

Merchant Services Agreement

PLEASE READ THE FOLLOWING MERCHANT SERVICES AGREEMENT TERMS AND CONDITIONS CAREFULLY BEFORE ACCESSING OR USING CHECKOUT.COM SERVICES. THESE TERMS AND CONDITIONS CONSTITUTE A LEGAL AGREEMENT BETWEEN YOU AND CHECKOUT.COM.

This Merchant Services Agreement (“Agreement”) is a legal agreement made by and between **CHECKOUT LTD**, duly registered under the laws of England and Wales under company number 08037323 and **CHECKOUT TECHNOLOGY LTD**, duly registered under the laws of the British Virgin Islands under company number 1722900, referred to individually and/or collectively hereafter as “we”, “us”, “our” or “Checkout.com”; and **YOU**, in order for You to receive certain card acquiring services, alternative payment acquiring services, payment gateway services, handling of funds services, and other business services that may be offered by Checkout.com and its affiliates.

This Agreement describes the terms and conditions that apply to Your use of the Services. If You do not understand any terms of this Agreement, please contact us before using the Services.

You may not access or use any Services unless You agree to abide by all of the terms and conditions of this Agreement.

DEFINITIONS AND INTERPRETATIONS

In this Agreement, the following definitions shall apply:

3-D Secure – the “Three Domain Secure” protocol developed by Visa International Inc. (Visa) branded as “Verified by Visa”, the “MasterCard Secure Code” developed by MasterCard International Inc., the “American Express SafeKey” developed by American Express, “ProtectBuy” developed by Diners Club International or “J Secure” by JCB including successive versions thereof and any amendments thereto.

Additional Collateral – non-interest bearing funds provided to us by the Merchant as a security to guarantee payment of any and all debt or liability from the Merchant to us, the TPPP, and/or the Payment Schemes such as, without limitation, unpaid MS Fees, Deductions such as Chargebacks, Assessments, and Refunds, or other potential debt or liability, including those arising out of or in connection with any payout services.

Agreement – this agreement between Checkout.com and the Merchant for the provision of Services to the Merchant, including all Schedules set forth in The Hub and any other Schedule or document incorporated by reference. In the event of any inconsistency, the Schedules set forth in The Hub shall control.

Alternative Payment Method Fee – the fee that we charge per Transaction for the use of the alternative payment acquiring service for that Transaction, and which also includes any applicable Payment Scheme and/or TPPP fees. The Fixed Fees are not part of the Alternative Payment Method Fee.

API (Application Programming Interface) – a set of routines, protocols and tools developed by Checkout.com to provide the Services to the Merchant via a secure internet connection between the Merchant’s system and the Checkout.com system.

Applicable Law – all laws (including the requirements of any regulatory authority) applicable to a party or to any Transaction, Refund or Chargeback for the time being in force in any jurisdiction. These include but are not limited to anti-money laundering, anti-bribery, data privacy, tax and consumer protection laws.

Authorization – the process whereby a Buyer (or a Merchant on a Buyer’s behalf) requests permission for a Payment Method to be used for a particular purchase of the Merchant Product/Service. As this Agreement covers a variety of different Payment Methods the Merchant agrees that if a Transaction status is “authorized”, this means the payment transaction is likely to be successful but the payment may still be blocked or subject to Chargeback by the Buyer (where Chargeback is possible under the relevant Payment Scheme Rules). The likelihood of a payment as “authorized” being blocked or unsuccessful depends on the Payment Method which is used. In case of direct debit transactions in most cases a status of “Authorization Success” or similar only means the bank account exists and not that there are enough funds on the bank account to actually perform the payment.

Authorized Representative – the individual who has legal authority to agree to bind the Merchant to this Agreement and/or the individual who has legal authority to make any amendments to this Agreement via The Hub, or any other method required by us.

Business Day – a day other than a Saturday or Sunday on which banks are open for normal business in the United Kingdom.

Buyer – any Person who is authorized to use a Payment Method issued to him/her and has ordered products and/or services from the Merchant and has initiated a Transaction in respect of that order, including a Cardholder.

Card – any form of Credit Card or Debit Card, which may be used by a Cardholder to carry out a Transaction on a Cardholder’s account.

Cardholder – any person who is issued a Card and possesses and uses a Card, and where required on the Card, whose signature appears on the Card as an authorized user.

Card Not Present (or CNP) – a Transaction by a Cardholder where the Cardholder is not physically present at the point of sale at the time of the Transaction, and it comprises:

- (i) Mail Order /Telephone Order Transaction (‘MO/TO’ or ‘MOTO’) means a Transaction by a Buyer where the Buyer is not physically present at the point of sale at the time of the Transaction, and the payment details are presented to the Merchant by the Buyer by means of mail (not email), fax or telephone;
- (ii) E-Commerce Transaction means a Transaction by a Buyer where the payment details are presented to the Merchant or us by the Buyer by means of secure Internet communications.

Card Scheme – Visa Inc., MasterCard Worldwide, JCB, American Express, Union Pay International, Diners Club International/Discover Network or comparable bodies which provide Cards, and regulate Card acceptance.

Chargeback – a Transaction which is successfully charged back on request of the Buyer or the Issuer pursuant to the relevant Payment Scheme Rules resulting in cancellation of a Transaction in respect of which the Merchant has been paid or was due to be paid. If a Chargeback occurs for a Transaction in respect of which the Merchant already received Payout of the related funds, this results in the unconditional obligation for the Merchant to immediately return the remitted funds to us.

Checkout.com Gateway – a payment gateway used in the provision of the Payment Gateway Service, described in clause 2.2 of this Agreement.

Checkout.com Group Company – is any ‘Group Company’ of Checkout Ltd and/or Checkout Technology Ltd. It also includes, for the purposes of this Agreement, Checkout MENA FZ–LLC.

Confidential Information – any and all information disclosed in a manner clearly indicating its confidential nature or which, in the absence of such indication, would under the circumstances appear to a reasonable person to be confidential or proprietary. Such information shall include but not be limited to information relating to operations, plans, strategies (including but not limited to geographic expansion plans, target customer segment, merchant acquisition strategy, recruitment strategy, and corporate acquisition strategy), concepts, proposals, intentions, know-how, trade secrets, market information, copyright and other intellectual property rights (whether registered or not), software, market opportunities, organisational internal chart, corporate structure chart, details of customers and potential customers, details of competitors and potential competitors, business and/or financial affairs including any such information relating to, disclosed or provided by a Group Company. For the avoidance of doubt, the fact that the parties entered into this Agreement and that the parties may disclose or may have disclosed information shall be Confidential Information.

Data Controller – the entity which alone or jointly with others determines the purposes and the means of the Processing of Personal Data.

Data Processor – the entity which Processes Personal Data on behalf of a Data Controller.

Data Subject – Buyer, Cardholder, employee of Merchant, employee of Checkout.com, or other natural person whose Personal Data are processed in the context of this Agreement.

Disclosing Party – the party disclosing or allowing access to any particular item of Confidential Information, or, where appropriate, the party to whom such Confidential Information relates.

EU Data Protection Law – the EU General Data Protection Regulation 2016/679 (as amended and replaced from time to time) and the e-Privacy Directive 2002/58/EC (as amended by Directive 2009/136/EC, and as amended and replaced from time to time) and their national implementing legislations; the UK Data Protection Act (as amended and replaced from time to time); and the Data Protection Acts of the European Economic Area (“EEA”) countries (as amended and replaced from time to time).

EU Payment Services Directive – Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, as amended from time to time.

Excessive Fraud Fee – is the amount payable by the Merchant to us when the average Reported Fraud-to-Sales Ratios exceeds one (1) % in any period of three (3) consecutive months. Such fee is calculated by deducting 1% from the average Reported Fraud-to-Sales Ratio over the

3 consecutive month period and applying that to the value of the gross sales volume processed by us in that 3 month period. For illustration purposes, if the average Reported Fraud-to-Sales Ratio for January to March is 3.5%, the Excessive Fraud Fee payable in April will be 2.5% (namely 3.5% minus 1%) of the value of the gross sales volume processed by us in those 3 months; if the average Reported Fraud-to-Sales Ratio for February to April is 4%, the Excessive Fraud Fee payable in May will be 3% (namely 4% minus 1%) of the value of the gross sales volume processed by us in those 3 months. The Merchant understands that this sum represents a genuine pre-estimate of our losses. Where the gross sales volume of the Merchant is the currency(s) other than the US Dollar, we shall convert, on the date when the Excessive Fraud Fee is claimed by us, the relevant gross sale volume(s) processed by us into the US Dollar, and shall claim the payable Excessive Fraud Fee in the US Dollar.

Gateway Fees – various fees that we charge for the provision of the Payment Gateway Service, as set out in the Pricing Schedule.

GDPR – the EU General Data Protection Regulation 2016/679 (as amended and replaced from time to time).

Group Company – means for the purposes of this Agreement: (i) any direct or indirect holding company of a party to this Agreement and/or (ii) any direct or indirect subsidiary of the party or of any relevant holding company, including, where applicable, the party itself.

Interchange Fees – the fee(s) set and charged by the Card Schemes to us (and that are passed on to the relevant Issuer) for processing and settlement of a Card Transaction.

Issuer – an institution that issues Payment Methods to the Buyer and whose name appears on the Card or bank account statement as the Issuer or who enters into a contractual relationship with the Buyer with respect to the Payment Method.

MATCH ('Member Alert to Control High Risk') database – a database of terminated merchants maintained by MasterCard International. It is referred to in MasterCard's *Security Rules and Procedures* as MATCH System.

Merchant – has the same meaning as "You".

Merchant Bank Account(s) – Your bank account(s) (full details of which will be provided to us, in the form specified by us) to which Payouts will be transferred.

Merchant Products/Services – goods and/or services which the Merchant is selling on the URLs, and for which the Transactions are submitted for processing by us.

Merchant Service Fees ("MS Fees") – the sum of Card fees, Alternative Payment Method Fees, Gateway Fees, Administration Fees and any other fee as set out in the Pricing Schedule and clause 5.1 of this Agreement. Where Interchange Plus Plus pricing applies to the Merchant, as set out in the Pricing Schedule, Card fees shall comprise of the following:

- "Interchange Fees" (which are set out by the Card Schemes) and are paid in full to the card issuers with no additional charges from us;

- "Scheme and other Network Fees" (which are set out by the Card Schemes) and are calculated using a number of components, predominantly card type and rate. Checkout.com operates on a cost recovery basis and uses the total scheme fees to calculate a 'per transaction' fee, which is a per pence transaction (ppt) or % based, in line with the way we are charged by the Card Schemes. As Checkout.com is mostly billed in Euros, the scheme and other network fee cost to us will vary slightly from the published rates at any given time. However, Checkout.com aims to hold the Scheme and other Network Fee rates as indicated within the then current interchange and scheme fees tables, but reserves the right to amend the rates if there is a considerable movement in the exchange rate; and

- "Acquiring Premium" which covers Checkout.com's Transaction processing costs, overheads, and margin.

On Interchange Plus Plus pricing, when processing a refund (regardless of card type), the Merchant will be charged the applicable scheme fee

and processing fee for the refund, in addition to the fees charged on the original transaction. Applicable rates will depend on the scheme and transaction characteristics as detailed in the then current interchange tables.

Payment Method – a method of enabling the Merchant to accept payments by Buyers including Cards, online and offline bank transfer, direct debits offered by Payment Schemes or similar. The Payment Methods offered by us are published on our website www.checkout.com.

Payment Scheme – the party regulating and/or offering the relevant Payment Method. This specifically includes Card Schemes such as Visa Inc., MasterCard Worldwide, JCB, American Express, Union Pay International, Diners Club International/Discover Network, and alternative payment schemes such as Klarna, Giropay, iDEAL.

Payment Scheme Rules – The collective set of by-laws, rules, regulations, operating regulations, procedures and/or waivers issued by the Payment Scheme, as may be amended or supplemented over time, and with which the Merchant must comply when using the relevant Payment Method. The Payment Scheme Rules specifically include but are not limited to Visa Inc. (referred to as '*Visa Core Rules and Visa Product and Service Rules*' and available at URL <https://www.visaeurope.com/about-us/policy-and-regulation/veor>), MasterCard Worldwide (referred to as '*MasterCard Rules*' and available at the URL https://www.mastercard.com/ca/merchant/en/getstarted/BM_Manual.pdf), Union Pay International, JCB, American Express, and Diners Club International/Discover Network rules. Those rules that are not publicly available, shall be communicated to the Merchant, as per guidance and instruction of the relevant Payment Scheme.

