

## Special Terms and Conditions for Twispay Services

These Terms and Conditions shall form an integral part of the Merchant Agreement made by and between **CAPITAL FINANCIAL SERVICES S.A.**, a joint stock company registered and functioning under the laws of Romania, having its registered address at 4C Gara Herastrau, Building B, 11th Floor, Room 14, Bucharest, Romania, registered with the Trade Register under no. J40/4352/2011, sole registration no. 22170545, authorized as electronic money institution according to the Authorization Series IEME no. 001 dated 25.04.2013 issued by the National Bank of Romania (hereinafter referred to as "**Twispay**") and **the Merchant** (defined below), in order for the Merchant to receive acquiring services, payment gateway services, handling of funds services, and other services that may be offered by Twispay.

These Terms and Conditions contain important information for the Twispay's merchants and together with all the other contractual documents the Merchant has agreed to sign in order to receive the Twispay's Services, determines the terms and conditions applicable to the business relationship between the Merchant and Twispay and to the Services that Twispay provides to the Merchant.

### 1. DEFINITIONS

1.1 In the Merchant Agreement and in the Terms and Conditions terms used as defined terms shall have the following meanings:

**"3D Secure"** means the "*Three-Domain Secure*" protocol developed by Visa International Inc. (Visa) branded as "Verified by Visa" and "MasterCard SecureCode" developed by MasterCard International Inc. (MasterCard), including successive versions thereof and any amendments thereto.

**"Acquirer"** means a financial institution that is authorised by a Card Scheme to enable the use of a Card by accepting Transactions from merchants on behalf of the Card Scheme, routing these to the Card Schemes or Card Issuers and collecting and settling the resulting funds.

**"Agreement"** means collectively the Merchant Agreement and the Terms and Conditions.

**"Applicable Laws"** means any law, regulation, rule, official directive, request or guideline of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organization, in force and relevant to the Agreement, including the Data Protection Laws.

**"Business Day"** means Monday to Friday, 9 a.m. until 5 p.m. (EET), excluding public or bank holidays in Romania.

**"Card"** means a valid payment instrument, including but not limited to credit or debit cards issued by a Card Issuer.

**"Card Issuer"** means a Card Scheme member who is issuing Cards to the Card Holders according to the Scheme Rules.

**"Card Holder"** means any person to whom a Card is issued or who is authorized to use such Card.

**"Card Not Present Transaction"** means a Transaction by a Card Holder where the Card Holder is not physically present at the point of sale at the time of the Transaction.

**"Card Scheme"** means "MasterCard" and/or "VISA" or other accepted payment networks linked to Cards.

**"Card Scheme Mark"** means the brand identity of a Card Scheme, such as name, term, sign, symbol or combination of them, including and not limited to "MasterCard" and "VISA".

**"Chargeback"** means a dispute of a Transaction raised by the Card Issuer or a Card Scheme, subject to the applicable Scheme Rules (a circumstance where a Card Issuer, Card Scheme or other financial institution requires repayment in respect of a transaction previously settled and/or remitted to the Merchant, notwithstanding that authorization may already have been obtained).

**"Customer"** means a person (individual or legal entity) who order or have ordered goods (e.g., physical, digital) and/or services from the Merchant.

**"Data Protection Laws"** means Regulation (EU) 2016/679 (EU General Data Protection Regulation or GDPR) and any associated regulations or instruments and any other applicable data protection laws, regulations and regulatory requirements applicable in relation to processing of personal data.

**"Excessive Activity"** is when during any calendar month, Merchant's Chargeback exceeds 1% of the transaction value of Transactions processed, if fraudulent transactions exceed 1.5% of the transaction value of Transactions processed, and/or if value of Refunds exceeds 5% of the transaction value of Transactions processed, as these limits may change from time to time.

**"Fines"** means any and all fines, levies, costs, expenses, charges, assessments or imposition of liabilities of any nature which the Card Schemes, other Acquirer or other financial institution require either the Merchant or Twispay to pay or which are otherwise directly or indirectly recovered from Twispay at any time and which relate to any aspect of the Agreement (including the provision of the Services hereunder).

**"Interchange Fee"** the fee set and charged by the Card Schemes for processing and settlement of a Transaction. This shall include any other scheme fees charged by the Card Scheme for the particular Transaction.

**"Merchant"** is the company entering into the Merchant Agreement with Twispay.

**"Merchant Account"** means an online account, which does not constitute a deposit account, registered with Twispay in the name of the Merchant.

**"Merchant Agreement"** means the agreement between Twispay and the Merchant for the provision of the Services to the Merchant, including all annexes and other documents appended thereto by reference.

**"Merchant Application Form"** means the form containing the company, shareholders and officers' information (e.g., KYC info), other information to satisfy Twispay's Know Your Customer requirements, business details, websites, and/or processing and settlement information.

**"Merchant Bank Account(s)"** means a bank account(s) of the Merchant, specified in the Merchant Agreement, to which Twispay makes the Settlement.

**"Merchant Discount Rate"** means a fee in form of a percentage (%) of the Transaction amount, as set out in the Annex 1 (*Services Fees*) to the Merchant Agreement.

**"Party"** means a party to the Agreement.

**"Recurring Transaction"** means a repetitive periodic Transaction for which the Merchant charges the Customer's Card (e.g., subscriptions or instalments).

**"Refund"** means a return of an amount to a Customer's account or the reversal of any other payment pursuant to a request or instruction from the Merchant to Twispay.

**"Rolling Reserve Fund"** means the fund to be accumulated by a deduction from the gross of all processed Transactions, in accordance with clause 5 (*Rolling Reserve Funds*) herein.

**"Scheme Rules"** means all applicable rules, regulations or any operating guidelines related to the use of Card Schemes Marks and of the Services issued by the Card Schemes, as amended from time to time.

**"Services"** has the meaning set out at clause 2 below.

**"Settlement"** (or **"Pay-out"**) means the payment of amounts due by Twispay to the Merchant in accordance with the provisions of the Agreement. "Settle" and "Settled" shall have the corresponding meanings.

**"Service Fees"** means the fees set out in the Annex1 (*Service Fees*) to the Merchant Agreement.

**"Terms and Conditions"** means this version of these terms and conditions of Twispay.

**"Transaction"** means any Card payment from a Customer to the Merchant. Unless the context requires otherwise, a reference to "Transaction" shall include a reference to a Recurring Transaction or a Refund.

**"Transaction Data"** means documents, data and records relating to Transactions (including data relating to Customers) and any other information required under the Scheme Rules or by Twispay for the processing of a Transaction.

**"Twispay Payment Page"** means the payment interface hosted by Twispay or its affiliates or group companies, on which the Card payment details are entered by the Card Holder.

**"Working Instructions"** means any procedures, instructions, guides, notices and other documentation, as provided by Twispay from time to time in relation to the use of the Services by the Merchant.

## 2. SERVICES

2.1 The services provided by Twispay under the Agreement include Card acquiring services, payment gateway services, handling of funds services, fraud control services and other related services such as customer support (hereinafter referred to as the "**Services**"). In accepting the Services

provided by Twispay the Merchant undertakes to comply with the terms of the Agreement, with the Scheme Rules and all the Applicable Laws relating to the supply of goods and/or services by the Merchant.

