

# MERCHANT ACQUIRING AND GATEWAY SERVICES AGREEMENT

No: \_\_\_\_\_

Dubai, UAE

\_\_\_\_/\_\_\_\_/20 \_\_\_\_

**A.**

**GCCH Management FZE**, registered in Dubai, UAE under license number L-1797, with its registered office at Sheikh Rashid Tower, Floor no. 18, Dubai, UAE, and authorised by the Financial Conduct Authority under the Electronic Money Regulations 2011 for the issuing of electronic money (the "Acquirer");

**B.**

\_\_\_\_\_, Registered in \_\_\_\_\_, Registration No. \_\_\_\_\_, with its legal address at \_\_\_\_\_,

"Gateway Provider"); and \_\_\_\_\_ (the

**C.**

Registered in \_\_\_\_\_, Registration No \_\_\_\_\_, with its legal address at \_\_\_\_\_,

(the "E-Merchant").

The Acquirer, the Gateway Provider and the E-Merchant, (each separately referred to as a "Party" and jointly referred to as "the Parties"), have signed this agreement, (this "Agreement"), as follows:

## 1. DEFINITIONS AND INTERPRETATION

**1.1. Action Plan** – internal regulatory document of the E-Merchant that contains information and set of activities, which shall be carried out by the E-Merchant to improve the statistics on Chargebacks and fraudulent Transactions under the Agreement. The Action plan should include: the E-Merchant business description and future strategy of the E-Merchant business; analysis, that reflects a cause of the increase of the Chargebacks and fraudulent Transactions; if the E-Merchant cooperation with the third parties is the reason of negative statistics of the Chargebacks and fraudulent Transactions, such third parties and their detailed description shall be specified; the description of the methods and tools applied by the E-Merchant for definition and prevention of risk, that are used to ensure monitoring of the Transactions; the list of the activities held and planned by the E-Merchant for improvement of negative statistics of the Chargebacks and fraudulent Transactions (enacting of new rules in a range of definition and prevention of risk); the planned timetable for the improvement of statistics of the Chargebacks and fraudulent Transactions.

**1.2. Additional Chargeback Processing Fees** – such processing fees for Chargeback processing as are charged from time to time by International Payment Systems (in addition to the Chargeback commission fee of the Acquirer). The amounts of the Additional Chargeback Processing Fees as at the date of the Agreement are set out in part 2 of the Table of Parameters. The International Payment Systems have a unilateral right to set and change the amounts of the Additional Chargeback Processing Fees.

**1.3. Arbitration** – The procedure used to determine responsibility for a chargeback-related dispute between two customers. Is being reviewed by independent VISA/MasterCard Arbitration Committee.

**1.4. Authorisation** – electronic procedure of the International Payment System in order to obtain the Issuer's authorisation to conduct a Transaction after proper verification of the Card, Transaction Data, results of identification of the Cardholder and adequacy of funds on the Cardholder account.

**1.5. Business Day** – a day on which banks are open for normal business in London, United Kingdom.

**1.6. Card** – payment card branded as Visa, Visa Electron, MasterCard or Maestro that shall be used as the means of payment when conducting the Transaction.

**1.7. Cardholder** – private individual who holds and uses the Card to pay for the services and the goods of the E-Merchant in the E-Shop as well as a person who receives funds via an Original Credit Transaction.

**1.8. Chargeback** – a claim of the Issuer for a return of a Transaction Amount drawn up according to the Rules of the International Payment Systems.

**1.9. Confidential Information** – information received in connection with, or which a Party has learned in consequence of, the Agreement or its terms and conditions or relating to the commercial secret of the Parties, including: know-how, value of services, information about customers, or employees, Card data, Transaction Data and information on the Cardholder. Confidential Information under this Agreement shall not include:

*1.9.1. information that becomes publicly available on the date of signing the Agreement or after signing it;*

*1.9.2. information that is publicly available through no fault of a Party;*

*1.9.3. information that was legally received by a Party before signing the Agreement.*

**1.10. Current Account of the E-Merchant** – the current account of the E-Merchant, details of which are specified in the Table of Parameters.

**1.11. Data Centre** – a third party that according to the provisions of the signed agreement either with a Party or Parties shall provide processing of the Transaction Data, as well as sending and receiving of the Transaction Data (data routing) to/from the International Payment Systems.

**1.12. Data Protection Legislation** – any laws and regulations in any relevant jurisdiction relating to privacy or the use or processing of data relating to natural persons, including: (a) EU Regulation 2016/679 ("GDPR"); (b) GDPR as it forms part of the law of England and Wales by virtue of section 3 of the European Union (Withdrawal) Act 2018 (the "UK GDPR"); (c) and (in the UK) the Data Protection Act 2018 ("DPA"); (d) EU Directives 95/46/EC and 2002/58/EC (as amended by 2009/136/EC) and any legislation implementing or made pursuant to such directives, including (in the UK) the Privacy and Electronic Communications (EC Directive) Regulations 2003; and (e) any laws or regulations ratifying, implementing, adopting, supplementing or replacing the forgoing; in each case, to the extent in force, and as such are updated, amended or replaced from time to time.

**1.13. Dormant E-Merchant** – an E-Merchant that has not processed Transactions into any of the International Payment Systems for three consecutive months.

**1.14. "DP Regulator"** means any governmental or regulatory body or authority in the EU with responsibility under the Data Protection Legislation for monitoring, supervising, regulating or enforcing compliance by persons in a given jurisdiction with the Data Protection Legislation.

**1.15. E-Merchant Application** – a form which contains information on the E-Merchant, its E-Shop, its bank details, types of goods and services provided, types of Cards acceptable for payment and account number where Transaction Amounts shall be transferred (the Current Account of the E-Merchant). The E-Merchant Application shall come into effect and shall become Appendix 1 and an integral part of this Agreement from the date on which this Agreement commences in accordance with Clause 12.1.

**1.16. E-Money** – electronic money as defined in the UK's Electronic Money Regulations 2011, as amended from time to time.

**1.17. E-Shop** – the online electronic environment of the E-Merchant where the E-Merchant offers its goods and services and in respect of which the Gateway Provider has supplied to the Acquirer a completed E-Merchant Application.

