

# PXP Financial

## Terms and Conditions

### Gateway – Aggregation – Acquiring

PXP Financial's current Terms and Conditions are published on [www.pxpfinancial.com](http://www.pxpfinancial.com).

Version June 2022

#### 1. Company Information

<b>Company</b>	PXP FINANCIAL Ltd.
<b>Registration Number</b>	5433326
<b>FCA Number</b>	504318
<b>Located at</b>	The Corn Mill, 1 Roydon Road, Stanstead Abbots, Ware, Hertfordshire, SG12 8XL, UK
<b>Referred to as</b>	"PXP FINANCIAL"

#### 2. Introduction

These Terms and Conditions ("**T&C**") outline the terms and conditions under which PXP FINANCIAL will provide the SERVICES as specified in the AGREEMENT. In the event of a conflict between these T&C and other provisions of the AGREEMENT, the other provisions of the AGREEMENT shall prevail.

PXP FINANCIAL and the MERCHANT shall ensure full compliance with the RULES of the relevant CARD SCHEMES, OTHER FINANCIAL INSTITUTIONS and PAYMENT PROVIDERS. In the event of a conflict between the AGREEMENT and these RULES, the provisions of these RULES shall prevail.

#### 3. Definitions

**ACQUIRER** or **ACQUIRING BANK**: a financial institution which is a member of MasterCard International Limited, Visa International and/or Discover Global Network (includes Discover Network, PULSE®, and Diners Club International®, hereinafter "**Discover**") and thus licensed to acquire the MERCHANT's TRANSACTIONS and PROCESS them for CLEARING and SETTLEMENT purposes.

**ACQUIRING SERVICES**: the routing of TRANSACTIONS for AUTHORIZATION, PROCESSING, CLEARING and SETTLEMENT of funds.

**AFFILIATE**: for a party means any entity controlling, controlled by or under common control with that party and where "control" means the power to direct or cause the direction in the management or voting rights of that entity, and whether by way of share ownership, under contract or otherwise.

**AGGREGATION FEE**: shall mean the fees PXP FINANCIAL is charging the MERCHANT with for rendering the AGGREGATION SERVICES.

**AGGREGATION SERVICES**: the routing of TRANSACTIONS

for AUTHORIZATION, PROCESSING, CLEARING, SETTLEMENT and concentration of funds by facilitating OTHER FINANCIAL INSTITUTIONS on behalf of the MERCHANT.

**AGREEMENT**: refers to any agreement for Services such as any Gateway and/or Aggregation and/or Acquiring Agreement including all Schedules, these T&C and any other material agreement (including any accession or letter of adherence type sub agreement part of the overall agreement) entered into between PXP FINANCIAL and the MERCHANT with regard to the SERVICES.

**APPLICABLE LAWS**: all applicable laws and regulations including without limitation the GDPR, the prevailing rules and regulations of any regulatory authority and the RULES to which each party is subject to in respect of the performance of its obligations under the AGREEMENT.

**AUTHORIZATION**: the confirmation to the MERCHANT, in response to an enquiry from the MERCHANT, stating that a TRANSACTION involving a CARD or a non-CARD payment account is permitted.

**BANKING DAY(S)**: a day or days on which banks are open for business in London and, where a payment is to be made in a currency other than in Euros, in the principal financial center of the country of such currency.

**CARD**: a current credit or debit charge card issued by CARD ISSUERS licensed by MasterCard International, Visa International, Discover or any other credit or debit card(s) as approved by PXP FINANCIAL.

**CARDHOLDER-NOT-PRESENT TRANSACTION**: a TRANSACTION which is completed when neither the cardholder nor the cardholder's CARD is present at the point of sale.

**CARD ISSUER**: a CARD SCHEME MEMBER in its capacity as an issuer of a CARD or Account.

**CARD SCHEME**: Visa International, MasterCard International, Discover or such other card scheme as notified to the MERCHANT by PXP FINANCIAL.

**CARD SCHEME MEMBER**: a financial institution which participates in the CARD SCHEME.

**CHARGEBACK**: an invalid or disputed TRANSACTION that is rejected by the CARD ISSUER, CARD SCHEME or financial institution.

**CLAIM**: means any action, proceeding, claim, demand or

assessment, fine or similar charge whether arising in contract, tort (including negligence or breach of statutory duty) or otherwise.

**CLEARING:** collecting and listing all TRANSACTIONS, which are subject to SETTLEMENT to the MERCHANT.

**CUSTOMER DATA:** means all personally identifiable data which is provided to or accessed by Merchant and/or PXP FINANCIAL (or to any subprocessor) in connection with the Agreement, or produced by PXP FINANCIAL (or any subprocessor) in performing the Services.

**CUSTOMER ORDER LETTER:** the correspondence initiating a CARDHOLDER-NOT-PRESENT TRANSACTION duly completed by a cardholder.

**DATA PROTECTION LAWS:** means the UK Data Protection Act 2018, the GDPR and any other relevant data protection laws.

**EEA:** European Economic Area.

**FLOOR LIMIT:** the threshold where upon its exceeding a TRANSACTION has to be authorized. This threshold is defined by PXP FINANCIAL as a currency amount as a result of the KYC PROCEDURES.

**FCA:** Financial Conduct Authority UK.

**GATEWAY SERVICES:** shall mean the technical processing of TRANSACTIONS between an ACQUIRER, PAYMENT PROVIDER or PXP FINANCIAL and the MERCHANT.

**GDPR:** means Regulation (EU) 2016/679 the European Data Protection Regulation, which is applicable as of May 25th, 2018 in all member states to harmonize data privacy laws across Europe.

**INTELLECTUAL PROPERTY RIGHTS:** without limitation any patent, trade mark, trade name, business name (including domain names and URLs), copyright, registered design, database right, unregistered design right (including rights in semiconductors) or other intellectual or industrial property protection and any application for such protection, and all rights in any secret process, moral rights, know-how and inventions (whether patentable or registrable or not) or other confidential information in each case whether registered or unregistered and including applications for the grant of such rights and all other rights or equivalent forms of protection anywhere in the world.

**KYC:** Know Your Customer.

**KYC PROCEDURES:** the process carried out by PXP FINANCIAL in order to fulfill the KYC requirements set forth by the CARD SCHEMES, OTHER FINANCIAL INSTITUTION or public authority.

**LOSS or LOSSES:** any liability, loss, damage, charge, cost and/or expense (including reasonable and properly incurred legal fees and/or expenses).

**MERCHANT or YOU:** means the merchant entity signing the applicable Agreement with PXP FINANCIAL.

**MERCHANT NUMBER:** the unique processing number allocated by PXP FINANCIAL to each location/currency or origination/currency of SETTLEMENT.

**MICRO-ENTERPRISE:** an enterprise which employs fewer than 10 persons and has a turnover or annual balance sheet that does not exceed EUR 2,000,000.

**NEGATIVE FILE/WARNING BULLETIN:** a list of blocked Card Account Numbers supplied to the Merchant by PXP FINANCIAL.

**OTHER FINANCIAL INSTITUTION:** any institution which regulates or is responsible for any OTHER PAYMENT SERVICE.

**OTHER PAYMENT SERVICE:** payment services other than ACQUIRING SERVICES. Such Service(s) as the parties may agree shall be provided by PXP FINANCIAL to the MERCHANT including PROCESSING to collect payments for goods and/or services or providing connectivity between the MERCHANT and PXP FINANCIAL, and PXP FINANCIAL and any OTHER FINANCIAL INSTITUTION.

**PAYMENT PROVIDER:** a financial institution (OTHER FINANCIAL INSTITUTION) offering payment methods such as e-wallets, pre-paid vouchers, etc. to a MERCHANT or PXP FINANCIAL.

**PAYMENT SERVICES DIRECTIVE or PSD:** Directive 2015/2366/EC of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010 and repealing Directive 2007/64/EC.

**PAYMENT SERVICES REGULATIONS or PSR:** Payment Services Regulations 2017 (no. 2017/752), the implementation of the PSD in the UK.

**PCI:** Payment Card Industry.

**PCI DSS:** Payment Card Industry Data Security Standards.

**PROCESS or PROCESSING:** means (i) by PXP FINANCIAL, the submission of transaction data to the payment processing system of an ACQUIRER or a PAYMENT PROVIDER; (ii) by the ACQUIRER or PXP FINANCIAL, the submission of transaction data to the CARD ISSUER or OTHER FINANCIAL INSTITUTION in order to obtain an AUTHORIZATION for the TRANSACTION and to obtain funds for SETTLEMENT (including CHARGEBACK or a REFUND).

**REFUND:** an amount for the credit of a cardholder's CARD account or a non-CARD account holder's account or as a result of the generation of a REFUND RECEIPT.

**REFUND RECEIPT:** any electronic or paper records the MERCHANT may use for the purpose of recording a REFUND to a cardholder's CARD or a non-CARD account.

**RULES:** all current and future by-laws, rules and regulations of CARD SCHEMES, OTHER FINANCIAL INSTITUTIONS or PXP FINANCIAL, which are applicable to the SERVICES or other payment methods.

**SERVICE(S):** any services provided to the MERCHANT by PXP FINANCIAL as agreed upon in the AGREEMENT; particularly the ACQUIRING, PROCESSING, CLEARING and SETTLEMENT of MERCHANT TRANSACTIONS and other payment related services by PXP FINANCIAL to MERCHANT including (i) ACQUIRING, PROCESSING, CLEARING and SETTLEMENT including via any applicable gateway capability, (ii) MERCHANT credit research, (iii) MERCHANT activation and approval, (iv) MERCHANT security and recovery, (v) back office services, and (vi) CHARGEBACK and retrieval services.

**SETTLEMENT:** the settlement via a bank transfer by PXP FINANCIAL to the MERCHANT of the net relevant amount from

TRANSACTIONS under the AGREEMENT.

**SETTLEMENT CURRENCY:** shall mean Euros or any other currency for SETTLEMENT as agreed in writing between PXP FINANCIAL and the MERCHANT in accordance with the AGREEMENT.

**SETTLEMENT CYCLE:** shall mean the period of time as agreed during which PXP FINANCIAL will collect funds on behalf of the MERCHANT before transferring these monies to the indicated bank account(s) of the MERCHANT and as set forth in the AGREEMENT.

**SETTLEMENT VALUE:** the net amount resulting from the submission of TRANSACTIONS and REFUNDS for CLEARING and after taking into account any deductions made as set out in the AGREEMENT.

**SMALL BUSINESS:** an entity with an annual turnover of less than £6.5 million, a balance sheet total of less than £5 million, or employs fewer than 50 employees.

**SMALL CHARITY:** an entity with an annual income of less than £1,000,000 which is an English and/or Welsh, Northern Irish, or Scottish charity in accordance with the PSR.

**THIRD PARTY SOLUTION PROVIDER:** a provider of software and/or hardware facilitated by the MERCHANT in order to establish and maintain a valid and working connection to the PXP FINANCIAL payment system, or being facilitated by the MERCHANT in addition and in parallel to the connection to the PXP FINANCIAL payment system.

**TRANSACTION(S):** act of payment between a cardholder or a non-CARD account holder and a MERCHANT resulting in the generation of a TRANSACTION RECEIPT or other report.

**TRANSACTION DATA:** means Customer Data and any other data relating to a specific Transaction;

**TRANSACTION RECEIPT:** an electronic or paper record of a TRANSACTION generated at the point of sale or website evidencing the purchase of goods or services by a cardholder or a non-CARD account holder from a MERCHANT using a CARD or any other electronically processed payment option.

## 4. Services

### 4.1. General

The SERVICES to be delivered by PXP FINANCIAL to the MERCHANT are specified in an Aggregation and/or Acquiring and /or Gateway Agreement. PXP FINANCIAL will provide the SERVICES to the MERCHANT only upon successful completion of its anti-money-laundering and risk due diligence and its KYC PROCEDURES. PXP FINANCIAL will prior to accepting the MERCHANT, as well as on a recurring basis, execute its evaluation and assessment of the MERCHANT and carry out its KYC PROCEDURES upon which the specific risk and security arrangements for the MERCHANT shall be defined.