## 3. PRICING

3.1 The Merchant shall pay to Twispay the Service Fees set out in the in Annex 1 (*Service Fees*) to the Merchant Agreement or as notified to the Merchant in accordance the below provisions.

3.2 Twispay reserves the right to charge any additional administrative or technical actions required for the Merchant in relation to a payment Transaction or to the Services (including but not limited to, dedicated/personalized reports, technical implementation of new features etc.).

3.3 Twispay reserves the right to make changes to the Service Fees or to introduce new fees, at any time upon giving the Merchant not less than fifteen (15) Business Days prior written notice before such modification comes into effect.

3.4 If Twispay notifies the Merchant of an increase in or any additional fees in accordance with the clause 3.3 and the Merchant continues to use the Services or foregoes to refuse acceptance of the new terms explicitly within fifteen (15) Business Days from receipt of Twispay's notification of the change, this constitutes acceptance of the new terms of the Agreement.

3.5 The Merchant acknowledges that the blended Merchant Discount Rate is assessed by Twispay based on traffic characteristics provided by the Merchant including but not limited to the average ticket size, and the volume of

Transactions. If the actual traffic differs materially from the figures provided by the Merchant, Twispay has the right to proportionally adjust its fees, based on the actual then-current traffic characteristics. One of the reasons for this is that certain types of Transactions are subject to higher Interchange Fees and higher Card Scheme fees (e.g. corporate cards, cards issued outside of Europe, etc.). For the purpose of this clause, "traffic" means the profile of Merchant Transactions, including the volume of Transactions, average ticket size, spread across payment methods, geographical spread and other relevant information.

3.6 For the avoidance of doubt, clauses 3.3 and 3.4 does not apply to any communicated increase of fees charged by Card Schemes or by other Acquirers (when applicable) or for the use of the relevant payment methods (e.g. in case the Interchange Fee is increased by the relevant Card Scheme) or due to changes in Applicable Laws.

3.7 The Merchant hereby expressly authorizes Twispay to debit from the Merchant Account all Services Fees as well as any other sums due to Twispay under the Agreement.

3.8 Fees charged for executing the original Transaction will not be refunded in part or in whole to the Merchant if the Transaction is Refunded or made subject to a Chargeback.

### ***Blended Pricing Model***

3.9 The Merchant requests that a total blended Merchant Discount Rate per Transaction, for specific combinations of categories and brands of Cards, should be charged.

3.10 The Merchant Discount Rate that is charged to the Merchant is composed of the interchange fee, the Card Scheme fee, and a service fee.

The interchange fee is a compensation which Twispay, as an acquirer, is required to directly or indirectly pay to the Card Issuer (typically a bank) for every Transaction. The interchange fee amount is determined by several factors, such as the type of authentication and security (chip, contactless, 3DSecure, magnetic card strip, etc.), the brand and type of Card (corporate or consumer, debit, credit, prepaid, etc.), as well as the geographical location of the Merchant and the Card Holder. For consumer cards issued in the EU, the EU legislation imposes a maximum of 0.2% per transaction for transactions with debit cards, and 0.3% for transactions with credit cards.

The Card Scheme fee relates to the costs associated with the services rendered by the Card Schemes with respect to transactions — such as the costs of clearing, connectivity and marketing. The Card Scheme fee amount is determined by various factors, such as the origin of the Card Holder, the Card Scheme, the type of Card and the transaction amount.

## **4. RIGHTS AND OBLIGATIONS**

### ***General***

4.1 The Merchant shall during the entire term of the Agreement, and for such period as may reasonably be required thereafter by Twispay for the purposes of any applicable provisions of the Agreement, maintain in the Merchant's name the Merchant Bank Account for the purpose of receiving the Settlement amounts from Twispay.

The service fee is Twispay's compensation for the services that directly relate to the effective processing of Transactions — such as the processing, payment gateway services, fraud control and reporting.

3.11 The interchange fee and Card Scheme fee will be charged at a pass-through basis, depending on the category of the Card (debit card / credit card / prepaid card), the Card brand, as well as several other parameters, such as the Transaction amount, Card type, the origin of the Card Holder, the authentication and security used, as determined in accordance with the Scheme Rules.

3.12 The service fee will not be established in advance, because it is the outcome of the following calculation, and is therefore variable: (Merchant Discount Rate) minus (-) interchange fee minus (-) Card Scheme fee.

3.13 Upon Merchant's request, at the end of every month, Twispay will provide the Merchant, with an overview of the Transactions, aggregated per Card Scheme, Card category (such as, debit/credit, business/consumer). Per aggregate category, the number of Transactions, the value of Transaction in the same currency in which it has credited the Merchant's account, the Merchant Discount Rate already paid, the level of interchange fees and of Card Scheme fees will be shown.

4.2 The Merchant must be registered as a business entity within any of the European Economic Area (EEA) countries or Switzerland.

4.3 The Merchant may add any additional websites/URL(s) only with the prior approval of Twispay.

4.4 The Merchant shall pay all the Service Fees for the performed Services and shall recognize the right of Twispay to modify such fees or to introduce new fees, in accordance with clause 3 of the Terms and Conditions.

4.5 The Merchant shall only accept payment in respect of goods and services which are offered by the Merchant itself, unless have obtained a written prior approval from Twispay.

4.6 The Merchant shall, where so required by the Scheme Rules or by Twispay, procure that additional guarantees/security interest (including additional collateral) are promptly given by it or by such person or persons as Twispay may require in respect of all or any of the Merchant's obligations and liabilities from time to time under the Agreement. Merchant also agrees to undertake, at its own expense, any further action (including, without limitation, executing any necessary documents and registering any form of document reasonably required by Twispay to allow Twispay to perfect any form of security interest or otherwise) required to establish any form of security in a manner reasonably determined by Twispay.

4.7 If Merchant defaults on its obligation under clause 4.6 above, Twispay may at its sole discretion, decide whether the Agreement remain in full force or be terminated with immediate effect.

4.8 If at any time the Merchant becomes aware that a representation or warranty given by it under the Agreement has been breached, is untrue or is misleading, it shall immediately notify Twispay of the relevant occurrence in sufficient detail to enable Twispay to make an accurate assessment of the situation.

#### ***Use of Trademarks***

4.9 The Merchant shall display on the website the Card Scheme Marks only in accordance to the applicable Scheme Rules.

4.10 The Merchant shall adequately display the promotional sign(s) and any other materials provided by Twispay for use on its websites and to only use names or designs prior approved by Twispay to indicate that Card Schemes are accepted for payment and processed by Twispay in a secure internet environment.

4.11 The Merchant shall not alter or distort any trademarks, not to display one Card Scheme Mark or other online banking payment methods name, trademark or logo more prominently than the ones from the other, indicate that any Card Scheme endorses its products or services or violate the Scheme Rules related to the use of any trademark or other intellectual property.

#### ***Use of Services***

4.12 Twispay will not be obliged to start providing the Services unless and until Twispay announce the Merchant of its approval to do so.