**1.18. E-Wallet** – the off-balance sheet account of the E-Merchant with the Acquirer where monetary funds of the E-Merchant are electronically stored as E-Money by the Acquirer.

**1.19. E-Wallet Balance** – the monetary equivalent of E-Money available in the E-Wallet which is made available to the E-Merchant on transfer by the Acquirer to the Current Account of the E-Merchant in accordance with the provisions of this Agreement and the Table of Parameters.

**1.20. Gateway PIN** – the personalised log-in issued to the E-Merchant by the Gateway Provider to enable the E-Merchant to access the Gateway Software.

**1.21. Gateway Software** – \_\_\_\_\_, which is used to send the Transaction Data, including the E-Merchant's request for Authorisation of the Transaction to the Acquirer.

**1.22. "High Risk E-Merchant"** – an E-Merchant whose type of business is in the list of businesses, that are classified by the International Payment Systems as a high-risk business. Such businesses are, but not limited to, Travel-related arrangement service, Telemarketing, Betting, Lottery tickets, Casino gaming chips, Off-track betting and wagers at race tracks, Drug stores, pharmacies, Drugs, drug proprietaries, druggists' sundries, Cigar stores and stands, merchants selling cigarettes/electronic cigarettes in a card-absent environment.

**1.23. Inactive Account Fee** – a sum in the amount specified in the Table of Parameters withheld in favour of the Acquirer from a Dormant E-Merchant who has not performed any positive transaction for 190 (one hundred ninety) days.

**1.24. International Payment System** – international payment system Visa Europe/Visa Inc. or MasterCard Worldwide, depending on the context, both hereinafter referred to as "the International Payment Systems".

**1.25. Issuer** – the credit institution or another legal entity who issued the Card.

**1.26. Micro-enterprise** – an autonomous enterprise whose annual turnover and /or balance sheet total does not exceed €2 million and employs fewer than 10 (ten) people.

**1.27. Minimal Account Balance** – the minimum permitted balance on the E-Wallet, which has been set for the E-Merchant for providing Original Credit Transactions and which is specified in the Table of Parameters.

**1.28. MID Application** – application in electronic form sent to the Acquirer by the Gateway Provider in order to register new terminal and/or new address of the E-Shop and/or new E-Shop.

**1.29. Original Credit Transaction and OCT** – credit transaction in which funds are transferred (via the International Payment Systems) from the E-Wallet to a specified Card.

**1.30. PS Regulations** – the UK's Payment Services Regulations 2017, as amended from time to time.

**1.31. PCI DSS** – the Payment Card Industry Data Security Standards developed by the International Payment Systems as safety requirements for Card and Transaction Data registration, archiving and for other non-cash transactions related activities.

**1.32. Refund** – the procedure by which an E-Merchant requests a return of a Transaction Amount or a part of a Transaction Amount to a Cardholder.

**1.33. Representment** – the procedure by which an E-Merchant disputes a Chargeback in accordance with the Rules of the International Payment Systems.

**1.34. Rules of the International Payment Systems** – the rules of international payment systems MasterCard Worldwide and/or Visa Europe/ Visa Inc., which regulate the use of their trademarks, processing of the Transactions, the Refunds and Chargebacks, requirements for the Cards' acceptance on the Internet, etc. Information on the Rules of the International Payment Systems is available on the public websites of these organisations [www.mastercard.com](http://www.mastercard.com) and [www.visaeurope.com](http://www.visaeurope.com).

**1.35. Security Deposit** – monetary funds of an amount specified in the Table of Parameters withheld in favour of the Acquirer in accordance with this Agreement to guarantee the fulfillment of the E-Merchant's obligations to the Acquirer under the Agreement.

**1.36. SSL** – Secure Sockets Layer, being a protocol for encrypting information over the Internet.

**1.37. Table of Parameters** – Appendix 2 to the Agreement, which forms part of this Agreement, specifying fees, how fees are paid, the Security Deposit, account numbers, payment currency and other parameters and fees.

### 1.38. Transaction – means each of:

1.38.1. a financial operation using the Card to initiate a payment by the Cardholder to the E-Merchant for any goods or services declared in the E-Merchant Application;

1.38.2. a transfer of the funds and replenishment of the account existing in the electronic environment by the means of Card; and/or

1.38.3. the OCT if such service is provided by the E-Merchant.

**1.39. Transaction Amount** – a sum of money specified in the inquiry for Authorisation of Transaction and which the Issuer has confirmed can be deducted (along with commission fees, if any) from the account of the Cardholder.

**1.40. Transaction Data** – information on the Transaction and the Card by means of which the Transaction was conducted, as well as information on the Cardholder's identification results.

1.41. Headings are given for convenience and do not affect the interpretation of the Agreement.

1.42. References in the text of the Agreement to **Clauses, Sub-Clauses and Appendices** are references to clauses and sub-clauses of, and appendices to, this Agreement.

## 2. THE SUBJECT AND NATURE OF THE AGREEMENT

2.1. The Agreement shall determine and govern the legal relationship of the Parties in relation to ensuring the acceptance of Cards in the E-Merchant's E-Shops, in particular the provision of payment gateway services by the Gateway Provider and merchant acquiring services by the Acquirer.

2.2. The E-Merchant warrants and represents to the Acquirer that the statement it made in the E-Merchant Application about whether it is a Micro-enterprise or not, is true. If the status of the E-Merchant changes during the term of this Agreement so that the Micro-enterprise statement in the E-Merchant Application becomes untrue, the E-Merchant shall notify the Acquirer immediately. In the absence of any such notification, the Acquirer shall continue to treat the E-Merchant in accordance with the Micro-enterprise statement made in the E-Merchant Application.

2.3. Where the E-Merchant is not a Micro-enterprise, the Parties agree with respect to the PS Regulations that:

2.3.1. Regulations 42 to 61 shall not apply in accordance with regulation 40(7);

2.3.2. All of regulations 66(1), 67(3) and (4), 75, 77, 79, 80, 83, 91, 92 and 94 shall not apply in accordance with regulation 63(5); and

2.3.3. The time period in regulation 74(1) (notifications of authorised or incorrectly executed payment transactions) shall be 2 (two) months, and Clause 5.1.18 of this Agreement shall be amended accordingly.