Payout – the amount paid by us to the Merchant, with respect to the amounts received by us from the Payment Scheme or the TPPP for Transactions validly processed for the Merchant net of Deductions.

Payout Currency – the currency in which the funds are remitted to the Merchant.

Payout Date – means the Business Day (notified to You by us from time to time) on which Payout occurs, and which takes into account the "Payout Frequency" set out in the Pricing Schedule.

PCI DSS (Payment Card Industry Data Security Standards) – the security standards for transmitting, processing or storing cardholder data and sensitive authentication data, as updated from time to time and published by the Payment Card Industry Security Standards Council at <https://www.pcisecuritystandards.org>.

PCI SSC – means Payment Card Industry Security Standards Council.

Personal Data – has the meaning given to it in GDPR, as amended from time to time, and is "any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to his physical, physiological, genetic, mental, economic, cultural or social identity of that natural person". This includes but is not limited to personal and financial details of the Buyer, Merchant's employees, directors and shareholders (or Merchant itself where it is a sole trader).

Personal Data Breach – a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.

Pricing Schedule – the schedule setting out the fees as set forth in clause 5.1 of this Agreement.

Processing of Personal Data (or "Process Personal Data") – any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

Recipient – means in relation to any particular item of Confidential Information a party that receives or otherwise obtains such Confidential Information.

Recurring Transaction – a repetitive periodic Transaction agreed in writing and in advance between the Merchant and the Buyer for which the Merchant debits Buyer’s Debit/Credit Card or bank account, such as subscriptions or instalments.

Refund – a full or partial reversal of a particular Transaction, whereby the funds are reimbursed to the Buyer on the initiative or request of the Merchant.

Representative – means (i) any employee, officer or director of the Party and/or of the ‘Group Company’ for the Merchant and of the ‘Checkout.com Group Company’ for us, and appointed lawyer(s), and statutory auditors; and (ii) an advisor (e.g. accountant, financial adviser and consultant) with respect to whom a prior written consent of the Disclosing Party was obtained from the Recipient for sharing of the Confidential Information.

Reported Fraud – value of the Issuer fraud advices reported to us by the Payment Scheme (e.g. TC40 reported by Visa Inc.).

Reported Fraud-to-sales Ratios – value of the Reported Fraud divided by the gross sales volume, and calculated on a monthly basis for a one month period.

Reserve Account – the balance funded by the Merchant’s Rolling Reserve.

Rolling Reserve(s) – an amount withheld by us from the funds received from the Payment Scheme or the TPPP as a security for Chargebacks, Assessments or Refunds (or any other amounts mentioned in the Deductions), and Merchant Service Fees due to each one of us, and held on the Reserve Account.

Rolling Reserves Rate – a percentage of the daily gross sales volume processed by us, which shall be subtracted from the daily settlements received by us from the Payment Schemes or the TPPPs and held in the Reserve Account. The applicable Rolling Reserve Rate shall be set out in the Pricing Schedule.

Schedule(s) – the documentation setting forth the Merchant Underwriting Data, Merchant Bank Account, URLs and pricing.

Service(s) – as defined in clause 2 of this Agreement.

Sensitive Authentication Data – security-related information (including but not limited to card validation codes/values, full track data (from the magnetic stripe or equivalent on a chip), PINs, and PIN blocks) used to authenticate cardholders and/or authorize Transactions.

Software – the collective set of programs and data developed and/or operated by us and provided to the Merchant so that it can receive our Services.

Sub-Processor – the entity engaged by the Data Processor or any further sub-contractor to Process Personal Data on behalf of and under the instructions of the Data Controller.

The Hub – the secured merchant interface on Checkout.com’s website where Merchants can access information relating, among others, to: (i) the Transactions (such as number of approved Transactions, status of Transaction, Transaction ID, value/amount of Transaction, Payment Method used during the Transaction, sales revenue relating to processed Transactions, net sales revenue relating to processed Transactions); (ii) the number of Chargebacks and Refunds; (iii) the Buyers; and (iv) risk settings. This also includes access to the Merchant’s payment balance.

Tokenisation Service – is the process of taking sensitive information (e.g. credit card number) and substituting it with a non-sensitive string of characters, usually referred to within the payments industry as ‘Card Token’. The ‘Card ID’ is Checkout.com’s internal term for card token.

Traffic – the profile of Merchant Transactions, including the volume of Transactions, average ticket size, spread across Payment Methods, geographical spread and other relevant information.

Transaction – a request to us by the Merchant to process the payment request and/or consent of the Buyer to his/her payment service provider in order for the Merchant to receive the payment for goods and/or services purchased by the Buyer.

Transaction/Authorization Currency – the currency in which the Transaction is originally offered to the Buyer and submitted to the Payment Schemes.

Third Party Payment Partner (“TPPP”) – a financial institution that is authorized by a Payment Scheme to enable the use of a Payment Method by accepting submitted Transactions, routing these to the Payment Scheme or Issuers and collecting and paying out the resulting funds to us or directly to the Merchant.

TPPP Rules – the collective set of rules, regulations, operating regulations, procedures and/or waivers of the TPPPs, as may be amended or supplemented over time, and with which the Merchant must comply when using the relevant Payment Method.

“You” and “Your” – refers to the person(s) or legal entity that has accepted this Agreement and that is using the Services or otherwise exercising rights under this Agreement.

URLs – the address of any websites owned and operated by the Merchant where the Merchant accepts, or states that it will accept, payments by Payment Methods supported by us in relation to products and/or services which are purchased by the Buyer from the Merchant’s websites.

Use Policy – the “Declined Lines of Business Policy” as set out at <https://www.checkout.com/legal/terms-and-policies> or as provided to the Merchant in writing (as amended from time to time).

VMAS (“Visa Merchant Alert Service”) database – is a database of terminated merchants maintained by Visa.

1. SERVICE PROVIDER

- (a) For the card acquiring services, alternative payment services and the handling of funds services (in relation to Transactions acquired by card acquirers other than us but which we introduced to the Merchant) that the Merchant receives under this Agreement the service provider is Checkout Ltd.
- (b) For the payment gateway services that the Merchant receives under this Agreement the service provider is Checkout Technology Ltd.

2. OUR SERVICES

The services provided by us include card acquiring services, alternative payment acquiring services, payment gateway services, handling of funds services, and other business services (“**Services**”). In accepting the Services provided by us the Merchant commits to comply with the terms of this Agreement, Payment Scheme Rules, and the Applicable Law relating to the supply of goods/services by the Merchant.

2.1 CARD ACQUIRING AND ALTERNATIVE PAYMENT ACQUIRING SERVICE

As part of our card acquiring and alternative payment acquiring service we will provide the Merchant with the following services:

- (a) Enabling Transactions to be routed to the relevant Payment Scheme or the Third Party Payment Partner (the “TPPP”);
- (b) Providing information and messaging about the status of the Transaction on the Payment Scheme network, including authorization status (e.g. authorized, declined, etc.), clearing and settlement advisement, Chargeback dispute status, etc.;
- (c) Collecting and/or receiving the funds from the relevant Payment Scheme or the TPPP;
- (d) Value dating and crediting the amount of the settled Transaction to the Merchant’s payment balance following our receipt of the funds from the relevant Payment Scheme or the TPPP;
- (e) Safeguarding of the funds in accordance with the requirements of the UK Payment Services Regulations 2017 and EU Payment Services Directive 2017, as amended from time to time;
- (f) Reconciling of: (i) the information routed to the relevant Payment Scheme or to the TPPP with the information processed by that Payment Scheme or the TPPP, and communicated to us; (ii) the records and accounts of the entitlement of the Merchant to relevant funds with the records and accounts of the amounts safeguarded; and (iii) our internal records and accounts with those of our banking partners safeguarding the relevant funds;
- (g) Handling of the funds related to refunded or disputed Transactions, and supporting the representment of disputed Transactions upon the request of the Merchant;
- (h) Foreign exchange services, where applicable;
- (i) Paying out the funds to the Merchant Bank Account(s) as per clause 2.5 of the Agreement; and
- (j) Providing statements to the Merchant relating to the Payouts, Merchant Service Fees and Deductions.

2.2 PAYMENT GATEWAY SERVICE

As part of our payment gateway service we will provide the Merchant with services such as the following:

- (a) Enabling of Transactions to be routed to one or several acquiring payment networks according to our routing and cascading methodology;
- (b) Technical reception of the information regarding the status of Transactions provided by the acquirer;
- (c) Information reporting including information related to Transactions, Merchant Service Fees, Chargebacks, Refunds, disputes, etc.;
- (d) Tokenisation Service;
- (e) Dispute resolution interface, where applicable;
- (f) Recurring billing and one-off billing management;
- (g) Payout instruction interface;
- (h) Technically enabling an access to the Merchant via The Hub to the statements relating to the Payouts, Merchant Service Fees, and Deductions levied;
- (i) Fraud and risk management via The Hub, as per clause 2.7 of the Agreement; and/or
- (j) Technical integration support.

2.3 HANDLING OF FUNDS SERVICE

As part of the handling of funds service, we will be receiving from the Merchant’s card acquirer, other than us but to whom we introduced the Merchant to which we already provide the payment gateway service (the “Third Party Acquirer”), the Transaction related funds and paying out these funds to the Merchant Bank Account(s). For the purposes of this service the term ‘TPPP’ used throughout this Agreement shall specifically include the Third Party Acquirer referred to in this clause.

2.4 OUR ACCEPTANCE OF THE MERCHANT

- (a) Our acceptance of the Merchant as a user of our Services and the relevant Payment Methods is strictly personal and limited to the use by the Merchant of the Services for payment of the Merchant's own products and services.
- (b) Support for each Payment Method is subject to acceptance by the relevant Payment Scheme or the TPPP used, which the Payment Scheme or the TPPP may withhold or withdraw at their discretion at any time. Certain Payment Schemes or TPPPs may require the Merchant to enter into a direct agreement with the Payment Scheme and/or the TPPP before the Merchant may use the relevant Payment Scheme.
- (c) You and Your Authorized Representative individually affirm to Checkout.com that Your Authorized Representative is authorized on Your behalf to provide any information required in order for Checkout.com to provide the Services, to bind You to this Agreement, and to make any amendments to this Agreement in accordance with its terms, via The Hub or any other method required by us. We may require You or Your Authorized Representative to provide additional information or documentation demonstrating Your Authorized Representative's authority. Without the express written consent of Checkout.com, neither You nor Your Authorized Representative may register or attempt to register for a Checkout.com Account on behalf of a user Checkout.com previously terminated from use of the Services.
- (d) If You are an individual trader, You and Your Authorized Representative also affirm that Your Authorized Representative is personally responsible and liable for Your use of the Services and Your obligations to Buyers, including payment of any amounts owed under this Agreement.

2.5 VALUE DATING AND PAYOUT TO THE MERCHANT

- (a) Where we provide the Merchant with the card acquiring service, alternative payment acquiring service or handling of funds service, we will record each settled Transaction to the Merchant payment balance following our receipt of the corresponding funds from the Payment Scheme or the TPPP.
- (b) Following value dating and recording of validly processed Transactions to the Merchant payment balance, we will initiate or procure the initiation of each Payout by bank transfer to the Merchant Bank Account(s) provided to us via the initial Checkout.com online application process, and/or in writing, on the later of the following: (i) the Payout Date, or (ii) the expiry of any period of deferment in respect of the relevant Transactions.
- (c) We are only obliged to remit the funds related to the Transactions for which we have received settlement(s) from the Payment Scheme or the TPPP, and this is net of the Merchant Service Fees and any applicable Deductions. It is the Merchant's responsibility to evaluate if the conditions of Payout (which are set by us, among others, taking into consideration the frequency of the Payment Schemes and the TPPP's settlements to us) are acceptable to the Merchant before entering into this Agreement. Merchant agrees that any overpaid and/or unduly received funds (e.g. related to the Transactions for which we have not received the settlements from the Payment Scheme or the TPPP, or overpaid due to the IT infrastructure breakdown) shall be, upon our written notice to the Merchant of such overpayment, at our option: (i) deducted by us from the funds related to the subsequent Transactions before the next Payout(s), and/or (ii) refunded immediately by the Merchant, and/or (iii) deducted from the Reserve Account.
- (d) The Payout shall be subject to any agreed Payout threshold, as stipulated in The Hub.
- (e) The Merchant understands and agrees that, to the extent permissible by the Applicable Law, we will not compensate the Merchant for late or non-performance, insolvency or bankruptcy of the Payment Scheme or the TPPP due to which there was a late Payout or non-Payout at all for processed Transactions.
- (f) Notwithstanding anything to the contrary in the Agreement, we reserve the right to withhold and/or defer Payouts related to Transactions if they are submitted for authorization, but suspected to be fraudulent, suspected to be related to illegal activities or likely to become subject to a Chargeback and/or Payment Scheme and/or the TPPP's investigation, until satisfactory completion of our investigation, that of the relevant Payment Scheme and/or the TPPP or that of a third party nominated by any of the parties hereby. The Merchant will give its full co-operation to any such investigation. No interest will be due over amounts held prior to Payout to the Merchant pending the satisfactory completion of our investigation.