### 4.2. Changes to Services

Changes to the SERVICES shall be agreed upon between the parties in written form and shall be subject to the following process:

1. The MERCHANT shall submit a change request to PXP FINANCIAL's commercial department for review.
2. Subsequently, PXP FINANCIAL shall review the change request, consider its impact and at its sole discretion

approve or reject the change request.

3. if the change request is approved, PXP FINANCIAL shall provide an estimate of the expected implementation period and work effort.
4. The change request, if approved, shall be implemented into the AGREEMENT.

Notwithstanding the above, PXP FINANCIAL may issue new policies with regards to the SERVICES, which will be published on [www.PXPFINANCIAL.com](http://www.PXPFINANCIAL.com). PXP FINANCIAL will notify the MERCHANT by giving 60 calendar days' notice in advance, unless the change is required immediately due to legal or regulatory requirements. If the MERCHANT continues using the SERVICE(S) provided by PXP FINANCIAL past the date when these new policies become effective, it is deemed that the MERCHANT has accepted these changes.

## 5. PXP FINANCIAL Aggregation and Acquiring Services

### 5.1. General

The MERCHANT hereby instructs and authorizes PXP FINANCIAL to claim on its own behalf, but for the account of the MERCHANT, the settled TRANSACTION amount from the relevant financial institutions and authorizes PXP FINANCIAL to receive and to hold this amount on behalf of the MERCHANT.

### 5.2. Additional Agreements

Depending on the SERVICES the MERCHANT subscribed to with PXP FINANCIAL, the MERCHANT may have to enter into additional agreements with OTHER FINANCIAL INSTITUTIONS and/or ACQUIRING BANKS in order for PXP FINANCIAL to render the SERVICES to the MERCHANT. In case such an additional agreement is required, but not concluded for any reason, the effected payment method shall not be considered part of the SERVICES and PXP FINANCIAL shall not be held responsible in any way whatsoever for the non-availability of the relevant payment method.

PXP FINANCIAL has the right to permanently or temporarily disconnect the MERCHANT from certain payment methods if such payment methods cease to be supported by any corresponding OTHER FINANCIAL INSTITUTION. Under no circumstances will PXP FINANCIAL be liable to the MERCHANT for any failure of any OTHER FINANCIAL INSTITUTION to effect payments or perform its service in any other way.

### 5.3. Processing Liabilities

PXP FINANCIAL shall not be liable to the MERCHANT for any failure of a financial institution, including a financial institution's failure to effect payments.

### 5.4. Processing Limit

PXP FINANCIAL shall apply a processing limit to the aggregate value of TRANSACTIONS in respect of any specified period. PXP FINANCIAL is entitled to retain any amount processed in excess of the processing limit without prior approval for a period of up to 12 calendar months. PXP FINANCIAL may vary the processing limit at any time by giving the MERCHANT 30 calendar days' notice.

### 5.5. Reserve Requirement

For all aggregated payment methods and the ACQUIRING

SERVICES, a specific reserve requirement is stipulated in the AGREEMENT.

The reserve requirement can either be fulfilled by a deposit into the reserve account indicated by PXP FINANCIAL (security deposit), as a third party guarantee accepted in writing by PXP FINANCIAL (guarantee) or by an automatic transfer of a share of the SETTLEMENT amounts to the reserve account indicated by PXP FINANCIAL until requirements are met (rolling reserve – paid out to the MERCHANT after an agreed time).

Upon termination of the AGREEMENT such reserve shall be retained by PXP FINANCIAL to cover for any remaining potential liabilities regarding CHARGEBACKS. No interest will be paid to the MERCHANT. PXP FINANCIAL reserves the right to adjust the reserve requirements by giving the MERCHANT 30 calendar days' notice.

### **5.6. Settlement of Funds**

PXP FINANCIAL shall ensure that SETTLEMENTS to the MERCHANT's bank account are made at the latest 4 BANKING DAYS after the end of the SETTLEMENT CYCLE. In case any OTHER FINANCIAL INSTITUTION does not settle to PXP FINANCIAL's account, the MERCHANT agrees that PXP FINANCIAL does not have to settle before the involved OTHER FINANCIAL INSTITUTION has executed the corresponding settlement.

The MERCHANT acknowledges that PXP FINANCIAL has no influence on the duration of the settlement periods maintained by financial institutions and agrees to cover any bank transfer costs related directly to the SETTLEMENT from PXP FINANCIAL.

## **6. Service Terms Acquiring Services**

### **6.1. Acceptance of Cards**

The MERCHANT agrees to accept any valid and acceptable CARDS presented by cardholders at all of its own sales locations or websites world-wide in currencies as agreed between the MERCHANT and PXP FINANCIAL.

The MERCHANT shall obtain PXP FINANCIAL's AUTHORIZATION in respect of TRANSACTIONS exceeding the MERCHANT's Floor Limit and in such other circumstances as PXP FINANCIAL may require in accordance with the provisions set out in the AGREEMENT.

### **6.2. Transaction Method**

The MERCHANT shall clearly designate on the TRANSACTION RECEIPT which TRANSACTION method was used. The MERCHANT has to verify the payer's identity and has to ensure that the payer and the cardholder are one and the same person. In case of goods to be delivered the MERCHANT has to ensure that these goods are being delivered to the true cardholder. Under no circumstances may goods be collected by the cardholder's agent.

### **6.3. Card Identification**

Unless otherwise agreed with PXP FINANCIAL, the MERCHANT agrees to display and exhibit in a prominent position to the general public on its website(s) promotional signs or logos approved by PXP FINANCIAL and may solely use names or designs approved by PXP FINANCIAL to indicate which CARDS are accepted for payment. This provision does not apply if the MERCHANT does not deal with

the general public or if such display is prohibited by trade association rules.

### **6.4. Data Security**

The MERCHANT confirms that it is compliant with PCI DSS. Upon request, the MERCHANT agrees to provide the most recent, valid PCI certificate or PCI Self-Assessment Questionnaire to PXP FINANCIAL. If the MERCHANT fails to renew or obtain or provide the relevant PCI certificate or PCI Self-Assessment Questionnaire, the MERCHANT must inform PXP FINANCIAL accordingly immediately.

### **6.5. Transactions and Submissions**

#### **6.5.1. Transaction Receipt**

The MERCHANT shall complete one TRANSACTION RECEIPT for each TRANSACTION and shall provide a copy to the cardholder. Each TRANSACTION RECEIPT shall contain:

- a. Merchant name and website;
- b. Transaction amount and currency;
- c. Transaction Date, type and number;
- d. Authorization code;
- e. Cardholder name;
- f. Return/refund policy (if restricted);
- g. Customer service contact.

PXP FINANCIAL may request additional information to be shown on the TRANSACTION RECEIPT.

The MERCHANT shall under no circumstances, return the CARD number (unless sufficiently disguised) to the cardholder and/or store or retain CVC2 or CVV2 CARD data except for initial AUTHORIZATION.

#### **6.5.2. Refund Receipts**

REFUNDS shall be provided to the cardholder's CARD account. Where this is not possible due to the RULES, the cardholder's CARD account being closed or unavailable or where required by law to do so, the MERCHANT may provide such REFUNDS by cheque, cash or wire transfer. REFUND RECEIPTS shall contain the MERCHANT's business information as set out in the GENERAL TCS to the extent applicable. A refund acknowledgement shall be provided to the cardholder.

#### **6.5.3. Electronic Submission**

If required by PXP FINANCIAL, the MERCHANT shall submit to PXP FINANCIAL a summary of all TRANSACTIONS in a format agreed upon. Submissions shall comply with the following requirements:

- a. Each submission shall contain the MERCHANT's business information as set out in the GENERAL TCS for each TRANSACTION, together with the MERCHANT NUMBER and the number of the CARD.
- b. The TRANSACTIONS shall be segregated by country and currency.

If a submission does not meet these requirements or if the information regarding the TRANSACTION contained therein is insufficient, PXP FINANCIAL shall use reasonable endeavors to advise the MERCHANT of such as soon as possible. Resubmission shall take place within 3 BANKING DAYS of the original submission for same exchange rates for SETTLEMENT to apply.

#### **6.5.4. Time Limits**

The MERCHANT shall submit to PXP FINANCIAL each TRANSACTION or REFUND within 3 BANKING DAYS from the date of the TRANSACTION or REFUND.

#### **6.5.5. Acceptance**

Initial acceptance of TRANSACTIONS and payment by PXP FINANCIAL shall not be in any way binding upon it as to the validity of those TRANSACTIONS. PXP FINANCIAL reserves the right to reject any TRANSACTION if it is invalid and/or not conforming with PXP FINANCIAL's standards.

### **6.6. Financial Relationship Terms**

#### **6.6.1. Service Fees**

For the provision of the SERVICES, PXP FINANCIAL shall receive the service fees as set forth in the AGREEMENT plus relevant tax on the SETTLEMENT VALUE of TRANSACTIONS submitted to PXP FINANCIAL or shown on the face of the fee summaries presented for PROCESSING.

All service fees and charges for a SETTLEMENT CYCLE shall be due on the end of the relevant SETTLEMENT CYCLE and shall be deducted from the SETTLEMENT VALUE of TRANSACTIONS before SETTLEMENT is made.

#### **6.6.2. Settlement**

PXP FINANCIAL shall pay to the MERCHANT the SETTLEMENT VALUE of all TRANSACTIONS submitted and processed in a SETTLEMENT CYCLE less service fees, REFUNDS, CHARGEBACKS and any additional charges imposed by the CARD SCHEMES in accordance with the terms of this AGREEMENT (net settlement) in the agreed SETTLEMENT CURRENCY.

#### **6.6.3. Foreign Currency Exchange Rate**

In case the submission of a TRANSACTION is made in a different currency than the SETTLEMENT, PXP FINANCIAL will convert between these currencies accordingly. Any deviation between submitted value and settled value shall be borne by the MERCHANT.

If agreed, any currency related added-value services such as from the MERCHANT requested Currency Conversion will be charged and deducted from the SETTLEMENT VALUE.

#### **6.6.4. Bank Account**

The MERCHANT shall nominate one account held solely by the MERCHANT for each SETTLEMENT CURRENCY in consent with PXP FINANCIAL and in compliance with the RULES. If the MERCHANT changes its bank or bank branch, the Merchant shall notify PXP FINANCIAL in writing immediately and shall forthwith irrevocably authorize the new bank/branch. Upon request the MERCHANT shall provide evidence to PXP FINANCIAL that the account is held solely by the MERCHANT.

#### **6.6.5. Refunds**

PXP FINANCIAL shall deduct the SETTLEMENT VALUE of all REFUND RECEIPTS from the SETTLEMENT VALUE of all TRANSACTION RECEIPTS in the settlement period under consideration prior to SETTLEMENT. In the event that the REFUND RECEIPTS for a settlement period exceed the SETTLEMENT VALUE of the TRANSACTION RECEIPTS the resulting shortfall shall be held over by PXP FINANCIAL until the next SETTLEMENT when it shall be deducted from the respective SETTLEMENT VALUE. PXP FINANCIAL reserves

the right to request a remittance in an appropriate currency at any time as an alternative to holding over net REFUNDS.