## 3. THE RIGHTS AND OBLIGATIONS OF THE ACQUIRER

The Acquirer undertakes to the E-Merchant to:

3.1.1. accept the Transaction Amounts and Refunds from the International Payment Systems;

3.1.2. store the Transaction Amounts (less fees and charges deducted in accordance with Clause 3.2) in the E-Wallet in the form of E-Money;

3.1.3. redeem E-Money by transferring the equivalent amount, in accordance with any conditions in the Table of Parameters, to the Current Account of the E-Merchant; and

3.1.4. transfer (via the International Payment Systems) an Original Credit Transaction amount to the Cardholder from the E-Wallet Balance, in each case in accordance with this Agreement and the PS Regulations.

3.2. The Acquirer shall deduct the applicable fees, charges and Refunds from the Transaction Amount in accordance with the Table of Parameters before transferring the net amount to the E-Wallet.

3.3. If any transfer date specified in the Table of Parameters or required under the PS Regulations is not a Business Day, the transfer shall be made on the next Business Day.

3.4. When making the transfers described in Clause 3.1, the Acquirer shall act as a payment agent and shall be liable only for the proper initiation of:

- 3.4.1. bank transfers to the bank or credit institution at which the Current Account of the E-Merchant is held;
- 3.4.2. bank transfers to the bank or credit institution at which the Card of the Cardholder is issued; and
- 3.4.3. settlement of the Transaction Amounts, Original Credit Transactions and Refunds with the International Payment Systems.

The Acquirer shall execute those transfers within the execution times required under the PS Regulations but shall not be liable for any delay to a transfer caused by, or resulting from, the late or otherwise incorrect receipt of the Transaction Amounts from the International Payment Systems or Issuer and/or any restrictions of or on the International Payment Systems or Issuer.

3.5. If for any reason the amount received by the Acquirer from the International Payment System is less than the sum of the Transaction Amounts, the Acquirer shall transfer the amounts actually received to the E-Merchant after deducting any sums in accordance with Clause 3.2.

3.6. The Acquirer shall be entitled:

### **Fees, Charges and Security**

3.6.1. to deduct from the E-Wallet Balance any sums due to the Acquirer from the E-Merchant, including those that are due, or become due, under Sub-Clause 5.1.33;

3.6.2. to deduct from the Transaction Amounts received from the International Payment System any sums due to the Acquirer from the E-Merchant under this Agreement, including those that are due, or become due, under Sub-Clause 5.1.33;

3.6.3. to invoice the E-Merchant for the remainder of any sums due to the Acquirer from the E-Merchant if the E-Wallet Balance or the Transaction Amounts received are not sufficient to satisfy all sums due to the Acquirer from the E-Merchant under this Agreement, including those that are due, or become due, under Sub-Clause 5.1.33;

3.6.4. to deduct from any amount to be transferred to the Gateway Provider any sums due to the Acquirer from the Gateway Provider under this Agreement, including those that are due, or become due, under Sub-Clause 4.2.16;

3.6.5. to invoice the Gateway Provider for the remainder of any sums due to the Acquirer from the Gateway Provider if the amounts deducted under Clause 3.6.4 are not sufficient to satisfy all sums due to the Acquirer from the Gateway Provider under this Agreement, including those that are due, or become due, under Sub-Clause 4.2.16;

3.6.6. to use the rights of set-off, retention and/or deduction in Clause 7;

3.6.7. to use the Security Deposit according to Clause 8;

### **Information Flows**

3.6.8. to accept or reject the received E-Merchant Application in its absolute discretion, informing in writing the Gateway Provider about such decision;

3.6.9. to request from the Gateway Provider and the E-Merchant Transaction documents and substantive explanations about Transactions conducted by the E-Merchant;

3.6.10. having reasonable grounds, to inform the International Payment Systems and/or appropriate law enforcement agencies of suspected fraudulent operations of the Gateway Provider and/or the E-Merchant;

3.6.11. to require that the Gateway Provider obtains from the E-Merchant the Action plan, if the number of Chargebacks or fraudulent Transactions for the E-Merchant exceeds at least one of the following parameters:

3.6.11.1. on the Transactions conducted via the Cards issued under the brand of "Visa" and "Visa Electron" – 60 (sixty) Chargebacks or 0,9% (zero point nine per cent) of the total number of Transactions for the current month;

3.6.11.2. on the Transactions conducted via the Cards issued under the brand of "Mastercard" and "Maestro" – 60 (sixty) Chargebacks or 0,9% (zero point nine per cent) of the total number of Transactions for the current month;

3.6.11.3. the amount of fraudulent Transactions conducted via the Cards issued under the brand of "Mastercard" and "Maestro" exceeds 25 000 EUR (twenty five thousand EUR) or 0,5% (zero point five per cent) of the total number of Transactions for the current month;

3.6.11.4. the amount of fraudulent Transactions conducted via the Cards issued under the brand of "Visa" and "Visa Electron" exceeds 50 000 USD (fifty thousand US dollars) or 0,9% (zero point nine per cent) of the total amount of Transactions for the current month;

## Delays to Transfers

3.6.12. to delay transfer of any Transaction Amounts or processing of any Transaction where there is a suspicion of the illegality of the Transaction or relating to the activity of the Gateway Provider and/or the E-Merchant, or otherwise in accordance with the Rules of the International Payment Systems;

3.6.13. to delay transfer of any Transaction Amounts for up to 180 (one hundred eighty) calendar days, where they relate to Transactions in which Chargebacks arose. If a Chargeback is found invalid according to the Rules of the International Payment System or was withdrawn by the Issuer, within 5 (five) Business Days of receiving the relevant sums from the International Payment System, the Acquirer shall transfer those sums to the E-Merchant. If a Chargeback is justified, the sums specified in this clause shall be used for redemption of liabilities towards the Cardholder and shall not be transferred to the E-Merchant;

3.6.14. to withhold the Transaction Amounts from any account of the E-Merchant if the Gateway Provider and/or the E-Merchant has not provided documents/information according to Sub-Clauses 4.2.11, 4.2.12 and 5.1.20 to 5.1.22 within 3 (three) Business Days from the moment the Acquirer's request is notified to the Gateway Provider and/or the E-Merchant;

## Suspension of Services

3.6.15. to suspend, with immediate effect, the acceptance of Cards, the use of the E-Wallet, the processing of any Transactions, Refunds and the transfer of the Transaction Amounts until all the circumstances are clarified to the Acquirer's satisfaction if the Acquirer suspects:

3.6.15.1. that the Transactions relate to money laundering or financing of terrorism;

3.6.15.2. (or if the Gateway Provider and/or the E-Merchant has notified the Acquirer of a suspicion) that the Gateway PIN has been lost, stolen, misappropriated or used in an unauthorised way.