2.6 PAYMENT METHODS AND CURRENCIES SUPPORTED

- (a) We will support the use by the Merchant of the Payment Methods and currencies approved by the Payment Schemes.
- (b) We may decide at our reasonable discretion, or as requested by the Payment Scheme, the TPPP or the relevant regulator, to discontinue in certain circumstances the support of one or more of the Payment Methods or make future support conditional on the acceptance by the Merchant of additional conditions or fees. We will give at least 2 months' written notice of any discontinued or changed support of any Payment Method, unless this is not reasonably possible given the cause for this decision. We will use our reasonable endeavours to offer an alternative for any discontinued Payment Method to the Merchant.

2.7 CHECKOUT.COM'S FRAUD AND RISK CONTROLS

- (a) All Transactions processed by us can be screened by Checkout.com's fraud and risk monitoring tools, which perform a number of checks on the Transactions according to a series of risk settings and rules, which are either defined by Checkout.com or by the Merchant, where applicable, prior to the usage of our Services, and flags transactions as potentially fraudulent.
- (b) The Checkout.com fraud and risk monitoring tools do not guarantee the prevention of fraudulent Transactions, nor the prevention of resulting Chargebacks and/or Payment Schemes' fines. Regardless of the resulting fraud flags, Transactions may be fraudulent or non-fraudulent.
- (c) We reserve the right to change the risk settings and rules in case we, at our reasonable discretion on the basis of clear and objective indications, judge the existing ones to result in an unacceptable risk of fraudulent Transactions or creating increasing Chargeback levels. However, we are not under any obligation to check these or any other settings made by the Merchant in The Hub. Furthermore, we have the right to add new risk and fraud features and/or checks or change the existing features or checks without prior notice.
- (d) For some Payment Methods, Transactions can be cancelled by the Merchant after having been authorized. The final responsibility for accepting or cancelling a Transaction will remain with the Merchant. The Merchant shall not honour delivery address changes for any Transaction after requesting the Authorization. We reserve the right to reject or cancel Transactions that we have reasonable grounds to suspect to be fraudulent or involving other criminal activities.

2.8 PROVIDING MERCHANT SUPPORT

If the Merchant experiences problems with the Services, it may contact us via telephone or in writing, as per the following section of our website <https://www.checkout.com/contact-us>. We will investigate and notify the Merchant whether the problem is related to the Services, determine the severity of the problem and use reasonable efforts to remedy the problem, if possible. We will notify the Merchant upon the resolution of any request directed to us.

3. MERCHANT'S OBLIGATIONS

3.1 OBLIGATION TO PROVIDE MERCHANT UNDERWRITING DATA, KEEP US INFORMED OF DATA CHANGES, AND PROVIDE ANY ADDITIONAL FINANCIAL INFORMATION AS REQUIRED

- (a) In order to enable us to comply with the Applicable Law, including but not limited to anti-terrorism, financial services, anti-tax evasion and anti-money laundering laws and regulations imposing Customer Due Diligence ("CDD") requirements, as well as with the Payment Scheme's and TPPP's requirements, the Merchant must, before entering into the Agreement, and thereafter on our first request, provide information: about itself, and in particular about its financial status, solvency and liquidity, its activities, its payment acquiring and processing arrangements, its shareholders, its ultimate beneficial shareholders, the Merchant Products/Services, its registered office address, as well as any and all regulatory licences and registrations required to sell Merchant Products/Services (herein defined as "the Merchant Underwriting Data"). The Merchant warrants unconditionally that all Merchant Underwriting Data it provides to us is correct and up to date, and undertakes to provide us with at least five (5) Business Days prior written notice of any material change of the Merchant Underwriting Data, including in particular (but not limited to) any change of its directors, shareholders and/or ultimate beneficial owners.
- (b) In addition to data specified in (a) of this clause, we may also from time to time request the Merchant to provide additional financial and other information such as relating to: (i) the current actual or expected delivery dates for processed Transactions; (ii) estimates for the average time between Transaction authentication and the related delivery date; (iii) Merchant's ability to provide the Merchant Products/Services, and/or (iv) Merchant's financial status, solvency and liquidity. The Merchant shall provide such requested information within five (5) Business Days of our written request.
- (c) If the Merchant fails to provide the data requested in accordance with paragraphs (a) and (b), we reserve the right to suspend the provision of our Services until such data is provided.
- (d) The Merchant agrees that we may run further checks on Merchant's identity, creditworthiness and background by contacting and consulting relevant registries and governmental authorities or any other relevant sources.
- (e) The Merchant hereby authorizes us to submit Merchant Underwriting Data, or any other relevant information received from the Merchant, to the relevant Payment Scheme and/or the TPPP to obtain a permission for providing access to their Payment Methods for the Merchant, or for any ongoing monitoring related purpose.

3.2 OBLIGATIONS AND RESTRICTIONS RELATED TO MERCHANT PRODUCTS/SERVICES

- (a) The Merchant agrees to the following obligations and restrictions:
 - (i) The Merchant will only use the Services for payment of those Merchant Products/Services which the Merchant registered for when entering into the Agreement with us, and which are reflected in the Merchant Underwriting Data;
 - (ii) The Merchant may not use the Services to facilitate the payment for products or services sold on the URLs other than the one(s) set forth in The Hub. It may not resell the Service to the third parties whether in its entirety or partially;
 - (iii) Prior to submitting Transactions in relation to the products and services which materially differ in value and/or type from those set out in the Merchant Underwriting Data, and could as such impact either of the following: risk and fraud profile of the Transaction, compliance with the Payment Schemes Rules, the TPPP's Rules and/or the Applicable Law, the Merchant must update its Merchant Underwriting Data in writing;
 - (iv) The Merchant is and remains solely responsible to ensure that the Merchant Products/Services sold are compliant with the Payment Scheme Rules, the TPPP's Rules, and the Applicable Law in its country and the countries its customers are based in; and
 - (v) The Merchant shall not use the Services for the payment of the products and services which are listed in Checkout.com's Use Policy. This list may be updated, at our discretion, where needed to ensure legal compliance, compliance with the Payment Scheme Rules and the TPPP's Rules, prevent high levels of Chargebacks, reputational risks and/or reduce our exposure to potentially fraudulent or illegal transactions. Where a published change affects a significant portion of the Merchant Products/Services, the Merchant may terminate the Agreement by giving a written notice to Checkout.com, as per clause 10.
- (b) Our acceptance of the Merchant as our customer should not be interpreted as an advice or opinion as to the legality of the Merchant Products/Services, and/or of Merchant's intended use of the Services therefore. Our Services may not be used (and Transactions may not be submitted for processing) for prepaying the Merchant Products/Services for which the delivery date (i.e. date on which a complete Merchant Product/Service is delivered to the Buyer who paid for the Merchant Product/Service) is in part, or in whole, more than 6 months after the date the Transaction is submitted for processing, unless we provided an explicit written consent stating otherwise.

3.3 OBLIGATIONS RELATING TO THE MERCHANT'S WEBSITE

- (a) The Merchant is required to provide exact URL(s) and may amend existing URLs/add new URLs from time to time, subject to our written approval, in which case the same obligations as apply to existing URLs shall apply with respect to these additional URLs.
- (b) For e-commerce related transactions the Merchant agrees to include the following information clearly and conspicuously on its websites: (i) Payment Scheme's brand mark in full colour to indicate that Payment Scheme's acceptance; (ii) complete description of the Merchant Products/Services offered by the Merchant and the applicable terms and conditions; the terms and conditions should be displayed to the Buyer during the order process; (iii) complete description of the refund, return and cancellation policies (if the Merchant has a limited refund policy, it must be clearly communicated to the Buyer prior to the purchase); (iv) "click to accept" button, or other acknowledgment, evidencing that the Buyer has accepted the return/refund policy; (v) Merchant service contact information including email address or telephone number; (vi) Merchant's European Union (EU) permanent business address; (vii) Transaction currency in both words and symbols; (viii) all export restrictions (if known); (ix) delivery

policy, and special delivery policy if any; (x) Merchant's EU country which must be provided to the Buyer during the payment process; (xi) Consumer data privacy policy; and (xii) security capabilities and policy covering transmission of payment card details when the Payment Method used is a credit/debit card, or any other sensitive Buyer's details in relation to other Payment Methods. Additional information may be required, depending on the Payment Method used by the Merchant.

3.4 OBLIGATIONS RELATING TO THE SUBMISSION OF TRANSACTIONS AND REFUNDS FOR PROCESSING, INTEGRATION, AND RELATED CONSENTS

- (a) The Merchant shall ensure all data requested by us to be provided for a Transaction and/or Refund (including those needed for fraud checks) are provided with each Transaction and/or Refund submitted for processing by us. If the Merchant fails to provide the requested data with each Transaction and/or Refund, we reserve the right to immediately suspend the Transaction and/or Refund processing. We may revise the required data needed to process Transactions and Refunds from time to time by giving notice to the Merchant by email. Where we execute a Transaction or a Refund in accordance with the data provided by the Merchant, the Transaction or Refund will be deemed to have been correctly executed by us, the TPPP and/or the Payment Scheme involved. Where the data provided by the Merchant to us is incorrect, we are not liable for the non-execution or defective execution of the Transaction and/or Refund. We will however endeavour to recover the funds involved in such a Transaction and/or Refund and reserve the right to claim from the Merchant the related costs and losses to us.

The Merchant agrees to share with us the email address of the Buyers, in compliance with the applicable data protection laws, and procure and provide consent where required for us to contact the Buyers directly for the purposes of:

- (i) sending the voucher to the Buyer to complete an initiated Transaction and/or Refund;
 - (ii) sending the receipt to confirm the status of Transaction and/or Refund, and/or to confirm the billing descriptor to appear on the Buyer's debit/card and bank statement;
 - (iii) requesting any additional information to confirm the Transaction and/or Refund, and/or;
 - (iv) performing risk and/or fraud assessments and/or investigation, and of compliance with the anti-money laundering and counter-terrorism financing laws and regulations.
- (b) With respect to Card related Transactions, all "Card Not Present Transactions" shall be submitted to us for processing through: (i) the Checkout.com Web-based Payment Solutions (i.e. 'Checkout.js' which involves a hosted payment page and 'CheckoutKit.js' which involves the Tokenisation Service), or (ii) direct server-to-server integration using Checkout.com's Merchant API.
- (c) With respect to alternative payment Transactions, these shall be submitted to us for processing through: (i) the Checkout.com Web-based Payment Solution (i.e. Checkout.js' which involves a hosted payment page), or (ii) direct server-to-server integration using Checkout.com's Merchant API.
- (d) For all Transactions processed through the Checkout.com Web-based Payment Solutions or direct server-to-server integration, 3-D Secure authentication will be offered as an option, provided it is supported by the Payment Method used and implemented by the current Software of Checkout.com. 3-D Secure authentication may be required and imposed by Checkout.com should a Transaction be suspected to be fraudulent. If the Merchant opted out of 3-D Secure authentication for Transactions processed by Checkout.com, where such 3-D Secure authentication is available, the Merchant understands that a higher pricing may be applied and other restrictions may be applied by the Payment Schemes. We shall not be liable for any delays in the authentication response time or other malfunctioning of 3-D Secure authentication, where such malfunctioning is caused by third parties such as, but not limited to, the issuer banks and their 3-D Secure providers.
- (e) Subject to the Merchant complying with this Agreement, Merchant's use of the Checkout.com Web-based Payment Solutions is PCI compliant under Checkout Technology Ltd PCI DSS.
- (f) Notwithstanding clause 3.4(e) above, the Merchant must fully comply with the PCI DSS, as amended from time to time, and any other applicable standards, rules or recommendations of the PCI SSC and must complete a self-assessment questionnaire – https://www.pcisecuritystandards.org/document_library?category=sags#results at least once annually. The Merchant will provide evidence of its compliance with PCI DSS prior to the commencement of this Agreement and thereafter at least once annually, and at any time promptly on our first request.

