unless stated otherwise;
(i) a reference to an Event of Default "continuing" means one that has not been remedied to PayPort's satisfaction or waived by PayPort in writing; and
(j) the Schedules form part of the Agreement.

3. SERVICES

3.1. **Services.** PayPort shall make available to the Merchant such of the following as mutually agreed by and between the Parties from time to time:

(a) access to and use of the Platform and the establishment, configuration and management of the Merchant Account;
(b) the acceptance, authorization, routing, processing, capture and reconciliation of Transactions across enabled Payment Methods, currencies and geographies, whether directly or through Payment Partners;
(c) the collection or facilitation of collection of amounts payable by Buyers;
(d) settlement and payout facilitation, including cross-border payouts through Payment Partners;
(e) Refund processing and Dispute management;
(f) risk, fraud screening, compliance, tax calculation and reporting tools; and
(g) such other services as are described in the Purchase Order, Schedule 1 or the Policies, or as PayPort otherwise makes available.

3.2. **Service Models.** PayPort may make the Services available under one or more Service Models, as suitable and as agreed by the Merchant. The Service Model applicable to the Merchant shall be that stated in the Purchase Order or otherwise notified by PayPort. PayPort may, on reasonable notice and mutual agreement with the Merchant:

(a) apply different Service Models to different Transactions, Payment Methods, currencies, geographies, product categories or periods;
(b) operate two or more Service Models in parallel in respect of the Merchant; and
(c) change, add, substitute or withdraw a Service Model at any time, including where required by Applicable Law, the Network Rules, a Payment Partner or PayPort's risk assessment.
(d) The Merchant shall provide all cooperation, information, consents, documentation and integration changes reasonably required to give effect to a Service Model or a change in Service Model. The terms in the applicable Part of Schedule 1 shall apply in addition to these Platform Terms in respect of each Service Model.

3.3. **Consistency in characterization of Service.** The Merchant shall adopt, and shall consistently maintain, the characterization of PayPort's role corresponding to the applicable Service Model in all of its records, invoices, buyer-facing disclosures, accounting treatment, tax returns and filings and declarations made to any bank, authorized dealer, tax authority, regulator or other governmental authority. The Merchant shall not describe PayPort's role, in any such document or communication, in terms inconsistent with the applicable Service

Model, and shall consult PayPort before making any regulatory filing that describes such role. Breach of this Clause shall be a material breach and an Event of Default.

3.4. **Status of PayPort.** Except as expressly provided in the applicable Part of Schedule 1, PayPort is a technology and commerce facilitation provider. PayPort is not, and shall not be deemed to be:

(a) a bank, deposit-taking institution, Acquirer, issuer, money transmitter, money services business, payment aggregator or payment facilitator in respect of the Merchant;
(b) a lender or financier in respect of Merchant's receivables;
(c) the seller, importer, exporter or supplier of any goods or services offered by the Merchant; or
(d) a guarantor or insurer of payment by any Buyer, Network, Acquirer, Payment Partner or bank.

PayPort acquires no title to, and assumes no obligation or liability in respect of, any goods or services offered by the Merchant, except to the limited extent expressly provided in Part B of Schedule 1 where the merchant of record Service Model applies.

3.5. **Payment Partners.** PayPort provides the Services in whole or in part by engaging, integrating with and instructing Payment Partners. PayPort may, in its sole discretion and without notice to or consent of the Merchant, select, appoint, replace, add, remove or change any Payment Partner, routing arrangement, Payment Method, Acquirer, banking arrangement or technical configuration, provided that PayPort continues to make the Services substantially available. PayPort is not liable for any act, omission, delay, failure, suspension, hold, freeze, deduction, rejection, insolvency or decision of any Payment Partner, Network, Acquirer, issuer or bank.

3.6. **Changes to the Services.** PayPort may modify, enhance, update, deprecate or discontinue any part of the Platform, the Services, any application programming interface version, Payment Method or feature, as long as the Services remain substantially available. Where a change materially and adversely affects the Merchant's integration, PayPort shall use commercially reasonable efforts to give reasonable prior notice, and the Merchant shall have the right to terminate the Agreement with immediate effect (subject to any Reserve requirement) if it does not agree to the material changes to the Service. Any service identified as a beta, pilot, trial or early-access feature is provided as is, without warranty or service commitment, and may be withdrawn at any time.

3.7. **Availability.** The availability of any Payment Method, currency, geography, feature, Service Model or settlement timeline is subject to Applicable Law, the Network Rules, the Payment Partner Terms and the approval of the relevant Payment Partner, and may be withdrawn, restricted or varied at any time without liability to PayPort.

3.8. **Single point of contact and non-circumvention.** PayPort is the Merchant's sole point of contact in respect of the Services. The Merchant shall route all queries, escalations and requests relating to the Services, Transactions, Payouts and Disputes exclusively through PayPort. The Merchant shall not, and shall procure that its Affiliates and personnel shall not, directly or indirectly: (a) identify, disclose or publicize the identity of any Payment Partner or the technical or commercial arrangements underlying the Services, unless specifically required to do so by PayPort; or (b) bypass or attempt to bypass PayPort in respect of any

Transaction or Payment Method made available through the Platform. This Clause survives termination for 12 (twelve) months. Nothing in this Clause prevents the Merchant from independently procuring payment services in the ordinary course otherwise than in breach of this Clause.

3.9. **Support.** PayPort shall provide support in accordance with the Purchase Order or, where the Purchase Order is silent, in accordance with PayPort's then-current standard support practices.

3.10. **Contracting entity.** The PayPort entity identified in the Purchase Order is the contracting party in respect of the territory and Service Model stated in it. Where the Merchant is enabled for more than one territory or Service Model, PayPort may nominate a different PayPort Affiliate as the contracting or performing entity for that territory or Service Model, on notice to the Merchant, and these Platform Terms shall apply between the Merchant and that Affiliate as if it were named as PayPort.

4. ONBOARDING AND DUE DILIGENCE

4.1. **Due diligence.** The Merchant shall, within 3 (three) Business Days of request, provide to PayPort and, where required, directly to a Payment Partner, all information and documentation required for know-your-customer, know-your-business, enhanced due diligence, sanctions and politically exposed person screening, beneficial ownership identification, underwriting and compliance with Applicable Law and the Network Rules.

4.2. **Verification authorizations.** The Merchant authorizes PayPort and its Payment Partners to: (a) verify and re-verify at any time all information provided by the Merchant; (b) obtain credit reports, background checks, sanctions, PEP and adverse media screening and database searches in respect of the Merchant and its principals, controlling persons and beneficial owners, and confirms that it has obtained each such individual's consent for this purpose; (c) verify the ownership and validity of the Payout Account, including by micro-deposit or account verification services; and (d) review, monitor and test the Merchant's websites, applications, checkout flows, listings, marketing materials and policies at any time.

4.3. **Accuracy and changes.** The Merchant represents that all information provided to PayPort is and will remain true, complete, accurate and not misleading. The Merchant shall notify PayPort in writing within 3 (three) Business Days of any change to: (a) its legal name, entity type, address, tax identification or registration details; (b) its ownership, Control, directors, or beneficial owners; (c) its business model, products, services, pricing or billing model, target geographies, websites, domains, applications or trade names; (d) the Payout Account; (e) its average or maximum ticket size, expected or actual processing volumes, or Dispute levels; (f) any actual, threatened or anticipated regulatory action, investigation, enforcement, license suspension, litigation, insolvency event, or termination or suspension by any other payment service provider, acquirer, or Network; or (g) any other matter that renders information previously provided inaccurate or misleading. Failure to notify is an Event of Default.

4.4. **Payment Partner Terms.** As a condition of accessing the Services, the Merchant may be required to review, accept and comply with Payment Partner Terms. The Merchant shall promptly accept and comply with them and any updates, as notified by PayPort. The Payment Partner Terms are incorporated into the Agreement to the extent applicable to the Merchant. The Merchant authorizes PayPort to submit the Merchant's information to

Payment Partners, to record and attest to the Merchant's acceptance of Payment Partner Terms where such attestation is permitted, and to take such steps as are required to establish and administer the arrangements necessary for the Services. PayPort may notify the Merchant of specific Network Rules requirements but is not obliged to do so, and the Merchant remains responsible for its own compliance.

4.5. **Own business only.** The Merchant Account is established for the Merchant's own business. The Merchant shall not, and shall not permit any person to: (a) submit Transactions in respect of goods or services sold or supplied by any person other than the Merchant; (b) use the Merchant Account or the Services to aggregate, facilitate, collect, settle or pay out funds for or on behalf of any third party, sub-merchant, affiliate seller or agent; (c) act as a payment facilitator, payment aggregator, money transmitter or payment intermediary using the Services; (d) permit any other person to use the Merchant Account or the Merchant's credentials; or (e) sell, factor, assign, pledge, encumber or otherwise deal with the receivables or settlement entitlements arising from any Transaction in favor of any third party without PayPort's prior written consent.

4.6. **Multiple accounts.** The Merchant shall not open or maintain more than one Merchant Account without PayPort's prior written consent. Where the Merchant, its Affiliates or persons under common Control maintain more than one Merchant Account or account under separate agreements with PayPort, PayPort may treat all such accounts on a consolidated basis for risk assessment, Reserves, set-off, recovery, suspension and termination.

4.7. **Credentials and security.** The Merchant is solely responsible for the confidentiality and security of its Merchant Account credentials, application programming interface keys, tokens, webhooks and access rights, for implementing appropriate access controls and multi-factor authentication, and for all activity effected through or under its Merchant Account or credentials, whether or not authorized by the Merchant. The Merchant shall notify PayPort within 2 (two) hours of any actual or suspected unauthorized access to or use of the Merchant Account or credentials.