In each case the Acquirer shall have absolute discretion regarding when to resume accepting Cards, operating the E-Wallet, processing Transactions, Refunds and transferring the Transaction Amounts, taking into account the available information and any recommendations of the International Payment Systems;

3.6.16. to suspend, with immediate effect, the acceptance of Cards, the use of the E-Wallet, the processing of Transactions, Refunds and transfers of the Transaction Amounts until all the circumstances are clarified to the Acquirer's satisfaction if the Gateway Provider and/or the E-Merchant and/or the E-Shop breaches:

3.6.16.1. the Agreement; and/or

3.6.16.2. the Rules of the International Payment Systems.

The Acquirer shall have absolute discretion following such a suspension as to when to resume accepting Cards, operating the E-Wallet, processing Transactions, Refunds and transferring the Transaction Amounts, taking into account the available information and any recommendations of the International Payment Systems;

3.6.17. to suspend the provision of services under this Agreement:

3.6.17.1. if the Rules of the International Payment Systems are subsequently amended in such a way as, in the reasonable opinion of the Acquirer, to make the continued provision of services under this Agreement impracticable or economically unviable; and/or

3.6.17.2. if the Gateway Provider and/or the E-Merchant is suspected of breaking those Rules;

3.6.18. to suspend, with immediate effect, the acceptance of Cards, the use of the E-Wallet, the processing of Transactions and the transfer of the Transaction Amounts if the number of Chargebacks received in one calendar month exceeds at least one of the following parameters:

3.6.18.1. on the Transactions conducted via the Cards issued under the brand of "Visa" and "Visa Electron" – 0,9% (zero point nine per cent) from total number of the Transactions in one calendar month;

3.6.18.2. on the Transactions conducted via the Cards issued under the brand of "Mastercard" and "Maestro" – 1,5% (one point five per cent) from total number of the Transactions in one calendar month;

3.6.18.3. on the Transactions via the Cards issued under the brand of "Visa" and "Visa Electron" in relation to a certain E-Shop – 100 (one hundred) Chargebacks;

3.6.18.4. on the Transactions via the Cards issued under the brand "MasterCard" and "Maestro" in relation to a certain E-Shop – 100 (one hundred) Chargebacks; and

3.6.19. to suspend, with immediate effect, the acceptance of Cards, the use of the E-Wallet and the transfer of the Transaction Amounts if fraudulent transactions in one calendar month exceeds at least one of the following parameters:

3.6.19.1. the value of the fraud related Chargebacks via the Cards issued under the brand of "MasterCard" and "Maestro" exceeds 50,000 EUR (fifty thousand euros) or equivalent in any other currency at the Acquirer's rate at the last day of respective calendar month;

3.6.19.2. the amount of fraudulent Transactions conducted via the Cards issued under the brand of "Visa" and "Visa Electron" exceeds 50,000 USD (fifty thousand US dollars) or equivalent in any other currency at the Acquirer's rate at the last day of respective calendar month;

3.6.19.3. the amount of fraudulent Transactions conducted via the Cards issued under the brand of "Visa" and "Visa Electron" exceeds 0,9% (zero point nine per cent) from total amount of the Transactions for the current month;

3.6.20. (unless the E-Merchant is a Micro-enterprise, in which case the Acquirer may give the other Parties immediate notice of its suspension of the delivery of merchant acquiring services and 2 months' prior written notice of the termination of this Agreement) to give immediate notice to the E-Merchant and the Gateway Provider revising or terminating the terms of this Agreement if:

3.6.20.1. the Gateway Provider has not provided the Action plan requested by the Acquirer within the time specified in Sub-Clause 4.2.4 of the Agreement; and/or

3.6.20.2. the statistics of the Chargebacks and fraudulent Transactions of the E-Merchant does not improve during 3 (three) calendar months from the moment of receipt of the Action plan by the Acquirer.

3.7. To the extent permitted by applicable laws and regulations, the Acquirer shall notify the Gateway Provider and the E-Merchant before exercising its rights under Sub-Clauses 3.6.10 to 3.6.20 to provide information to the International Payment Systems or law enforcement agencies, to delay transfers, or to suspend services. If the grounds for exercising those rights no longer exist, the Acquirer shall notify the Gateway Provider and the E-Merchant without undue delay after learning this and shall resume the normal provision of services.

3.8. At the request of the E-Merchant at any time during the term of this Agreement, the Acquirer shall provide to the E-Merchant a copy of this Agreement and all of the information referred to within Schedule 4 of the PS Regulations.

3.9. The Acquirer shall make available to the Gateway Provider at least once a month and using such means of communication as may be agreed from time between them, data on a monthly basis, aggregated by the International Payment System brand, which shows the number of Card-based Transactions and Refunds for that brand; the amount of service charge and rate of interchange which applied to those Card-based Transactions; and such information about the execution of Transactions and the receipt of payments as is required by the PS Regulations. If, at the Gateway Provider's request, the Acquirer provides additional information and/or more frequent information, the Acquirer may charge a fee for doing so, which shall correspond to the Acquirer's actual costs in providing that additional or more frequent information.