3.5 OBLIGATIONS RELATED TO RECURRING TRANSACTIONS

- (a) For each Recurring Transaction the Merchant is required to obtain a prior express Recurring Transaction consent from the Buyer (including specifically the Cardholder), at the point of checkout or sale, for the Merchant Products /Services sold using our Services. The Merchant must provide the Buyer 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; and (v) an agreed method of communication for all future correspondence with the Buyer.
- (b) Merchant must also, using the agreed method of communication, provide the Buyer with a confirmation that a Recurring Transaction agreement has been entered. This confirmation must be provided within two business days of entering that Recurring Transaction agreement, which must be separate from the sales agreement.
- (c) The Merchant must notify the Buyer that this Recurring Transaction consent is subject to cancellation by the Buyer at any time, and should not debit or attempt to debit the Buyer's Card, Buyer's bank account or any other Payment Method account after being notified of the cancellation of the Recurring Transaction consent.
- (d) The Merchant shall notify the Buyer in writing of the amount to be debited and the due date of the debit at least 14 days prior to (i) the first debit, and (ii) each subsequent debit (unless the Recurring Transaction consent sets out the amounts payable and the due dates and none of these have changed or other objective criteria are agreed with the Buyer for calculating the due dates).
- (e) The Merchant shall retain the Recurring Transaction consent for the duration of the recurring transactions, and for a period of 18 months after the final payment that is made pursuant to it. The Merchant shall produce the Recurring Transaction consent to us on first demand.

- (f) The Merchant shall not submit for processing by us an existing Recurring Transaction without our prior written consent, shall provide us with a correct Recurring Transaction indicator, the frequency of the Recurring Transactions, and the period over which the Recurring Transactions will take place, and shall comply with any and all additional Payment Scheme's requirements and/or recommendations relating specifically to Recurring Transactions.

3.6 OBLIGATIONS TO COMPLY WITH THE PAYMENT SCHEME RULES (AND IN PARTICULAR THE CARD SCHEME RULES) AND TPPP RULES

- (a) The Merchant shall comply with the applicable Payment Scheme Rules, and TPPP Rules, and is strongly advised to regularly review the then current Payment Scheme Rules (and in particular Card Scheme Rules), TPPP Rules and the Applicable Law as applicable to its Merchant Products /Services and business practices to ensure compliance therewith. For violations of certain key requirements, certain Payment Schemes such as Card Schemes can levy significant fines. Where the Merchant considers the Payment Scheme Rules to be unacceptable, the Merchant is free to stop using the relevant Payment Method, however the Payment Scheme Rules (and specifically the Card Scheme Rules) and the Agreement shall apply to processed Transactions.
- (b) Where we become aware of and/or receive any notice of a potential exposure to a fine related to any Merchant behaviour, the Merchant will on first request provide all reasonable co-operation to help investigate the relevant circumstances and remedy the relevant violation, notwithstanding all other rights and remedies we might have in such situation as per this Agreement. Where possible we will share with the Merchant the relevant feedback regarding the potential fine by the Payment Scheme and/or the TPPP. If fines are applied for the Merchant's violations, these may be invoiced by the Payment Scheme and/or the relevant TPPP to us as their contracting party. The Merchant shall fully indemnify and hold us harmless from any fines applied by the Payment Scheme as a result of the Merchant's breach of the terms of the Agreement, the Payment Scheme Rules and/or the TPPP Rules.

3.7 OBLIGATION TO IMPLEMENT RISK MANAGEMENT CONTROLS AND RECORDS RETENTION

- (a) The Merchant agrees to implement other risk management controls (including but not limited to the restrictions to certain geographies required by us to manage fraud or credit risk exposure) within a period of two months following the written notice by us. The Merchant also agrees to maintain the proper facilities, equipment, inventory and records.
- (b) In addition to complying with all records retention provisions under the Applicable Law, and subject to the requirements of PCI DSS, the Merchant must maintain a copy of all electronic and other records related to the Transaction ordering and delivery of the Merchant Products/Services for a period of 18 months. The copy of the records shall include, but not be limited to: shipping details (if relevant), invoices for the delivered Merchant Products/Services and all contacts with the Buyer. In case of any investigation by us, the Payment Scheme and/or the TPPP with respect to Chargebacks, suspected fraud or other requests for information, the Merchant must fully co-operate in the auditing of such records.

3.8 OBLIGATIONS RELATED TO THE SECURITY OF BUYER'S PAYMENT INSTRUMENT

- (a) The Merchant guarantees not to copy, capture or intercept Buyer's payment instrument related information such as card number and Sensitive Authentication Data that are entered on the Checkout.com Web based Payment Solutions. Strict rules on the security of payment instruments are imposed by the Payment Schemes (and specifically Card Schemes) and PCI SSC to protect Buyers against misuse of their payment instruments, and are strictly enforced by the Card Schemes. A violation of these rules can lead to the application of fines by the Card Schemes. If we have any reasons to believe that the Merchant is copying, capturing or intercepting the above-mentioned information, in violation of the Payment Scheme Rules and PCI SSC's rules, recommendations and standards (including specifically PCI DSS), we reserve the right to inspect Merchant's locations and to suspend processing of Transactions and/or Refunds and to suspend Payouts. The Merchant shall fully indemnify and hold each one of us harmless from any losses, claims (including applied fines by the Payment Scheme), costs or damages incurred as a result of the Merchant's breach of this obligation.
- (b) The Merchant shall immediately notify us if any Cardholder data, Sensitive Authentication Data or similar Buyer's payment instrument related information is breached or compromised. The Merchant must strictly comply, with respect to the security of the Buyer's payment instrument, with the terms of this Agreement, and with all the requirements of the Applicable Law, of the TPPPs, of the Payment Schemes (e.g. MasterCard's Site Data Protection Program), as well as with the guidance, requirements and standards of PCI SCC such as PCI DSS.

3.9 OBLIGATION TO NOTIFY OF ERRORS, MISAPPROPRIATION AND/OR UNAUTHORIZED USE OF THE CHECKOUT.COM GATEWAY AND/OR THE HUB

- (a) The Merchant must notify us in writing immediately if it believes there has been or will be an error, or misappropriation or unauthorized use of The Hub and/or Checkout.com Gateway. The Merchant must give us all the information in its possession as to the circumstances of any errors and/or misappropriation or unauthorized use of the Checkout.com Gateway and/or The Hub and take all reasonable steps to assist us in any investigation we may conduct. We might provide third parties with the information we consider relevant in such circumstances. In order to prevent misappropriation or unauthorized use of The Hub and/or Checkout.com Gateway, the Merchant must keep safe any and all password(s) that are necessary to access or use The Hub, and/or any confidential instruction provided by us for the integration of the Service whether through Checkout.com Web-based Payment Solutions or direct server-to-server integration using Checkout.com's API.
- (b) The Merchant shall also inform us promptly, and no later than within 13 months (or 60 days in case of corporate opt-out), after it becomes aware of any unauthorized or incorrectly executed Transaction and/or Refund, and where legally required, we shall refund the Merchant immediately for such unauthorized or incorrectly executed Refunds.
- (c) The Merchant shall inform us promptly, and no later than within 13 months (or 60 days in case of corporate opt-out), after it becomes aware of any non-execution or defective execution of the Refund, and we will make immediate efforts to trace the Refund and notify the Merchant of the outcome. Where we are liable for non-execution or defective execution, and where legally required, we will immediately refund the amount of the non-executed or defective Refund subject to corporate opt-out under clause 14.8.

3.10 OBLIGATIONS RELATING TO ON-SITE AUDIT/INSPECTION

- (a) If we believe that a security breach or compromise of any Buyer's data has occurred, we may require the Merchant to have a third party auditor that is approved by us to conduct a security audit of its systems and facilities and issue a report to be provided to us, the Payment Schemes and/or the TPPP, and the Merchant shall be required to remedy any defects identified within a reasonable period or a timeframe given by the Payment Schemes and/or the TPPP. Save for when an audit (i) is required by regulatory or Card Scheme requirements, (ii) is triggered by a material breach by Merchant, or (iii) determines non-compliance by Merchant with this Agreement, Checkout.com shall reimburse the Merchant for its reasonable costs of providing information, access and assistance with respect to such audit.

- (b) In addition to the above, the Merchant agrees to allow us, subject to a thirty (30) days written notice from us, to inspect its locations to confirm that the Merchant is in compliance with the terms of this Agreement, and is maintaining the proper facilities, equipment, inventory, records, licences and permits where necessary to conduct its business. Our representatives may, during normal working hours, inspect, audit and make copies of Merchant's books, accounts, records, and files pertaining to any Transaction processed under this Agreement.

3.11 OBLIGATIONS RELATING TO THE HUB

You may be given access to The Hub to allow You to make certain changes to Your account including but not limited to changes to URLs, Merchant Underwriting Data and Merchant Bank Accounts. Where You have such access, You represent and warrant that only You shall make such requests via The Hub and any information submitted via The Hub shall be legally binding and subject to the terms and conditions of this Agreement. You are solely responsible for the accuracy and completeness of any information You submit via The Hub.

3.12 OBLIGATIONS OF NON-SOLICITATION

During the term of this Agreement and for six (6) months following any termination of this Agreement, You will not, either directly or indirectly, on Your own behalf or on behalf of Your affiliates or others, solicit, divert or hire away, or attempt to solicit, divert or hire away any person who is (or was, at any time during the term of this Agreement or such one year period following) an employee of Checkout.com or any Checkout.com Group Company at the level of manager or above and/or who could materially damage the interests of Checkout.com or any Checkout.com Group Company. Notwithstanding the foregoing, it is understood that this employee non-solicitation provision shall not prohibit: (i) generalized solicitations by advertising and the like which are not directed to specific individuals or employees of Checkout.com or any Checkout.com Group Company; (ii) solicitations of persons whose employment was previously terminated by Checkout.com or a Checkout.com Group Company; or (iii) solicitations of persons who have terminated their employment with Checkout.com or a Checkout.com Group Company without any prior solicitation by You.

4. CHARGEBACK, ASSESSMENT AND REFUNDS

4.1 CHARGEBACK AND ASSESSMENT LIABILITY

- (a) The Merchant agrees to be held responsible and liable for: (i) any and all Chargebacks; and (ii) any assessment, fines, fees, charges or expenses of any nature which a Payment Scheme and in particular Card Schemes, Issuers, or TPPPs, levy on us at any time directly or indirectly in relation to any aspect of our relationship with the Merchant (all together defined herein as "Assessment"). Each Chargeback and Assessment represents a debt immediately due and payable to us.
- (b) Any Chargebacks for which the Merchant is required to reimburse us shall correspond to the whole or part of the processing value of the original Transaction.
- (c) Where a Chargeback or an Assessment occurs, we shall immediately be entitled to debit the Reserve Account, Additional Collateral, and/or make a deduction from any amount received by us from the Payment Schemes or the TPPP in accordance with this Agreement ('settled amount'), and/or invoice the Merchant to recover: (i) the full amount of the relevant Chargeback or Assessment; and (ii) any other costs, expenses, including without limitation legal fees and other legal expenses, liabilities or fines which we may incur as a result of or in connection with such Chargeback or Assessment ("Chargeback and Assessment Costs").
- (d) Where the full amount of any Chargeback, Assessment and/or any Chargeback and Assessment Costs is not debited by us from the Reserve Account, Additional Collateral, and/or deducted from any settled amount and/or invoiced, then we shall be entitled to otherwise recover from the Merchant by any means the full amount of such Chargeback, Assessment or 'Chargeback and Assessment Cost'.
- (e) We shall not be obliged to investigate the validity of any Chargeback or Assessment by any Issuer, Payment Scheme or TPPP, whose decision or determination shall be final and binding in respect of any Chargeback or Assessment.