#### **6.6.6. Transaction Non-conforming with PXP FINANCIAL's Standards**

TRANSACTIONS may be non-conforming to PXP FINANCIAL's standard and/or may result in a CHARGEBACK to the MERCHANT. In such case a notification accompanied by an explanation of the reason therefor shall be sent by PXP FINANCIAL to the MERCHANT, and by documentation in support thereof where applicable. The MERCHANT agree to indemnify and hold PXP FINANCE harmless from and against any fines imposed on PXP FINANCIAL by a Card Scheme because of MERCHANT's conduct in relation to the merchant services, including any fines imposed as a result of an unacceptable rate of chargebacks. Recourse to the MERCHANT shall be available to PXP FINANCIAL particularly in the following cases:

- a. If the Transaction value is in excess of the MERCHANT's FLOOR LIMIT and no permission has been obtained from PXP FINANCIAL.
- b. Where a single TRANSACTION (in excess of the FLOOR LIMIT) incurred at any one time is split into two or more TRANSACTION RECEIPTS to avoid or circumvent limits for AUTHORIZATION.
- c. Any TRANSACTION submitted electronically, if PXP FINANCIAL has requested in writing the original TRANSACTION RECEIPT or copy.
- d. Any TRANSACTION received by PXP FINANCIAL more than 3 BANKING DAYS after the TRANSACTION was incurred.
- e. Any TRANSACTION for which the authenticity of the TRANSACTION is disputed in writing by the cardholder.
- f. Any TRANSACTION or part thereof in respect of which PXP FINANCIAL has not received a response to its reasonable request for information or documentation.
- g. Any TRANSACTION or part thereof for which the MERCHANT granted a REFUND to the cardholder and in respect of which a REFUND RECEIPT has not been received by PXP FINANCIAL within the period specified herein.
- h. Any TRANSACTION for which the copy of the TRANSACTION RECEIPT presented to PXP FINANCIAL is incompatible with the copy of the TRANSACTION RECEIPT provided to the cardholder.
- i. Any TRANSACTION previously submitted to and paid by PXP FINANCIAL or paid to the MERCHANT by a cardholder or other party.
- j. Any TRANSACTION for which the CARD has expired or not yet become valid at the time of the TRANSACTION.
- k. Any TRANSACTION incurred on a CARD which was listed on the appropriate Negative File/Warning Bulletin.
- l. Any TRANSACTION which does not contain the cardholder's CARD account number assigned by the appropriate CARD ISSUER.
- m. Any TRANSACTIONS submitted which have been denied AUTHORIZATION.
- n. Any TRANSACTION incurred which involves a TRANSACTION RECEIPT or summary of TRANSACTIONS which does not contain in a legible or properly formatted manner all of the information necessary to bill the cardholder in accordance with the AGREEMENT.

- o. Any TRANSACTION which was in violation of APPLICABLE LAWS or currency regulations.
- p. Any TRANSACTION where the amount of the TRANSACTION RECEIPT or summary does not agree with the sum of the individual items detailed on the charge summary.
- q. Any TRANSACTION for which a TRANSACTION RECEIPT is issued which is for any reason illegal, unenforceable or of no legal effect.
- r. Where the TRANSACTION is presented to PXP FINANCIAL in a currency other than that of the original TRANSACTION.
- s. Where the services detailed on the TRANSACTION RECEIPT have not been provided by the MERCHANT.
- t. The involved CARD ISSUERS execute their respective rights to CHARGEBACK for the TRANSACTION in accordance with the RULES.
- u. If any of the events which entitle PXP FINANCIAL to terminate the AGREEMENT for good cause occurred at the time of the TRANSACTION to which the TRANSACTION RECEIPT relates whether or not PXP FINANCIAL shall then have terminated the AGREEMENT in consequence thereof.

No objection shall be taken by the MERCHANT if PXP FINANCIAL shall treat any invalid TRANSACTION as non-conforming. Such treatment shall be without prejudice to PXP FINANCIAL's right subsequently to treat such TRANSACTION as conforming. PXP FINANCIAL shall be under no obligation to give the MERCHANT notice of the invalidity of the TRANSACTION.

#### *Refunds and Chargebacks*

In the event that the total value of REFUND and/or CHARGEBACKS in TRANSACTIONS effected by the MERCHANT, or by a particular Site of the MERCHANT, exceeds a level that PXP FINANCIAL, acting in good faith, considers excessive or unreasonable, PXP FINANCIAL reserves the right to pass on any fines incurred and/or impose further charges and/or terminate this AGREEMENT forthwith. Any fines levied by the CARD SCHEMES shall be borne solely by the MERCHANT.

Furthermore PXP FINANCIAL reserves the right to enforce specific counter-measures (e.g. Activation of 3D- Secure or similar security means on transaction level; integration and facilitation of the PXP FINANCIAL Risk Service, etc.) upon the MERCHANT.

#### **6.6.7. Chargeback Procedures and Time Limitations**

Notification in regard to the invalidity and/or non-conformance with PXP FINANCIAL's standards of any TRANSACTION shall be made to the MERCHANT upon submission of such TRANSACTION. PXP FINANCIAL will debit the amount of this TRANSACTION from the MERCHANT's account immediately. Upon receiving notification of a CHARGEBACK, the MERCHANT has to inform PXP FINANCIAL and provide supporting documentation within 10 BANKING DAYS if the MERCHANT is inclined to dispute the CHARGEBACK under consideration, otherwise it is deemed that the MERCHANT has accepted the CHARGEBACK. A dispute limit for CHARGEBACKS of EUR 50 shall apply and any CHARGEBACK of a TRANSACTION of a value less than this

limit shall automatically be deemed accepted by the MERCHANT.

Amounts of CHARGEBACKS shall correspond to the relevant SETTLEMENT VALUE of the original TRANSACTIONS (either fully or partially) or at the option of PXP FINANCIAL at an amount converted to the SETTLEMENT CURRENCY from the currency of CHARGEBACK by the CARD SCHEME to PXP FINANCIAL at the rate of exchange quoted by PXP FINANCIAL for the purpose of SETTLEMENT on the day the CHARGEBACK is processed.

PXP FINANCIAL shall make available to the MERCHANT all such relevant information and reasonable assistance as may be requested by the MERCHANT for the purpose of recovering any payment due in respect of a TRANSACTION that has been charged back, provided that any such information may be properly disclosed without breach of any relevant duty of confidentiality.

The MERCHANT shall bear all charges incurred in the event of a CHARGEBACK.

#### **6.6.8. Anomalous or excessive Chargebacks**

If a default charge is imposed on PXP FINANCIAL by a CARD SCHEME in relation to TRANSACTIONS made in pursuance of this AGREEMENT on the grounds of anomalous or excessive CHARGEBACKS, then the MERCHANT shall reimburse PXP FINANCIAL in respect of any sum paid by PXP FINANCIAL in respect of such default charge. PXP FINANCIAL shall notify the MERCHANT promptly on being made aware of any such default charge, or intention by a CARD SCHEME to impose such a default charge, and PXP FINANCIAL shall then make available to the MERCHANT such relevant information that is then in the possession or control of PXP FINANCIAL to enable the MERCHANT to challenge such default charge in the name of PXP FINANCIAL, and for no other purpose.

#### **6.6.9. Warranties of the Partner**

##### *Indemnification*

The MERCHANT shall fully indemnify PXP FINANCIAL in respect of any claim, alleged claim, loss or liability whatsoever (including any costs and expenses) made against, resulting from or incurred by PXP FINANCIAL howsoever, arising from or relating to any TRANSACTION between the MERCHANT and the cardholder or with regard to incurred fines by the CARD SCHEMES.

If default charges are imposed on PXP FINANCIAL by a CARD SCHEME in relation to TRANSACTIONS made in pursuance of this AGREEMENT on the grounds of anomalous or excessive CHARGEBACKS, then the MERCHANT shall reimburse accordingly. PXP FINANCIAL shall notify the MERCHANT promptly of any such default charges.

PXP FINANCIAL shall be entitled at its discretion to accept, dispute, compromise or otherwise deal with any claim, alleged claim, loss or liability such as is described therein which is made against it and shall be under no liability in respect thereof to the MERCHANT.

##### *Claim Handling*

The MERCHANT shall take reasonable steps to assist PXP FINANCIAL in handling a claim or alleged claim by a cardholder against PXP FINANCIAL or any CARD ISSUER. PXP FINANCIAL shall have absolute discretion as to whether

or not to defend any such claim or alleged claim or to negotiate any settlement with the cardholder which shall be binding upon the MERCHANT.

#### *Providing Proof*

As between PXP FINANCIAL and the MERCHANT, the onus shall be upon the MERCHANT to prove to the satisfaction of PXP FINANCIAL that the debit of the cardholder's relevant account was authorized by the cardholder.

#### *Mitigation of Financial Risks*

The type of mitigating Financial risks depends on the results of the evaluation and assessment of the MERCHANT in the KYC PROCEDURES.

## **6.7. Authorization of Transactions**

### **6.7.1. Floor Limits**

The MERCHANT's FLOOR LIMIT is defined as the maximum value of a single TRANSACTION incurred on any one occasion that the MERCHANT may complete without prior AUTHORIZATION of PXP FINANCIAL. In each case to be converted if appropriate from the transaction currency into Euro the exchange rate most recently quoted for this purpose by PXP FINANCIAL shall apply. The MERCHANT's FLOOR LIMITS under this AGREEMENT for any CARDHOLDER-NOT-PRESENT TRANSACTION is set to nil.

### **6.7.2. Obtaining Authorization**

PXP FINANCIAL maintains a system for AUTHORIZATION that may be accessed by a direct electronic communications link. The MERCHANT may establish an online link between its sales system or terminal and PXP FINANCIAL's system for AUTHORIZATION. This online link shall be used to authorize all TRANSACTIONS unless agreed otherwise.

### **6.7.3. Cardholder-Not-Present Transactions**

Every CARDHOLDER-NOT-PRESENT TRANSACTION shall be authorized where the TRANSACTION is above the MERCHANT's FLOOR LIMIT as specified in the AGREEMENT. The following information shall be obtained from the cardholder and committed to file:

- a. CARD account number;
- b. Expiry date of the CARD;
- c. Cardholder's name and initials;
- d. Cardholder's address as held on CARD ISSUER's files.

Such additional information as reasonably requested by the PXP FINANCIAL may be notified to the MERCHANT by the PXP FINANCIAL in writing from time to time.

### **6.7.4. Effect of Authorization**

The granting of AUTHORIZATION by the CARD ISSUER/CARD SCHEME prior to a TRANSACTION being processed is not an assurance of the validity of the TRANSACTION and such TRANSACTION may be cancelled or be subject to a CHARGEBACK.

### **6.7.5. Exceptional Restrictions**

Notwithstanding any provisions of the AGREEMENT, PXP FINANCIAL reserves the right to restrict or prohibit the acceptance of CARDS or currencies in circumstances outside the control of PXP FINANCIAL. Such circumstances may include:

- a. if exchange controls or such similar local laws exist forbidding the exportation of TRANSACTIONS or transaction data abroad;
- b. if the local currency is not acceptable as previously agreed between the parties.
- c. if the parties have reason to believe that the cardholder, the CARD or the CARD account number has been, or potentially shall be, involved in fraudulent activity or malpractice.
- d. PXP FINANCIAL may follow the instructions provided by the schemes to block CARDS, BINs and countries.

## **6.8. Record Retention and Retrieval**

### **6.8.1. Archiving**

The MERCHANT shall retain original legible copies of all TRANSACTION RECEIPTS, customer order letters, electronic data records and/or REFUND RECEIPTS with respect to TRANSACTIONS submitted and any subsequent REFUNDS made pursuant to this AGREEMENT for a period of 18 calendar months. All storage of such records shall comply with the RULES of the relevant CARD SCHEMES.

### **6.8.2. Retrieval**

PXP FINANCIAL may from time to time request the MERCHANT to provide copies of TRANSACTION RECEIPTS, customer order letters, electronic data records and/or REFUND RECEIPTS with respect to TRANSACTIONS submitted and any subsequent REFUNDS made pursuant to this AGREEMENT. The MERCHANT shall provide such copies to PXP FINANCIAL within 5 BANKING DAYS of such request.

### **6.8.3. Release of Data**

The MERCHANT hereby authorizes PXP FINANCIAL to release TRANSACTION RECEIPTS and any data or other information relating to TRANSACTION RECEIPTS or the CARD SCHEMES to any agent of PXP FINANCIAL or any other party as is necessary for the purpose of fulfilling PXP FINANCIAL's obligations under this AGREEMENT or PXP FINANCIAL's obligations as a CARD SCHEME MEMBER.

## **6.9. General Provisions**

### **6.9.1. Merchant Evaluation**

PXP FINANCIAL will execute its evaluation and assessment of the MERCHANT and will carry out its KYC PROCEDURES on the MERCHANT in accordance with the General TCs both prior to accepting the MERCHANT, as well as on a recurring basis, upon which the specific risk and security arrangements for the MERCHANT shall be defined and/or evaluated and set forth.