3.10. The Acquirer applies limits on the value of single and monthly Original Credit Transactions it will process. These limits are set out in the Table of Parameters. The Acquirer may from time to time assess the Original Credit Transaction limits applicable and shall notify the Gateway Provider and the E-Merchant prior to any updated limit taking effect.

3.11. The single and monthly limits specified in the Table of Parameters apply in relation to Original Credit Transactions initiated in respect of any particular Cardholder (i.e. the recipient of the Original Credit Transaction).

3.12. The total value of OCTs initiated by the E-Merchant during any Business Day shall not exceed the Minimal Account Balance in force from time to time.

3.13. The Acquirer has the right, at its absolute discretion, to reject Original Credit Transactions if the E-Merchant does not have sufficient funds in the E-Wallet.

## 4. THE RIGHTS AND OBLIGATIONS OF THE GATEWAY PROVIDER

4.1 The Gateway Provider confirms to the Acquirer that it has:

4.1.1. obtained full, sufficient and satisfactory know-your-customer/CDD information on the E-Merchant as required by applicable legislation and regulation and undertakes to the Acquirer to:

4.1.1.1. keep that information up-to-date at all times; and

4.1.1.2. make that information, including any updated information, available to the Acquirer on request, in such format as the Acquirer may from time to time request; and

4.1.2. analysed the activity of the E-Merchant in order to ensure that the essence, nature and type of activity of the E-Merchant is clear, is correctly and accurately described in the E-Merchant Application and the specified activity is legally permitted in the United Kingdom and each jurisdiction in which the E-Merchant presents Transactions.

4.2. The Gateway Provider undertakes to the Acquirer and the E-Merchant to:

4.2.1. provide the means of communication between the Acquirer and the E-Merchant, including the possibility for each to receive information from the other via that communication channel;

4.2.2. ensure that the information given to the Acquirer about the E-Merchant and the E-Shop is complete, accurate and up-to-date at all times;

4.2.3. submit a completed MID Application in relation to every E-Shop to the Acquirer;

4.2.4. provide the Acquirer with the E-Merchant's Action plan within 7 (seven) business days from the moment of reception of the Acquirer's written inquiry;

4.2.5. in case of received Chargebacks act in accordance with Rules of the International Payment Systems on consideration of Chargebacks;

4.2.6. observe all rules of the Acquirer, the Rules of the International Payment Systems and the technical requirements set by the International Payment Systems and by the Acquirer;

4.2.7. provide the E-Merchant with the Gateway Software, the Gateway PIN and technical support and maintenance necessary for acceptance of the Cards in the E-Shop;

4.2.8. always use the SSL and follow PCI DSS requirements;

4.2.9. notify the Acquirer as soon as possible and without undue delay on first becoming aware of the loss, theft, misappropriation or unauthorised use of the Gateway PIN;

4.2.10. convey to the E-Merchant the data provided to it by the Acquirer in accordance with Clause 3.9;

### **Information Flows**

4.2.11. promptly provide the Acquirer with such assistance in relation to Transactions, Refunds and Chargebacks as the Acquirer may reasonably request;

4.2.12. confirm to the Acquirer immediately and within 3 (three) Business Days whether the E-Merchant intends to accept a Chargeback or intends to represent it by submitting requested documents to the Acquirer;

4.2.13. inform the Acquirer in writing immediately, but not later than within 3 (three) Business Days, of all changes in the information specified in the Agreement, its appendices or any other information given by the Gateway Provider to the Acquirer prior to entering the Agreement;

4.2.14. comply with applicable personal data protection requirements;

4.2.15. if the E-Merchant does not perform the procedure specified in Sub-Clause 5.1.26 of this Agreement obligation, implement on a daily basis the procedure set by the Gateway Software which provides aggregation of information on Transactions conducted by the E-Merchant during a Business Day, including rejected and returned transactions;

### **Charges**

4.2.16. pay to the Acquirer:

4.2.16.1. on demand all charges, costs, expenses and/or damages or losses (whether indirect or consequential) caused to the Acquirer by any non-fulfilment of that Gateway Provider's obligations to the Acquirer under this Agreement;

4.2.16.2. on demand any indemnity due to the Acquirer in accordance with Clause 6.7; and

4.2.16.3. within 10 (ten) calendar days the Acquirer's invoice under Sub-Clause 3.6.5.

4.3. The Gateway Provider shall be entitled to use the Acquirer telecommunication channel to connect to the International Payment Systems for sending inquiries for Authorization in relation to the Transactions in case the Gateway Software is provided by the Gateway Provider.

4.4. If the Gateway Provider is found non-compliant with PCI DSS and/or is engaged in Cardholder/account data compromise according to the Rules of International Payment Systems, the Gateway Provider must collaborate with the Acquirer and/or the International Payment Systems in providing all necessary information and documents.

4.5. The Gateway Provider undertakes to provide to the E-Merchant (at least once a month and within 5 (five) Business days of receipt from the Acquirer, using such means of communications as may be agreed from time to



time between them), data aggregated by International Payment System brand, which shows the number of Card-based Transactions for that E-Merchant by brand and the amount of service charge and the rate of interchange which applied to that E-Merchant's Card-based Transactions in the preceding month, and such information about the execution of Transactions and receipt of payments as is required by the PS Regulations.