4.13 The Merchant shall not use the Services to process Transactions in relation to goods or services that are prohibited by the Scheme Rules and/or by the Applicable Laws, including, but without being limited to: pornography, drugs, illegal trading of medicine, tobacco and/or alcoholic products, body parts or human remains, weapons or explosive materials, counterfeit or illicit goods, violation of intellectual property rights, and any other goods and services which Twispay reasonably considers would have an adverse effect on Twispay's image or reputation as a result of providing Services in relation of such goods/services.

4.14 The Merchant shall only use the Services to process Transactions in relation to goods or services that: (i) the Merchant has supplied, or has contractually agreed to supply, to a Customer; (ii) are of the nature specified in the Merchant Application Form and/or in the Merchant Agreement and are rendered as part of the Merchant's normal business operations as stated therein; (iii) are sold through a website(s) or other points of sale approved in advance by Twispay; (iv) are not sold on behalf of third parties; and (v) are not prohibited by the Scheme Rules, by the Agreement and/or by the Applicable Laws.

4.15 Merchant understands and agrees that Twispay may immediately terminate or suspend the Agreement in case the Merchant has materially changed the type of its goods and/or services, without obtaining the Twispay's prior written approval

to use the Services for the new or changed types of goods and/or services sold.

4.16 When submitting Transaction Data to Twispay, the Merchant warrants to Twispay that the related goods, services or other facilities will be supplied in accordance with any agreement between the Merchant and the relevant Customer.

4.17 The Merchant acknowledges the Twispay's right to suspend its Services for operational reasons, such as maintenance. Furthermore, Services (including processing of Transactions and/or Settlements) may also be suspended and/or delayed due to an emergency or indication of fraud, risks or for compliance with the obligations under applicable Scheme Rules or other Applicable Laws or for other reasonable grounds or at the request of a Card Scheme, other Acquirer or a regulator or other competent authorities. In such case, the Merchant shall not be entitled to any interest or other compensation whatsoever in respect of suspension or delay in receiving the Settlement amounts.

4.18 The Merchant shall not submit to Twispay any transactions which the Merchant knows or should have known that is fraudulent or not authorized by the Card Holder, or which Merchant knows or should have known that is authorized by a Card Holder colluding with the Merchant for a fraudulent purpose. Twispay may at its sole discretion refuse to process or to cease processing Transactions that it believes to be illegal or fraudulent.

4.19 All Card Not Present Transactions shall be submitted to Twispay for processing through the Twispay Payment Page as payment interface, unless otherwise agreed in the Merchant Agreement.

4.20 If the Merchant opted out of 3D Secure authentication (e.g., non 3D Secure) or opted for 3D Secure with fallback, the Merchant understands that a higher pricing may be applied, and other restrictions may be applied by the Card Schemes.

4.21 Twispay shall not be liable for any delays in the authentication response time or other malfunctioning of 3D

Secure authentication, where such malfunctioning is caused by third parties such as, but not limited to, the Card Issuer and their 3D Secure providers.

4.22 The Merchant shall notify Twispay without delay after discovering an unauthorized or suspicious Transaction. Furthermore, the Merchant must check its Customers authorization if the Merchant has reasonable grounds for believing that the person is not the person whose details have been presented for the purpose of the Transaction.

4.23 The Merchant acknowledges Twispay's rights to reject on payment any Transaction which is or may not be valid according to the Scheme Rules and the contractual provisions and other Applicable Laws; such incidents may include and not limited to, amongst others: (i) if either Twispay or the Merchant have reason to believe that the Customer and/or the Transaction Data has been or potentially will be involved in fraudulent activity; (ii) Merchant's Excessive Activity; and/or (ii) the Merchant's practice is not in accordance with the Agreement and/or the Scheme Rules or the Applicable Laws.

4.24 The Merchant expressly agrees and consents that Twispay may, upon its sole discretion, unilaterally and with no prior notice: (i) limit the maximum amount of a Transaction; (ii) and/or, based on its own internal risk assessment, (ii) limit the monthly Transactions' volume of the Merchant.

4.25 The Merchant has the obligation to make available to Twispay, upon the Twispay's sole request, any justifying documents such as and not limited to, as applicable, shipping documents, delivery notes, and other documents of registrations which can confirm the dispatch of the products and/or the performance of services, as these are deemed considered necessary by Twispay and/or by the Scheme Rules for the purpose of the respective Transactions.

4.26 The Merchant shall make available to Twispay all the required Transaction Data for the processing, securitization and settlement of the Transactions and/or Refunds performed pursuant to the Agreement.

**Customers**

4.27 The Merchant shall provide such information to the Customers on its website and in other commercial communications to Customers as is required pursuant to the Applicable Laws of its country of origin and of those countries in which it offers its goods and/or services.

4.28 The Merchant shall be solely responsible for compliance with identity and age verification (where applicable) and geolocation or other obligations imposed on the Merchant due to the nature of its business under Applicable Law.

4.29 The Merchant shall disclose to the Customer, at the time of the Transaction any limitation it has on accepting returned goods or services.

4.30 The Merchant shall provide on its website the following information to a Customer for every Transaction: (i) complete description of the goods or services offered, (ii) returned merchandise and refund policy, (iii) customer service contact (including email address and/or telephone number), address, (iv) delivery policy, Merchant's consumer data protection policy and (v) all other legally required information to be provided to the Customer in the relevant jurisdiction.

**Recurring Transactions**

4.31 For each Recurring Transaction the Merchant is required to obtain a prior express Recurring Transaction consent from the Customer, at the point of checkout or sale, for the Merchant's goods and/or services sold using the Services. The Merchant must provide the Customer with the following information when obtaining consent: (i) the amount of the Recurring Transaction; (ii) whether the amount is fixed or variable; (iii) the date of the Recurring Transaction; (iv) whether the date is fixed or variable; (v) an agreed method of communication for all future correspondence with the Buyer; and (vi) a statement that the Customer may cancel the Recurring Transaction at any time.

4.32 The Merchant must, using the agreed method of communication, provide the Customer with a confirmation that a Recurring Transaction agreement has been entered. This confirmation must be provided within two (2) business days of entering that Recurring Transaction agreement, which must be separate from the sales agreement.

4.33 The Merchant must notify the Customer via the agreed method of communication at least seven (7) business days prior to a Recurring Transaction payment being charged to the Customer's Card if (i) more than six (6) months have elapsed since the last Recurring Transaction payment; (ii) a trial period or promotional activity has expired; (iii) the payment amount has changed; or (iv) the payment date has changed.

4.34 The Merchant must not debit or attempt to debit the Customer's Card after being notified of the cancellation of the Recurring Transaction consent or the consent has expired.

4.35 The Merchant should retain securely the Recurring Transaction consent for at least a period of eighteen (18) months after the date of the final Transaction effected under it. Merchant shall provide the Recurring Transaction consent to Twispay on first demand.

4.36 For the avoidance of any doubt, the Merchant shall not accept Recurring Transactions without the prior written consent of Twispay.

**Chargebacks**

4.37 All Card Not Present Transactions are at Merchant's risk. Merchant acknowledges and agrees each and every Transaction that has been processed, may be subject to a Chargeback in accordance to the Scheme Rules.