It is acknowledged that the MERCHANT may incur liabilities to PXP FINANCIAL pursuant to the provisions of this AGREEMENT, including but not limited to liabilities in respect of recoveries of CHARGEBACKS. It is further acknowledged that PXP FINANCIAL shall be entitled to stipulate what form and what value of security it requires to be provided in respect of the full potential amount of such liabilities. Such security may include, but shall not be limited to, the creation and funding of a deposit account charged in favour of PXP FINANCIAL, or usage of rolling reserve, the deferral of payments which would otherwise be due to the MERCHANT under this AGREEMENT, the creation of other reserve requirements and/or the provision of a letter of credit from an acceptable bank. PXP FINANCIAL may also set a maximum value of TRANSACTIONS which it

will process during any SETTLEMENT CYCLE. The initial security and transaction limit requirements of PXP FINANCIAL are set out in the AGREEMENT, but it is acknowledged by the MERCHANT that PXP FINANCIAL may vary such requirements from time to time following any review of the operation of this AGREEMENT or the credit standing of the MERCHANT. In case the MERCHANT does not accept any such variation forthwith, PXP FINANCIAL shall be entitled to terminate this AGREEMENT with immediate effect.

**6.9.2. Disclosure**

The MERCHANT shall not, without the written consent of the relevant cardholder, sell, purchase, provide, disclose or exchange CARD information regarding them or their TRANSACTIONS or the CARD SCHEMES to any third party unless such disclosure is required by law or court order.

**6.10. Credit of Credit Cards**

For the following countries any Pay Outs (REFUNDS or payouts) to the CARD are prohibited under the RULES and in accordance with the AGREEMENT.

<b>MasterCard</b>
All countries except the ones listed in the table below ("MasterCard white-listed Countries") are prohibited.
<b>Visa</b>
Colombia, Venezuela, U.S.A., Malaysia, Indonesia, Hong Kong, India, Korea, Japan.
<b>Discover</b>
Countries defined as sanctioned countries under the RULES.

PXP FINANCIAL reserves the right to vary the above "Prohibited Countries" list in accordance with the RULES and the economic/commercial/Financial Embargo lists published by the UN or the EU. Save in the event of illegality, any such variance shall be notified in writing to the MERCHANT with 30 days' notice. Where the Prohibited Countries list is varied due to illegality, the MERCHANT will receive as much notice as reasonably possible under the circumstances.

TRANSACTIONS in connection with gaming or gambling are supported by CARD ISSUERS in the below listed countries:

<b>MasterCard white-listed Countries</b>
Andorra, Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, France, Germany, Gibraltar, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Luxembourg, Malta, Monaco, Netherlands, Norway, Romania, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, UK.

**6.11. Merchant Service Fees**

**Definition of Interchange:** Interchange fees vary depending on the country of the CARD ISSUER, country of the MERCHANT, type of the CARD and security level and are further subject to change from time to time by the CARD SCHEMES. Where an interchange fee is increased or decreased, PXP FINANCIAL shall be entitled to pass through any increases to the MERCHANT automatically and without further notice. The MERCHANT shall be entitled to receive the

benefit of any decreases in an interchange fee automatically and without further notice.

**Definition of Scheme Fees:** the schemes fees vary depending on country of the CARD ISSUER, country of the MERCHANT, type of the CARD, and PXP FINANCIAL's overall volume of TRANSACTIONS across its business and are further, subject to change from time to time by the CARD SCHEMES. Where such scheme fee is increased or decreased, PXP FINANCIAL shall be entitled to pass through any increases to the MERCHANT automatically and without further notice. MERCHANT shall be entitled to receive the benefit of any decreases in an interchange fee automatically and without further notice.

**6.11.1 Interchange Plus Model**

The ACQUIRER will collect the Interchange from the MERCHANT. The "Plus" is defining the markup the ACQUIRER charges for the PROCESSING of the TRANSACTION.

**6.11.2 Interchange Plus Plus Model**

The ACQUIRER will collect the interchange fee and the scheme fees from the MERCHANT. The first "Plus" is defined as the applicable scheme sees to the TRANSACTION. The second "Plus" is defining the markup the ACQUIRER charges for the PROCESSING of the TRANSACTION.

**6.11.3. Merchant Service Charge (MSC) Model / Blended**

Depending on geographical usage of the TRANSACTION there are the following diversifications:

Transaction Type	Description
<b>Domestic Transactions</b>	TRANSACTIONS where the CARD ISSUER of the CARD used and the MERCHANT where the CARD is used are located in the same country.
<b>Intra Transactions</b>	TRANSACTIONS where both the CARD ISSUER of the CARD used and the MERCHANT are in the same region. Current operating region of PXP FINANCIAL is Europe.
<b>Inter Transactions</b>	TRANSACTIONS where the CARD ISSUER of the CARD used is located outside the Europe region.

**7. Service Terms Aggregation Services**

**7.1. SERVICE DESCRIPTION**

**7.1.1. General**

PXP FINANCIAL maintains business relationships with several PAYMENT PROVIDERS. PXP FINANCIAL will provide the AGGREGATION SERVICES to the MERCHANT via a single connection with access to the payment methods of the PAYMENT PROVIDERS. The MERCHANT shall for this purpose maintain only a single contractual relationship with

PXP FINANCIAL. However, the MERCHANT acknowledges that certain PAYMENT PROVIDERS require the MERCHANT to enter into separate agreements with the respective PAYMENT PROVIDER. In such cases the GATEWAY SERVICES shall be provided as described below.

For the aggregated payment methods PXP FINANCIAL collects the funds transferred from the various aggregated PAYMENT PROVIDERS on behalf of (and held on trust for) the MERCHANT. After SETTLEMENT of the funds from these PAYMENT PROVIDERS to PXP FINANCIAL's bank account, PXP FINANCIAL will make one single collective transfer to the MERCHANT's bank account, constituting funds from the various PAYMENT PROVIDERS (net of permitted deductions).

The transfer of funds to the MERCHANT's bank account will be performed in the agreed upon currencies.

### 7.1.2. Exceptions

#### *Three-Party Agreement*

In some cases a relevant PAYMENT PROVIDER may require by virtue of relevant RULES or APPLICABLE LAWS that the MERCHANT, PXP FINANCIAL and the PAYMENT PROVIDER enter into a separate three-party agreement.

#### *Direct Settlement to the Merchant's Bank Account*

Certain PAYMENT PROVIDERS also require SETTLEMENT directly to the MERCHANT's bank account. The MERCHANT shall provide PXP FINANCIAL with access to the bank statements in electronic form (SWIFT MT940 or CSV files) for the applicable bank account(s) to the extent reasonably required to permit PXP FINANCIAL to verify PAYMENT PROVIDER remittals are accurate and in accordance with settled TRANSACTION amounts. Furthermore the MERCHANT agrees to support PXP FINANCIAL in setting up automated access to relevant bank account statements or relevant data extracts.

### 7.1.3. Payment Processing

PXP FINANCIAL facilitates the PROCESSING of online and offline TRANSACTIONS for the types of payment methods as chosen by the MERCHANT in the AGREEMENT.

### 7.1.4. Backend Administration

PXP FINANCIAL shall provide a solution enabling the MERCHANT to monitor via an online interface all TRANSACTIONS and customers handled by PXP FINANCIAL on behalf of the MERCHANT.

For this purpose, PXP FINANCIAL will provide the MERCHANT with access to the back office tool "Payment Service Administration Tool" (the "PS ADMIN TOOL"), a web application that enables the MERCHANT to review TRANSACTIONS and batches, modify payment information, execute actions on TRANSACTIONS and retrieve detailed reconciliation reports.

### 7.1.5. Reporting

For aggregated TRANSACTIONS, PXP FINANCIAL generates a SETTLEMENT report, a consolidated SETTLEMENT report and a payment status report. The generated files can be downloaded from the PS ADMIN TOOL. The reports are generated using the base currency of the MERCHANT (this currency is agreed upon for each MERCHANT account).

a. The consolidated SETTLEMENT report shows the total amount of the payments settled to the MERCHANT, the SETTLEMENT date (date when PXP FINANCIAL transferred the money to the MERCHANT), the total base money (total gross amount of the payments), the PXP FINANCIAL fees, the total net base money (total net amount of the payments after PXP FINANCIAL's fees) and the bank account credited.

b. The SETTLEMENT report shows the breakdown of the payments settled to the MERCHANT.

c. The payment status report is a snap-shot of a specific period, informing the MERCHANT of the status of all payments: open payments (current and previous periods), closed payments (current period) and deductions (current period). It contains consolidated view of the payments.

The consolidated reports are available in XLS and PDF format. The payment status reports are available in CSV and XML format. The MERCHANT may request the required format.

### 7.1.6. Reconciliation and Settlement Services

PXP FINANCIAL sends AUTHORIZATION and capture requests to the PAYMENT PROVIDER which PXP FINANCIAL notifies to the MERCHANT shop. The PAYMENT PROVIDER sends a reconciliation and SETTLEMENT file to PXP FINANCIAL listing all the TRANSACTIONS PROCESSED with a final status.

At the same time the PAYMENT PROVIDER transfers the funds to PXP FINANCIAL's bank account (in some occasions directly to the indicated bank account of the MERCHANT). PXP FINANCIAL uploads received reconciliation and SETTLEMENT files in the PS ADMIN TOOL. PXP FINANCIAL compares whether the TRANSACTION states and the amount provided by the PAYMENT PROVIDER match with the TRANSACTION information recorded in the PXP FINANCIAL payment system. If a TRANSACTION is in mismatched or unmatched status, PXP FINANCIAL will verify the TRANSACTION and clarify with the PAYMENT PROVIDER if required. The objective is to bring all TRANSACTIONS to a reconciled state. PXP FINANCIAL verifies that the funds for reconciled TRANSACTIONS have been deposited into the PXP FINANCIAL bank account. If that is the case, PXP FINANCIAL will mark the TRANSACTIONS as settled in the PXP FINANCIAL payment service system. PXP FINANCIAL's payment service will generate a SETTLEMENT report containing all the settled TRANSACTIONS.

The SETTLEMENT report is the basis for the funds transfer to the MERCHANT and will be reviewed and authorized by PXP FINANCIAL. After AUTHORIZATION, the SETTLEMENT report will be available to the MERCHANT and can be downloaded (automatically or manually) from the PS ADMIN TOOL.

### 7.1.7. Risk Management

PXP FINANCIAL provides a fully integrated risk management solution, enabling the cancellation of TRANSACTIONS if such TRANSACTIONS infringe certain preset criteria. PXP FINANCIAL shall support the MERCHANT in identifying the risk exposure in payments (lost/stolen cards, counterfeit cards, account takeover, multiple account fraud and others) including monitoring of high volume TRANSACTIONS and unusual high amounts, sudden increase/decrease of deposit volumes and changes in frequency of deposits.

Two levels of risk management are available to a MERCHANT:

- a. Level 1: The automatic payment scoring platform including basic limit checks, velocity checks and customer checks.
- b. Level 2: Manual transaction analysis including TRANSACTION pattern investigations.

The MERCHANT shall decide which Level and risk parameter settings the MERCHANT will be using. PXP FINANCIAL shall not be held responsible for any weaknesses resulting of the particular risk management settings chosen by the MERCHANT.

### 7.2. Power of Attorney

The MERCHANT herewith grants a revocable power of attorney ("POWER OF ATTORNEY") to PXP FINANCIAL for the duration of the AGREEMENT for the following purposes: to provide/make available on its behalf any and all relevant MERCHANT corporate documents (e.g. Certificate of Incorporation, Articles of Association, valid MERCHANT Affiliate licenses) which may be reasonably required to be submitted to PAYMENT PROVIDERS (if appropriate and requested by the PAYMENT PROVIDER in order to carry out the respective PAYMENT PROVIDER's own KYC on the MERCHANT), in order for MERCHANT to be eligible to utilize the applicable payment methods; to disclose relevant MERCHANT data and Customer Data (approved for disclosure by MERCHANT) to the PAYMENT PROVIDER in support of the MERCHANT's application for PAYMENT PROVIDER's services and to undertake any and all necessary and lawful steps on behalf of (and agreed with) the MERCHANT (such as the completion and signing of a MERCHANT information data sheet/application form) to enable the MERCHANT to participate in the agreed payment methods.