4.8. **Ongoing verification.** PayPort may at any time require the Merchant to undergo re-verification, re-underwriting or additional due diligence, and may restrict or suspend the Merchant Account pending completion.

5. <u>ACCESS TO THE PLATFORM</u>

5.1. **License.** Subject to the Merchant's compliance with the Agreement, PayPort grants the Merchant a limited, non-exclusive, non-transferable, non-sublicensable and revocable license during the Term to access and use the Platform for the sole purpose of availing the Services for its own business, in accordance with PayPort's documentation.

5.2. **Restrictions.** The Merchant shall not, and shall not permit any person to: (a) copy, modify, adapt, translate, reverse engineer, decompile, disassemble or create derivative works of the Platform; (b) resell, sublicense, rent, lease or otherwise make the Platform available to any third party; (c) use the Platform to build or assist in building a competing product or service, or for benchmarking or publication of comparative analyses without PayPort's prior written consent; (d) scrape, crawl, index or extract data from the Platform other than data relating to the Merchant's own Transactions through permitted interfaces; (e) circumvent, disable, probe or test the vulnerability of any security, authentication, rate-limiting or monitoring feature without PayPort's prior written consent; (f) introduce any virus, malware or harmful code; (g) submit test, sham, simulated or artificial Transactions to production environments except as permitted by PayPort; or (h) use the Platform in a manner that imposes an unreasonable load on PayPort's infrastructure.

5.3. **Merchant systems.** The Merchant shall, at its own cost, procure and maintain all hardware, software, connectivity, certificates and third-party services necessary to access and use the Platform, and is responsible for the correct implementation, configuration and testing of its integration. PayPort has no liability for any Loss arising from the Merchant's incorrect, incomplete, outdated or negligent integration or use of the Platform, or from its failure to implement updates (if required) notified by PayPort.

5.4. **Checkout and disclosures.** The Merchant shall ensure that its websites, applications, listings and checkout flows at all times prominently and accurately display: (a) the legal or registered trading name, address and contact details of the seller of record for the Transaction, including a monitored customer service email address and, where required, a telephone number; (b) a complete and accurate description of the goods or services offered, and the total price, currency, taxes, shipping and other charges, disclosed before the Buyer commits; (c) the applicable refund, return, cancellation, delivery and, where relevant, subscription, renewal and free trial terms, presented clearly and requiring affirmative acknowledgement where required by Applicable Law; (d) the applicable terms of service and privacy policy; and (e) any other disclosure required by Applicable Law, the Network Rules or PayPort, including any disclosure required under Part A or Part B of Schedule 1.

5.5. **Billing descriptor and transaction data.** PayPort or its Payment Partners determines the billing descriptor, the merchant category code, and the receipt format applicable to the Merchant's Transactions, and may set or modify them at any time to comply with the Network Rules or Applicable Law, to reflect the applicable Service Model, or where PayPort considers the existing data likely to cause Buyer confusion or Disputes. Where a Service Model requires it, the descriptor may take the form "XPAY*[MERCHANT]" or an equivalent format identifying PayPort first.

6. <u>TRANSACTIONS</u>

6.1. **Bona fide Transactions.** The Merchant shall submit or permit the submission of only those Transactions that represent bona fide sales of goods or services actually supplied, or to be supplied, in the ordinary course of the Merchant's approved business, that are properly authorized by the Buyer, and that comply with the Agreement, Applicable Law, the Network Rules and the Payment Partner Terms.

6.2. **Prohibited submissions.** The Merchant shall not submit or attempt to submit any Transaction that: (a) relates to goods or services sold or supplied by a person other than the Merchant, or is submitted for or on behalf of a third party; (b) has previously been the subject of a Dispute or Refund, or represents a previously declined or charged-back transaction, except as expressly permitted by PayPort; (c) represents a cash advance or disbursement, the sale or purchase of a negotiable instrument, or the funding, refinancing or collection of a debt owed to the Merchant, including by charging one payment instrument to satisfy an amount due on another; (d) is split into multiple Transactions to evade a limit, authorization requirement, Network Rule or PayPort control, or is aggregated in a manner not permitted by the Network Rules; (e) the Merchant knows or ought reasonably to know is fraudulent, unauthorized, illegal or not authorized by the account holder; (f) relates to a

Prohibited Business or an unapproved Restricted Business; (g) is submitted for the purpose of laundering funds, obscuring the origin or nature of funds, evading Sanctions, exchange control or Applicable Law, or disguising the identity of the true seller or purchaser; or (h) is denominated in a currency, or originates from or is destined to a jurisdiction, not approved by PayPort.

6.3. **Limits and controls.** PayPort may at any time impose or vary limits and controls in respect of the Merchant's Transactions, including per-transaction limits, daily, velocity limits, currency and geography restrictions, Payment Method restrictions and mandatory authentication requirements including 3-D Secure or its equivalent. The Merchant shall not attempt to circumvent any such limit or control.

6.4. **Fraud prevention.** The Merchant shall implement and maintain commercially reasonable fraud prevention and detection measures, shall use such fraud tools, authentication mechanisms and risk rules as PayPort makes available or requires, and shall act promptly on risk alerts or instructions issued by PayPort. Unless otherwise agreed mutually by the Parties, the Merchant is solely liable for all Transactions that are fraudulent, unauthorized or not properly authenticated, including in card-not-present environments.

6.5. **Stored Credentials, recurring and subscription billing.** This Clause applies wherever Stored Credentials are used, or recurring, subscription, instalment, free-trial-to-paid, usage-based or unscheduled credential-on-file Transactions are initiated.

(a) *Consent captured by PayPort.* Where PayPort operates the checkout or is the merchant of record on the card leg, PayPort shall capture and retain the Buyer's consent and mandate on a PayPort surface, and shall determine the form and content of the consent, the disclosures presented and the cancellation mechanism, so as to comply with Applicable Law and the Network Rules. The Merchant shall promptly supply PayPort with complete and accurate details of the amount, frequency, duration, renewal terms, price changes and cancellation terms of each recurring offering, shall notify PayPort before any change to them, and warrants the accuracy of that information. The Merchant shall not initiate, and shall not procure any person to initiate, any Transaction on a Stored Credential otherwise than through the Platform.

(b) *Consent captured by the Merchant.* Where the applicable Service Model provides that the Merchant captures consent, the Merchant shall (i) obtain, record and retain the Buyer's clear, informed and affirmative consent and mandate in the form required by the Network Rules and Applicable Law, including disclosure of the amount, frequency, duration, renewal terms and cancellation method; (ii) provide a simple, immediately effective and clearly disclosed cancellation mechanism, and honor every cancellation request without delay; (iii) send advance notice of forthcoming or changed charges; and (iv) on PayPort's request, furnish documentary proof of the Buyer's consent and mandate, including a timestamped record of the screen presented, within 2 (two) hours.

(c) *In all cases.* The Merchant shall honor every cancellation and shall cease supply obligations only in accordance with the terms disclosed to the Buyer. The Merchant shall not present a recurring charge as a one-time charge, and shall not obtain consent to a recurring charge as a condition of, or bundled with, consent to any other matter.

6.6. **Unauthorized Debits.** A Transaction initiated on a Stored Credential without valid Buyer consent, or beyond the scope, amount, frequency or duration consented to, or after a cancellation request, is an "**Unauthorized Debit**". Where the Merchant fails to furnish adequate proof of consent within the time stipulated in Clause 6.5(b), or PayPort otherwise reasonably determines that an Unauthorized Debit has occurred, PayPort may without prior reference to the Merchant refund the relevant amounts to the Buyer, and the refunded amounts together with all associated Fees, fines and costs constitute Losses recoverable from the Merchant. An Unauthorized Debit is an Event of Default and entitles PayPort to suspend the Merchant Account, impose or increase a Reserve, and terminate the Agreement with immediate effect.

6.7. **Currency and foreign exchange.** Where a Transaction, Refund or Payout involves currency conversion, the conversion shall be effected by PayPort or a Payment Partner at the rate applied at the relevant time. The Merchant bears all foreign exchange risk, and acknowledges that an amount refunded or reversed may differ from the amount originally settled by reason of exchange rate movements and that the Merchant bears any resulting shortfall.

6.8. **Records.** The Merchant shall retain complete and accurate records of each Transaction, including the order, invoice, Buyer consent, delivery or performance evidence, communications and Refund records, for not less than 24 (twenty-four) months from the date of the Transaction, or such longer period as may be mandated under Applicable Law applicable to the Merchant in its jurisdiction. The Merchant shall provide copies to PayPort within 2 (two) Business Days of request pursuant to any requirement under Applicable Laws, Payment Partner Terms or Network Rules.

6.9. **Volume limits and network concentration.** Pursuant to requirements under applicable Network Rules, PayPort may, at any time and without liability: (a) monitor the Merchant's rolling twelve-month volume against the applicable limit; (b) require the Merchant to provide volume forecasts; (c) impose or reduce caps, throttle, pause or decline Transactions so as to keep the Merchant below the applicable limits prescribed by Network Rules for any specific Service Model(s); and (d) require the Merchant to migrate to a different Service Model, or to a direct contractual relationship with an Acquirer or Payment Partner, as a condition of continuing to process above a specified volume.

7. <u>COLLECTIONS, SETTLEMENT AND PAYOUTS</u>

7.1. **Collection of funds.** Depending on the applicable Service Model, amounts payable by Buyers may be collected by PayPort, a PayPort Affiliate or a Payment Partner, or may be settled directly to the Merchant by a Payment Partner. The capacity in which PayPort or its Affiliate receives funds, and the consequences of that receipt, are set out in the applicable Part of Schedule 1. Except where Part B and/or Part D of Schedule 1 applies, PayPort does not take title to or acquire any beneficial interest in amounts collected, save in respect of its Fees and other amounts due to it, the Reserve, and amounts subject to its security interest under Clause 11.6.