4.2 CHARGEBACK AND ASSESSMENT PERIOD

As Chargebacks and Assessments may arise a considerable period after the date of the relevant Transaction, the Merchant acknowledges and agrees that, notwithstanding any termination of the Agreement for any reason, we shall remain entitled to recover Chargebacks, Assessments and 'Chargeback and Assessments Costs' from the Merchant (and, where relevant, from any person who has provided us with a guarantee or security relating to Merchant's obligations under the Agreement) in respect of all Chargebacks, Assessments and 'Chargeback and Assessment Costs' that occur in relation to Transactions effected during the term of the Agreement.

4.3 REFUNDS

- (a) As per clause 3.3 (b) of this Agreement the Merchant must disclose to the Buyer the description of the refund, return and cancellation policy (if the Merchant has a limited refund policy it must be clearly communicated to the Buyer prior to the purchase). The Merchant shall not: (i) give cash Refunds to a Buyer where the payment is made with a Card, other than when required by the Applicable Law, or (ii) accept cash or other compensation for making a Refund to a Card.
- (b) We reserve the right to refuse to execute a Refund if it is prohibited by the Applicable Law or does not meet the conditions of this Agreement. We also reserve the right to suspend Merchant's 'refund functionality' provided by us and this is where the Merchant is placed under fraud investigation, is deemed by us to be generating an excessive amount of Chargebacks, and/or for any other risk related reasons. We will notify the Merchant of such refusal or suspension, subject to any restrictions by the Applicable Law, indicating the reasons for such refusal or suspension and the procedure for correcting factual mistakes that led to it where possible. Any payment order that we refuse will be deemed not to have been received for the purposes of (i) any execution times, and in particular those set out in paragraph (b) of this clause, and of (ii) liability for non-execution or defective execution.

5. PAYMENTS AND FEES

5.1 MERCHANT SERVICE FEES

- (a) The Merchant shall pay to us all applicable fees set out in the Pricing Schedule or as notified to the Merchant in accordance with the notification procedure set out in clause 14.5, in which case the Merchant's use of the Services after such notification shall constitute acceptance of the terms in the Pricing Schedule.

- (b) In addition, the transactions which involve a currency conversion to complete payments (e.g. processing and payout in different currencies) are subject to a Currency Conversion Fee of 1.99% above the wholesale exchange rate provided by Open Exchange Rates Limited. The wholesale exchange rate is determined by Open Exchange Rates Limited and is adjusted regularly based on market conditions. Adjustments may be applied immediately and without notice to the Merchant.
- (c) Furthermore, the average Reported Fraud-to-Sales Ratios should not exceed one (1) % in any period of 3 consecutive months. Should the average Reported Fraud-to-Sales Ratios exceed one (1) % in any period of 3 consecutive months, in addition to the fees under (a) and (b) of this clause, the Excessive Fraud Fee shall apply, and such fee shall be payable on a rolling basis in the month that follows the relevant 3 month period in respect of which it was accrued.
- (d) All of the fees referred to in (a), (b) and (c) of this clause 5.1 are together and collectively referred to in this Agreement as the Merchant Service Fees ("MS Fees").

5.2 DEDUCTIONS

The Merchant shall be liable for all deductions applicable under this Agreement ("Deductions"). Deductions include: (i) Chargebacks, (ii) Assessments, (iii) Refunds, and (iv) amounts needed to comply with the Rolling Reserve Rate.

5.3 COLLECTION OF MS FEES AND/OR DEDUCTIONS, AND RELATED STATEMENTS

- (a) We may collect the MS Fees and/or Deductions, at our option, by: (i) debiting such amounts from the received funds held by us, without notice or demand, before Payouts; (ii) debiting such amount from the Reserve Account and/or Additional Collateral Account, without notice or demand, (iii) debiting such amounts from the Merchant Bank Account(s) by Direct Debit (iv) invoicing the amount of the MS Fees and/or Deductions to the Merchant; and/or (v) taking any lawful collection measures, in court or otherwise to collect such sums. The Merchant is required to maintain with its bank a Direct Debit instruction (or equivalent) to authorize us to directly debit from the Merchant Bank Account(s) through the use of Bankers' Automated Clearing Services (BACS) or other networks, including but not limited to Faster Payments Services (FPS), any sums due to us and payable by the Merchant under or in connection to this Agreement. You will ensure that the Merchant Bank Account(s) shall at all times have a credit balance sufficient to meet any sums due and payable to us under or in connection with this Agreement.
- (b) Where the MS Fees and Deductions are collected by invoicing the amount to the Merchant, the Merchant must pay sums due under any invoice under this Agreement within fourteen (14) days of the date of the receipt of such invoice or such time period as applies to direct debit. Interest shall accrue on any unpaid invoice owned by the Merchant to us at the rate of three (3) % per annum above the Bank of England's Base Rate. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Merchant shall pay the interest together with the overdue amount.
- (c) We provide electronic statements and/or invoices as applicable. Printed statements can be requested for subsequent statements by email (additional costs may be charged by us).

5.4 INFLATION

As per our right under the EU Payment Services Directive, we shall be entitled to change our prices to adjust for inflation with as a maximum previous year's published inflation rate by the Bank of England. Said price change may be applied by us only once annually and will be announced at least two (2) months in advance. For an increase under this clause, the termination right referred to in clause 10.2 (a) does not apply.

5.5 MS FEES CHANGE AND FURTHER INFORMATION ON MS FEES

- (a) We shall have the right to change the MS Fees at any time upon two months' notice to the Merchant. The Merchant may, however, during the two (2) months' notice period, terminate the Agreement with us by providing a written notice. It can also decide to vary the Agreement to continue using the Payment Methods in relation to which the fees were not changed.
- (b) The Merchant acknowledges that the MS Fees are assessed by us 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, we have the right to proportionally adjust our 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 scheme fees (e.g. corporate cards, credit cards issued outside of specific countries, etc.).

5.6 RESERVE ACCOUNT, ADDITIONAL COLLATERAL AND OTHER RELATED PROVISIONS

- (a) The Merchant agrees that a percentage of the daily gross sales volume processed by us will be subtracted from daily settlements received by us from the Payment Schemes or the TPPPs ("Rolling Reserves"), and shall be retained by us in order to be used to cover for unpaid MS Fees, Deductions such as Chargebacks, Assessments, and Refunds, or other payment obligations of the Merchant under this Agreement. Rolling Reserves may be capped or converted to a fixed reserve amount after a set period of time, to be held in the Reserve Account, as determined by us. The difference between the held and released Rolling Reserves will be communicated to the Merchant in the statements under section 'Reserve Account'. The Reserve Account is a separate element of the Merchant account, which serves the reserve functionality. The Rolling Reserves Rate shall be set out in the Pricing Schedule. However, we, at our sole discretion, may change the Rolling Reserves Rate and/or the terms of the Reserve Account based on Merchant's payment processing history immediately upon a written notification to the Merchant. The Merchant agrees that it is not entitled to any interest on the funds credited in the Reserve Account, that it has no right to direct that account, and that it cannot and will not assign or grant any security interest in those funds or that account, or allow any encumbrance upon the funds contained on that account.
- (b) Funds in the Reserve Account will remain in the Reserve Account for twenty-six (26) weeks following the date of termination set out in the termination letter of this Agreement or Merchant's last Transaction submitted to us, provided, however, that the Merchant will remain liable to us for all liabilities occurring beyond such twenty-six (26) weeks period.
- (c) In case of Merchant's insolvency, the funds held in the Reserve Account will be available for the purposes of the insolvency administration only after twenty-six (26) weeks, and subject to any additional Merchant's liability to us under this Agreement occurring between the Merchant's insolvency event and the expiry of the period of twenty-six (26) weeks.
- (d) In addition to the Reserve Account, we may request the Merchant to provide funds to us as non-interest bearing 'Additional Collateral' as a security to guarantee payment of any and all debt or liability from the Merchant to us, the TPPP, and/or the Payment Schemes such as, without limitation,

unpaid MS Fees, Deductions such as Chargebacks, Assessments, and Refunds, or other potential debt or liability, including those arising out of or in connection with any payout services. We will fund the Additional Collateral, replenish and maintain it at the designated level or will instruct the TPPP to do so by deducting the required amount from Payouts or any other funds due to the Merchant.

- (e) We may at our sole discretion at any time and without prior notice draw and receive amounts from the Additional Collateral, or instruct the TPPP to do so, as required to cover any amounts owed to us, the Payment Schemes and/or the TPPP which cannot be deducted from the Merchant's Payouts because of lack of funds or otherwise. We may subsequently replenish the Additional Collateral or instruct the TPPP to do so, from Payouts and funds due to the Merchant under this Agreement or require that the Merchant makes a payment to us for the amount required to replenish the Additional Collateral.
- (f) Unless otherwise advised by us, the Additional Collateral will be held and maintained for a minimum of six (6) months from the termination of this Agreement. If after such six (6) month period there is still a risk of more Deductions such as Chargebacks, Assessments, and Refunds, or other potential debt or liability, then we will have the right to withhold, or instruct the TPPP to withhold the funds until such risk is eliminated. Upon expiration of this six (6) month period (or longer, as the case may be), any remaining amount of Additional Collateral will be transferred to the Merchant. We will inform the Merchant of any charges debited to the Additional Collateral during this period.
- (g) We may change the Additional Collateral upon notice and at our sole discretion depending on refund ratios, fraud ratios, Chargeback ratios and other risk considerations.
- (h) The Merchant expressly acknowledges and agrees:
 - (i) that the Additional Collateral is separate to and does not form part of the funds subject to Checkout.com's safeguarding obligations;
 - (ii) to any charge or debit made by us or the TPPP against the Additional Collateral;
 - (iii) that it is not entitled to any interest on the Additional Collateral;
 - (iv) that it has no right to direct the Additional Collateral; and
 - (v) that it cannot and will not assign or grant any security interest in the Additional Collateral, or allow any encumbrance upon those funds.
- (i) we may, without notice to Merchant, apply deposits in the Reserve Account and/or to the Additional Collateral against any outstanding amounts owed to us under this Agreement, or any other future agreement between the Merchant and any of us. All our rights with respect to the Reserve and Additional Collateral shall survive the termination of this Agreement.

5.7 SET-OFF

The Merchant hereby authorizes us to set-off by whatever means the whole or any part of Merchant's liabilities to us under this Agreement (or any other contract with us) against any funds credited to or owing to the Merchant under this Agreement (or any other contract with us). We may exercise this right of set-off at any time, without notice to the Merchant, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Agreement. If the liabilities to be set off are expressed in different currencies, we may convert either liability at a market rate of exchange for the purpose of set-off. In the event such set-off does not fully reimburse us for the amount owed, the Merchant shall immediately pay us such amount. The Merchant shall hold harmless any financial institution that follows our request pursuant to this clause. Any exercise of our right under this provision is without prejudice and in addition to any rights or remedies available to us under this Agreement or otherwise.

5.8 TAXES

- (a) Unless stated otherwise, all our fees, charges and other payments to be made are exclusive of VAT, and any other applicable taxes or levies under any Applicable Law, for which the Merchant will be separately liable.
- (b) It is the Merchant's responsibility to determine what, if any, taxes apply to the sale of its products and services and/or the payments it receives in connection with its use of the Service ("Taxes"). It is solely the Merchant's responsibility to assess, collect, report, or remit the correct tax to the relevant tax authority. We are not obligated to, nor will we, determine whether Taxes apply, and will not calculate, collect or remit any Taxes to any tax authority arising from any Transaction, and this remains strictly Merchant's liability.