## 5. THE RIGHTS AND OBLIGATIONS OF THE E-MERCHANT

5.1. The E-Merchant undertakes to the Acquirer and the Gateway Provider to:

### Operation of the E-Shop

- 5.1.1. accept the Cards from Cardholders as the means of payment for the goods and services offered by the E-Merchant in the E-Shop;
- 5.1.2. accept the Cards as the means of payment only for goods and services that are in conformity with the types of commercial activity of the E-Merchant specified in the E-Merchant Application;
- 5.1.3. initiate an Original Credit Transaction only for goods and services that are in conformity with the types of commercial activity of the E-Merchant specified in the E-Merchant Application;
- 5.1.4. observe all applicable legislation and regulations (in particular those relating to consumers, distance selling and e-commerce) in each territory in which the E-Merchant sells the goods and/or provides its services;
- 5.1.5. ensure that the E-Shop conforms to the parameters listed in the E-Merchant Application;
- 5.1.6. observe the rules of the Acquirer, the Rules of the International Payment Systems and the technical requirements set by the International Payment Systems;
- 5.1.7. identify itself clearly in the E-Shop so that Cardholders can distinguish the E-Merchant from the other parties involved in processing of the Transaction;
- 5.1.8. advise Cardholders that the E-Merchant is responsible for the delivery of the goods and/or the performance of the services underlying the Transaction and for all questions in connection with such goods and services (especially any complaints by the Cardholder);
- 5.1.9. effect the return of the Transaction Amount to the Cardholder in full or in part depending on the rules of the E-Merchant about cancelled Transactions, if the Cardholder rejects the goods or the services purchased by the Transaction;
- 5.1.10. effect the return of the Transaction Amount to the Cardholder in full where required by the Rules of the International Payment Systems;
- 5.1.11. place in the electronic environment of the E-Shop the trademarks of those Cards that the E-Merchant accepts for the duration of the Agreement. The trademarks of the Cards should not be placed in such a way as to produce an impression that the International Payment Systems sponsor, produce or trade in the goods or services in the E-Shop;
- 5.1.12. remove immediately the trademarks of Cards from the electronic environment of the E-Shop on expiration of this Agreement for any reason;
- 5.1.13. use exclusively the Gateway Software for the acceptance of Cards in the E-Shop and for requesting the execution of Original Credit Transactions;
- 5.1.14. always use the SSL and follow PCI DSS requirements;
- 5.1.15. take all reasonable steps to keep safe the Gateway PIN (including not recording it in writing or disclosing it to third parties), to prevent the Gateway PIN from being used by any unauthorised third party, and to notify the Acquirer and the Gateway Provider using contact information specified in Clause 16.6 and/or telephone number specified in Clause 16.7 as soon as possible and without undue delay on first becoming aware of the loss, theft, misappropriation or unauthorised use of the Gateway PIN;

### Information Flows

- 5.1.16. supply to the Gateway Provider immediately following request such know-your-customer/CDD information in such format as the Gateway Provider may from time to time request and promptly to supply to the Gateway Provider updated information should any of the information previously change;
- 5.1.17. inform its employees, officials and involved persons promptly and in an appropriate manner of the main features of the Agreement, the Rules of the International Payment Systems and of the Acquirer, as well as to monitor and procure those individuals' ongoing compliance with the Agreement, the Rules of the International Payment Systems and the rules of the Acquirer throughout the term of the Agreement;
- 5.1.18. inform the Acquirer without undue delay (and in any case within 13 (thirteen) months of the date of the relevant Transaction) after discovering an unauthorised, incorrectly executed or unexecuted payment Transaction;

- 5.1.19. inform the Acquirer immediately without delay of any cases of fraud or other illegal operations with the Cards suspected by the E-Merchant;
- 5.1.20. act according to the Rules of the International Payment Systems and those of the Acquirer when considering Chargebacks;
- 5.1.21. provide the Acquirer and the Gateway Provider with such assistance in relation to Chargebacks as the Acquirer may reasonably request;
- 5.1.22. provide documents confirming the Transaction, and give explanations in relation to any Chargeback, immediately, but not later than within 3 (three) Business Days from receipt of the Acquirer's or the Gateway Provider's request to do so;
- 5.1.23. confirm to the Acquirer and the Gateway Provider immediately, but not later than and within 3 (three) Business Days whether it intends to accept a Chargeback or to represent it by submitting requested documents to the Acquirer;
- 5.1.24. keep the Transaction and Refunds confirmation records in electronic or printed format for at least 18 (eighteen) months from the date of the Transaction and Refunds, except for those records where earlier deletion is mandatory by law, and to provide such records in readable format to the Acquirer promptly following a request from the Acquirer;
- 5.1.25. store Card data according to the PCI DSS requirements as requested by the Rules of the International Payment Systems from time to time;
- 5.1.26. implement on a daily basis the procedure set by the Gateway Software which provides aggregation of information on Transactions conducted by the E-Merchant during a Business Day, including rejected and returned transactions;
- 5.1.27. inform the Acquirer in writing immediately, but not later than within 3 (three) Business Days, of all changes in the information specified in the Agreement, its appendices or any other information given by the E-Merchant to the Acquirer prior to entering the Agreement;
- 5.1.28. provide the Action plan to the Gateway Provider within 5 (five) Business Days from the moment of reception of such inquiry from the Gateway Provider;
- 5.1.29. where the E-Merchant acts as a payer when initiating an OCT, provide the Acquirer with the correct recipient Cardholder details and Transaction details (namely Transaction amount, Transaction currency);
- 5.1.30. to comply with applicable personal data protection requirements;

## **Funding**

- 5.1.31. provide the Security Deposit according to the provisions of the Agreement and in the amount set in the Table of Parameters;
- 5.1.32. ensure that the E-Wallet contains at least the Minimal Account Balance every day without exceptions;

## **Fees and Charges**

- 5.1.33. pay to the Acquirer:
  - 5.1.33.1. the commission fees to be paid to the Acquirer by the E-Merchant as set out in section 1 of the Table of Parameters in the manner described therein;
  - 5.1.33.2. the amount of any Refunds;
  - 5.1.33.3. the Additional Chargeback Processing Fees in the manner described in the Table of Parameters, in such amounts as are set by the International Payment Systems (the rates applying at the date of the Agreement being set out in the Table of Parameters for reference);
  - 5.1.33.4. on demand, the amount of any justified Chargeback;
  - 5.1.33.5. on demand all charges, costs, expenses and/or damages imposed on the Acquirer by the International Payment Systems in connection with any breach of the Rules of the International Payment Systems by the E-Merchant;
  - 5.1.33.6. on demand all charges, costs, expenses and/or damages or losses (whether indirect or consequential) caused to the Acquirer by any non-fulfilment of the E-Merchant's obligations to the Acquirer under this Agreement;
  - 5.1.33.7. on demand all charges, costs, expenses and/or damages caused to the Acquirer by any actions or inactions of the E-Merchant in breach of applicable laws and/or regulations;
  - 5.1.33.8. on demand any indemnity due to the Acquirer in accordance with Clause 6.7; and
  - 5.1.33.9. within 10 (ten) calendar days the Acquirer's invoice under Sub-Clause 3.6.3.
- 5.1.34. pay to the Gateway Provider:

5.1.34.1. on demand all charges, costs, expenses and/or damages or losses (whether indirect or consequential) caused to the Gateway Provider by any non-fulfilment of the E-Merchant's obligations to the Gateway Provider under this Agreement; and on demand all charges, costs, expenses and/or damages caused to the Gateway Provider by any actions or inactions of the E-Merchant in breach of applicable laws and/or regulations.