7.2. **Limited payment instruction authority.** The Merchant irrevocably appoints PayPort as its limited agent, and authorizes PayPort, solely for the purpose of giving and executing instructions in relation to the Merchant Account, Transactions and amounts collected, including instructions relating to the timing and amount of Payouts, Refunds, Disputes, deductions of Fees, taxes, Losses and other amounts due, the establishment and application of Reserves, and the placing of holds or restrictions. This authority is coupled with an interest, is irrevocable until all of the Merchant's obligations under the Agreement have been discharged, and does not render PayPort a trustee, fiduciary or general agent of the Merchant.

7.3. **Payout schedule.** PayPort shall initiate Payout of the Settlement Amount to the Payout Account in accordance with the settlement cycle in the Purchase Order. All settlement timelines are indicative and are subject to receipt of cleared funds, Payment Partner and banking timelines, the Network Rules, and Applicable Law. PayPort may vary the settlement cycle on notice, and may apply different cycles to different Payment Methods, currencies, geographies, Service Models or risk categories.

7.4. **Deductions.** PayPort may deduct, or instruct the deduction of, from the Merchant Account balance, any Payout or the Reserve, all Fees, taxes, Refunds, Chargebacks, fines and penalties (including those imposed by Networks and Payment Partners), Losses, Negative Balances, amounts subject to set-off, and any other amount due or contingently due from the Merchant under the Agreement or any other agreement between the Merchant and PayPort or a PayPort Affiliate.

7.5. **Payout Account.** The Payout Account shall be held in the Merchant's own legal name with a bank in the Merchant's jurisdiction of incorporation or such other jurisdiction as PayPort approves. The Merchant shall not designate an account held in the name of a third party. The Merchant is solely responsible for the accuracy and currency of the Payout Account details, and PayPort has no liability for any Payout that is delayed, rejected, returned or misdirected by reason of incorrect, incomplete or outdated details or any action of the Merchant's bank. Any change to the Payout Account is subject to verification and may result in Payouts being suspended pending verification.

7.6. **Cross-border payouts.** Where a Payout is made to a Merchant outside the United States, the Payout shall be effected through authorized banking and payment channels, including authorized dealer banks and licensed or authorized payment aggregators and payout providers, and is subject to the requirements of those channels and of Applicable Law in the recipient jurisdiction. The Merchant shall: (a) hold and maintain all registrations, licenses and authorizations required in its jurisdiction to receive cross-border proceeds (if required under Applicable Law); (b) provide all invoices, contracts, declarations, purpose codes, tax residency certificates, beneficiary details and other documentation required by PayPort, a Payment Partner, within 2 (two) Business Days of request; (c) complete all filings, realization and reporting formalities applicable to it in respect of amounts received, including the filing of any export declaration, the collection of inward remittance advices or certificates as may be facilitated by PayPort, and the closure of any export monitoring entry; and (d) not use the Services to structure, split, route or disguise payments so as to circumvent exchange control, tax or reporting requirements in any jurisdiction. PayPort may withhold a Payout, in whole or in part, until the Merchant has provided the documentation required under this Clause. PayPort is not responsible for the Merchant's compliance with the laws of its own jurisdiction.

7.7. **Exporter of record and settlement reporting.** Where the Merchant supplies goods or services from outside the jurisdiction of the Buyer, the Merchant is the exporter of record and retains the obligation to realize and repatriate the proceeds of its supplies in accordance with the laws of its own jurisdiction. PayPort shall make available to the Merchant, for each calendar month, a statement showing gross Transaction value, Refunds, Disputes, Fees, taxes, withholding, other deductions and net amount settled, reconciled to the Merchant's invoice references, for use in the Merchant's own filings. Where the Merchant is required to name PayPort in any declaration or filing, it shall describe PayPort's role in the terms notified by PayPort under Clause 3.3 and in no other terms. The Merchant acknowledges that a Refund or Dispute reduces the value realized in respect of the underlying supply, and that the issue of any credit note, the adjustment of any tax return and the making of any consequential filing are the Merchant's own obligations. PayPort shall furnish supporting data on reasonable request but does not advise on, and is not responsible for, the Merchant's filings.

7.8. **Right to withhold, delay or reverse Payouts.** PayPort may, without prior notice and without liability, withhold, delay, suspend, reduce, reverse or set conditions upon any Payout, and place a hold on all or part of the Merchant Account balance or amounts collected, where:

(a) PayPort or a Payment Partner suspects or identifies fraud, money laundering, Sanctions exposure, transaction laundering, Unauthorized Debits, or other unlawful conduct;
(b) verification, due diligence, re-underwriting or a risk review is pending or incomplete;
(c) PayPort is instructed, requested or required to do so by a Payment Partner, Acquirer, Network, bank, governmental authority or court, or by Applicable Law, or is served with legal process;
(d) the Merchant has failed to deliver goods or services in respect of which Transactions have been processed, or there is a material risk of non-delivery or non-performance; or
(e) documentation required under Clause 7.6 has not been provided.

Where the reason permits and Applicable Law does not prohibit, PayPort shall inform the Merchant of the existence of a hold and shall release the withheld amount, less all amounts due to PayPort, once PayPort is reasonably satisfied that the relevant risk has been resolved or has expired.

7.9. **No interest; commingling.** No interest accrues or is payable to the Merchant in respect of any funds held in or credited to the Merchant Account, held by a Payment Partner, withheld under Clause 7.8 or held as a Reserve. Such funds may be commingled with other funds. The Merchant's entitlement in respect of such funds is a contractual claim against PayPort for the Settlement Amount and does not constitute a trust or deposit in any funds or account.

7.10. **Payment Partner holds.** Payment Partners and governmental authorities may independently place holds, freezes, restrictions or deductions on amounts collected or on the Merchant Account. PayPort shall use commercially reasonable efforts to assist the Merchant but has no liability in respect of any such hold and is not obliged to fund, advance or make good any amount so withheld.

7.11. **Statements and reconciliation.** PayPort shall make available through the Merchant Portal or otherwise in writing statements and reports in respect of Transactions, Fees, Refunds, Disputes and Payouts. The Merchant shall review each statement promptly and notify PayPort in writing of any error, omission or discrepancy within 15 (fifteen) calendar days of the statement being made available, failing which the statement is final and binding, save in the case of manifest error. PayPort may at any time correct any error and reverse, debit or recover any amount credited, paid out or made available to the Merchant in error, in duplicate or without entitlement.

7.12. **Irrevocability.** Transaction, Refund and Payout instructions submitted by or on behalf of the Merchant through the Platform are irrevocable once submitted and may not be cancelled, amended or recalled by the Merchant.

8. FEES, TAXES AND SET-OFF

8.1. **Fees.** In consideration of PayPort making available the Platform and the Services, the Merchant shall pay the Fees set out in the Purchase Order. Where a Fee is not expressly specified in the Purchase Order for a Payment Method, service, or feature, the Fee published on the Pricing Page at the relevant time applies. Where a new Payment Method, feature, Service Model or value-added service is introduced by PayPort and activated or availed by the Merchant, the pricing published on the Pricing Page at the relevant time applies, unless a different Fee is agreed by the Parties in writing.

8.2. **Pass-through amounts.** In addition to the Fees, the Merchant shall bear and reimburse PayPort, at cost or at the rates specified in the Purchase Order: (a) all fines, penalties, assessments, non-compliance charges, monitoring programme fees, registration fees, audit and forensic investigation costs and remediation costs imposed by any Network, Acquirer, Payment Partner or governmental authority in respect of the Merchant or its Transactions imposed due to an act or omission of the Merchant; and (b) all Dispute, representment, and arbitration fees.

8.3. **Change of Fees.** PayPort may revise the Fees on written notice given a reasonable period before the revision takes effect. If the Merchant does not agree to the revised Fees, it may terminate the Agreement by written notice given before the effective date, without penalty or termination fee, and the existing Fees continue to apply until the effective date of that termination. Continued use of the Services on or after the effective date constitutes acceptance.

8.4. **Recovery of Fees and amounts**. The Merchant irrevocably authorizes PayPort to recover all Fees and other amounts due or contingently due, at PayPort's election, by any one or more of: (a) deduction from amounts collected before Payout; or (b) invoice, payable within 3 (three) Business Days of the invoice date.

8.5. **Merchant taxes.** All Fees are exclusive of taxes. The Merchant is responsible for all sales, value added, goods and services, withholding, and similar taxes, duties and levies arising in connection with its business, its goods and services, its Transactions and the Fees, other than taxes on PayPort's net income. Except where Clause 8.6 applies, the Merchant is solely responsible for determining, assessing, collecting, reporting, remitting and accounting for all such taxes and for issuing all invoices and tax documentation to Buyers.

8.6. **Taxes collected by PayPort.** Where, under Applicable Law in the relevant jurisdiction or the applicable Service Model, PayPort or a PayPort Affiliate is required or elects to calculate, collect, report or remit any tax in respect of a supply to a Buyer:

(a) PayPort may calculate, collect and remit such tax, and may deduct the amount from amounts collected or from any Payout;

(b) the Merchant shall promptly provide all information PayPort requires, including product and service tax classification codes, place of supply and nexus information, exemption certificates and evidence of the Merchant's own tax registrations, and warrants that such information is accurate and complete;

(c) PayPort determines the tax treatment, the tax rate and the manner in which price and tax are displayed to Buyers, including whether prices are displayed inclusive or exclusive of tax, and the Merchant shall not override, alter or contradict that determination or that display;

(d) the Merchant shall classify each of its goods and services for tax purposes at onboarding and shall keep the classification current, and shall procure and pass to PayPort any exemption certificate on which a Buyer relies;

(e) the Merchant shall not separately collect or remit the same tax on the same supply; and

(f) the Merchant shall indemnify PayPort against all taxes, interest, penalties and costs arising from inaccurate, incomplete or untimely information or classification provided by the Merchant, or from the Merchant's own tax non-compliance.