4.38 In case of a Chargeback, Twispay shall immediately be entitled to recover from the Merchant the full amount of the Chargeback and any other costs, expenses, liabilities or Fines incurred as a result of or in connection with such Chargeback by deduction from the Merchant Account and/or from the Rolling

Reserve Funds provided herein and the Merchant will be notified by Twispay of such Chargeback.

4.39 A Chargeback represents an immediate liability of the Merchant to Twispay.

4.40 The Parties shall cooperate to resolve all Chargebacks in a timely manner and to minimize their amount from time to time.

4.41 Should the Merchant wish to contest a Chargeback, it has to notify Twispay, as instructed, and supply it with all and any supporting documentation supporting its claim, in accordance with the applicable Scheme Rules.

4.42 Twispay is under no obligation to investigate the validity of any Chargeback by any Card Issuer or Card Scheme, whose decision shall be final and binding in respect of any Chargeback.

4.43 The Merchant shall compensate Twispay for any losses, expenses, risks suffered by Twispay resulting from the possible complaints made by the Card Holders regarding the Transactions between them and the Merchant. As Chargebacks may arise a considerable period after the date of the relevant Transaction, Twispay shall remain entitled to recover Chargebacks and any related costs from the Merchant in respect of all Chargebacks, even after the termination of the contractual relationship between the Merchant and Twispay.

4.44 The Merchant shall compensate Twispay for any Chargebacks situations, losses, expenses, risks that may arise, even if the Agreement shall be terminated due to an insolvency procedure being brought against the Merchant. In this respect, the Merchant authorizes Twispay to deduct any claims from any and all accounts or sums brought as security interest by the Merchant for the execution of the Agreement.

4.45 The Merchant agrees and confirms that it shall remain solely liable after the termination of the Agreement for all Chargebacks, Refunds, Fines, penalties, loss, damages or cost incurred by Twispay and/or other Acquirer, the Card Schemes

and for all claims and proceedings arising against Twispay and/or other Acquirer with respect to the Services.

### **Refunds**

4.46 A Refund only arises in circumstances where there is an originating Transaction which is being reversed or partially reversed.

4.47 Twispay reserves the right not to execute a Refund (meaning the relevant sum will not be returned by Twispay to the relevant Card Holder) in case the funds for this cannot be subtracted from the next Settlement.

4.48 Merchant may not provide Refunds to a Customer for a previously processed Transaction using a different payment method than the method used for the original Transaction.

4.49 Twispay reserves the right to refuse to execute a Refund if it is prohibited by the Applicable Law or does not meet the conditions of the Agreement. Twispay also reserves the right to suspend Merchant's "*refund functionality*" (or to limit such functionality) provided by Twispay and this is where the Merchant is placed under fraud investigation, is deemed by Twispay to be generating an excessive number of Chargebacks or Refunds, and/or for any other risk related reasons. Twispay will notify the Merchant of such refusal or suspension or limitation, subject to any restrictions by the Applicable Law, indicating the reasons for such refusal or suspension or limitation and the procedure for correcting factual mistakes that led to it where possible.

### **Security**

4.50 The Merchant shall handle the communication with the Customers via a connection that is secured against data manipulation (e.g., SSL encryption).

4.51 The Merchant shall not attempt to find out Card data and not to keep or store such Card data. The Merchant shall not, at any time, store any Transaction data the storage of which is prohibited by any Card Scheme and/or by the PCI DSS (as

defined below), including authorisation data such as CVV, CVV2 and/or PIN verification data.

4.52 When it results from the integration method, the Merchant acknowledges and agrees to abide by, and ensure that all equipment and software it uses in connection with the transactions and the storage and/or processing of Transaction Data complies with, the Payment Card Industry Data Security Standards ("PCI DSS"). The Merchant hereby agrees to pay all penalties that may be assessed by the Card Schemes and other institutions as a result of Merchant's breach of its duties. The Merchant will review and monitor the requirements on a regular basis. The Merchant shall ensure that any of its agents, sub-contractors or any third parties used by it in relation to the transactions, if the case, is aware of and shall comply with the terms of this clause. The Merchant shall, promptly on request of Twispay or Card Scheme, provide evidence of PCI DSS compliance.

4.53 Merchant undertakes to introduce, comply with and maintain new procedures as they may change from time to time as published on [www.visaeurope.com](http://www.visaeurope.com), [www.visa.com](http://www.visa.com), [www.mastercard.com](http://www.mastercard.com) and [www.pcisecuritystandards.org](http://www.pcisecuritystandards.org). Twispay may specify a time limit for compliance. The Merchant shall accept, upon Twispay request, to implement specific securitization measures to secure the Transactions.

4.54 The Merchant agrees to co-operate with Twispay in respect of, and authorizes Twispay to investigate, any suspected illegal or fraudulent activity, including without limitation, returning to Twispay any amount that the Merchant holds to the credit of a Customer that Twispay suspects is the subject of any illegal or fraudulent activity and providing Twispay with information on any Customer's Transaction with the Merchant.

4.55 In all cases where Twispay reasonably suspects that the Merchant has a substantial percentage of fraudulent Transactions, the Merchant shall have the obligation to respond to any fraud related questions submitted by phone or e-mail by the next Business Day and propose reasonable measures to reduce the fraud and to avoid any future frauds.

4.56 The Merchant shall keep and treat the Merchant Account log-in name, password, account key and other credentials and information specific to the Merchant Account confidential and in a safe and secure place.

4.57 The Merchant shall ensure that manipulation of data entries in relation to Transactions and personal data of Customers in its business operations, in particular improper use of computers or other devices by staff or unauthorised persons, is not possible, by providing and maintaining appropriate security devices, procedures, methodologies and protocols.

4.58 The Merchant is responsible for any access and use of the Merchant Account irrespective of whether such access and use were authorised by the Merchant.

#### ***Records and Merchant information***

4.59 The Merchant will securely preserve written records of Transaction Data and shall provide Twispay with a copy of such data, upon the latter's request. After the termination of the Agreement, the Merchant will continue to securely preserve Transaction Data (to the extent permitted by the Applicable Laws) for a period of minimum two (2) years, or for a longer period as required by the Applicable Laws and/or the Scheme Rules.

4.60 The Merchant shall permit Twispay or any auditing competent authority to audit the activities of the Merchant for the purpose of: (i) auditing compliance with the terms of the Agreement; (ii) fulfilling its obligations under any Applicable Laws and/or Scheme Rules; (iii) risk management procedures and observation of the nature of the products and services being sold.

4.61 Upon request from Twispay, the Merchant shall provide Twispay additional information about the Merchant's business including financial statements suitable to Twispay. If the Merchant defaults on its obligation to provide Twispay with such additional information including financial statements, Twispay may at its sole discretion, decide whether the

Agreement remain in full force or be terminated with immediate effect.

#### ***Notifications to Twispay***

4.62 In order to enable Twispay to comply with anti-money laundering and countering financing of terrorism, financial services and other applicable laws and regulations, and KYC ("Know Your Customer") requirements imposed by the Card Schemes or other Acquirer, Merchant must whenever enter into the Merchant Agreement and thereafter on Twispay's first request, provide information about itself, its activities and its shareholders (the "Registration Information"). Merchant hereby authorizes Twispay to submit Registration Information received from Merchant to the relevant Card Schemes and other Acquirers to obtain permission for providing access to their payment methods for Merchant and to run further checks on Merchant's identity, creditworthiness and background by contacting and consulting relevant registries, agencies and governmental authorities.