6. API AND OTHER SOFTWARE

6.1 SOFTWARE GENERAL

- (a) We provide the Checkout.com API and Software (and, where applicable, any other relevant software) to enable the Merchant to use the Service. Subject to clause 6.2, we reserve the right to change or amend these and the interface at any time, to provide the Merchant with a new version thereof, and/or to change the functionalities and characteristics, and to require the Merchant to install or update any and all software to continue using the Service.
- (b) The property rights in the API, the Software and other materials, and all other intellectual property rights related to our Services are owned by us and our licensors. The Agreement does not transfer any intellectual property rights with respect thereto and only provides the Merchant with a limited, non-exclusive and non-transferable licence (without the right to sub-licence) to use the Software and all other materials made available by us solely for the purpose of using the Services in accordance with this Agreement and the applicable usage instructions communicated to the Merchant by email or through a publication on the Developers' section of the Checkout.com website (<http://docs.checkout.com>). The Merchant shall not prepare any derivative work based on Checkout.com Group Company's intellectual property, nor shall it translate, reverse engineer, decompile or disassemble Checkout.com Group's intellectual property.

6.2 CHANGES TO SOFTWARE

- (a) No changes will be implemented by us which materially reduce the functionality of the Services which was explicitly committed to be provided under the Agreement, except where this is made necessary by: (i) the need to follow generally accepted changes in the payment industry standards, (ii) changes in the Applicable Law, Payment Scheme Rules or TPPP Rules, (iii) the need for increased security due to security risks identified by us, or (iv) other reasonable grounds which warrant the reduction of functionality. If the Merchant is significantly impacted by a material reduction

of functionality due to a change in our Software and, where applicable, any other relevant software, it may terminate the Agreement by giving written notice to us within 30 days after we announced the change.

- (b) We will announce material changes to the API, our Software and, where applicable, any other relevant software to the Merchant where reasonably possible at least two (2) months in advance to allow the Merchant to prepare for any impact. We endeavour to minimize changes to the API and applicable software. Shorter notice periods may have to be made to comply with the Applicable Law, changes in requirements from the Payment Scheme, the TPPP, the need for increased security due to security risks identified by us, or in case of any updates to software.

7. CONFIDENTIALITY

7.1 CONFIDENTIALITY OBLIGATIONS

The Recipient shall:

- (a) use the Confidential Information only for the purposes of this Agreement;
- (b) not disclose Confidential Information to any third party, unless legally required or specifically authorized under this Agreement, without the prior written consent of the Disclosing Party;
- (c) disclose Confidential Information only to such of its Representatives, Payment Schemes and TPPPs that have a need to obtain or to have access to such information and that are obliged by a written confidentiality agreement to keep such information in confidence. For the purposes of this clause 7.1(c), notwithstanding anything to the contrary therein, where we are the Recipient, we reserve the right to disclose such information to the Merchant's shareholders;
- (d) protect and safeguard Confidential Information against unauthorized disclosure and access to a standard that it applies to its own confidential information and in any case with reasonable skill and care;
- (e) only make such copies of the Confidential Information as is necessary for the purpose of this Agreement;
- (f) promptly inform the Disclosing Party, to the extent permitted by law, of any breach or suspected breach of any of the obligations hereunder; and
- (g) upon request in writing from the Disclosing Party and at the Disclosing Party's cost, immediately deliver to the Disclosing Party all copies of all or part of the Confidential Information (regardless of the form in which, or the medium on which, it is stored) or shall destroy such information and confirm in writing (which includes email) that all copies of such information have been so delivered or destroyed as requested. However, the Recipient and its Representatives may, subject to the terms of this Agreement, retain copies of the Confidential Information to comply with (i) Applicable Law, and/or (ii) the Recipient and its Representatives' respective bona fide document retention and disaster recovery policies and procedures.

7.2 EXCEPTIONS TO CONFIDENTIALITY OBLIGATIONS

Clause 7.1 shall not apply to information which:

- (a) the Recipient knew or possessed before the Disclosing Party disclosed it to the Recipient;
- (b) is or becomes publicly known, other than as a result of a breach of the terms of this Agreement by the Recipient or by anyone to whom the Recipient disclosed it;
- (c) the Recipient obtains from a third party, and the third party was not under any obligation of confidentiality with respect to the Confidential Information;
- (d) is independently developed by, or for the Recipient, or by the Recipient's Representatives who have not had any direct or indirect access to, or use, or knowledge of, the Disclosing Party's Confidential Information;
- (e) is required to be disclosed by the Recipient to a third party, which at least have the same confidentiality obligations as stated in this Agreement, for the purposes of (i) the performance of the obligations under this Agreement, (ii) equity or debt financing, (iii) the acquisition or sale of a business or assets, or (iv) the acquisition or sale of a body corporate or the shares in a body corporate; or
- (f) is required to be disclosed by order of a court, or other competent public body or authority, or under the Applicable Law.

7.3 REMEDIES

The parties to this Agreement acknowledge that in the event of an actual, impending or threatened breach of any term of this Agreement, damages may be an inadequate remedy and therefore, without limiting any other remedy available at law or in equity, an injunction, specific performance or other forms of equitable relief or monetary damages or any combination thereof shall be available to the non-breaching party without the need to give security or undertakings as to damages.

7.4 SURVIVAL OF CONFIDENTIALITY OBLIGATIONS

The rights and obligations under clause 7 will survive the expiration or termination of this Agreement and shall stay in force for a period of five (5) years thereafter, or until such time as such information becomes public information through no fault of the Recipient.

8. DATA PROTECTION AND PRIVACY

Checkout.com's Privacy Policy, as published on our website (<https://www.checkout.com/legal/privacy-policy>), sets out the Personal Data we may collect, the uses made of such Personal Data and the purposes for obtaining it, and other related useful information. By accepting this Agreement the Merchant acknowledges that it has read and understood the content of Checkout.com's Privacy Policy.

8.1 ROLES OF THE PARTIES

- (a) Where we process Personal Data while performing the Services we will act as a Data Processor for the Merchant, other than in the circumstances where we determine the purpose and the manner of Processing of Personal Data and subsequently act as a Data Controller, as described in clause 8.1(b).
- (b) Merchant authorizes Checkout.com to Process Personal Data, as a Data Controller, in the following cases:
 - (i) Where we determine the purpose and the manner of Processing of Personal Data, for example, in order to: (i) comply with the Applicable Law (including specifically anti-money laundering and counter-terrorism financing laws and regulations), Payment Scheme Rules, TPPP Rules, EU Data Protection Law, GDPR, or (ii) perform any obligation under this Agreement;
 - (ii) Where the Merchant is provided with a Tokenisation Service from us, or any other similar encryption service in the provision of which we determine the purpose and the manner of Processing of the Personal Data (for the avoidance of doubt, if the Merchant decides to switch to another payment services provider, we shall not obstruct this process by withholding the Card Tokens/Card IDs);
 - (iii) Where we Process Personal Data for the purpose of internal research, fraud, security and risk management and assessing financial, credit, or information security risk.

8.2 OBLIGATIONS OF MERCHANT

The Merchant represents and warrants to us that, in relation to the Processing of Personal Data in the context of the Services, it acts as a Data Controller and that it:

- (a) Complies with EU Data Protection Law and Checkout.com's Privacy Policy in respect of Processing of Personal Data, and only gives lawful instructions to Checkout.com. The Merchant must comply with the personal data protection laws of the Merchant's country of origin and of those countries in which the Merchant offers Merchant Products/Services and, in particular when Processing and sending the Personal Data to us in the context of using the Services and submitting Transactions (Lawfulness of processing).
- (b) Relies on a valid legal ground under EU Data Protection Law for each purpose of its personal data processing activities, including obtaining Data Subjects' appropriate consent if required or appropriate under EU Data Protection Law (Legal ground).
- (c) Provides appropriate notice to the Data Subjects regarding: (1) the Processing of Personal Data for the purpose of providing the Services, in a timely manner and at the minimum with the elements required under EU Data Protection Law; (2) the existence of Data Processors located outside of Europe (Notice).
- (d) Takes reasonable steps to ensure that Personal Data is accurate, complete and current; adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed; and kept in a form which permits identification of Data Subjects for no longer than is necessary for the purposes for which the Personal Data are processed unless a longer retention is required or allowed under Applicable Law (Accuracy, data minimization and data retention).
- (e) Implements appropriate technical and organizational measures to ensure, and to be able to demonstrate, that the Processing of Personal Data is performed in accordance with EU Data Protection Law, including, as appropriate, appointing a data protection officer, maintaining records of processing, complying with the principles of data protection by design and by default and, where required, performing data protection impact assessments and conducting prior consultations with supervisory authorities (Accountability).
- (f) Responds to Data Subject requests to exercise their rights of: (i) access; (ii) rectification; (iii) erasure; (iv) data portability; (v) restriction of Processing of Personal Data; and (vi) objection to the Processing of Personal Data in accordance with EU Data Protection Law (Data Subjects' Rights).
- (g) Cooperates with Checkout.com to fulfil their respective data protection compliance obligations in accordance with EU Data Protection Law (Cooperation).
- (h) Ensures that all Merchant staff are appropriately trained in line with their responsibilities under EU Data Protection Law.
- (i) Notifies its Buyers of the Mastercard Binding Corporate Rules (as amended from time to time and currently available here: <https://www.mastercard.co.uk/content/dam/mccom/global/documents/mastercard-bcrs-february-2017.pdf>), including the Buyers' right to enforce these rules as third-party beneficiaries.
- (j) With respect to Processing of Personal Data as described in article 22 of the GDPR, should such processing occur, it has put in place suitable measures to safeguard the Data Subject's rights and freedoms and legitimate interests and the right to obtain human intervention on the part of the Merchant, to allow Data Subjects to express their point of view and to contest the decision made in relation to the Data Subject.

8.3 OUR OBLIGATIONS

Checkout.com will:

- (a) Only Process Personal Data in accordance with the Merchant's lawful written instructions and not for any other purposes than as required for: (i) the provision of our Services; (ii) our role as a Data Controller as described in clause 8.1(b); or (iii) other purposes agreed by both Parties in writing.

- (b) Promptly inform Merchant if, in its opinion, the Merchant's instructions infringe EU Data Protection Law, or if Checkout.com is unable to comply with the Merchants' instructions.
- (c) Cooperate with the Merchant in its role as Data Controller to fulfil its own data protection compliance obligations under EU Data Protection Law, including by providing all information available to Checkout.com as necessary to demonstrate compliance with the Merchant's own obligations and where applicable to help Merchant conducting data protection impact assessments or prior consultation with supervisory authorities.
- (d) Keep internal records of Processing of Personal Data carried out as a Data Processor on behalf of Merchant.
- (e) Assist Merchant in fulfilling its obligation to respond to Data Subjects' requests to exercise their rights as provided under EU Data Protection Law and specified under Clause 8.2(f), and notify Merchant about such requests if Checkout.com receives it directly from the Data Subject.
- (f) Notify Merchant when local laws prevent Checkout.com from: (1) fulfilling its obligations under this Agreement and have a substantial adverse effect on the guarantees provided by this Agreement; and (2) complying with the instructions received from the Merchant via this Agreement, except if such disclosure is prohibited by Applicable Law, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation.
- (g) When the Agreement expires or upon termination of the Agreement or upon a request to delete or return Personal Data by Merchant, except for any Personal Data which Checkout.com processes as a Data Controller, Checkout.com will, at the choice of Merchant, delete, anonymize, or return such Personal Data to Merchant, and delete or anonymize existing copies unless applicable law prevents it from returning or destroying all or part of the Personal Data or requires storage of the Personal Data (in which case Checkout.com will protect the confidentiality of the Personal Data and will not actively Process the Personal Data anymore).

8.4 DATA TRANSFERS

Merchant authorizes (and confirms that it has obtained, on our behalf, the required informed consents from the Buyer and Merchant's employees, directors and shareholders) Checkout.com to transfer the Personal Data Processed in connection with the Services outside of the EEA in accordance with lawful data transfer mechanisms that provide an adequate level of protection under EU Data Protection Law and appropriate or suitable safeguards as required by Applicable Law.