8.7. **Tax documentation.** The Merchant shall provide PayPort with all tax forms, certificates, declarations and identifiers required by Applicable Law or requested by PayPort, including United States Internal Revenue Service Forms W-8BEN-E or W-9 and their equivalents, its tax residency certificate, and its tax identification, permanent account or equivalent number in its own jurisdiction. Valid and current tax documentation is a condition precedent to any Payout, and PayPort may withhold Payouts in whole until it is provided. The Merchant shall monitor expiry, re-certify on PayPort's request and on each expiry, and re-submit promptly on any change to its name, address, entity type, tax status or beneficial ownership. The Merchant acknowledges that PayPort and its Payment Partners may be required to report Transactions and Payouts to tax authorities and to issue information returns.

8.8. **Withholding.** PayPort may withhold or deduct from any Payout, and from any other amount payable to the Merchant, any amount that PayPort is required or considers in good faith that it may be required to withhold, deduct or collect under Applicable Law, and any withholding applied at a higher rate by reason of the Merchant's failure to furnish a valid tax identifier or documentation. The Merchant shall not be entitled to receive the amount so withheld from PayPort, and shall look to the relevant tax authority for any credit or refund. PayPort shall furnish the Merchant with such certificate or statement of deduction as Applicable Law requires.

8.9. **Set-off.** PayPort may at any time, without notice, set off any liability of the Merchant to PayPort or to any PayPort Affiliate against any liability of PayPort or any PayPort Affiliate to the Merchant, whether present or future, actual or contingent, liquidated or unliquidated, and whether or not arising under the Agreement. Where the liabilities are in different currencies, PayPort may convert either liability at a market rate of exchange for the purpose of set-off. The Merchant shall make all payments to PayPort in full, without set-off, counterclaim, deduction or withholding.

8.10. **Confidentiality of Fees.** The Merchant shall not disclose the Fees or any commercial term of the Agreement to any third party, other than to its professional advisers under a duty of confidence or as required by Applicable Law, shall not make them accessible through any publicly available link, and shall keep them confidential with at least the degree of care it applies to its own proprietary information.

9. REFUNDS, DISPUTES, CHARGEBACKS AND BUYER PROTECTION

9.1. **Refund policy.** The Merchant shall establish, maintain, publish and honor a clear, fair, lawful and conspicuously disclosed refund, return and cancellation policy that complies with Applicable Law and the Network Rules, and shall provide a copy to PayPort on request. The Merchant shall adhere at all times to its published policies and to the terms agreed with its Buyers. Material changes shall be notified to PayPort in advance. Where Part B of Schedule 1 applies, PayPort's refund policy governs the sale to the Buyer.

9.2. **Processing of Refunds.** All Refunds shall be processed exclusively through the Platform, to the original payment instrument and in the original currency and shall not exceed the amount of the original Transaction. The Merchant shall not make, offer or effect any Refund in cash, by cheque, by store credit or through any other channel, except where required by Applicable Law or expressly permitted by PayPort in writing. This Clause governs the routing of Refunds only and does not limit any Buyer's right or remedy, which is preserved by Clause 9.10. The Merchant shall ensure that sufficient funds are available to fund all Refunds; where they are not, PayPort may recover the shortfall under Clause 8.4. Fees charged on the original Transaction are non-refundable and are retained by PayPort notwithstanding any Refund, unless the Purchase Order states otherwise.

9.3. **Liability for Disputes.** The Merchant is fully and unconditionally liable for the entire amount of every Dispute, together with all associated Fees, fines, penalties, assessments and costs, regardless of the reason for, timing of or outcome of the Dispute, regardless of whether the Merchant considers the Dispute unjustified, and irrespective of whether the underlying goods or services were supplied. PayPort may debit the Merchant Account, deduct from any Payout, apply the Reserve or otherwise recover such amounts immediately on receipt of notice of a Dispute, without awaiting its resolution.

9.4. **Evidence and representment.** On notification of a Dispute, the Merchant shall provide PayPort with all evidence, documentation and information required to contest it within the timeline notified by PayPort, which may be as short as 6 (six) hours having regard to Network deadlines. Evidence submitted after the notified deadline may not be accepted unless an extension is agreed. Failure to respond within the notified timeline is deemed an acceptance of liability by the Merchant.

9.5. **PayPort's discretion.** PayPort may, in its sole discretion and without prior reference to the Merchant: (a) issue a Refund of all or part of any Transaction where PayPort reasonably determines, suspects or is put on notice of fraud, non-delivery, non-performance, an Unauthorized Debit, a breach of the Agreement, a Prohibited Business, a Buyer complaint or a risk of Loss; and (b) where the Merchant's Dispute ratio exceeds 100 (one hundred) basis points in a calendar month, or where required by a Network or Payment Partner, resolve Disputes directly through Network or Payment Partner facilities without reference to the Merchant. PayPort has no liability to the Merchant in respect of any such action, and all amounts refunded or settled, together with associated costs, constitute Losses recoverable from the Merchant.

9.6. **Dispute and fraud thresholds.** If in any calendar month (a) the number or value of Disputes raised against the Merchant exceeds 0.65% (zero point six five percent) of the number or value of the Merchant's Transactions in that month or the preceding month, (b) the Merchant's fraud levels exceed the thresholds notified by PayPort, or (c) the Merchant is identified in, placed into, or is at risk of being placed into, any Network monitoring, remediation, compliance, excessive chargeback or excessive fraud programme, then: (i) the Merchant shall within 5 (five) calendar days of notice submit a written remediation plan acceptable to PayPort and implement it; (ii) PayPort may impose or increase a Reserve, reduce Transaction limits, mandate additional authentication, suspend or restrict the Merchant Account, or terminate the Agreement with immediate effect; and (iii) the Merchant is liable for all fines, assessments, monitoring fees, audit costs and other amounts imposed in connection therewith.

9.7. **Buyer service.** The Merchant shall maintain a responsive buyer service function, shall respond to Buyer enquiries and complaints promptly, and shall provide PayPort with all information requested in relation to a Buyer complaint within 2 (two) Business Days.

9.8. **Buyer Protection Policy.** Where the applicable Service Model so provides, or where PayPort is otherwise required by the Network Rules to be financially responsible for Transactions, PayPort publishes and operates the Buyer Protection Policy. Under that policy PayPort accepts liability to Buyers, on the terms and up to the limits stated in it, in respect of goods and services that are not delivered or are not as described. PayPort's obligations to Buyers under the Buyer Protection Policy are owed by PayPort in its own name, are funded by PayPort in the first instance, and are unconditional. They are not conditioned on, delayed by, reduced by or otherwise affected by any act or omission of the Merchant, by the Merchant's solvency, by the availability of funds in the Merchant Account or the Reserve, or by any dispute between PayPort and the Merchant.

9.9. **Binding determinations.** PayPort may determine any Buyer claim, Dispute or Refund request made under the Buyer Protection Policy and may do so without the Merchant's consent and without reference to the Merchant. PayPort's determination is final and binding on the Merchant, whether or not the Merchant considers the claim unjustified, and whether or not PayPort has recovered or is able to recover the amount from the Merchant. The Merchant shall give PayPort all information and evidence PayPort requests within the timelines notified and shall implement any remediation PayPort directs.

9.10. **No transfer of liability to Buyers.** The Merchant shall not, and shall not attempt to, transfer or relocate to any Buyer any liability that the Network Rules place on PayPort or on the Merchant. In particular, the Merchant shall not require, request or induce any Buyer to waive, limit, release or refrain from exercising any right to raise a Dispute, a billing error claim or a claim or defence against an issuer, or any right or remedy under Applicable Law. Any term of the Merchant's buyer-facing documentation that purports to do so is of no effect as between the Merchant, PayPort and the Buyer. Nothing in the Agreement, and nothing in any Refund routing, dispute handling or discharge provision of it, limits, extinguishes or defers any claim, remedy or right of a Buyer against the Merchant, against PayPort or against an issuer.

9.11. **Refund routing and grievance redressal.** Refunds shall be made to the Buyer's original payment instrument by default, and to an alternative instrument or account in the same name only where the Buyer so instructs and Applicable Law permits. The Merchant shall cooperate with PayPort so as to enable PayPort to effect the Refunds, and shall direct any Buyer who approaches it in respect of a payment, receipt, Refund or Dispute to PayPort's published channels where the applicable Service Model so requires.

9.12. **Survival.** The Merchant's liability in respect of Disputes, Refunds and Losses survives expiry or termination of the Agreement and continues for 12 (twelve) months from the later of the date of termination and the date of the last Transaction processed, or such longer period as the Network Rules or Applicable Law permit a Dispute to be raised.

10. MERCHANT'S CONDUCT OF BUSINESS

10.1. **Prohibited Businesses.** The Merchant shall not use the Platform, the Merchant Account or the Services, directly or indirectly, in connection with any Prohibited Business, unless PayPort grants a specific written exemption, which may be subject to conditions.