For the avoidance of doubt, nothing in the foregoing grant of a power of attorney authorizes PXP FINANCIAL (i) to enter into any legally binding relations with any third party on behalf of MERCHANT (in the form of any MERCHANT agreement, reseller agreement or otherwise in any jurisdiction and for any purpose, product or service); (ii) to make any representations or warranties or other guarantee or commitments on behalf of MERCHANT which the MERCHANT has not expressly authorized PXP FINANCIAL in writing to make; or (iii) to permit PXP FINANCIAL to breach the terms of its confidentiality obligations to MERCHANT under the AGREEMENT. PXP FINANCIAL shall also not act or hold itself out as being in a partnership, agent/principal relationship or authorized representative function in respect of MERCHANT. PXP FINANCIAL merely acts as an information facilitator to assist MERCHANT in securing PAYMENT PROVIDER's services as requested by MERCHANT.

The MERCHANT will perform all necessary actions and execute all necessary documents to ensure that the POWER OF ATTORNEY granted to PXP FINANCIAL is valid under the law.

The POWER OF ATTORNEY shall remain valid during the term of the AGREEMENT until explicitly revoked by the MERCHANT in writing. The MERCHANT shall be at total liberty to revoke the POWER OF ATTORNEY at any time without cause subject to giving 48 hours' notice to PXP FINANCIAL. The POWER OF ATTORNEY will automatically terminate in the event of expiry or termination of the AGREEMENT or in the event PXP FINANCIAL ceases provision of its SERVICES to MERCHANT under the AGREEMENT.

### 7.3. General Provisions

#### 7.3.1. Merchant Evaluation

It is acknowledged that the MERCHANT may incur liabilities to PXP FINANCIAL pursuant to the provisions of this AGREEMENT, including but not limited to liabilities in respect of CHARGEBACKS. It is further acknowledged that PXP FINANCIAL shall be entitled to stipulate what form and what value of security it requires to be provided in respect of the full potential amount of such liabilities. Such security may include, but shall not be limited to, the creation and funding of a deposit account charged in favour of PXP FINANCIAL, the deferral and set-off of payments which would otherwise be due to the MERCHANT under this AGREEMENT, the creation of other reserve requirements and/or the provision of a letter of credit from an acceptable bank. PXP FINANCIAL may also set a maximum value of TRANSACTIONS which it will PROCESS during any SETTLEMENT CYCLE. The initial security and TRANSACTION limit requirements may be varied by PXP FINANCIAL from time to time following any review of the operation of this AGREEMENT or the credit standing of the MERCHANT. In case the MERCHANT does not accept any such variation forthwith, PXP FINANCIAL shall be entitled to terminate this AGREEMENT with immediate effect.

#### 7.3.2. Use of the Services

The SERVICES delivered by PXP FINANCIAL to the MERCHANT shall exclusively be used by the MERCHANT for its own benefit. No other company, including, but not limited to, group companies of the MERCHANT, shall be entitled to use the SERVICES unless expressly agreed between the MERCHANT and PXP FINANCIAL.

## 8. PXP FINANCIAL Gateway Processing Services

### 8.1. Payment Methods

PXP FINANCIAL has the right to permanently or temporarily disconnect the MERCHANT from certain payment methods if such payment methods are not provided by the relevant financial institution.

### 8.2. Payment Processing

PXP FINANCIAL facilitates the PROCESSING of online and offline TRANSACTIONS for all types of payment methods in accordance with the AGREEMENT.

TRANSACTIONS that are transmitted to PXP FINANCIAL 's systems and reach the status "valid" are considered as successfully PROCESSED.

### 8.3. Backend Administration and Reporting

PXP FINANCIAL provides a solution enabling MERCHANTS to monitor via an online interface all TRANSACTIONS and customers handled by PXP FINANCIAL.

For this purpose PXP FINANCIAL provides the MERCHANT with access to the Payment Service Administration Tool (“**PS ADMIN TOOL**”), a web application that enables the MERCHANT to review payment TRANSACTIONS and batches, modify payment information, execute actions on TRANSACTIONS, retrieve detailed reconciliation reports and inspect submitted customer information.

### 8.4. Services Offered

#### 8.4.1 Reconciliation Services

PXP FINANCIAL matches PROCESSED TRANSACTIONS against financial statements of PAYMENT PROVIDER's for each MERCHANT on a TRANSACTION level to ensure matching records.

#### 8.4.2 Account Balance Management

Account Balance Management is an optional SERVICE to monitor the MERCHANT's bank account balance for example to request prefunding in case of negative balances. This SERVICE is recommended if Aggregation or Acquiring Agreements are agreed between MERCHANT and PXP FINANCIAL. For this SERVICE the MERCHANT agrees to allow PXP FINANCIAL access to its bank accounts for monitoring reasons.

#### 8.4.3 Chargeback Notifications

PXP FINANCIAL performs checks if any CHARGEBACKS have been raised against TRANSACTIONS after SETTLEMENT to the MERCHANT's account. The MERCHANT will receive these notifications for every CHARGEBACK. CHARGEBACK notifications reduce the manual process in case of CHARGEBACKS raised by PAYMENT PROVIDERS and issuer banks. CHARGEBACK notifications can only be provided if supported by the relevant PAYMENT PROVIDERS.

#### 8.4.4 Mail Order/Telephone Order (MoTo)

This SERVICE enables MERCHANTS, who sell goods and/or services by telephone, email or fax, to PROCESS the payment of the purchase order. PXP FINANCIAL makes available the PS ADMIN TOOL, which enables MERCHANTS to PROCESS the CARD information of their customers with the amount of the payment and PROCESS the TRANSACTION AUTHORIZATION in real time. This SERVICE can only be provided if it is supported by the relevant PAYMENT PROVIDERS.

#### 8.4.5 Recurring Transactions (RT)

With this SERVICE MERCHANTS can accept installments from or sell subscriptions to customers. The SERVICE enables MERCHANTS to charge its customers on a periodical basis. This SERVICE can only be provided if it is supported by the relevant PAYMENT PROVIDERS.

#### 8.4.6 Auto Top Up

This SERVICE enables MERCHANTS to accept payments from customers on exceeding a particular threshold. Customers are charged on an irregular basis rather than a periodic one as it is the case with recurring TRANSACTIONS.

This SERVICE can only be provided if it is supported by the relevant PAYMENT PROVIDERS.

### 8.5. Optional Processing Features

#### 8.5.1 Risk Management Module

PXP FINANCIAL provides a fully integrated risk management solution, enabling the elimination of TRANSACTIONS if such TRANSACTIONS infringe certain preset criteria.

Available risk management tools are e.g. TRANSACTION monitoring, CHARGEBACK analysis, payment scoring platform (currently 67 automated risk checks), payment limit checks, including the following:

- h. Payment origin checks – IP check
- i. Anti-money laundering checks – patterns
- j. Whitelist/blacklist – CARD, bank identification number (BIN), IP, etc.
- k. User identity checks – external services (optional, offered on customer's request)
- l. Unique user checks – multiple accounts

The MERCHANT decides which criteria may apply. PXP FINANCIAL is not responsible for any weaknesses of the risk management solution resulting from the MERCHANT's criteria selection.

#### 8.5.2 Smart MPI

CARD AUTHORIZATION takes place through a 3D secure module (Verified by Visa and MasterCard Secure Code, and by Discover's ProtectBuy Authentication service). Customers have to prove their identity by providing their CARD password to their issuing bank. This SERVICE applies to all eligible CARDS.

### 8.6. Disclaimer of Liability

Merchant acknowledges that neither PXP FINANCIAL nor any of its subcontractors underwrites or agrees to compensate Merchant or any third party (including Merchant customers) for the value of any Transaction (or Transaction Data) as a result of any failure or delay in processing of any such Transaction pursuant to or in connection with this Agreement. Merchant's sole remedy for such failure or delay shall be for PXP FINANCIAL to use commercially reasonable endeavours to complete processing of the relevant Transaction as soon as practicable after receipt of notification from Merchant of the relevant failure or delay.

### 8.7. Use of the Services

The SERVICES delivered by PXP FINANCIAL to the MERCHANT shall exclusively be used by the MERCHANT for its own benefit. No other company, including but not limited to MERCHANT Affiliates, shall be entitled to use the SERVICES unless expressly agreed between the MERCHANT and PXP FINANCIAL.

### 8.8. Additional Agreements

The performance of certain SERVICES or parts thereof may require the MERCHANT to enter into additional agreements with PXP FINANCIAL, PXP FINANCIAL's affiliates or one or more financial institutions. If such an additional agreement is required, but not concluded for any reason, the specific service to be covered by the additional agreement shall not be considered part of the SERVICES and PXP FINANCIAL shall held without responsibility.

### 8.9. Processing Liabilities

PXP FINANCIAL shall not be liable to the MERCHANT for any failure of a financial institution, including a financial institution's failure to effect payments.

## 9. Merchant Obligations

### 9.1. Merchant Business Information

The MERCHANT represents and warrants that the information provided in the application and the KYC PROCEDURES is true and accurate and provides an accurate picture of the true nature of the MERCHANT's business. The MERCHANT will notify PXP FINANCIAL immediately of any relevant changes, including, but not limited to:

- Legal representative(s)
- Bank account (for SETTLEMENT)
- Website/Online shop URL
- Major ownership
- Key geographical markets
- Financial standing
- Line of business

PXP FINANCIAL shall receive such notification at least 30 calendar days prior to the effectiveness of the change.

### 9.2. Implementation and Security

The MERCHANT is at its own costs and expenses responsible for the correct technical implementation of and connection to the technical systems of PXP FINANCIAL. The MERCHANT will ensure that its technical systems are at all times kept fully functional and in compliance with the market standard particularly by taking appropriate security measures to avoid unauthorized access. PXP FINANCIAL has implemented a number of security features into its system. The MERCHANT shall at its own costs and expenses ensure that these features take their full effect. PXP FINANCIAL will support the MERCHANT by providing relevant technical guidelines.

The MERCHANT shall notify PXP FINANCIAL at least 30 calendar days in advance of any technical adjustments that could possibly affect the performance of the SERVICES.

PXP FINANCIAL is at any time entitled to adopt, adjust, change or progress the API used to perform the SERVICES. PXP FINANCIAL will notify the MERCHANT within due course. If such measure requires the MERCHANT to update its software or interface, the MERCHANT is obliged to perform such update within 6 calendar weeks upon notification.

In case of facilitating CARD-related services, the MERCHANT is obliged to follow the rules and regulations set forward by the PCI Council ([www.pcisecuritystandards.org](http://www.pcisecuritystandards.org)) and to provide a valid proof of compliance with the standards of PCI.

### 9.3. Use of the Services

The MERCHANT shall:

1. provide PXP FINANCIAL with any information necessary to provide the SERVICES and respond promptly, within 5 BANKING DAYS, to requests of PXP FINANCIAL to provide direction, information, approvals, authorizations or decisions that PXP FINANCIAL deems necessary to perform the SERVICES;
2. assist PXP FINANCIAL with the implementation and performance of the SERVICES, if necessary;

3. implement adequate security measures to prevent its programs from damage including data (re-)storage;
4. not forward its access data (User ID, password) for the SERVICES to any third parties. The MERCHANT acknowledges that, for security reasons, ghost names and pseudonyms cannot be used;
5. inform PXP FINANCIAL immediately, if an employee or otherwise associate, who was given access to the SERVICES, resigns. PXP FINANCIAL will close this access for security reasons; and
6. in case of facilitating CARD-related services, put the respective logos of the CARD SCHEMES at the Merchant's website on display.

If PXP FINANCIAL is unable to perform the SERVICES for any reasons beyond the control of PXP FINANCIAL which are caused by the MERCHANT, PXP FINANCIAL shall not be held responsible in any way.