8.5 SUB-PROCESSING

Merchant gives general authorization to Checkout.com to Process and sub-process Personal Data using internal and external Sub-Processors in the context of the Services under the conditions set forth below and Checkout.com represents and warrants that when sub-processing the Processing of Personal Data in the context of the Services, it:

- (a) Binds its internal Sub-Processors to respect the Standard Contractual Clauses and to comply with the Merchant's instructions.
- (b) Requires its external Sub-Processors, via a written agreement, to comply with the requirements of EU Data Protection Law applicable to processors and data transfers, with the Merchant's instructions and with the same obligations as are imposed on Checkout.com by this Agreement. This will be done by using the Standard Contractual Clauses or another appropriate transfer solution.
- (c) Remains liable to the Merchant for the performance of its Sub-Processors' obligations.
- (d) Commits to provide a list of Sub-Processors to Merchant upon request.
- (e) Will inform Merchant of any addition or replacement of a Sub-Processor in a timely fashion so as to give Merchant an opportunity to object to the change or to terminate the Agreement before the Personal Data is communicated to the new Sub-Processor, except where the Services cannot be provided without the involvement of a specific Sub-Processor.

8.6 SECURITY OF PROCESSING; CONFIDENTIALITY; AND PERSONAL DATA BREACH

- (a) The Parties must implement and maintain a comprehensive written information security program with appropriate technical and organizational measures to ensure a level of security appropriate to the risk, which includes, as appropriate: (a) the pseudonymization and encryption of Personal Data; (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services; (c) the ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident; and (d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organizational measures for ensuring the security of the processing. In assessing the appropriate level of security, the Parties must take into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing of Personal Data as well as the risk of varying likelihood and severity for the rights and freedoms of Data Subjects and the risks that are presented by the Processing of Personal Data, in particular from accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Personal Data transmitted, stored or otherwise Processed. (Security measures).
- (b) The Parties must take steps to ensure that any person acting under their authority who has access to Personal Data is subject to a duly enforceable contractual or statutory confidentiality obligation, and if applicable Process Personal Data in accordance with the Controller's instructions (Confidentiality).
- (c) The Parties must notify a Personal Data Breach that relates to Personal Data Processed in the context of the Service to the other Party, without undue delay, and no later than 48 hours after having become aware of a Personal Data Breach. Checkout.com will provide reasonable assistance to Merchant in complying with its obligations to notify a Personal Data Breach (Personal Data Breaches).
- (d) The Parties will use their best efforts to reach an agreement on whether and how to notify a Personal Data Breach, and must document all Personal Data Breaches, including the facts relating to the Personal Data Breach, its effects and the remedial action taken (Cooperation and Documentation in case of Personal Data Breaches).

8.7 DATA PROTECTION AUDIT

Upon prior written request by Merchant, Checkout.com agrees to cooperate and within reasonable time provide Merchant with: (a) a summary of the audit reports demonstrating Checkout.com's compliance with EU Data Protection obligations under this Agreement, after redacting any confidential and commercially sensitive information; and (b) confirmation that the audit has not revealed any material vulnerability in Checkout.com's systems, or to the extent that any such vulnerability was detected, that Checkout.com has fully remedied such vulnerability. If the above measures are not sufficient to confirm compliance with EU Data Protection law or reveal some material issues, subject to the strictest confidentiality obligations, Checkout.com allows Merchant to request an audit of Checkout.com's data protection compliance program by external independent auditors, which are jointly selected by the Parties. The external independent auditor cannot be a competitor of Checkout.com, and the Parties will mutually agree upon the scope, timing, and duration of the audit. Checkout.com will make available to Merchant the result of the audit of its data protection compliance program.

8.8 LIABILITY TOWARDS DATA SUBJECTS

Subject to the liability clauses in this Agreement, the Parties agree that they will be held liable for violations of EU Data Protection Law towards Data Subjects as follows:

- (a) Merchant is responsible for the damage caused by the Processing which infringes EU Data Protection Law or this Agreement.
- (b) When Checkout.com acts as a Processor, it will be liable for the damage caused by the Processing only where it has not complied with obligations of EU Data Protection Law specifically directed to Processors or where it has acted outside of or contrary to Merchant's lawful instructions. In that context, Checkout.com will be exempt from liability if it proves that it is not in any way responsible for the event giving rise to the damage.
- (c) Where the Parties are involved in the same Processing and where they are responsible for any damage caused by the Processing, both Merchant and Checkout.com may be held liable for the entire damage in order to ensure effective compensation of the Data Subject. If Checkout.com paid full compensation for the damage suffered, it is entitled to claim back from Merchant that part of the compensation corresponding to Merchant's part of responsibility for the damage.

9. SECURITY

- (a) We may at any time require the Merchant to procure that a person (either legal or physical or both) or persons satisfactory to us, provide us with a guarantee and/or indemnity in respect of the Merchant's obligations (including contingent or potential obligations) from time to time under the Agreement. In such case a separate document from this Agreement must be executed by the Merchant.
- (b) We may at any time require the Merchant to grant to us, or procure the granting to us of, security other than guarantees or indemnities in such form, including the requirement to put funds into a bank account which we may specify (including a trust or other account which we may establish for such purpose) and over such assets (and free of other security interests or subject only to such other security interests and other rights as we shall permit) to secure to our satisfaction the performance of Merchant's obligations (including contingent or potential obligations) from time to time under this Agreement.
- (c) We may exercise our rights under this clause either to require additional security or to require the replacement of a previous security which has been withdrawn or which we, for any reason, require to be replaced.
- (d) Without prejudice to any other provision of the Agreement, Merchant's failure to comply with any requirement made under this clause 9 strictly in accordance with the relevant time limits shall constitute a material breach of this Agreement allowing for immediate termination without notice.

10. TERM AND TERMINATION

10.1 TERM AND VOLUNTARY TERMINATION

This Agreement is effective upon the date You accept these terms and conditions, by electronic means or otherwise, and except where explicitly agreed otherwise in the Agreement, the Agreement is entered into for an indefinite period until it is terminated: (i) by us by giving two (2) months' prior written notice to the Merchant; or (ii) by the Merchant by giving one (1) month's prior written notice.

10.2 IMMEDIATE TERMINATION

- (a) The Merchant has the right to terminate the Agreement immediately in accordance with clause 11(a) relating to the Change of this Agreement.
- (b) We have the right to terminate the Agreement and/or to suspend the provision of any Service to the Merchant immediately upon written notice in part, or in whole, if:
 - (i) The provision of Merchant Products/Services is reasonably suspected by us to be in breach of the Applicable Law (including but not limited to anti-money laundering and terrorist financing legislations), the Payment Schemes Rules or TPPP Rules; or
 - (ii) The Merchant has been listed on any of the UK HM Treasury's financial sanction lists, Office of Foreign Asset Control's SDN list, World-Check, or a Payment Scheme's fraud and risk databases such as MATCH, VMAS or equivalent; or
 - (iii) The Merchant infringes or is suspected of infringing intellectual property rights, copyrightable works, patented inventions, trademarks and trade secrets, or is suspected of selling counterfeit and/or knockoff products/items/goods; or
 - (iv) The Merchant materially changes the type of the Merchant Products/Services without obtaining our prior written permission to use the Services for the new or changed types of Merchant Services/Products, or it is discovered by us that the Merchant provided substantially misleading and/or false information about the Merchant Products/Services as part of the Underwriting Data; or
 - (v) The Merchant materially breaches any of the terms of the Agreement, the Payment Scheme Rules, the TPPP Rules and/or Applicable Law in the context of using the Services; or

- (vi) The Payment Scheme or the TPPP demands us to terminate or suspend providing Services to the Merchant with respect to Services made available by such Payment Scheme or TPPP to us; or
 - (vii) The ratio of Chargebacks to Transactions exceeds one (1) %, the Reported Fraud-to-Sales Ratios exceeds one (1) %, or we otherwise consider, at our sole and absolute discretion, that the total value of the Refunds, Chargebacks, and/or Reported Fraud, and/or the number of declined authorization requests and/or the number of Buyer complaints is excessive ("Excessive Activity"); or
 - (viii) We consider that there are clear indications that the Merchant is, or is likely to become (i) insolvent or subject to any insolvency proceedings (whether voluntarily or involuntarily) and/or (ii) unable to provide a material part of the Merchant Products/Services; or
 - (ix) The Merchant: 1) refuses to provide security requested in accordance with clause 9 of this Agreement, and the withdrawal, removal, termination or unenforceability of any security in relation to which we rely upon, or 2) grants to a third party any security or charge over all or a significant proportion of its assets; or
 - (x) The change of control of the Merchant, or a sale or other disposal of any substantial division or part of Merchant's business, that we consider at our sole discretion would adversely affect us or our ability to comply with the Applicable Law; or
 - (xi) The Merchant undertakes or has undertaken activities (such as scams or other fraudulent activities) which in our reasonable opinion are detrimental to our brand, image or reputation, or that of any Payment Schemes or TPPPs; or acts in a manner that, in our reasonable opinion, may or does give rise to increased risk of losses or liabilities to any of us.
- (c) When the Merchant has been immediately terminated under 10.2(b), we reserve the right to report such Merchant to the Payment Schemes for entering into MATCH, VMAS or equivalent databases of terminated merchants, in accordance with the applicable Payment Scheme Rules.
 - (d) This Agreement shall terminate immediately, without notice, in the event the Merchant does not satisfy Checkout.com's initial customer due diligence checks based on the Merchant Underwriting Data submitted by the Merchant.

11. CHANGES TO THE AGREEMENT

- (a) We may revise the Agreement from time to time by giving two (2) months' written notice to the Merchant via email, post, via a notice in The Hub or by posting such changes on our website ("Change"). If the Merchant does not notify us of its objections to the Change within two (2) months of our written notice of the Change, the Merchant will be deemed to have accepted the Change. If the Merchant notifies us of his objection to the Change within a period of two (2) months of our written notice of the Change, and we still do not withdraw the Change, the Merchant may terminate the Agreement immediately by giving us a written notice after the entry into force of the Change. However, if the Merchant does not object to the Change by terminating this Agreement within five (5) Business Days of the entry into force of the Change, it will be deemed to have accepted it. The Merchant's use of the Services after we provide any such notice, constitutes the Merchant's acceptance of the terms of the modified Agreement. The Merchant still remains liable to us after the termination of this Agreement for any liability it might have incurred and is responsible for prior to terminating this Agreement.
- (b) The two (2) month notice period will not apply where: the Change (i) relates to interest rate or exchange rates and, in our reasonable opinion, is more favourable to the Merchant, or (ii) relates to the addition of a new service or extra functionality to the existing Service. In such instances, the Change will be made and shall be effective immediately upon giving the Merchant notice of it.
- (c) The Merchant is not entitled to object to and shall not have the rights set out in this clause for any change, which we implement in order to comply with Applicable Law or requirements by the relevant Payment Schemes. For such imposed changes shorter notice periods may be imposed.

12. REPRESENTATIONS AND WARRANTIES

The Merchant represents and warrants to us that:

(a) it, shall not, directly or indirectly, mischaracterise or disparage any of us, our Representative or Checkout.com Group Company; (b) it shall not use the Services in connection with any illegal or fraudulent business activities; (c) it is a validly organised and validly existing company in good standing under the laws where its principal office is located and shall inform us immediately should this change; (d) it has obtained and shall maintain any and all licences, permits and registrations required under the Applicable Law to conduct its business in all jurisdictions where it sells the Merchant Products/Services, and shall inform us immediately should this change; (e) it has the power to execute, deliver and perform this Agreement, and this Agreement is duly authorized, and will not violate any provisions of law, or conflict with any other agreement to which such party is subject; (f) to the best of its knowledge, there is no action, suit or proceeding at law or in equity now pending or threatened by or against or affecting the Merchant which would substantially impair its right to carry on its business as now conducted or adversely affect its financial condition or operations; (g) it has never experienced excessive Chargebacks, committed fraud, nor has it ever been terminated by an acquirer or asked to terminate its agreement with an acquirer or subject to any Payment Scheme's monitoring programme(s); (h) its directors, shareholders and ultimate beneficial owners have never been convicted of a criminal offence and are not currently subject of any investigation relating to any criminal offence, and the Merchant undertakes to inform us immediately should this change; (i) its directors, shareholders and ultimate beneficial owners are not listed on any of the UK HM Treasury's financial sanction lists, EU sanctions list, and U.S. Department of Treasury's Office of Foreign Asset Control SDN list, and the Merchant undertakes to inform us immediately should this change.