5.2. The E-Merchant shall be entitled to:

5.2.1. receive from the Acquirer the merchant acquiring services described in Clause 3 of this Agreement;

5.2.2. receive from the Gateway Provider the payment gateway services described in Clauses 4.2 to 4.4 of this Agreement;

5.3. The E-Merchant shall not be entitled:

5.3.1. to levy a surcharge for payments made by Cards unless it does so in full compliance with applicable laws and regulations (including the PS Regulations and the UK's Consumer Protection (Payment Surcharges) Regulations 2012) and the Rules of the International Payment Systems, to the extent that they do not conflict with applicable laws and regulations;

5.3.2. to set any minimum or maximum Transaction Amount;

5.3.3. to accept a Card in order to pay or refinance already existing obligations, i.e. the E-Merchant shall accept Cards only as mean of payment for goods and services declared in the E-Merchant Application and only in the E-Shop declared in the E-Merchant Application;

5.3.4. to accept a Card if there is cause to doubt the identity of the Cardholder or to believe that the Card is being used fraudulently, unless the E-Merchant has taken steps to satisfy itself of the identity of the Cardholder and that the Card is being used legitimately;

5.3.5. within a Transaction, to issue cash to the Cardholder;

5.3.6. within a Transaction, to issue a commercial cheque, bill or any other document or instrument with which it is possible to make payments;

5.3.7. to divide a Transaction into parts;

5.3.8. to accept Cards as the means of payment for the commercial activity of third persons;

5.3.9. to issue electronic money as a result of the Transaction, except when the E-Merchant has corresponding regulatory license/certificate/authorisation/permission to issue electronic money, issued by a regulator having appropriate jurisdiction and which is entitled to issue corresponding license/certificate/authorization/permission;

5.3.10. to use the Transaction Data for other purposes except lawful processing such data according to the Rules of the International Payment Systems; nor

5.3.11. to store full numbers of the Cards.

5.4. In addition to the rights of set-off, retention and deduction in Clause 7, the E-Merchant irrevocably authorises the Acquirer, without any additional agreement or authorisation, to deduct from the E-Wallet Balance and from the Security Deposit the amounts required in order to satisfy the amounts due to the Acquirer under Sub- Clause 5.1.33 provided that:

5.4.1. if the E-Merchant and the Acquirer have agreed in writing, unrelated to this Agreement, that the Acquirer shall hold separately any particular designated monetary funds on behalf of the E-Merchant's underlying clients ("**client monies**"), the Acquirer shall not deduct commission fees or monetary funds from such client monies; and

5.4.2. the amount deducted by the Acquirer shall not exceed the amount of monetary funds transferred to the E-Merchant by any relevant third party.

5.5. The E-Merchant warrants and undertakes to the Acquirer and the Gateway Provider that:

5.5.1. its activity and all activity within the E-Shop complies with all applicable laws and regulations and with the Rules of the International Payment Systems; and

5.5.2. all know-your-customer/ CDD information supplied by it to the Gateway Provider in accordance with Clause 5.1.16 is complete and accurate and that it will promptly supply updated information to the Gateway Provider should any element change from time to time.

5.6. If the E-Merchant wishes to dispute a Chargeback, all the costs arising from consideration of the dispute, including commission fees for consideration of the Chargeback, the Additional Chargeback Processing Fees and possible costs of the Arbitration, shall be paid by the E-Merchant. Any dispute of Chargeback shall not limit the rights of the Acquirer stipulated in the Agreement to delay the sums in the amount of Chargeback.

5.7. If the E-Merchant is found non-compliant with PCI DSS and/or is engaged in Cardholder/account data compromise according to the Rules of International Payment Systems, the E-Merchant must collaborate with the Acquirer and/or the International Payment Systems in providing all necessary information and documents.

## 6. LIABILITY OF THE PARTIES

6.1. Each Party's liability to the others for fraud or for death or personal injury resulting from its negligence shall be unlimited.

### Liability of the Acquirer

6.2. Subject to Clause 6.1, the Acquirer's aggregate liability to the E-Merchant and the Gateway Provider under this Agreement shall be limited to €10,000 (ten thousand Euro).

6.3. The Acquirer will not be liable to the Gateway Provider or the E-Merchant if the Acquirer executes a payment transaction in accordance with the Cardholder details and Transaction details provided to it by the E-Merchant, but where those details were incorrect. Such transactions shall be deemed to be correctly executed by the Acquirer and shall not be construed as unexecuted or incorrectly executed payment transactions for which the Acquirer may have liability. However, the Acquirer will make reasonable efforts to recover the funds involved in the payment transaction and the E-Merchant agrees that the Acquirer may charge the E-Merchant for its actual costs in attempting any such recovery.