10.2. **Restricted Businesses.** The Merchant shall not use the Platform, the Merchant Account or the Services in connection with any Restricted Business without PayPort's prior express written approval. Approval may be granted or withheld in PayPort's sole discretion, may be subject to conditions including additional due diligence, evidence of licensing, enhanced Reserves, restricted Payment Methods, volume caps or amended Fees, and may be varied or revoked at any time on notice.

10.3. **Updates.** PayPort may update the Prohibited and Restricted Businesses List from time to time on notice, including by publication on its website, to reflect changes in Applicable Law, the Network Rules, the Payment Partner Terms or PayPort's risk appetite. Updates take effect from the date notified.

10.4. **Consequences of breach.** If the Merchant engages in, or PayPort reasonably suspects the Merchant of engaging in, any Prohibited Business or unapproved Restricted Business, PayPort may with immediate effect and without prior notice: (a) suspend or terminate the Merchant Account and the Agreement; (b) decline, reverse, void or refund any affected Transaction; (c) withhold all Payouts and impose or increase a Reserve; (d) report the Merchant, its principals and beneficial owners to Payment Partners, Networks, Acquirers, industry registers, regulators and law enforcement; and (e) recover all resulting Losses from the Merchant.

10.5. **Compliance with Applicable Law.** The Merchant shall conduct its business, offer its goods and services, market and advertise, and use the Services in compliance with all Applicable Law, and shall obtain and maintain all licenses, registrations, permits and approvals required for its business and for the sale of its goods and services in each jurisdiction in which it operates or to which it markets. It shall produce evidence of the same within 2 (two) Business Days of request.

10.6. **Export controls.** The Merchant shall comply with all applicable export control, import and trade laws, and shall not use the Services to supply goods, services, software or technology to any person or destination in breach of those laws.

10.7. **Consumer protection and marketing.** The Merchant shall not engage in any unfair, deceptive or abusive act or practice, shall not make false, misleading, unsubstantiated or exaggerated claims regarding its goods, services, pricing, endorsements, results or refunds, shall not employ deceptive pricing, hidden charges, forced continuity, dark patterns or high-pressure upselling, and shall comply with all Applicable Law governing advertising, endorsements, testimonials, negative option and automatic renewal marketing, electronic communications and telemarketing.

10.8. **Change of business.** The Merchant shall not materially change its business model, product or service offering, billing model, pricing structure, domains, trade names or fulfilment model without PayPort's prior written approval. PayPort may withhold approval or require re-underwriting, amended commercial terms, additional security or a Reserve as a condition of approval.

11. LOSSES AND RESERVE

11.1. **Liability for Losses.** PayPort's acceptance of liability to Buyers under Clause 9.8 is without prejudice to, and entirely separate from, its rights of recovery against the Merchant. The full amount of every Losses (including any payout under Buyer Protection Policy) is recoverable from the Merchant, by indemnity under Clause 17.1, by deduction under Clause 8.4, by set-off under Clause 8.9 and by application of the Reserve under Clause 11.4.

11.2. **Negative Balance.** The Merchant shall not permit a Negative Balance to arise and shall immediately fund any Negative Balance on its occurrence, whether or not notified by PayPort. A Negative Balance subsisting for more than 2 (two) Business Days is an Event of Default.

11.3. **Reserve.** PayPort may, in the event of any Risk Event, on notice to the Merchant, require, increase, extend or vary a Reserve, which may be up to a maximum of 25% of the total processed volume of payment Transactions in the preceding 4 (four) months. In determining whether to impose a Reserve and its quantum, PayPort may, in addition to the nature of the Risk Event, have regard to factors including the Merchant's industry, business and billing model, delivery or fulfilment lead times, processing history and volumes, Dispute and Refund levels, fraud indicators, financial condition, credit profile, change of Control, adverse media or regulatory developments, Network or Payment Partner requirements, notice of termination, a material decline in processing volumes, and any actual, anticipated or contingent Losses. Without prejudice to the right of maintaining a Reserve, PayPort may, at its sole discretion, exercise any of its rights available to it under this Agreement or under Applicable Law to address the relevant Risk Event.

11.4. **Funding and application.** PayPort may fund the Reserve by (a) withholding all or part of any Payout or amounts collected, or (b) requiring the Merchant to transfer funds to PayPort or to an account designated by PayPort within 2 (two) Business Days of demand. PayPort may apply the Reserve towards satisfaction of any Loss or other amount due or contingently due at any time and without prior notice. The Reserve does not bear interest, may be commingled with other funds, and the Merchant has no interest in it other than a contingent right to receive any remainder after full and final discharge of all actual and contingent Losses.

11.5. **Release.** Any remaining Reserve shall be released to the Merchant once PayPort is reasonably satisfied that all actual and contingent Losses, Disputes and other obligations of the Merchant have been discharged or have expired. In any case, unless the Risk Event is of a continuing and subsisting nature, a Reserve shall not be retained for a period longer than 4 months from the date of creation of the Reserve.

11.6. **Security interest.** As continuing security for the due performance and discharge of all of the Merchant's present and future, actual and contingent obligations to PayPort under the Agreement, the Merchant grants PayPort a continuing first-priority security interest in and lien over the Reserve.

11.7. **Survival.** PayPort's rights under this Clause 11, including the right to require, retain, apply and enforce a Reserve and the security interest granted, survive expiry or termination of the Agreement.

12. MERCHANT COVENANTS

12.1. Throughout the Term and for so long as any obligation of the Merchant remains outstanding, the Merchant shall:

(a) fulfil and perform, in full and on time, all goods and services sold to Buyers, and honor all guarantees, warranties, service levels, cancellation rights and after-sales obligations;

(b) promptly notify PayPort of any Event of Default and the steps being taken to remedy it;

(c) promptly notify PayPort on becoming aware of any actual or suspected breach of Applicable Law that may adversely affect its ability to perform the Agreement, or of any regulatory enquiry, investigation, enforcement action, class action or material litigation;

(d) cooperate fully and promptly with PayPort and any Payment Partner in relation to any investigation, audit, information request, merchant monitoring program of the Network, Buyer complaint or Disputes, regulatory enquiry or legal process concerning the Merchant or its Transactions;

(e) not use PayPort's name, trademarks, logos or branding except in the form and manner expressly approved by PayPort in writing, and cease all such use on termination;

(f) ensure that its storefront, listings, checkout and buyer communications comply with Applicable Law and that its buyer-facing copy accurately discloses the identity of the seller and supplier, PayPort's role under the relevant Service Model, the total price including fees and taxes, delivery terms and the applicable refund policy; and

(g) comply at all times with the Policies, the Payment Partner Terms, the Network Rules and PayPort's reasonable operational instructions and risk directions.

13. DATA PROTECTION AND PRIVACY

13.1. **Roles.** As between the Parties, the Merchant is the controller, or business, in respect of Buyer Data collected in connection with its own commerce and Buyer relationships. PayPort processes Buyer Data (a) as a service provider or processor of the Merchant to the extent necessary to provide the Services in accordance with the Merchant's instructions, and (b) as an independent controller for fraud prevention, risk management, underwriting, anti-money laundering and sanctions screening, regulatory and Network compliance, Dispute management, product analytics and improvement, and the establishment, exercise or defense of legal claims. Where Part A or Part B of Schedule 1 applies, PayPort or its Affiliate also acts as a controller in respect of Buyer Data collected through the Platform in its respective applicable role. Payment Partners, Acquirers and Networks act as independent controllers in respect of Transaction Data processed by them.

13.2. **Data Processing Addendum.** Where required by Applicable Law, the Data Processing Addendum published at the link in Schedule 2 applies to the processing of personal data under the Agreement and is incorporated by reference.

13.3. **Notices and consents.** The Merchant shall provide all notices and obtain all rights, consents and authorizations necessary under Applicable Law to enable the lawful collection, use, disclosure, storage, processing and cross-border transfer of Buyer Data by the Merchant, PayPort, PayPort's Affiliates, Payment Partners and their respective service providers, for the purposes contemplated by the Agreement. The Merchant shall maintain a privacy policy that accurately describes such collection, use and disclosure. Each Party shall comply with the data protection and privacy laws applicable to it.

13.4. **PCI DSS.** The Merchant shall comply at all times with the PCI Standards as applicable to its role, environment and transaction volume, and shall furnish evidence of compliance on request. The Merchant shall not request, collect, store, log, transmit or retain any full primary account number, magnetic stripe or chip data, card verification value or PIN data except strictly as permitted by the PCI Standards, and shall use PayPort's hosted checkout, secure fields, tokenization and other secure integration methods where made available. The Merchant is solely liable for all fines, assessments, non-compliance fees, card reissuance costs, forensic investigation costs and other Losses arising from non-compliance with the PCI Standards or any compromise of Buyer Data within its environment.

13.5. **Security incidents.** The Merchant shall notify PayPort within 2 (two) hours of becoming aware of any actual or suspected security incident, unauthorized access to or acquisition of Buyer Data or Transaction Data, or compromise of its systems. It shall promptly provide all relevant information, cooperate fully with PayPort, Payment Partners and regulators including in relation to any forensic investigation required by a Network or regulator, take all steps necessary to contain and remediate the incident, and bear all associated costs. PayPort retains the right to suspend the Merchant Account with immediate effect pending investigation and remediation.

13.6. **PayPort's data rights.** PayPort may collect, generate, use, retain and disclose Transaction Data and Buyer Data (a) to provide, operate, secure, monitor, support and improve the Platform and the Services; (b) for risk scoring, fraud detection, underwriting, credit assessment, analytics and the development and training of risk and product models; (c) to comply with Applicable Law, the Network Rules and the Payment Partner Terms; and (d) in aggregated or de-identified form, for any lawful business purpose. PayPort may retain data for so long as required for those purposes or by Applicable Law, notwithstanding termination.