13. INDEMNITY, LIABILITY AND LIMITATION OF LIABILITY

13.1 INDEMNITY

- (a) In any case where damages, costs and expenses are asserted against the Merchant by third parties who claim that they are the owner of any intellectual property (IP) rights regarding our Software and/or systems we shall indemnify the Merchant without delay for these third-party claims, including Merchant's reasonable costs of its legal defence, and offer the Merchant the necessary assistance in its legal defence.
- (b) The Merchant shall indemnify for and hold each one of us harmless from any claim (including reasonable legal fees) brought against us by any third party (expressly including the Payment Schemes and the TPPPs and their claims for payments of Assessments and related costs) arising out of: (i) Merchant's or its employees' or agents' breach of the terms of the Agreement, (ii) Merchant's or its employees' or agents' breach of the Applicable Law and/or of the Payment Scheme Rules applying to the Services used by Merchant.

- (c) The Merchant shall indemnify for and hold each of us harmless from any losses related to Chargebacks, Assessments and 'Chargeback and Assessment Costs', third party IP right infringements, and any other losses, claims, actions, injuries, liabilities, fines, penalties or expenses (including reasonable legal costs) arising out of or in connection with this Agreement.

13.2 EXCLUSION OF LIABILITY FOR PAYMENT SCHEMES AND TPPPs AND ISSUERS

- (a) We will only be liable for our own acts or omissions and not for acts or omissions of third parties. This expressly excludes our liability for acts or omissions of the Payment Schemes, the TPPPs, and issuers, or for events or activities originating outside our system (such as infrastructure failure, internet disturbances or malfunctioning in third party systems), except in case such events were caused by our wilful misconduct or gross negligence.
- (b) We shall not be liable to the Merchant or any third party for any liquidated, indirect, consequential, exemplary, or incidental damages (including damages for loss of business profits, business interruption, loss of business information and the like) arising out of this Agreement.

13.3 LIMITATION OF LIABILITY

Subject to clause 3.9, and to the fullest extent permitted by the Applicable Law, our total liability or the total liability of the Checkout.com Group Companies (and our and their respective employees, directors, agents and representatives) arising out of or in connection with this Agreement, whether in contract or in tort or other legal theory, shall not exceed the total amount of the Merchant Service Fees (net of the applicable Interchange and Payment Scheme fees) in connection with the Merchant's use of the Service during the twelve (12) months period immediately preceding the event giving rise to the claim for liability.

13.4 NO EXCLUSION OF LIABILITY

Nothing in this Agreement shall exclude or limit any liability of any party for fraud, death, personal injury or gross negligence.

14. GENERAL PROVISIONS

14.1 ASSIGNMENT AND AGENCY/SUBCONTRACTING, PARTNERSHIP

- (a) Subject to the Applicable Law and the Payment Scheme Rules, we shall be entitled, at any time, to assign, novate or otherwise transfer this Agreement or any of Merchant's rights and obligations under it to another Checkout.com Group Company, and/or to the Payment Scheme, without the prior consent of the Merchant by providing written notice to the Merchant of such transfer.
- (b) As the Agreement is specific to the Merchant, in relation to which the Merchant undergoes a due diligence approval process, the Merchant may not assign it, novate it, or transfer it or any of its rights under it without our consent.
- (c) We may appoint at any time, and without prior notice to the Merchant, an agent or subcontractor to perform any of our obligations under the Agreement. The Merchant may only use an agent or sub-contractor for the performance of its obligations under the Agreement with our consent, and we may reasonably withhold that consent at any time.
- (d) Nothing in this Agreement shall be construed as constitution of a partnership between the Parties, except where expressly provided, nor shall it constitute, or deem to constitute, one party as the agent of any other party for any purpose.

14.2 SEVERABILITY

If any provision of this Agreement is found by any court or a competent public body or authority to be illegal, invalid or unenforceable:

- (a) such illegality, invalidity or unenforceability shall not affect the other provisions of this Agreement, which shall remain in full force and effect; and
- (b) if such provision would cease to be illegal, invalid or unenforceable if some part of the provision were modified or deleted, the provision in question shall apply with such minimum modification or deletion as may be necessary to make it legal, valid and enforceable.

14.3 ENTIRE AGREEMENT

- (a) The parties agree that the Agreement constitutes the entire agreement between them, and supersedes all other prior agreements, arrangements, understandings or representations between them, whether oral or written, other than any securities or written pledges, undertakings or assurances which the Merchant may have previously given to us as a condition precedent or in anticipation of the Agreement.
- (b) Each party to this Agreement warrants that it has not relied on any representations, arrangements, understanding or agreement (whether written or oral) not expressly set out or referred to in the Agreement. The only remedy available to any party in respect of any such representations, arrangements, understanding or agreement shall be for the breach of contract in accordance with the terms of this Agreement.

14.4 MARKETING AND OTHER USE OF LOGOS

- (a) The Merchant agrees that its name and standard logo (as published by the Merchant) may be included by us on the Checkout.com client list on our website and in our marketing materials. We shall be entitled to use the said list freely in our commercial efforts. The Merchant also agrees that its name and standard logo may be included by us in our communications with the Buyer in relation to the Transaction. Any other use of Merchant's name, logo or information shall only occur with the Merchant's prior written consent which the Merchant shall not unreasonably withhold.
- (b) The Merchant may on its website in the information related section refer to us as its payment service provider, explaining that this is the reason why the name of Checkout Ltd (or other Checkout.com Group Company names, our trade name or similar) may appear on bank statements of the Merchant. The Merchant may also include an Internet link to the website of Checkout.com in such a context. The Merchant may not use our logo anywhere else on its website, or otherwise, without the prior express written approval of Checkout.com.

14.5 NOTICES AND CONSENT TO ELECTRONIC COMMUNICATIONS AND ELECTRONIC SIGNATURE CONSENT

- (a) Any notice or other official communication given to a party under or in connection with the Agreement shall be in writing and in the English language, and (in the case of (i), (ii) and (iii) as follows) addressed to that party at its registered office address or such other address as that party may have

specified to the other party in writing in accordance with this clause and shall be: (i) delivered personally, (ii) sent by pre-paid first class post or other next working day delivery service, (iii) delivered by a commercial courier, (iv) emailed to the email address specified in writing or as set out in The Hub, (v) published in The Hub, or (vi) published on our website. All notices to us in relation to this Agreement, independently of which Checkout.com Group Company is Merchant's service provider, shall be delivered to the attention of the Office of the General Counsel of Checkout Ltd at the registered address indicated in this Agreement or any other address that we may have specified to the Merchant in writing in accordance with this clause.

- (b) A notice or other communication shall be deemed to have been received: (i) if delivered personally, when left at the address; (ii) if sent by pre-paid first class post or other next working day delivery service, at 9.00 a.m. on the second Business Day of the recipient after posting; (iii) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; (iv) if sent by email, one Business Day after the transmission; (v) if published in The Hub, after Merchant's logged into The Hub or received a notification about this publication in The Hub via any notice means set out in clause 14.5(a); or (vi) if published on our website, 24 hours after it is posted.
- (c) The Merchant confirms that it has internet access and has an email account to receive notices, communications and information relating to the Services. The Merchant agrees to the receipt of electronic communications and notices by email, by posting of the information on Checkout.com's website, or posting of the information in The Hub. Such communications may pertain to the Services delivered by us, changes in laws or rules impacting the service or other reasons, such as amendment of this Agreement. The Merchant may request a copy of any legally required disclosures (including this Agreement) from us and we will provide this to the Merchant in a form which allows it to store and reproduce the information (for example, by email) and the Merchant may terminate its consent to receive required disclosures through electronic communications by contacting us as described in clause 14.5 of the Agreement. We may charge the Merchant a records request fee to provide this information. We reserve the right to terminate this Agreement if the Merchant withdraws its consent to receive electronic communications.
- (d) Where Merchant has concluded this Agreement with Checkout.com via Checkout.com's website or via any other online means, we may at any time request that the Merchant re-confirms its acceptance of the terms of the Agreement by means of a written document signed by an authorized representative of the Merchant. If the Merchant does not comply with such request within 5 working days after receiving a request by Checkout.com to do so (which request may be issued to Merchant via the contact email address submitted by Merchant when concluding the Agreement), Checkout.com reserves the right to suspend part or all of the Services until the Merchant has complied with such request.

14.6 WAIVER

- (a) A waiver of any right or remedy under this Agreement or under Applicable Law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.
- (b) A failure or delay by a party to exercise any right or remedy provided under this Agreement or under the Applicable Law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or under the Applicable Law shall prevent or restrict the further exercise of that or any other right or remedy.

14.7 GOVERNING LAW AND JURISDICTION

- (a) This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.
- (b) Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims), provided always that we shall not be limited to the forum of England and Wales for the enforcement of any judgment relating to this Agreement and shall have the right to bring the relevant action in any jurisdiction where the Merchant is incorporated or may have assets.

14.8 UK PAYMENT SERVICES REGULATIONS 2017 (CORPORATE OPT-OUT)

- (a) While this Agreement applies to Merchants of all sizes, the Merchant agrees that if at the time it entered into this Agreement (i) its annual turnover and/or annual balance sheet exceeds 2 million euros; or (ii) it has 10 or more employees, or (iii) it is a Charity with an annual income of 1 million GBP; then the Merchant:
 - (i) confirms that it is not a consumer, micro-enterprise or a charity within the meaning of the UK Payment Services Regulations 2017;
 - (ii) agrees that none of the provisions of Part 6 of the UK Payment Services Regulations 2017 applies to this Agreement;
 - (iii) agrees that regulations 66(1), 67(3), 67(4), 75, 77, 79, 80, 83, 91, 92 and of the UK Payment Services Regulations 2017 do not apply to this Agreement. The Merchant also agrees that, notwithstanding any other provision of this Agreement, the time period for notifying us of any unauthorized or incorrectly executed Transaction and/or Refund is 60 days of the alleged error rather than the 13 months of regulation 76 of the UK Payment Service Regulations 2017.
- (b) The Merchant further confirms for the avoidance of any doubt that, notwithstanding any other provision of this Agreement, we are not liable to the Merchant for the losses or damages that the Merchant may suffer as a result of the matters referred to in Part 6 of the EU Payment Services Directive 2017 or regulations listed in clause 14.8(a) paragraph 3 of this Agreement.

14.9 FORCE MAJEURE

We shall be relieved from our obligations under this Agreement insofar as we were prevented from undertaking our obligations under this Agreement by reason of force majeure. For this clause to apply, circumstances such as the following shall be considered as reasons of force majeure: fire, flooding, earthquake and other natural disasters; industrial actions; terrorism or vandalism (including computer virus and hacking); mobilisation; war; riots; civil unrest; requisition; sanctions, currency exchange restrictions; any law or any action taken by a government or public authority including without limitation failing to grant a necessary licence or consent; revolt; interruption or failure of utility service; and more generally circumstances beyond our control and preventing us to meet our obligations. This clause does not have geographical limitation and specifically includes among others force majeure events in the United Kingdom and the Republic of Mauritius.

14.10 OUT-OF-COURT COMPLAINT AND REDRESS PROCEDURES

Where the Merchant is receiving the Services from Checkout Ltd and is not satisfied with its Services it can initiate our complaints procedure by contacting us directly, as per the Complaints Handling Policy published on our website.

If the Merchant is still not satisfied after following our complaints procedure, the Merchant can ask the Financial Ombudsman Service (subject to Applicable Law governing eligible complainants), to review the complaint by writing to the Financial Ombudsman Service at Exchange Tower, London E14 9SR or by telephone on 0800 023 4567. Further information is available on www.financial-ombudsman.org.uk.

The Merchant may also be able to submit complaints to the Financial Conduct Authority.

14.11 ADDITIONAL COMPONENTS

- (a) In addition to the terms and conditions set out herein, the Agreement also includes the information set out in The Hub and any Schedules.
- (b) The Merchant also agrees that Checkout.com's Use Policy is incorporated by reference into this Agreement and provides additional terms and conditions related to the Services. This document is an "Ancillary Document" for the purpose of this Agreement. For the avoidance of doubt, neither the Ancillary Documents nor the parts of this Agreement that incorporate the terms of the Ancillary Documents constitute "framework contracts" for the purpose of the EU Payment Services Directive, as amended from time to time or any implementation of that directive in the EU or EEA (including, without limitation, the UK Payment Services Regulations 2017, as amended from time to time).
- (c) The Merchant accepts all of the documents and/or rules listed in this clause 14.11 as part of this Agreement.