### 9.4. Business Conduct

While using the SERVICES, the MERCHANT undertakes

1. to provide such necessary information to its customers as required pursuant to APPLICABLE LAWS;
2. not to sell any goods or offer services prohibited pursuant to APPLICABLE LAWS;
3. to comply with the RULES set forth by CARD SCHEMES, OTHER FINANCIAL INSTITUTIONS or PAYMENT PROVIDERS involved in rendering the SERVICES;
4. to comply with all Applicable Laws;
5. to perform its obligations toward its customers, including the assumption of responsibility for the acceptance of a customer order and its fulfilment, in the agreed manner and in accordance with Applicable Laws;
6. not to use the SERVICES for any improper purpose or in any manner, which may constitute a violation of APPLICABLE LAWS or which may cause damage to PXP FINANCIAL's reputation or which may expose PXP FINANCIAL to investigation, prosecution or legal action; and
7. to indemnify PXP FINANCIAL and hold PXP FINANCIAL harmless for all costs (including legal fees) and damages or other Losses incurred resulting from a Claim by a customer of the MERCHANT or any other third party in connection with the business model or an act or omission of the MERCHANT.

## 10. Payment Terms

### 10.1. Invoices

PXP FINANCIAL will submit on a monthly basis in arrears invoices to the MERCHANT stating the fees and reimbursable expenses incurred. Each invoice shall clearly state the work performed, the TRANSACTIONS, requests and volumes handled and the reimbursable expenses incurred.

Notwithstanding the above, the setup fee will become due and payable (i) immediately after PXP FINANCIAL has established the test environment for all SERVICES or (ii) 6 calendar weeks after the commencement of the business relationship in case PXP FINANCIAL is unable to perform the SERVICES because the MERCHANT violates its duty to collaborate.

In the month of the commencement of the business relationship between PXP FINANCIAL and the MERCHANT monthly fees shall be invoiced on a pro rata basis. The fees for the last calendar month of the business relationship are invoiced in full.

PXP FINANCIAL shall be entitled to carry out payment transactions over the Merchant's PXP FINANCIAL account for quality protection purposes. Such transactions will be invoiced to the MERCHANT in accordance with the applicable service fees.

## **10.2. Payment Details**

The MERCHANT is obliged to pay all fees and expenses in the currency of the invoice by bank transfer to the account designated by PXP FINANCIAL. All invoices shall be paid within 15 BANKING DAYS from the date of the invoice. The MERCHANT is not entitled to hold back any payments to PXP FINANCIAL, regardless of the reason.

## **10.3. Set-Off**

All payments to be made by the MERCHANT under the AGREEMENT shall be calculated and be made without any deduction for set-off or counterclaim.

PXP FINANCIAL may set off any obligation due from the MERCHANT under the AGREEMENT against any obligation (whether or not matured) owed by PXP FINANCIAL to the MERCHANT. If such obligations are in different currencies, PXP FINANCIAL may convert either obligation at a current market rate.

## **10.4. Taxes**

The MERCHANT shall pay directly or reimburse PXP FINANCIAL for any taxes arising from or in connection with the provision of the SERVICES excluding any taxes on PXP FINANCIAL's net income.

## **10.5. Late Payment**

If the invoice is not fully settled within 20 BANKING DAYS from the date of the invoice, PXP FINANCIAL is entitled to receive default interest at a rate of 1.5% per calendar month on the overdue amount from the due date up to the date of actual payment.

In case of AGGREGATION and/or ACQUIRING SERVICES, PXP FINANCIAL is entitled to deduce such overdue amounts from the next SETTLEMENT(S) to the MERCHANT.

In case of GATEWAY SERVICES, PXP FINANCIAL is entitled to suspend the SERVICES in case an invoice is overdue provided that it has notified the MERCHANT in writing of such intended suspension by giving 30 calendar days' notice in advance.

## **10.6. Fees**

The MERCHANT shall bear all costs associated with its registration with an ACQUIRING BANK, the CARD SCHEMES, OTHER FINANCIAL INSTITUTIONS or PAYMENT PROVIDER.

The MERCHANT shall bear all costs charged by banks for the transfer of monies from PXP FINANCIAL to the MERCHANT.

## **10.7. Increase of Fees**

PXP FINANCIAL is entitled to adjust the fees and the reimbursable expenses as set out in the AGREEMENT on the basis of the consumer price index (the "CPI", published on

www.statistics.gov.uk), or any index replacing the CPI. Such adjustments shall be calculated on the basis of the annual inflation as of December of the respective year.

In order to adjust the fees and/or the reimbursable expenses, PXP FINANCIAL shall notify the MERCHANT in writing of the envisaged adjustment within the first 30 calendar days of each calendar year. If PXP FINANCIAL does not adjust the fees and/or the reimbursable expenses in one or more years, it shall remain entitled to make such adjustments retroactively in each of the following years.

## **11. Warranties and Remedies**

### **11.1. Warranties**

Without limiting any other warranties in accordance with this AGREEMENT, PXP FINANCIAL represents and warrants that it possesses the resources, expertise, knowledge and skills necessary to perform the SERVICES in accordance with the provisions set out in the AGREEMENT.

Without limiting any other warranties in accordance with this AGREEMENT, the MERCHANT represents and warrants that each TRANSACTION submitted for PROCESSING (i) represents a bona fide sale/rental of products or services not previously submitted; (ii) represents an obligation of the cardholder for the amount of the TRANSACTION; (iii) the amount charged in the TRANSACTION is not subject to any dispute set-off or counterclaim; (iv) does not represent the refinancing of an existing obligation of the cardholder; and (v) to the MERCHANT's knowledge does not indicate any facts or circumstances which would impair the validity or collectability of the cardholder's obligation.

### **11.2. Notice of Defects**

In case the MERCHANT identifies a defect in the SERVICES, the MERCHANT shall immediately inform PXP FINANCIAL. PXP FINANCIAL will on an urgent basis make all reasonable efforts to repair the defect and deliver the SERVICES at the agreed level. In case of an unjustified defect notice, the MERCHANT shall compensate PXP FINANCIAL for any expenses incurred.

### **11.3. Warranty Limitations**

If the MERCHANT modifies, enhances, amends or connects with unauthorized software to PXP FINANCIAL's interface, it shall not have a warranty claim against PXP FINANCIAL in connection with such modification, enhancement, amendment or connection.

The MERCHANT has no warranty claim against PXP FINANCIAL if a defect, interference, damage or a similar default occurs due to improper use, use which is not in accordance with the description, non-compliance with installation requirements, improper equipment or data medium or because of other circumstances beyond the reasonable control of PXP FINANCIAL.

### **11.4. Exclusions**

PXP FINANCIAL is not responsible for any infringements of third party copyrights, patents or trade secrets in case (i) the MERCHANT has made amendments to original documents, interfaces or similar works prepared by PXP FINANCIAL without the express approval of PXP FINANCIAL, or (ii) the MERCHANT fails to use the most recent versions of such SERVICES by PXP FINANCIAL.

## 12. Liability and Indemnities

### 12.1. Limitation and Exclusion of Liability

To the maximum extent permitted by law, PXP FINANCIAL shall not be liable for any action or omission taken by it under or in connection with the AGREEMENT, unless directly caused by its gross negligence or wilful misconduct.

PXP FINANCIAL shall not be liable for and expressly excludes any liability for indirect damage, loss, consequential damage or damage or analogous forms of Loss caused by the MERCHANT's failure to fulfil its contractual obligations, including loss of profits, data, goodwill, revenue or anticipated savings or incidental or special, exemplary or punitive damages.

In any case, subject to clauses 11.4. (Exclusions) PXP FINANCIAL's liability shall be limited to the lower of (i) GBP 10,000 or (ii) the fees paid to PXP FINANCIAL within the last 6 calendar months before the damage or liability or claim occurred.

### 12.2. Additional Exclusions

PXP FINANCIAL shall not be liable for any loss of data which occurred due to inadequate data storage or data re-storage of the MERCHANT.

Furthermore, PXP FINANCIAL shall not be liable for damages or other Losses resulting from TRANSACTIONS (e.g. Refund, outpayment) of employees or other associates of the MERCHANT and for statistic evaluation created out of data provided by PXP FINANCIAL.

PXP FINANCIAL shall also not be liable for any Losses specifically excluded under any other part of the Agreement (including any Schedules).

### 12.3. Indemnity

The Merchant indemnifies (and will keep indemnified) on demand, defends and holds harmless PXP FINANCIAL and its Affiliates from and against any Losses which PXP FINANCIAL and/or its Affiliates suffers or incurs in relation to any Claim brought against any of them by a third party (including any Merchant customer) where such Claim is caused by the Merchant or arises as a result of, or in connection with:

**1231** any and all fines imposed directly against PXP FINANCIAL by a Rules making body which directly arise or result from non-compliance by the Merchant (or its agents or subcontractors) of the Rules;

**1232** any and all fines imposed against PXP FINANCIAL by a regulatory authority which directly arise or result from a breach by the Merchant (or its agents or sub-contractors) of Applicable Laws;

**1233** any breach by the Merchant of its obligations under clause 14 and/or 16;

**1234** (i) the entering into and execution of the Transaction by the Merchant; and/or (ii) any representation, Assessment and/or Chargeback relating to a Transaction.

**1235** any security breach, compromise or theft of Transaction Data held by the Merchant or on the Merchant's behalf (other than held by PXP FINANCIAL); and

**1236** any and all fines awarded against PXP FINANCIAL which directly arise or result from the Merchant's (or its agents' or subcontractors') breach of its obligations in relation to PCI

DSS compliance,

except in all cases to the extent any such Claim or related Loss or breach is caused or contributed to by PXP FINANCIAL or PXP FINANCIAL Affiliates or their respective agents or subcontractors.

### 12.4. Force Majeure

Except in respect of payment liabilities, neither party shall be liable for any failure or delay in its performance due to reasons beyond its reasonable control, including acts of war, acts of God, earthquake, flood, riot, embargo, sabotage, governmental act or failure of the internet, provided that the delayed party gives the other party prompt notice of the reasons for such failure or delay.

## 13. Non-Solicitation

The MERCHANT shall not recruit and/or employ, even through third parties, any employee of PXP FINANCIAL for a period starting from the date of the execution and ending 12 calendar months following the termination or expiration of the AGREEMENT.

The MERCHANT will not be found in violation of this clause 13. if such employees respond to a general job posting of the MERCHANT.

## 14. Information and Data Security

### 14.1 Compliance

Each of PXP FINANCIAL and you, acting as a controller, will process the Customer Data in compliance with applicable Data Protection Laws.

### 14.2 Purposes

PXP FINANCIAL will only process the Customer Data:

- as required in order to meet our obligations pursuant to the Agreement;
- as agreed in writing between the parties;
- as required or allowed by law applicable to us;
- for fraud prevention or investigation purposes, or other risk management purposes;
- for customer identification and information verification purposes, including in connection with "know your customer", anti-money laundering or anti-terrorism financing purposes;
- in accordance with Card Scheme Rules;
- to enforce our rights, or the rights of other persons in a financial transaction; or
- to comply with policies applicable to our obligations under the Merchant Agreement, including to protect the security of the Customer Data.

### 14.3. Transparency

As a controller of the Customer Data, you will provide an information notice to Data Subjects meeting the requirements of Data Protection Laws, including the information referred to in Articles 13 and 14 of the GDPR (the "Customer Privacy Notice"); and

As a controller of the Customer Data, PXP FINANCIAL will provide an information notice to Data Subjects meeting the requirements of Data Protection Laws, including the information referred to in Articles 13 and 14 of the GDPR (the "Acquirer Privacy Notice").

#### 14.4. Assistance

Each party will provide the other party with such assistance and co-operation as it reasonably requests to enable the requesting party to comply with any obligations imposed on it by Data Protection Laws in relation to the processing of the Customer Data. A party will be entitled to refuse or limit its assistance where the requesting party is in the position to fulfil the obligations without that party's assistance.

#### 14.5. Notices

All notices and other communications between the parties under this clause 12.1 must be provided in accordance with clause 19.1.

#### 14.6. Privacy Policy

For full details of PXP FINANCIAL's Privacy Policy, please visit the website at <https://www.pxpfinancial.com/privacy-policy>.