13.7. **Authorized disclosures.** The Merchant authorizes PayPort to disclose information relating to the Merchant, its principals, its Transactions and any default committed by it, to Payment Partners, banks, financial institutions, Networks, fraud prevention agencies and industry registers (including the MATCH list, terminated merchant files and equivalent registers), insurers, professional advisers, regulators, law enforcement, governmental authorities, and actual and prospective assignees, acquirers or financiers of PayPort, in each case in compliance with Applicable Law. This Clause survives termination.

14. CONFIDENTIALITY

14.1. Each Party that receives Confidential Information (the "**Receiving Party**") of the other (the "**Disclosing Party**") shall, during the Term and thereafter, use it solely for the purpose of performing its obligations and exercising its rights under the Agreement.

14.2. The Receiving Party shall: (a) disclose Confidential Information only to those of its representatives who need to know it for that purpose, and procure that they comply with obligations of confidentiality no less protective than these; (b) not disclose Confidential Information to any third party without the Disclosing Party's prior written consent; (c) not reproduce Confidential Information except as required to perform the Agreement; (d) not export or transmit Confidential Information to any jurisdiction to which such transmission is restricted by Applicable Law; and (e) promptly notify the Disclosing Party of any actual or threatened breach of this Clause.

14.3. **Platform and partner information.** The Merchant shall not disclose to any third party, or use for any purpose other than availing the Services or for mandatory regulatory compliances under Clause 7.6(c), any information relating to the architecture, design, configuration, routing logic, integration details, security controls or operation of the Platform, the Fees or commercial terms, or the identity of, or any information concerning, PayPort's Payment Partners, banking arrangements or sub-processors. This obligation survives termination indefinitely.

14.4. **Compelled disclosure.** Where disclosure is compelled by an order of a court, regulator or other authority of competent jurisdiction, the Receiving Party shall, to the extent legally permitted, give prompt written notice to the Disclosing Party to enable it to seek a protective order or otherwise contest the disclosure, and if that remedy is not obtained, shall disclose only that portion of the Confidential Information it is legally compelled to disclose.

14.5. **Return.** All Confidential Information, including copies, remains the property of the Disclosing Party and shall be returned or, at the Disclosing Party's option, certified as destroyed, on written request and in any event on expiry or termination of the Agreement, save to the extent retention is required by Applicable Law or the Receiving Party's routine backup procedures.

15. <u>INTELLECTUAL PROPERTY</u>

15.1. **PayPort Materials.** All rights, title and interest in and to the Platform, including all software, source and object code, interfaces, APIs, databases, know-how, features, workflows, algorithms, risk models, documentation, design elements, trademarks, service marks, trade names, logos and any enhancements or derivative works (the "**PayPort Materials**"), are and remain the exclusive property of PayPort or its licensors. No rights are granted to the Merchant other than those expressly set out in the Agreement, and all rights not expressly granted are reserved.

15.2. **No assignment.** Nothing in the Agreement transfers or assigns any intellectual property rights from PayPort to the Merchant. The Merchant shall not remove, obscure or alter any proprietary notice on the PayPort Materials, and shall not register or attempt to register any trademark, domain name or other right that is identical or confusingly similar to any PayPort mark.

15.3. **Merchant Content.** The Merchant grants PayPort a non-exclusive, royalty-free, worldwide license during the Term to use, host, store, reproduce, adapt for formatting purposes, publish and display the Merchant Content to the extent necessary to provide the Services, operate the relevant portions of the Platform, process Transactions, and subject to Clause 25.3 for identifying the Merchant as a customer of PayPort. Nothing in the Agreement transfers ownership of the Merchant Content or the Merchant's intellectual property to PayPort. The Merchant warrants that it owns or is licensed to grant these rights and that the Merchant Content does not infringe the rights of any person.

15.4. **Rights-holder complaints and takedown.** PayPort operates a notice and takedown process for complaints that Merchant Content, or any good or service offered by the Merchant, infringes the intellectual property or other rights of a third party. On notice of a complaint, PayPort may remove or disable the affected listing, content or Transaction capability immediately and without liability, pending resolution. The Merchant shall respond to any complaint referred to it, with supporting evidence, within 2 (two) Business Days. PayPort may terminate the Agreement with immediate effect where the Merchant is the subject of repeated or unresolved infringement complaints. The Merchant shall not offer counterfeit, pirated or infringing goods or services, and shall not use any name, mark or identity belonging to or associated with another business.

15.5. Where the Merchant provides any suggestion, feedback, idea or recommendation relating to the Platform or the Services, PayPort is free to use and exploit it without restriction, attribution or compensation, and all intellectual property rights in it vest in PayPort.

16. REPRESENTATIONS AND WARRANTIES

16.1. **Mutual.** Each Party represents and warrants to the other, as at the Effective Date and on each day thereafter during the Term, that: (a) it is duly incorporated or organized and validly existing under Applicable Law; (b) it has the power and authority to carry on its business as conducted and to enter into and perform the Agreement, and has taken all necessary corporate action for that purpose; (c) entry into and performance of the Agreement does not contravene its constitutional documents, any agreement binding on it, or any Applicable Law; (d) no Event of Default has occurred and is continuing in relation to it; (e) its signatories are duly authorized; and (f) no litigation, arbitration or regulatory proceeding is pending or, to the best of its knowledge after due enquiry, threatened against it or its directors or assets which, if adversely determined, would reasonably be expected to have a material adverse effect on its ability to perform the Agreement.

16.2. **Merchant.** The Merchant further represents, warrants and undertakes that: (a) it is engaged solely in the business notified to and approved by PayPort, and does not engage in any Prohibited Business or unapproved Restricted Business; (b) it holds all licenses, registrations and approvals necessary for its business and for the receipt of proceeds under the Agreement; (c) neither it nor any of its directors, officers, controlling persons or beneficial owners is a Designated Person, is listed on any terminated merchant file, MATCH list or equivalent register, or has been terminated by any payment service provider, acquirer, or Network for cause, save as disclosed in writing to PayPort before onboarding; (d) it is solvent and able to pay its debts as they fall due, and no event has occurred that is likely to affect its solvency; and (e) all information furnished by it in connection with onboarding and thereafter is true, complete, accurate and not misleading.

16.3. **Per Transaction.** The Merchant is deemed to represent and warrant, on and as of the submission or processing of each Transaction, that: (a) the Transaction represents a *bona fide* sale of goods or services, in the ordinary course of its approved business, which have been or will be duly supplied to the Buyer; (b) the Transaction has been duly authorized by the Buyer and, where applicable, by the legitimate holder of the payment instrument; (c) the Transaction is not submitted on behalf of, or in respect of goods or services supplied by, any third party; (d) the Transaction complies with the Agreement, Applicable Law, the Network Rules and the Payment Partner Terms; (e) the amount charged is correct and is not subject to any known or anticipated dispute, set-off, counterclaim or defense; (f) the amount receivable in respect of the Transaction is free from any lien, charge, encumbrance, assignment or third-party interest, other than PayPort's security interest under Clause 11.6; and (g) the Merchant has no knowledge of any fact or circumstance that would impair the validity or collectability of the Transaction.

17. INDEMNITY AND LIMITATION OF LIABILITY

17.1. **Merchant indemnity.** The Merchant shall indemnify, defend and hold harmless PayPort, its Affiliates, and their respective directors, officers, employees, agents and Payment Partners (each an "**Indemnified Party**") from and against all Losses, liabilities, claims, judgments, damages, costs and expenses, including reasonable attorneys' fees, suffered or incurred by any Indemnified Party arising out of or in connection with:

(a) the Merchant's failure to observe or perform any obligation under the Agreement, the Policies, the Payment Partner Terms or the Network Rules;
(b) any breach of any representation, warranty, covenant or undertaking of the Merchant;
(c) the occurrence of any Event of Default;
(d) any Transaction, Refund, Dispute, Negative Balance or Unauthorized Debit;
(e) any dispute between the Merchant and a Buyer, including as to quality, quantity, description, delivery, non-delivery, cancellation, warranty, service default or refund;
(f) any claim relating to the Merchant's goods, services, Merchant Content, business practices, marketing, pricing or billing, including any claim of infringement of a third party's intellectual property or other rights, and any product liability or consumer protection claim;
(g) any tax applicable to or arising from the Merchant's Transactions, goods, services or payments received, and any inaccurate or incomplete tax information provided by the Merchant;
(h) any breach of Applicable Law;
(i) any security incident or compromise of Buyer Data occurring in or through the Merchant's environment or that of its service providers;
(j) any fine, penalty, assessment, monitoring programme fee or forensic investigation cost imposed by any Network, Payment Partner or governmental authority in respect of the Merchant; and
(k) any fraud, gross negligence or willful misconduct of the Merchant or its personnel, agents or consultants.

17.2. **Conduct of claims.** PayPort is entitled, at the Merchant's cost, to control the defense, negotiation and settlement of any claim in respect of which indemnity is sought, and the Merchant shall provide such assistance and information as PayPort reasonably requires. The Merchant shall not settle or compromise any such claim in a manner that imposes any obligation or admission on any Indemnified Party without PayPort's prior written consent.

17.3. **PayPort indemnity.** PayPort shall indemnify, defend and hold the Merchant harmless from direct and actual losses, damages, liabilities, costs and expenses to the extent arising out of third-party claims made against the Merchant by reason of:

(a) PayPort's breach of Applicable Law in relation to the performance of its obligations under the Agreement, or

(b) fraud, gross negligence or willful misconduct of PayPort or its employees.

The Merchant shall notify PayPort of any such claim within 30 (thirty) days of becoming aware of it, shall permit PayPort to conduct all negotiations and proceedings for its settlement, and shall provide such reasonable assistance as PayPort requires.