4.63 The Merchant shall promptly inform Twispay in writing about any material change to the Registration Information provided to Twispay, including its address, registered premise, structure of its shareholders/associates, ultimate beneficial owners, legal representatives, numbers of telephone, fax, e-mail addresses, contact persons, power of representation, its legal status and other information that may be deemed relevant by Twispay, with full details of such change and any supporting documents reasonably required by Twispay.

4.64 The Merchant shall immediately notify Twispay of any material change in the nature or extent of the Merchant's business.

4.65 The Merchant shall notify Twispay in writing with a reasonable time in advance if the Merchant wishes to change the Merchant Bank Account(s).

4.66 The Merchant shall promptly inform Twispay if the Merchant ceases to be the owner/operator of its approved website(s).

4.67 The Merchant shall promptly notify Twispay with regards to any pending insolvency claims or if, as a result of an internal or external audit of the Merchant's business and/or financial statements, the report may conclude that the Merchant is at risk of being declared insolvent or bankrupt.

4.68 The Merchant shall promptly notify Twispay with regards to any insolvency claim being brought against it or in the case it will submit a claim with the court, requesting for an insolvency procedure to be opened against it at its own request. This notice shall be sent no later than one (1) day from the moment any insolvency claim is communicated by the court or the plaintiff to the Merchant.

4.69 If the Merchant defaults on its obligation to notify as per the above clauses, Twispay may at its sole discretion decide whether the Agreement remain in full force or be terminated with immediate effect.

#### ***Audit***

4.70 The Merchant shall permit the authorised representatives of Twispay and/or of the Card Schemes to carry out physical inspections of the place(s) of business or other facilities of the Merchant to verify if the Merchant is in compliance with its obligations hereunder. The costs of the audit (including for external auditor and experts) shall be borne by the Merchant.

4.71 If the Merchant refuses such inspection or provides inaccurate, untrue, or incomplete information, or fails to comply with the terms and conditions of the Agreement, Twispay reserves the right to suspend or terminate the Services, in full or in part, with immediate effect.

## 5. ROLLING RESERVE FUNDS

5.1 The Rolling Reserve Fund shall be held in special separated account(s) opened by Twispay in the name of Twispay with a credit institution of its choosing, to which the Merchant has no right of signature, right to decide upon or right to make any claims over it or to request or operate any transactions.

5.2 For the avoidance of any doubt, the Parties understand and agree that the Rolling Reserve Fund is not an actual deposit account and will not bear interest.

5.3 The Rolling Reserve Fund shall ensure to protect Twispay against any possible claims, reversals, Refunds, Chargebacks, Fines, post-termination Chargebacks, post-termination Fines, cessation of Merchant's activity, insolvency/bankruptcy of the Merchant and other cases where the Merchant shall be liable towards Twispay pursuant and in relation to the Agreement.

5.4 Twispay may use the Rolling Reserve Fund to deduct any and all amounts owed to it or to be owed by the Merchant pursuant to the terms of the Agreement and also to cover any losses resulted from the failure of the Merchant to comply with the Working Instructions and/or with the provisions of the Agreement and/or with the Scheme Rules.

5.5 The Merchant acknowledges that the Rolling Reserve Fund represent a guarantee (cash collateral) and the amount representing the Rolling Reserve Fund may be utilized unconditionally by Twispay as per the terms of the Agreement, without any approval of the Merchant at any moment.

5.6 Immediately upon a written notification to the Merchant, Twispay at its sole discretion, may change (e.g., increase) the Rolling Reserve Fund and/or the terms of the Rolling Reserve Fund (e.g. release term), when Twispay deems justified, including but not limited to: (i) based on Merchant's payment processing history; (ii) the Merchant opens a significant number of new websites; (ii) the volume of Transactions is steeply increasing; (iv) warnings or assessments received from

a Card Scheme or other Acquirer, regulator or a competent authority; (v) Chargeback, Refunds and/or fraud levels are excessive in the opinion of Twispay; and/or (vi) significant deterioration of the Merchants financial standing.

5.7 Following the termination of the Agreement, the remaining balance of Rolling Reserve Fund withheld from the Merchant and unreturned until the date of termination will be returned by Twispay as it follows:

- a) 50% of the remaining balance of Rolling Reserve Fund at the end of one hundred and eighty (180) days since the termination of the Agreement; and
- b) 50% of the remaining balance of Rolling Reserve Fund at the end of the second cycle of one hundred and eighty (180) days since the release of the first half of the Rolling Reserve Fund.

5.8 Clause 5.7 above is without prejudice to Twispay's rights to deduct or set-off any and all liabilities of the Merchant from the Rolling Reserve Fund or from any Settlement amounts after the termination of the Agreement, including without prejudice to its rights under clause 5.6 above.

5.9 The Merchant hereby agrees that it will remain liable for all obligations related to its Transactions even after the release of any of the remaining Rolling Reserve Fund in accordance with the Agreement.

5.10 Without prejudice to any other provision of the Agreement, any failure by the Merchant to comply with any requirements under this clause 5 (*Rolling Reserve Funds*) entitles Twispay to terminate or suspend the Agreement with immediate effect.

5.11 The Parties hereby agree that the rights of Twispay with respect to the Rolling Reserved Fund shall survive the termination of the Agreement and shall remain in full force in the case of an insolvency procedure against the Merchant.

## 6. MERCHANT SETTLEMENT AND SET-OFF

6.1 The funds from the Card Holders charged for the validly processed Transactions of the Merchant are paid by the Card Scheme or by other Acquirer partner or other financial institutions to Twispay. Subject to clause 6.2 below, Twispay will subsequently settle the received funds to the Merchant in the Merchant Bank Account(s).

6.2 The Settlement amounts, which shall get credited to the Merchant Bank Account(s), will represent the total Transaction settled minus (-) the following:

- a) Any amounts involved in Chargebacks, reversals, Refunds, Fines, reimbursements or any other entitlements or sums to be paid to the Card Schemes or to the Merchant's Customers or other Acquirers, regulators or national authorities;
- b) Any amounts subject to the Rolling Reserve Fund;
- c) All the Service Fees, charges or amounts due by the Merchant to Twispay in accordance with the Agreement;
- d) Any liability of the Merchant to Twispay as contemplated by clause 6.3 below.

6.3 Without prejudice to Twispay's rights to deduct or set-off liabilities of the Merchant from the Rolling Reserve Fund, Twispay may at any time without notice to the Merchant, set-off any liability or potential liability of the Merchant to Twispay against any liability of Twispay to the Merchant or against any amount then attributed to the Merchant and held in the Merchant Account.

6.4 Any exercise by Twispay of its rights under clause 6.3 above shall be without prejudice to, and shall not limit or affect, any other rights or remedies available to Twispay under the

## 7. TERMINATION

7.1 The Agreement may be terminated totally or only for certain websites at any time by any Party by giving not less than thirty (30) days prior written notice to the other Party.