#### 15. Intellectual Property Rights

Each party acknowledges the intellectual and industrial property rights of the other party whether registered or not. The MERCHANT shall pay full compensation to PXP FINANCIAL for any violation of PXP FINANCIAL's copyrights or other INTELLECTUAL PROPERTY RIGHTS. PXP FINANCIAL will pursue any violation of its INTELLECTUAL PROPERTY RIGHTS with claims for injunctive relief and damages. PXP FINANCIAL is entitled to refer to the MERCHANT as reference client and to use its name, brand and logo for all kinds of marketing activities and campaigns free of charge, including, but not limited to, the use in marketing folders. The MERCHANT herewith agrees that PXP FINANCIAL's logo is displayed to the MERCHANT's customers, whenever the MERCHANT uses the standard payment selection page and/or standard payment details page.

#### 16. Confidential Information

"CONFIDENTIAL INFORMATION" means any information belonging to or in the possession or control of a party that is of a confidential, proprietary or trade secret nature and that is furnished or disclosed to the other party, including, but not limited to, information concerning a party's business, ideas, products, customers or services. CONFIDENTIAL INFORMATION will remain the sole property of the disclosing party. CONFIDENTIAL INFORMATION shall not include information that is (i) lawfully in the possession of the receiving party prior to its receipt from the disclosing party, (ii) developed independently by the receiving party without access to the information disclosed by the disclosing party, (iii) is or becomes publicly available, otherwise than as a consequence of any wrongful or unlawful act of the receiving party (including a breach of the AGREEMENT) and (iv) lawfully received from a third party free of restrictions and without breach of this AGREEMENT.

CONFIDENTIAL INFORMATION shall not be disclosed to any third party. However, PXP FINANCIAL shall be entitled to disclose CONFIDENTIAL INFORMATION to third parties if it reasonably deems such disclosure to be necessary or useful for the provision of the SERVICES.

CONFIDENTIAL INFORMATION may be disclosed in accordance with a judicial or other governmental order, provided that the recipient party gives the disclosing party notice prior to such disclosure and, if possible, reasonable opportunity to obtain a protective order or the equivalent.

Upon termination of the AGREEMENT, the receiving party, at the first request of the disclosing party, shall return or destroy all CONFIDENTIAL INFORMATION belonging to the other party, except data regarding financial transactions or any other data required to be kept under APPLICABLE LAWS or best practices. PXP FINANCIAL shall ensure that all records relating to anti money laundering activities shall be kept for at least 7 years from the end of the business relationship.

#### 17. Termination for Good Cause

Either party may terminate the AGREEMENT at any time with immediate effect by giving prior written notice if

1. the other party commits a material and irremediable breach of the AGREEMENT;
2. the other party commits a material but remediable breach of the AGREEMENT and does not remedy such breach within 20 BANKING DAYS upon receipt of a written notice stating the material breach and requesting remedy;
3. the other party becomes insolvent or any corporate action, legal proceedings or other procedure or step is taken or threatened in relation to (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation, (ii) a composition, assignment or arrangement with any creditor or (iii) the appointment of a liquidator, receiver, trustee in bankruptcy, judicial custodian, compulsory manager, administrative receiver, administrator or similar officer.

PXP FINANCIAL is entitled to suspend its SERVICES if the MERCHANT fails to properly fulfil its obligations under the AGREEMENT. In that case PXP FINANCIAL shall notify the MERCHANT thereof within 3 BANKING DAYS following the suspension. The right to extraordinary termination as set herein shall remain unaffected by such suspension.

PXP FINANCIAL may at any time terminate the AGREEMENT or parts of the AGREEMENT with immediate effect if:

1. the MERCHANT fails to notify PXP FINANCIAL of any material change in the nature of its business, goods and/or services or of any additional business the MERCHANT commences or any material business the MERCHANT closes down within 5 BANKING DAYS of such change;
2. an event occurs that may affect or a matter is brought to the attention of PXP FINANCIAL which it considers may affect the MERCHANT's ability or willingness to comply with any or all of its contractual obligations or liabilities hereunder or if any other change in MERCHANT's circumstances or the circumstances of MERCHANT's business occurs (including a deterioration in or a change of the MERCHANT's financial position or ownership) which PXP FINANCIAL, acting in good faith, considers material to the continuance of the SERVICES;
3. anything happens to MERCHANT or in relation to MERCHANT or arising from or incidental to MERCHANT's business or the conduct of the MERCHANT's business (including trading practices and individual activities) which PXP FINANCIAL, acting in good faith, considers disreputable or capable of damaging the reputation of PXP FINANCIAL or that of any financial institution, detrimental to PXP FINANCIAL's business or that of any financial institution in its financial network or that may give suspicion of any criminal activity;

4. PXP FINANCIAL, acting in good faith, reasonably considers any activity or omission of the MERCHANT to increase the risk of a Claim against or Loss or other liability of PXP FINANCIAL or a financial institution in its financial network;
5. any claim or action relating to the business relationship between PXP FINANCIAL and the Merchant is threatened or commenced by or against the MERCHANT or PXP FINANCIAL which PXP FINANCIAL, acting in good faith, considers material to the continuance of the SERVICES;
6. any security granted to PXP FINANCIAL by the MERCHANT ceases to be enforceable, is withdrawn or loses considerable value;
7. the RULES require PXP FINANCIAL to terminate the AGREEMENT or if a CARD SCHEME gives notice to PXP FINANCIAL that it considers the provision of the SERVICES to the MERCHANT to constitute a breach of the RULES;
8. the MERCHANT treats PXP FINANCIAL or any of its officers and employees in an improper manner;
9. the Merchant violates any duty to collaborate under the AGREEMENT;
10. the SERVICES are used by any third party or any third party benefits from the SERVICES without PXP FINANCIAL giving its prior written consent;
11. PXP FINANCIAL, acting in good faith, reasonably believes that the MERCHANT is involved in any activities or omissions that would qualify as a criminal offence pursuant to APPLICABLE LAWS;
12. the MERCHANT disrupts PXP FINANCIAL's regular business activities by means of, for example, spoofing, parameter tampering, exploitation of bugs, brute force or denial of service attacks and any other malicious activities.
13. the MERCHANT exceeds any threshold set out in the RULES of CARD SCHEMES, OTHER FINANCIAL INSTITUTIONS, PAYMENT PROVIDERS or PXP FINANCIAL;
14. the MERCHANT fails to successfully pass any anti-money-laundering or risk due diligence or KYC PROCEDURE executed by PXP FINANCIAL or fails to provide to PXP FINANCIAL the relevant PCI certificate or PCI Self-Assessment Questionnaire upon request.
15. the MERCHANT does not accept a variation of the risk and security arrangements (i.e. processing limit, reserve requirements) following any assessment or evaluation of the MERCHANT.
16. the MERCHANT is in default with the payment of any amounts payable to PXP FINANCIAL.

In any case, termination shall not affect any liabilities incurred by the MERCHANT prior to termination.

## **18. Payment Services Regulations (PSR)**

The AGREEMENT is subject to the PSR, the implementation of the PSD in the UK. In accordance with the PSR additional provisions with regards to MICRO-ENTERPRISES and CHARITIES as set out in Clauses 18.2 to 18.3 shall apply.

### **18.1. General Provisions**

With regard to the PSR the following general provisions

shall apply to the AGREEMENT:

1. Parts 5 and 6 of the PSR require the provision of certain information and prescribe certain rights and obligations arising in the context of payment services.
2. Except as otherwise specifically stated in the AGREEMENT, Parts 5 and 6 of the PSR and the corresponding terms of this Clause 18.1 apply only where: the payment service provider of the other party to the payment transaction is located within the EEA and payment is effected in Euro or the currency of an EEA state which has not adopted the Euro.
3. If the MERCHANT is neither a Micro-enterprise nor a Charity within the meaning of the PSR (as amended from time to time), it agrees that none of the provisions of Part 6 nor regulations 66(1), 67(3) and (4),, 75, 77, 79, 80, 83, 91, 92 and 94 of the PSR (or any equivalents thereof which have been implemented locally where Merchant is incorporated) applies to the Agreement.
4. In the event of any inconsistency between the terms of this Clause 18. and other provisions of the AGREEMENT, the terms of this Clause 18. shall prevail.
5. The MERCHANT will only be liable for charges levied by PXP FINANCIAL and will not be liable for any fees of the payment service provider of the other party to the payment transaction.
6. PXP FINANCIAL may not prevent the MERCHANT from (i) requiring payment of a charge or (ii) offering a reduction to, any payer for the use of any particular CARD or other means of payment.
7. PXP FINANCIAL shall make funds available to the MERCHANT immediately after the funds have been credited to PXP FINANCIAL's own account.
8. PXP FINANCIAL shall be entitled to deduct the full amount of its own fees and charges from amounts received from payers for the account of the MERCHANT. Subject thereto, PXP FINANCIAL shall ensure that the MERCHANT receives the full amount of each TRANSACTION and will ensure that the MERCHANT receives a statement incorporating details of those charges.
9. The credit value date for the MERCHANT's payment account will be no later than the BANKING DAY on which the corresponding payment is credited to PXP FINANCIAL's account. PXP FINANCIAL shall ensure that the amount is at the MERCHANT's disposal immediately after the amount has been credited to PXP FINANCIAL's account. This applies regardless of whether the payer's payment service provider is located within or outside the EEA.
10. PXP FINANCIAL shall ensure that the full amount of each payment TRANSACTION is credited to the MERCHANT, subject only to deduction of service fees as set out in the AGREEMENT.
11. PXP FINANCIAL shall not be liable for any contravention of any of the requirements of this Clause 18.1 where:
  - the contravention is due to unforeseeable circumstances beyond PXP FINANCIAL's control; or
  - the contravention is due to the obligations of PXP FINANCIAL under any applicable provisions of national

or EU law.

12. PXP FINANCIAL may apply changes to the exchange rate it uses in providing foreign currency exchange to the MERCHANT. PXP FINANCIAL's foreign currency exchange rate is based on the appropriate CARD SCHEME's exchange rate, which can be found on the relevant CARD SCHEME's website.

### 18.2. Micro-Enterprises and Charities

The provisions of this Clause 18.2 apply only where:

1. the MERCHANT is a MICRO-ENTERPRISE or a CHARITY;
2. the payment services provider of the other party to the payment transaction is located within the EEA; and
3. the payment is effected in Euro or the currency of an EEA State which has not adopted the Euro.
4. In the event of any inconsistency between the provisions of this Clause 18.2 and the other provisions of the AGREEMENT, the provisions of Clause 18.2 shall prevail.
5. The MERCHANT acknowledges that (i) it received a version of the AGREEMENT in draft form in good time before it became bound by its terms and (ii) the draft included the information as set forth in Clause 18.3.
6. If the MERCHANT so requests at any time during the contractual relationship, PXP FINANCIAL will provide an additional copy of the AGREEMENT and/or of the information as set forth in Clause 18.3 below.
7. Where the MERCHANT is acting as a payer, PXP FINANCIAL shall provide the MERCHANT at monthly intervals with a written statement, by electronic means or post, which will include in relation to each payment transaction (i) a reference identifying the payment transaction, and where appropriate, information relating to the payee, (ii) the amount and currency of the payment transaction, (iii) the amount and breakdown of any charges payable, (iv) any applicable exchange rate used by PXP FINANCIAL, and the amount of the payment transaction after the currency conversation and (v) the debit value date.
8. Where the MERCHANT is acting as a payee, PXP FINANCIAL shall provide the MERCHANT at monthly intervals with a written statement, by electronic means or post, which will include in relation to each payment transaction (i) a reference identifying the payment transaction (including, where appropriate, the payer and any information accompanying the payment transaction), (ii) the amount and currency of the payment transaction, (iii) the amount and breakdown of any charges payable, (iv) any applicable exchange rate used by PXP FINANCIAL, and the amount of the payment transaction before the currency conversation and (v) the credit value date.
9. PXP FINANCIAL shall not charge the MERCHANT for providing the information as specified in this Clause 18.2 and in Clause 18.3.