17.4. **Disclaimer.** The Platform and the Services are provided on an "*as is*" and "*as available*" basis. To the maximum extent permitted by Applicable Law, PayPort disclaims all warranties, express or implied, including any implied warranty of merchantability, satisfactory quality, fitness for a particular purpose, title, non-infringement, accuracy or uninterrupted or error-free operation. PayPort does not warrant that any Transaction will be authorized, approved, collected, settled or paid out, that any Payment Method, currency, geography or Service Model will remain available, that any Dispute will be resolved in the Merchant's favor, or that the Services will meet the Merchant's requirements. As between PayPort and the Merchant, and except to the extent expressly provided in Part B of Schedule 1, PayPort disclaims all liability for any loss, damage, dispute, delay or non-performance arising from the sale, quality, quantity, description, shipment, delivery or non-delivery of any goods or services supplied or offered by the Merchant, for which the Merchant is solely responsible. Nothing in this Clause 17.4 limits or excludes any obligation or liability of PayPort to a Buyer under the Buyer Protection Policy, under the Network Rules or under Applicable Law, or affects any right or remedy of a Buyer preserved by Clause 9.10; and this Clause is an allocation of risk between the Parties only and confers no benefit on, and may not be relied on against, any Buyer.

17.5. **Exclusion of indirect losses.** PayPort shall not be liable to the Merchant for any indirect, incidental, consequential, special, exemplary or punitive damages, or for any loss of revenue, profits, anticipated savings, goodwill, opportunity, data or business, arising out of or in connection with the Agreement, regardless of the form of action and even if PayPort has been advised of the possibility of such damages.

17.6. **Cap on liability.** Subject to Clause 17.5, the maximum aggregate liability of PayPort and its Affiliates under or in connection with the Agreement, whether in contract, tort or otherwise, shall not exceed the lower of (a) the total Fees actually received by PayPort from the Merchant during the 3 (three) months immediately preceding the date on which the first event giving rise to the claim arose, and (b) USD 10,000 (United States Dollars Ten Thousand). PayPort has no liability in respect of any act, omission, delay, hold, freeze, deduction, suspension, insolvency or failure of any Payment Partner, issuer, Network or other third party.

17.7. **Survival.** This Clause 17 survives expiry or termination of the Agreement.

18. EVENTS OF DEFAULT

18.1. **Mutual.** Each of the following is an Event of Default in relation to a Party: (a) it fails to comply with any provision of the Agreement and, if the other Party considers acting reasonably that the default is capable of remedy, the default is not remedied within 5 (five) Business Days of the earlier of notice from the other Party and the defaulting Party becoming aware of it; (b) any representation, warranty or statement made, repeated or deemed made by it is or proves to have been incomplete, untrue, incorrect or misleading; or (c) it stops or suspends payment of its debts or is unable to pay its debts as they fall due, commences negotiations or enters into any composition or arrangement with creditors with a view to rescheduling indebtedness, has a moratorium declared in respect of its indebtedness, or is the subject of any action or proceeding in relation to its winding up, dissolution, administration, reorganization or bankruptcy or the appointment of a liquidator, receiver, trustee, administrator or similar officer.

18.2. **Merchant.** Each of the following is an Event of Default in relation to the Merchant: (a) any Transaction, invoice or supporting record is found to be invalid, unenforceable, materially defective or falsified; (b) any unauthorized, negligent, fraudulent or improper access to or use of the Merchant Account, credentials, systems or integrations, irrespective of whether it arises from any act, omission or negligence of the Merchant; (c) failure to notify PayPort of any change to information submitted at onboarding, or to provide requested due diligence, know-your-customer, tax, cross-border or verification information within the time stipulated; (d) the number, value or ratio of Disputes, Refunds, fraud events or Losses associated with the Merchant exceeds the levels acceptable to PayPort as communicated to the Merchant, or the Merchant is placed into any Network monitoring or remediation programme; (e) PayPort suspects on reasonable grounds that the Merchant's use of the Platform is for fraudulent, illegal, deceptive or unauthorized purposes, or involves money laundering, terrorist financing, Sanctions evasion, exchange control evasion or transaction laundering; (f) PayPort is required or requested to suspend or terminate the Merchant Account by any Payment Partner, regulator, law enforcement agency or court, or by Applicable Law; (g) the Merchant initiates an Unauthorized Debit or fails to furnish proof of Buyer consent within the time stipulated in Clause 6.5(b); (h) the Merchant engages in any Prohibited Business or unapproved Restricted Business, or materially changes its business without approval; (i) a Negative Balance subsists for more than 2 (two) Business Days, or the Merchant fails to fund a Reserve or provide additional security when required; (j) the Merchant breaches Clause 3.8 (*non-circumvention*), Clause 4.5 (*own business only*), Clause 6 (*Transactions*), Clause 10 (*Merchant's conduct of business*), Clause 13 (*Data Protection and Privacy*) or Clause 14 (*Confidentiality*); (k) the Merchant or any of its principals or beneficial owners becomes a Designated Person, is listed on any terminated merchant file or industry risk register, or becomes the subject of a criminal charge or regulatory enforcement action relating to fraud, dishonesty or financial crime; or (l) the Merchant breaches the Policies, the Payment Partner Terms or the Network Rules.

18.3. **Remedies.** On and at any time after the occurrence of an Event of Default in relation to the Merchant, PayPort may, on 3 (three) calendar days' notice to the Merchant or, where Clause 18.4 applies, without notice: (a) suspend, restrict, limit or disable the Merchant Account, the Merchant's access to the Platform, or any Payment Method, currency, Service Model or feature; (b) cease processing Transactions and decline, void, reverse or refund any Transaction, whether processed or in flight; (c) withhold, suspend, delay or reverse any Payout and place a hold on the Merchant Account balance; (d) establish, increase or extend a Reserve or require additional security; (e) declare all amounts due or contingently due to PayPort immediately due and payable; (f) exercise its rights of set-off, recovery and enforcement of security under Clauses 8 and 11; (g) refer the matter to a Payment Partner, Network, industry register, regulator or law enforcement; or (h) terminate the Agreement, in whole or in part, with immediate effect.

18.4. **Immediate suspension.** PayPort may suspend or restrict the Merchant Account and the Services immediately and without prior notice where (a) required or requested by a Payment Partner, regulator, law enforcement agency or court, or by Applicable Law; (b) PayPort reasonably suspects fraud, money laundering, Sanctions exposure, transaction laundering, a Prohibited Business, a security incident or an Unauthorized Debit; or (c) an insolvency event has occurred in relation to the Merchant. PayPort shall notify the Merchant of the suspension as soon as reasonably practicable, unless prohibited from doing so by Applicable Law or by a Payment Partner. PayPort has no liability to the Merchant or to any third party for any loss arising out of any suspension, restriction, refusal to process, hold, withholding, reversal, Refund or termination effected in accordance with the Agreement, and the

Merchant waives all claims in respect of it. Suspension does not relieve the Merchant of any obligation to its Buyers or to PayPort.

19. TERM AND TERMINATION

19.1. **Term.** The Agreement takes effect on the Effective Date and continues for the initial term stated in the Purchase Order or, where none is stated, for 2 (two) years, and thereafter renews automatically for successive periods of 1 (one) year, unless terminated earlier in accordance with the Agreement or unless either Party gives written notice of non-renewal at least 60 (sixty) days before the expiry of the then current term (the "**Term**").

19.2. **Termination for convenience.** Either Party may terminate the Agreement for convenience on not less than 60 (sixty) days' prior written notice, subject to restrictions contained in the Purchase Order.

19.3. **Termination for cause.** Either Party may terminate the Agreement with immediate effect on the occurrence of an Event of Default in relation to the other Party. PayPort may also terminate with immediate effect on written notice where (a) any circumstance in Clause 18.4 arises; (b) the Merchant's business or Transactions become, in PayPort's reasonable opinion, unacceptable from a legal, regulatory, risk or reputational perspective; or (c) continued performance would cause PayPort or any Payment Partner to breach Applicable Law or the Network Rules.

19.4. **Consequences.** On expiry or termination: (a) the Merchant's right to access and use the Platform and the Services ceases, and PayPort shall disable the Merchant Account, save to the extent required to complete in-flight Transactions, process Refunds and manage Disputes, which PayPort may but is not obliged to permit; (b) all amounts due or contingently due from the Merchant become immediately due and payable; (c) PayPort may retain, apply, establish or increase a Reserve in accordance with Clause 11; (d) the Merchant remains fully liable for all Refunds, Disputes, Chargebacks, fines, assessments and Losses arising at any time in respect of Transactions processed during the Term, in accordance with Clause 9.12; (e) the Merchant shall immediately cease all use of the PayPort Materials and PayPort's marks; (f) the Merchant shall, at its own cost, promptly notify its Buyers of the discontinuance and make alternative arrangements for the continued servicing of its Buyers, including the honoring of subscriptions, renewals, cancellations, warranties and refunds; and (g) each Party shall return or destroy the Confidential Information of the other in accordance with Clause 14.5.

19.5. **Data export.** The Merchant may, within 30 (thirty) days of the effective date of termination, export its Transaction records through the Merchant Portal or request an export from PayPort. Thereafter PayPort is not obliged to make such data available and may delete or archive it, subject to its retention obligations under Applicable Law and the Network Rules.

19.6. **Accrued rights.** Termination does not affect any right, obligation or liability accrued as at the date of termination.