Agreement or otherwise provided by law. If the liabilities to be set-off are expressed in different currencies, Twispay may convert either liability at a market rate of exchange it can reasonably obtain for the purpose of the set-off.

6.5 If Twispay becomes aware of any claims, any action in connection with the Agreement or any Fines (in each case, whether actual or potential) for which the Merchant may be liable, or concludes that any such claims, action or Fines may arise, Twispay may (notwithstanding any other provisions of the Agreement) delay making any Settlements which would be due to the Merchant until either: (i) the relevant liability is incurred (when Twispay shall pay to the Merchant the balance of the Settlement, if any, after deducting the amount of such liability); or (ii) Twispay is satisfied that no such liability will be incurred.

6.6 Twispay may delay making any Settlement due to the Merchant, when: (i) the Merchant suspends or ceases or threatens to suspend or cease to carry on its business; (ii) the Merchant ceases to make payments in the ordinary course of business; (iii) the Merchant is in the process of being, dissolved or wound up.

6.7 The Merchant shall not be entitled to any interest or any other compensation whatsoever in respect of any Settlement amounts held by Twispay for any period for which Settlement may be deferred under this clause.

6.8 Twispay is obliged to provide Settlements of Transactions for which it has received settlement form the Card Schemes or, when applicable, from other Acquirer or other financial institution.

7.2 Without prejudice to any other provision of the Agreement, Twispay may immediately suspend or terminate the Agreement in full or in part, with no prior notification or without any further formalities or intervention of any court/authority in the following cases:

- a) The Merchant fails to comply with the Merchant Agreement, with the terms and conditions provided hereby and with the obligations provided hereunder, with the Working Instructions, with the Scheme Rules or the Applicable Laws;
- b) The Merchant breaches a representation or warranty provided under the Agreement;
- c) The Merchant, whether by action or omission, does anything which Twispay believes is harmful to the reputation of Twispay or to the Card Schemes;
- d) Merchant's business practices cause, in Twispay's absolute discretion, a risk of loss or any other event or series of events whether related or not (including, without limitation, any material adverse change in the business assets or financial condition of the Merchant) which in the opinion of Twispay may affect the ability or willingness of the Merchant to comply with all or any of its obligations or meet all or any of its possible liabilities under the Agreement;
- e) The Merchant engages in any trading practices or other activity which might give rise to fraud or any other criminal activity or suspicion of fraud or any other criminal activity, in particular money laundering;
- f) The Merchant changes its business in a substantial way;
- g) The Merchant merges with another company or has a change of control regarding its ownership without obtaining the prior written approval from Twispay;
- h) Complete cessation of the Merchant's activity or inactivity for a period of three (3) months (i.e., if for a period of three (3) consecutive months the aggregated Merchant's processed volume is below EUR 3,000);
- i) In case of Excessive Activity;
- j) The Merchant does not have or no longer has sufficient regulatory licences, consents or permits required for operating its business in accordance with the Applicable Laws;
- k) Initiation of the Merchant's insolvency, bankruptcy or liquidation or anything analogous to any of this occurs under the Applicable Laws of any jurisdiction in relation to the Merchant;
- l) Distraint over the Merchant's goods, garnishment over its accounts;
- m) Twispay obtains any information or is informed by the Merchant itself with regard to a possible insolvency/bankruptcy procedure being brought against the Merchant or in the case that an insolvency/bankruptcy procedure claim has been registered with the courts against the Merchant, including when the claim has been registered by the Merchant itself and/or Twispay obtains any information with regards to the fact that the Merchant may become insolvent or bankrupt;
- n) When Twispay is requested to do so by a Card Scheme, other Acquirer partner or by a regulator or a competent authority or under the Scheme Rules or Applicable Law;
- o) A Card Scheme, other Acquirer or financial institution or any other third party ceases to provide Twispay with any service necessary for Twispay to provide Services to the Merchant;
- p) In any other cases regarded as justified by Twispay, when in Twispay's reasonable opinion, the Merchant is not suitable to receive the Services.

7.3 Where circumstances entitle Twispay to terminate or suspend the Agreement in whole or in part, Twispay shall not be obliged to do so. Any failure by Twispay to exercise any right of termination or suspension under the Agreement shall not have the effect that Twispay in general or in the future has waived the exercise of such right or that it approves of the Merchant's behavior giving rise to such right or that it waives any claims against the Merchant

7.4 On the termination of the Agreement, the Merchant shall immediately pay Twispay all amounts owed by the Merchant under the Agreement and, for the avoidance of any doubt, and following such termination, Twispay shall remain entitled to set-off or deduct sums in accordance with the provisions under clause 5 (*Rolling Reserve Funds*) and clause 6 (*Merchant settlement and set-off*), and maintain a Rolling Reserve Fund under clause 5 (*Rolling Reserve Funds*).

7.5 In the event that such retained amount as per above clause is not sufficient to cover all outstanding amounts of the Merchant post termination, the Merchant shall ensure that it pays Twispay all pending amounts within 10 (ten) Business Days

of receiving the demand notice and shall at all times keep the Twispay indemnified in this respect.

7.6 The Parties recognize that, even after the effective termination of the Agreement, reimbursements may take place (e.g., due to transaction disputes initiated by Card Holders - Chargebacks) that relate to Transactions performed during the term of the Agreement.

7.7 The Parties hereby agree that following the termination of the Agreement (for any or no reason), the provisions regarding confidentiality, data protection and

## 8. INTELLECTUAL PROPERTY RIGHTS

8.1 The Merchant acknowledges that all rights, title and interest, including all copyright, trademark and other intellectual property rights, in and to the Services and all components used in the provision thereof, including without limitation, all software, APIs, API instructions, equipment, business methods, business processes, website designs, graphics, text, content, trade names, trade secrets and know-how, and all documentation in relation to the foregoing, subsisting in or used in the connection with the Services ("**Intellectual Property Rights**") shall be and remain the sole property of Twispay or its licensors.

8.2 Twispay grants to the Merchant a non-exclusive and non-transferable license to indicate on its websites and in any off-line promotional materials, logos and trademarks of Twispay for the sole purpose of indicating the use of the Services. The Merchant shall use such logos / trademarks in accordance with Twispay's directions for the use of such trademarks. The Merchant shall not have any rights to grant sub-licenses to its affiliates and to any third parties.

8.3 The Merchant hereby grants Twispay an irrevocable, royalty free and non-exclusive right for the term of the Agreement to use its trademark and logos on its websites and in off-line publications, for promotional purposes.

transaction safety, liability, Rolling Reserve Fund, Chargebacks (even if the Chargebacks are initiated after the date of termination), Fines, Refunds, security interest granted hereby, governing law, jurisdiction and other terms which may imply to survive termination shall remain in full force.

7.8 After termination of the Agreement, the Merchant is no longer entitled to use the Card Scheme's Marks and Twispay's names, logos, trademarks and other references and shall cease to use the Services and the intellectual property rights granted under the Agreement.

8.4 The Merchant shall display any of the Card Scheme Marks only on the Merchant's promotional materials and website to indicate that the Card Schemes are accepted as funding sources for Transactions. Such Card Scheme Marks shall be adequately displayed on the Merchant's website to inform the public that any of the Card Scheme's Cards will be honored at the Merchant's website.