### 18.3. Mandatory Information

PXP FINANCIAL hereby provides the following mandatory information in accordance with the PSR to the MERCHANT:

1. The name of the payment service provider and ACQUIRING BANK is PXP Financial Limited.

2. The address and contact details of PXP FINANCIAL are set out in the AGREEMENT.
3. PXP FINANCIAL is regulated by the FCA. PXP FINANCIAL's registration number is set out in the AGREEMENT.
4. A description of the payment services to be provided, the information to be provided by the MERCHANT in order to execute payment orders and the form and procedure for giving consent to the execution of payment transactions and for the withdrawal of consent are set out in the AGREEMENT.
5. Where Merchant is acting as a payer, the time of receipt of a payment order is the time at which the payment order is received by PXP FINANCIAL. If the payment order is received on a day other than a BANKING DAY or after 16:30 hours on a BANKING DAY, the payment order is deemed to be received on the first BANKING DAY thereafter.
6. Where MERCHANT is acting as a payer, PXP FINANCIAL shall ensure that the amount of the payment transaction is credited to the relevant payee's payment service provider's account by the end of the next BANKING DAY following the day of receipt of the payment order.
7. Details of the service fees to be levied by PXP FINANCIAL in respect of the SERVICES are set out in the AGREEMENT.
8. Communications shall be sent to the respective party's notification address or to such other address as either party may designate in a written notice unless stated otherwise in the AGREEMENT. The manner and frequency with which information under the PSR must be provided or made available to the MERCHANT are set out in the AGREEMENT. The AGREEMENT is concluded in English and all communications are to be conducted in English.
9. The MERCHANT that is a MICRO-ENTERPRISE or CHARITY may request additional copies of the AGREEMENT free of charge at any time while the AGREEMENT is in force.
10. The MERCHANT must take all reasonable steps to keep safe any personalised security features issued to the MERCHANT by PXP FINANCIAL which are used to authorise TRANSACTIONS, including any usernames, passwords or other security protocols. The MERCHANT shall notify PXP FINANCIAL immediately on becoming aware of the misappropriation or unauthorised use.
11. PXP FINANCIAL has the right to suspend the use of the SERVICES on reasonable grounds relating to its security or its suspected unauthorised or fraudulent use. Except where the notification would compromise reasonable security measures or is otherwise unlawful, PXP FINANCIAL shall notify the MERCHANT of any such suspension and the reasons for the suspension in advance or, if unable to do so, immediately after. PXP FINANCIAL shall issue the MERCHANT with a new payment instrument as soon as practicable after the reasons for the suspension cease to exist.
12. The MERCHANT that is a MICRO-ENTERPRISE or CHARITY shall notify PXP FINANCIAL without undue delay, and in any event no later than 13 calendar months

after the debit date, on becoming aware of any unauthorised or incorrectly executed TRANSACTION.

13. Where the MERCHANT is acting as a payer, PXP FINANCIAL shall immediately refund the amount of any unauthorised TRANSACTION to the MERCHANT and restore the debited account to the state it would have been had the unauthorised TRANSACTION not taken place.
14. Where the MERCHANT is a MICRO-ENTERPRISE or CHARITY and acts as a payer,
  - a. the MERCHANT is liable up to a maximum of £50 for any losses incurred in respect of unauthorised TRANSACTIONS arising from the misappropriation of the SERVICES;
  - b. the MERCHANT is liable for all losses incurred in respect of an unauthorised TRANSACTION where the MERCHANT has acted fraudulently or has with intent or gross negligence failed to use the SERVICES in accordance with the AGREEMENT; and
  - c. except where the MERCHANT has acted fraudulently, the MERCHANT is not liable for any losses incurred in respect of an unauthorised TRANSACTION arising after the MERCHANT has notified PXP FINANCIAL of the unauthorised TRANSACTION.
15. Where a TRANSACTION is initiated by the MERCHANT that is a MICRO-ENTERPRISE or CHARITY and acting as a payer, PXP FINANCIAL shall be responsible for the correct execution of the TRANSACTION. Where PXP FINANCIAL is liable for the incorrect execution of a TRANSACTION, PXP FINANCIAL shall without undue delay refund to the MERCHANT the amount of the non-executed or defective TRANSACTION and restore the debited account to the state in which it would have been had the defective TRANSACTION not taken place.
16. Where a TRANSACTION is initiated by the MERCHANT that is a MICRO-ENTERPRISE or CHARITY acting as a payee, PXP FINANCIAL shall be responsible for the correct transmission of the payment order. Where PXP FINANCIAL is liable for the incorrect transmission of a payment order, PXP FINANCIAL shall immediately retransmit the payment order.
17. PXP FINANCIAL shall give the MERCHANT that is a MICRO-ENTERPRISE or a CHARITY at least 2 calendar months' notice before it changes any of the provisions set out in this Clause 18.3. In that event, the MERCHANT will be deemed to have accepted the changes upon the expiry of the notice period. However, the MERCHANT may terminate the AGREEMENT immediately without charge before the relevant changes come into effect.
18. The duration of the AGREEMENT is for an indefinite period unless stated otherwise elsewhere in the AGREEMENT.
19. The Merchant that is a MICRO-ENTERPRISE or CHARITY may terminate the AGREEMENT by giving PXP FINANCIAL not less than 1 calendar months' prior written notice to that effect. If the AGREEMENT has been in effect for a period of less than 12 calendar months, the MERCHANT shall pay PXP FINANCIAL a charge for such termination, which shall be reasonable and correspond to the actual costs of termination incurred by PXP FINANCIAL. PXP FINANCIAL may terminate the

AGREEMENT by giving the MERCHANT not less than 2 calendar months' prior written notice to that effect.

20. This AGREEMENT is subject to the Governing Law and Jurisdiction in accordance with Clause 19.11.
21. For any complaints about the SERVICES the MERCHANT shall contact PXP FINANCIAL as set out in the AGREEMENT. PXP FINANCIAL will endeavour to resolve any problems as quickly as possible in accordance with its customer complaints policy. If a complaint made to PXP FINANCIAL is not resolved to the MERCHANT's satisfaction, the MERCHANT that is a MICRO-ENTERPRISE, SMALL BUSINESS or SMALL CHARITY may be able to refer such complaint to the Financial Ombudsman Service, which can be contacted by post at The Financial Ombudsman Service, South Quay Plaza, 183 Marsh Wall, London E14 9SR, by telephone on 0300 123 9123 (when calling from a mobile) or 0800 023 4567 (when calling from a fixed line), or by email at [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk).
22. Before resorting to the courts, the parties agree to use their best efforts to negotiate in good faith and settle amicably any dispute that may arise out of or relate to the AGREEMENT or a breach of the AGREEMENT. Only if negotiations fail to result in a settlement, the matter at the election of either party may be submitted for resolution to a court of competent jurisdiction.

## 19. General Provisions

### 19.1. Notices

Any notice shall be in writing and be deemed duly served:

1. if personally delivered, at the time of delivery;
2. if posted to an inland address in the UK, on the actual receipt; or
3. if sent by facsimile transmission, upon receipt by the sender of a successful facsimile transmission report.

If in the case of personal delivery or facsimile transmission such delivery or transmission occurs after 6.00 p.m. on a Banking Day or on a day which is not a BANKING DAY, receipt shall be deemed to occur at 9.00 a.m. on the next following BANKING DAY. Notwithstanding the above, any notices to the MERCHANT shall be deemed to have been received within 5 BANKING DAYS of posting or transmission as appropriate. The MERCHANT shall inform PXP FINANCIAL immediately of any change of its address, facsimile number or email address.

### 19.2. Assignment

Merchant may not assign or otherwise transfer the AGREEMENT or any of its rights and/or obligations thereunder without the prior written consent of PXP FINANCIAL. PXP FINANCIAL may transfer all or any part of its rights and/or obligations or delivery of all or part of Services under the AGREEMENT to any PXP FINANCIAL Affiliate without the prior consent of the MERCHANT including by way of example but not limitation in the event that PXP FINANCIAL is required to effect any complete or partial transfer of its obligations and/or Services as a result of changes in regulatory or legal or operational requirements, such as in the case of any "hard" Brexit impacting PXP FINANCIAL's licensing rights. PXP FINANCIAL shall be liable for the performance of such company as for its own performance. PXP FINANCIAL

reserves the right to fulfil any of its duties and powers under this AGREEMENT by the use of agents or subcontractors.

This AGREEMENT shall inure to the benefit of and bind the respective successors and permitted assigns of the parties.

### **19.3. Third Party Solution Provider**

The MERCHANT acknowledges that any THIRD PARTY SOLUTION PROVIDER appointed by the MERCHANT shall at all times remain the agent of the MERCHANT for the purposes of this AGREEMENT. The MERCHANT assumes full responsibility for the acts and omissions of any THIRD PARTY SOLUTION PROVIDER and acknowledges that PXP FINANCIAL bears no responsibility or liability for such acts or omissions.

### **19.4. Consumer Data Privacy Policy**

The MERCHANT shall post a consumer data privacy policy on its Site(s) as a condition of CARD SCHEME acceptance in accordance with APPLICABLE LAWS. Additionally, shall display its security capabilities and policies on its Site(s).

### **19.5. Property**

Any equipment supplied by PXP FINANCIAL shall remain the property of PXP FINANCIAL and shall be returned to PXP FINANCIAL upon request.

### **19.6. Severability**

In the event that any provision of the AGREEMENT is void in whole or in part, the validity of the remaining provisions shall not be affected thereby. The parties undertake to replace the void provision by a valid provision, which comes closest to the economic purpose of the AGREEMENT.

### **19.7. Variation**

No variation of the AGREEMENT shall be effective unless made in writing. PXP FINANCIAL is entitled to amend the AGREEMENT from time to time. The MERCHANT shall be notified in writing no later than 60 calendar days before the amendments become effective, unless these amendments are required immediately due to legal or regulatory requirements. Such amendments shall be deemed approved, unless PXP FINANCIAL has received a written objection from the MERCHANT. The notification to the MERCHANT shall point out this consequence and lay out the material content of the amendments. In case the MERCHANT raises an objection, PXP FINANCIAL shall have the right to terminate the AGREEMENT by giving 2 calendar weeks' notice within 6 calendar weeks following the receipt of the objection.

### **19.8. Waiver**

No waiver by PXP FINANCIAL of any breach of this AGREEMENT shall operate as a waiver of any subsequent or continuing breach.

### **19.9. Entire Agreement**

The AGREEMENT together with the relevant RULES constitutes the entire agreement between the MERCHANT and PXP FINANCIAL in relation to the subject matter therein and any previous agreements with similar effect shall terminate immediately on the commencement.

### **19.10. Compliance with Local Law**

The MERCHANT shall ensure compliance with APPLICABLE LAWS in respect of its obligations under the AGREEMENT and

shall immediately notify PXP FINANCIAL of any circumstances that might prevent compliance with APPLICABLE LAWS and/or the AGREEMENT.

### **19.11. Governing Law, Jurisdiction**

The AGREEMENT and all non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law, excluding the UN Convention on Contracts for the International Sale of Goods, the UK conflict of law rules and the UK international private law. The courts of England shall have exclusive jurisdiction to settle any dispute arising out of or in connection with the AGREEMENT. PXP FINANCIAL shall, however, not be prevented from taking proceedings in any other courts with jurisdiction at its sole discretion.

### **19.12 Audit Rights**

No more than once annually during the term of the applicable Letter of Adherence (unless prompted by a request from a regulatory authority or Card Scheme or any event or events giving rise to a security breach pertinent to this Agreement and/or the applicable Letter of Adherence), within seven (7) calendar days' written notice from PXP FINANCIAL, the Merchant will: (a) permit PXP FINANCIAL and/or its duly authorised representatives to access during Merchant business hours such agreed premises or systems on which the Merchant's business trades or where the Merchant's records relevant to its performance or obligations under its Letter of Adherence are located, in order to ascertain if the Merchant is performing its obligations hereunder; and (b) provide all reasonable cooperation in relation to such audit. PXP FINANCIAL shall ensure it shall not disrupt Merchant's business in performing such audit and any data accessed or audit findings shall be deemed Merchant Confidential Information.