20. INSPECTION

20.1. PayPort may, directly or through authorized representatives, and by requisition of authenticated documents, records and data, conduct inspections and audits to verify the Merchant's Transaction volumes and adherence to any committed volumes (if any in the Purchase Order), the accuracy of information furnished, the Merchant's fulfilment and refund practices, and the Merchant's compliance with the Agreement, the Policies, the Payment Partner Terms, the Network Rules and Applicable Law. The Merchant shall cooperate fully and promptly with all inspection requests, document requisitions and interviews, and shall procure equivalent cooperation from its personnel and service providers.

20.2. On any adverse finding, PayPort shall notify the Merchant for rectification, and the Merchant shall remedy it within 7 (seven) days. If the finding is not remedied within that period, PayPort may exercise any of its rights and remedies under the Agreement or Applicable Law.

21. ASSIGNMENT AND SUBCONTRACTING

21.1. The Merchant shall not transfer or assign any of its rights or obligations under the Agreement, nor create any third-party interest in them, without PayPort's prior written consent. Any purported assignment in breach of this Clause is void.

21.2. PayPort may perform any of its obligations through its Affiliates, Payment Partners, subcontractors or other service providers without the Merchant's consent.

22. ANTI-MONEY LAUNDERING AND ANTI-BRIBERY

22.1. **Anti-money laundering and Sanctions.** The Merchant shall maintain and comply with policies, procedures and controls appropriate to its business for the prevention of money laundering, terrorist financing, fraud and Sanctions breaches. The Merchant shall not transact with, or permit any Transaction involving, any Designated Person or any jurisdiction subject to comprehensive Sanctions. The Merchant shall cooperate fully and promptly with any investigation, information request, freeze or blocking instruction issued by PayPort, a Payment Partner, a Network, a regulator or law enforcement, and acknowledges that PayPort and its Payment Partners may be prohibited by Applicable Law from disclosing the existence or subject matter of any such investigation or report.

22.2. **Anti-bribery.** Each Party undertakes that it has not and shall not, directly or indirectly: (a) engage in any activity constituting an offence under any ABAC Laws; (b) offer, promise, give, solicit, request, accept or receive any payment, gift, advantage or benefit intended to influence any person's act or decision, including that of a government official, or to secure any improper advantage in relation to the Agreement; or (c) permit or tolerate any conduct described in (a) or (b) by its directors, officers, employees, Affiliates, agents or subcontractors.

23. GOVERNING LAW AND DISPUTE RESOLUTION

23.1. **Governing law.** The Agreement, and any dispute or claim including any non-contractual dispute or claim arising out of or in connection with it, its subject matter or its formation, is governed by and construed in accordance with the laws of the State of Delaware, United States of America, without regard to its conflict of laws principles.

23.2. **Negotiation.** In the event of any dispute arising out of or relating to the Agreement, the Parties shall first attempt to resolve it amicably through good-faith negotiations between senior representatives within 30 (thirty) Business Days from the date on which a Party issues a written notice of dispute.

23.3. **Arbitration.** If negotiations do not result in a settlement, then at the option of either Party any dispute, whether of law or fact and of whatever nature, arising from or in respect of the Agreement shall be finally determined by arbitration administered by JAMS, Inc. in accordance with its rules then in force. If the Parties agree on a single arbitrator, the arbitration shall be conducted by that arbitrator; failing agreement, each Party shall select one independent qualified arbitrator and those two shall select a third. The arbitration shall be conducted in English, through online or virtual mode unless the Parties agree otherwise. At the request of either Party, the proceedings shall be conducted in confidence, in which case all documents, testimony and records shall be received and maintained under seal, available for inspection only by the Parties, their attorneys and their experts, who shall agree in advance and in writing to maintain them in confidence. The arbitrators, acting by majority, may grant relief of an equitable nature, including temporary and permanent injunctive relief, and may award damages, costs and reasonable attorneys' fees. The award may be entered as a judgment in any court having jurisdiction.

23.4. **Waiver of class actions.** All disputes shall be resolved on an individual basis only. The Parties expressly waive any right to bring, participate in or be represented in any class, collective, consolidated, representative or private attorney general action or arbitration. The arbitrator has no authority to consolidate claims or to preside over any form of class or representative proceeding.

23.5. **Waiver of jury trial.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THE AGREEMENT.

23.6. **Interim relief.** Nothing in the Agreement prevents either Party from seeking interim, injunctive, protective or provisional relief, or PayPort from enforcing its security interest or exercising its rights of set-off, debit or recovery, in any court of competent jurisdiction.

24. NOTICES

24.1. Any notice in connection with the Agreement shall be in writing in English and shall be delivered to the address or email address of the recipient set out in the Purchase Order, and in case of PayPort, all notices are to be served by email to legal@xpaycheckout.com, with a CC to aniket@xpaycheckout.com.

24.2. A notice is deemed received: at the time of delivery, if delivered by hand; 7 (seven) Business Days from posting, if sent by post or international courier; and 1 (one) Business Day from transmission, if sent by email.

24.3. Operational notices, including updates to the Policies and this Platform Agreement, Dispute notices, Fee change notices, risk directions and suspension notices, may alternatively be given by PayPort by posting to the Merchant Portal, and are deemed received on posting or transmission.

25. MISCELLANEOUS

25.1. **Relationship.** Nothing in the Agreement creates a partnership, joint venture, franchise or employment relationship between the Parties, or any agency relationship other than the limited agency expressly conferred by Clause 7.2 and by Parts A and C of Schedule 1. Neither Party has authority to bind the other or to hold itself out as having such authority.

25.2. **Third-party beneficiaries.** PayPort's Affiliates, Payment Partners and the Networks are entitled to enforce the provisions of the Agreement expressed to be for their benefit. No other person who is not a Party has any right to enforce any of its terms.

25.3. **Publicity.** The Parties may collaborate on co-branding and marketing arrangements as mutually agreed. PayPort may use the Merchant's name, trademarks and logos on its website, customer lists and other outreach channels for the limited purpose of identifying the Merchant as a customer.

25.4. **Severability.** If any provision of the Agreement is or becomes invalid, illegal or unenforceable, in whole or in part, that provision shall be deemed modified to the minimum extent necessary to make it valid and enforceable, and the modification shall not affect the validity and enforceability of the remainder. The Parties shall negotiate in good faith to replace any provision that cannot be so modified.

25.5. **Force majeure.** Neither Party is liable for any failure or delay in performance to the extent resulting from any epidemic, pandemic, fire, flood, earthquake, natural disaster, explosion, act of war, terrorism, cyber-attack, riot, act of government or regulator, failure, outage, suspension, insolvency or withdrawal of any Payment Partner, or any other circumstance beyond that Party's reasonable control which could not have been prevented by reasonable precautions (a "**Force Majeure Event**"). The affected Party shall give written notice and use commercially reasonable efforts to resume performance. If a Force Majeure Event continues for more than 30 (thirty) days, the unaffected Party may terminate the Agreement on written notice. A Force Majeure Event does not relieve the Merchant of any obligation to pay Fees or Losses or to fund a Negative Balance or Reserve.

25.6. **Entire agreement and non-reliance.** The Agreement constitutes the entire agreement between the Parties in relation to its subject matter and supersedes all prior representations, discussions, negotiations and agreements, whether written or oral, subject to Clause 1.6. Each Party acknowledges that in entering into the Agreement it has not relied on, and has no remedy in respect of, any statement, representation, assurance or warranty other than as expressly set out in the Agreement. Nothing in this Clause limits liability for fraud or fraudulent misrepresentation.

25.7. **Waiver.** A Party's failure to enforce any provision at any time is not a waiver of that provision or of the right to enforce it later. No waiver is effective unless made in writing and signed by the waiving Party.

25.8. **Electronic execution and records.** The Purchase Order may be executed in counterparts and by electronic signature, each of which is valid and binding. The Merchant consents to receiving all communications, disclosures and notices under the Agreement in electronic form. To the extent permitted under Applicable Law, PayPort's records of the Merchant's acceptance of these Platform Terms, the Policies and the Payment Partner Terms, and of instructions submitted through the Platform, are admissible evidence of those matters.

25.9. **Survival.** The following survive expiry or termination and continue in full force: Clause 2 (*Definitions and Interpretation*), Clause 3.8 (non-circumvention, for the period stated), Clause 7 (*Collection, settlement and payouts*; *to the extent applicable to amounts outstanding*), Clause 8 (*Fees, Taxes and Set-Off*), Clause 9 (*Refunds, Disputes and Chargebacks*), Clause 11 (*Losses and Reserve*), Clause 13 (*Data Protection and Privacy*), Clause 14 (*Confidentiality*), Clause 15 (*Intellectual Property*), Clause 17 (*Indemnity and*

Limitation of Liability), Clauses 19.4 to 19.6 (*Post-termination rights*), Clause 20 (*Inspection*), Clause 21 (*Assignment*), Clause 23 (*Governing Law and Dispute Resolution*), Clause 24 (*Notices*), this Clause 25, and Schedule I, together with any other provision which by its nature is intended to survive.

SCHEDULE I

Intentionally omitted.

Relevant Part of Schedule I is made available to the Merchant along with the Purchase Order.

SCHEDULE II

INCORPORATED POLICIES

The following documents form part of the Agreement and are incorporated by reference. PayPort may update them from time to time in accordance with Clause 1.5.

DOCUMENT	LOCATION
Prohibited and Restricted Businesses List	https://docs.xpaycheckout.com/faqs/prohibited-businesses
Platform Terms & Conditions	https://www.xpaycheckout.com/terms-and-condition
Privacy Policy / Data Processing Addendum	https://www.xpaycheckout.com/privacy-policy
Payment Partner Terms	*As displayed in the Merchant onboarding journey*
Pricing Page	https://www.xpaycheckout.com/pricing