8.5 Any use of Card Scheme Marks shall comply with the Scheme Rules and other requirements of the Card Schemes.

8.6 The Merchant shall not do anything that may infringe upon or in any way undermine Twispay's or Card Schemes' rights, title and interest. The Merchant agrees that it shall not use Twispay's or Card Schemes' Intellectual Property Rights for any other purpose than those expressly set forth in the Agreement. The Merchant will refrain from any action during the term of the Agreement that would be detrimental to, injure or impair the title, ownership, validity or enforceability of any of Twispay's or Card Schemes' Intellectual Property Rights.

8.7 The Merchant shall indemnify Twispay for any liability incurred by Twispay to third parties for any use of Twispay's or a Card Scheme's Intellectual Property Rights by the Merchant otherwise than in accordance with the Agreement or the Scheme Rules.

## 9. LIMITATION OF LIABILITY

9.1 The Merchant expressly agrees that the use of the Services provided by Twispay is at Merchant's sole and exclusive risk. The Services are provided on an "as is" and "as available" basis. Twispay expressly disclaims all warranties of any kind to the maximum extent provided by law. Twispay makes no warranty that the Services will be uninterrupted, secure or entirely error-free or that all defects are capable of correction or improvement.

9.2 The Merchant understands and agrees that to the maximum extent permitted by the Applicable Law, in no event Twispay or any of its affiliates shall be liable for any damages whatsoever to the Merchant, the Merchant's clients or to any person or entity claiming rights (including, without limitation, damages for loss of business profits, business interruption, business opportunity, loss of data, and for other special, exemplary, punitive, indirect, incidental or consequential damages or any other pecuniary loss) related to, based upon, or arising out of the Agreement, the Services provided by Twispay, even if the Merchant has been advised, had other reason to know, or in fact knew of the possibility of such damages. The Merchant acknowledges that the foregoing sentence reflects an informed, voluntary allocation between the Parties of the risks (known and unknown) that may exist in connection to the Agreement, that such voluntary risk allocation was a material part of the negotiations between the Parties, and that the economic or other terms of the Agreement were negotiated and agreed to by the Parties in reliance on such voluntary risk allocation.

## 10. CONFIDENTIALITY

10.1 The Parties agree and acknowledge that the term "**Confidential Information**" includes all information of commercial or strategic value about the disclosing Party or its directors, officers, employees, licensees, customers, contractors,

9.3 Twispay shall not bear any liability in relation to any decision of any regulator or competent authority, other Acquirer, Card Issuer or Card Scheme. Twispay shall not bear any liability for acts or omissions of third parties, including Card Schemes and other Acquirers.

9.4 The Parties acknowledges that nothing shall restrict or limit Merchant's liability with regards to Chargebacks, Refunds and any Fines in its relationship with Twispay.

9.5 The Merchant agrees to indemnify and hold Twispay and/or any of its affiliates harmless from any and against all losses, claims, Fines or other damages and expenses of any kind, including legal costs incurred by Twispay and/or any of its affiliates arising out of or in relation with an intentional or negligent breach of the Agreement, the Scheme Rules or Applicable Laws. It is understood that the preceding sentences do not limit any other legal remedies that Twispay may have for breach of the Agreement by the Merchant.

9.6 In no event, shall the Merchant be entitled to recover damages from Twispay and/or any of its affiliates that exceed the fees retained by Twispay during one (1) month period prior to the event giving rise to claim damages.

9.7 For the avoidance of any doubt, to the extent an indemnification or release is provided in favor of or for the benefit of Twispay, such indemnification or release shall extend to Twispay's affiliates, group companies, agents, employees, officers, directors, shareholders, attorneys, vendors, counterparties, predecessors, successors and assigns.

whether in writing, oral or in recorded form and, without prejudice to the generality of the foregoing, may include the terms of the Agreement, information relating to technology, research, inventions, know-how, products, software, API, algorithms, services, development, creative projects, inventions, processes, designs, drawings, engineering, business plans,

business process, marketing, statistics, customer lists, trade, accounting or finances.

10.2 During the term of the Agreement and for five (5) years thereafter, each Party agrees to keep the Confidential Information in confidence and shall not, without the other Party's prior written consent, disclose or otherwise make available to anyone, either directly or indirectly, all or any part of the Confidential Information and not to use such information to other purposes than those provided under the terms and conditions of the Agreement.

10.3 The Parties agree to use best efforts to hold Confidential Information in the strictest confidence and to put in place processes and physical and information technology security systems sufficient to protect it, not to make use of it other than for the performance of its obligations hereunder, and to only release it to its employees, consultants, agents, contractors or affiliates with a need to know such information and which are bound to the same terms of confidentiality.

10.4 The confidentiality undertaking shall not apply with respect to Confidential Information that: (i) is known or which

## 11. FORCE MAJEURE

11.1 Neither Twispay nor the Merchant shall be in breach of the Agreement or liable for delay in performing, or failure to perform, any of its obligations under the Agreement if such delay or failure result from any events, circumstances or causes beyond its reasonable control, which shall, without limiting the generality of the term, be deemed to include and not limited to, unless due to a Party's failure to take reasonable care, war or other action of military forces, terrorism, riot, civil commotion, sabotage, vandalism, accident, break down or damage to electronic, telecommunications or other equipment, fire, flood, acts of God, legislative or administrative interference (such affected party, the "Affected Party" and such event, a "Force Majeure Event").

will become known to the public other than by breach of the obligations contained herein; (ii) is independently developed by the receiving party without use of the Confidential Information and without the participation of individuals who have had access to the Confidential Information; or (iii) is required by Applicable Laws or by any regulatory or supervisory authority having jurisdiction over the receiving party.

10.5 Nothing in this clause shall prevent Twispay from: (i) making or sending a public announcement, or communication concerning the Agreement, and the Merchant hereby permits Twispay to display the Merchant's name and logo in Twispay's marketing materials; (ii) disclosing to relevant authorities Merchant information for the purposes of criminal investigation; or (iii) using data processing techniques, ideas and know-how gained during the performance of the Agreement in the furtherance of its normal business to the extent that this does not result in an infringement by Twispay of any intellectual property rights.

11.2 In such circumstances the Affected Party shall be entitled to a reasonable extension of the time for performing such obligations. As soon as reasonably possible after the start of the Force Majeure Event the Affected Party shall notify the other Party in writing of the details and effect of the Force Majeure Event. As soon as reasonably possible after the end of the Force Majeure Event the Affected Party shall resume performance of its obligations under the Agreement.

11.3 The Affected Party shall make all reasonable efforts to mitigate the effects of the Force Majeure Event on the performance of its obligations under the Agreement.

If the Force Majeure Event prevails for a continuous period of more than two (2) months, either Party may terminate the Agreement by giving ten (10) Business Days' written notice to the other. On the expiry of this notice period, the Agreement will

terminate. Such termination shall be without prejudice to the rights of either Party in respect of any breach of the Agreement occurring prior to such termination.

## 12. PRIVACY

12.1 Parties are responsible for protecting the security of personal data (as defined in GDPR) in their possession and in complying with the Data Protection Laws, shall implement and maintain at all times all appropriate security measures to protect the personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access.

12.2 Twispay takes reasonable measures to provide a secure payment system and shall ensure that its systems used to provide the Services are PCI-DSS certified.

12.3 The Merchant shall ensure it has the right to transfer, or provide access to data to Twispay for the purposes related to the Agreement (including, but not limited to: providing the Services to the Merchant and its Customers, conducting anti-money laundering and countering financing of terrorism (AML/CFT), Know Your Customer and fraud checks on the Merchant and its shareholders, directors and officers, reporting the business name and the name of Merchant's principals to the VMAS™ (VISA) and MATCH™ (MasterCard) listings pursuant to the Scheme Rules if so required) and where required, has obtained any necessary consents or authorizations to do so.

12.4 Merchant authorizes Twispay to provide any personal data (including Merchant's data or Transaction Data) to the Card Schemes, other Acquirer partners, Twispay's group companies or affiliates, fraud and AML/CFT screening agencies and other relevant governmental bodies to (i) provide the Services; (ii) comply with legal and regulatory obligations, including Scheme Rules and Applicable Laws; and (iii) perform underwriting and risk review, including verification that Merchant is legally permitted to transact and receive funds. Where required to

comply with legal, Card Schemes, or regulatory obligations, Twispay may provide any data to law enforcement, Card Schemes, regulators, or other similar authorized third party data recipients (as the case may be).

12.5 Where the Merchant has been referred to Twispay through a third party, whether under a partnership marketing or other introducer/reseller type arrangement, the Merchant authorises Twispay to release the relevant data to the relevant third parties as necessary for the operation of such arrangement and/or to fulfil its reporting obligations to such third parties.

12.6 Each Party shall provide to the other Party with commercially reasonable cooperation and assistance in relation to handling of a Customer's request in relation to its personal data rights, to the extent legally permitted and to the extent the Merchant does not have access to such Customer data through its use of the Services.

12.7 Each Party has its own, independently determined privacy policies, notices and procedures for the personal data it processes. Twispay's privacy policy (to be found on Twispay's website) explains how and for what purposes Twispay collects, uses, retains, discloses, and safeguards personal data. Merchant agrees to review the terms of the such privacy policy, which Twispay updates from time to time. By accepting the Agreement, the Merchant acknowledges that it has read and understood the content of Twispay's privacy policy.

12.8 The Parties hereby agree that shall add supplementary clauses, containing more detailed data protection provisions, to clarify the obligations, insofar as this is legally necessary or appropriate.

### 13. CHANGES

13.1 Twispay may revise these Terms and Conditions and/or the provisions of the Merchant Agreement from time to time by giving at least 30 days written notice to the Merchant via email or other similar means. If the Merchant does not agree to the change, the Merchant may give written notice of its objection to Twispay within 30 days after receiving notice of the change. If Twispay receives such notice, Twispay will contact

Merchant to discuss the objections of the Merchant. If the Merchant continues to refuse to accept the change and Twispay refuses to withdraw the announced change, the Merchant may terminate the Merchant Agreement by giving at least 30 days written notice to Twispay. Merchant understands and agrees that shorter notice periods may be applied by Twispay in case of any change which Twispay implements in order to comply with Applicable Laws or requirements imposed by the relevant Acquirer partner and/or the Card Schemes.

### 14. MISCELLANEOUS

14.1 The Parties acknowledge that they have negotiated each of the clauses of the Agreement (for this clause, "negotiation" means cumulatively (i) the final agreement between the Parties with respect to a certain provision, following the exchange between the Parties of different set of comments or proposed amendments with respect to the respective provision, as well as (ii) the acceptance without reserves by one Party of the clause(s) proposed by the other Party).

systems of Twispay or by an Acquirer partner). The Merchant accepts that such information (as well as electronic files and documents) shall have the same evidentiary value as traditional papers, will be legally binding and can be used in court procedures.

14.2 The Merchant acknowledged, analyzed, learned and fully understands all the provisions of the Agreement and freely expresses the consent to conclude the Agreement.

14.6 In case Merchant has concluded the Merchant Agreement with Twispay via Twispay's website or via any other online means, Twispay may at any time request that Merchant re-confirms its acceptance of the terms of the Merchant Agreement (including these Terms and Conditions) by means of a written document signed by an authorized representative of the Merchant. If Merchant does not comply with such request within five (5) working days after receiving a request by Twispay to do so, Twispay reserves the right to suspend part or all of the Services until Merchant has complied with such request.

14.3 The Agreement sets out the entire agreement and understanding between the parties and supersedes all prior agreements, understandings or arrangements (whether oral or written) in respect of the subject matter of the Agreement.

14.7 If any term or provision of the Agreement shall, to any extent, be held to be invalid, illegal, void or unenforceable, such term or provision shall be of no effect but shall not invalidate any other provision of the Agreement. In such case, the Parties shall use all reasonable endeavours to agree to vary the Agreement to include a new provision which shall have the closest possible effect to any such invalid, illegal, void or unenforceable provision.

14.4 The applicable laws and regulations implementing Payments Services Directive (EU) 2015/2366 ("PSD2") or its predecessor, Directive 2007/64/EC ("PSD"), are not applicable to the extent it is permitted to deviate from relevant provisions in relationships with non-consumers, in accordance with Article 38 and 61 PSD2 (or Article 30 and 41 PSD).

14.5 The Merchant recognizes the importance of electronic transactions, electronic documents and electronic proof (as registered by the payment gateway and the central computer

14.8 The failure or delay of Twispay to exercise or enforce any right conferred upon it by the Agreement shall not be deemed to be a waiver of any such right or operate to bar the exercise or enforcement thereof at any time or times thereafter.

Twispay's rights and remedies under the Agreement are cumulative and not exclusive of any rights or remedies provided by law.

14.9 The waiver by Twispay of any breach or failure to enforce any of the terms and conditions of the Agreement at any time shall not in any way affect, limit, or waive such Twispay's right thereafter to enforce and compel strict compliance with every term and condition of the Agreement.

14.10 The Merchant may not assign (whether voluntary or involuntary, by merger, consolidation, dissolution, operation of law, or any other manner), transfer or sub-license all or part of its rights and obligations under the Agreement to any other person or entity without the prior written consent of Twispay. For purposes of this provision, (i) a "change of control" is deemed an assignment of rights; and (ii) "merger" refers to any merger in which a party participates, regardless of whether it is the surviving or disappearing entity. Twispay shall not unreasonably withhold its consent. Twispay may assign any or

all of its rights, duties and obligations under the Agreement to any third party and the Merchant is giving herby its unconditional consent.

14.11 It is hereby agreed between the Parties that the Services or a part of the Services can be delivered by Twispay to the Merchant directly or via a third-party services provider, including any of its affiliates, or group companies, the Merchant giving its unconditional consent in this respect.

14.12 Each Party represents and warrants to the other that such Party has acted in good faith, and agrees to continue to so act, in the negotiation, execution, delivery, performance, and any termination of the Agreement.

14.13 The relationship between Twispay and the Merchant under the Agreement is that of independent counterparties and neither shall be, nor represent themselves to be, a partner, franchiser, franchisee, broker, employee, servant, agent, or representative of the other for any purpose whatsoever.