6.4. Subject to Clause 6.1, the Acquirer shall not be liable to either the Gateway Provider or the E-Merchant for:

- 6.4.1. any business interruption, loss of profits, loss of business, loss of revenue, loss of goodwill, loss of opportunity, loss or injury to reputation or loss of anticipated savings arising from or in connection with this Agreement, even if the Acquirer was made aware of a possibility that such loss or damage could occur; or
- 6.4.2. any indirect or consequential loss or damage which may arise from or in connection with the Acquirer's performance, purported performance or failure to perform its obligations under this Agreement; or
- 6.4.3. any loss or damage of a type which was not reasonably foreseeable when this Agreement was concluded, whether or not the possibility of that type of loss or damage was subsequently advised to or otherwise became known, or should have become known, to the Acquirer after the date of this Agreement; or
- 6.4.4. any claim where the circumstances giving rise to a claim were caused by:
  - 6.4.4.1. the Acquirer's compliance with applicable laws and regulations, the PS Regulations or the Rules of International Payment Systems; or
  - 6.4.4.2. the Gateway Provider's provision of, or failure to provide, the gateway services; or
- 6.4.5. any loss or damage to the extent that the Gateway Provider and/or the E-Merchant contributed to that loss or damage by any action or omission (whether negligent or not) and respective liability of the Gateway Provider and/or the E-Merchant in that instance shall be determined in accordance with the principles of contributing negligence; or
- 6.4.6. the actions or inactions of any intermediary service provider appointed by the Acquirer, and the Acquirer's liability in such instance shall be limited to using reasonable care in the selection, appointment and instruction of such intermediary service provider (but not of any third party such provider may use); or
- 6.4.7. any delay or shortfall in the receipt of funds from the International Payment Systems;
- 6.4.8. any failure or disruption in the technical infrastructure which the Gateway Provider and/or the E-Merchant uses if such failure or disruption is due to abnormal and unforeseen circumstances or is beyond the Acquirer's control.

6.5. Where the E-Merchant acts as payer, the Acquirer will be liable to refund to the E-Merchant any incorrectly executed or unauthorised transactions in accordance with the PS Regulations. The Acquirer's liability to the E-Merchant for any unexecuted or incorrectly executed or unauthorised Transaction, Refunds or any unauthorised payment order shall be limited:

6.5.1. to the amount of the respective payment transaction plus an amount to restore the E-Merchant's E-Wallet to the state in which it would have been had the defective Transaction or Refunds not taken place plus any charges for which the E-Merchant is responsible and any interest which the E-Merchant must pay as a consequence of the non-execution, defective or unauthorised execution of the Transaction or Refunds; and

6.5.2. to those Transactions where the E-Merchant notified the Acquirer without undue delay using the contact details provided at Clauses 16.6.1 and 16.7 on becoming aware of that unauthorised, unexecuted or incorrectly executed Transaction or Refunds in any event within thirteen (13) months of the date on which the Acquirer made the relevant Transaction Data or and information about the Refund available to the E-Merchant in accordance with terms of this Agreement.

### **Liability of the Gateway Provider and the E-Merchant**

6.6. The Gateway Provider and the E-Merchant shall be jointly and severally liable (as co-debtors) to the Acquirer for the liabilities of the Gateway Provider and the E-Merchant stipulated in the Agreement. Each of the Gateway Provider and the E-Merchant acknowledges and accepts that the Acquirer has the right as its discretion to ask the Gateway Provider or the E-Merchant or both to fulfil its obligations in full or partly. In case the Acquirer has asked one co-debtor to fulfil only a part of obligations, the Acquirer still may ask either the same co-debtor or the other co-debtor to fulfil remaining part of obligations.

6.7. Each of the Gateway Provider and the E-Merchant shall exercise the degree of care and expertise expected of a responsible businessperson and shall be liable for and shall indemnify the Acquirer from and against all expenses, costs, claims, fines, obligations or any liability and all other damage or loss to the Acquirer arising from any breach by the Gateway Provider or the E-Merchant (as applicable) of its obligations under this Agreement and/or of applicable laws and regulations and/or of the Rules of International Payment Systems.

6.8. Where the E-Merchant is acting as a payer, it may be liable for up to £35 for any losses incurred in respect of an unauthorised payment transaction, arising from the use of a lost or stolen payment instrument (including the Gateway PIN) or, where the E-Merchant has failed to keep safe personalised security features of the payment instrument, or has otherwise contributed to the misappropriation of the payment instrument. The E-Merchant will, however, be liable for all such losses where it has acted fraudulently, or has failed (with intent or gross negligence) to comply with its obligation in relation to maintaining the safety and security of any security credentials or payment instrument (including the Gateway PIN) issued by the Gateway pursuant to this Agreement.

## **7. RIGHTS OF SET-OFF, RETENTION AND DEDUCTION**

7.1. The Gateway Provider and the E-Merchant (each respectively an "Indebted Party") each agree that, in addition to any other rights the Acquirer may have against that Indebted Party, the Acquirer may:

7.1.1. set off any obligation owed by the Indebted Party to the Acquirer under this Agreement against any sums owed by the Acquirer to the Indebted Party; and/or

7.1.2. retain moneys in any account of the Indebted Party with the Acquirer (other than one containing client monies) until such time as the Acquirer, acting reasonably, considers that the Indebted Party has discharged its obligations under this Agreement; and/or

7.1.3. deduct sums owed by the Indebted Party to the Acquirer from any account of the Indebted Party with the Acquirer (other than one containing client monies) in order to settle the obligations of the Indebted Party to the Acquirer.

7.2. If the obligations of the Parties are expressed in different currencies, the Acquirer may convert either obligation in accordance with Clause 16.1 for the purpose of any set-off and/or deduction.

7.3. For as long as an Indebted Party has unfulfilled obligations to the Acquirer pursuant to this Agreement, that Indebted Party shall not be permitted to pledge, charge, mortgage, assign, transfer, encumber or otherwise create security over moneys in any account of that Indebted Party with the Acquirer.

## **8. SECURITY DEPOSIT**

8.1. Upon receipt of the Transaction Amounts from the International Payment Systems, the Acquirer shall deduct the Security Deposit in the amount specified in the Table of Parameters.

8.2. The Acquirer shall hold the Security Deposit for the period specified in the Table of Parameters, until such time as it is released in accordance with this Agreement.

8.3. The E-Merchant shall not be entitled to dispose of the Security Deposit in any way.

8.4. The Acquirer shall release and return the Security Deposit to the E-Merchant via a transfer to the Current Account of the E-Merchant on the next Business Day after the end of the period specified in accordance with Clause 8.2.

8.5. The Acquirer may, unilaterally and without prior notification to the E-Merchant, use the Security Deposit to:

8.5.1. return Transaction Amounts to the Cardholder for justified Chargebacks and Refunds; and

8.5.2. pay all sums due to the Acquirer under Sub-Clause 5.1.33.

## 9. CONFIDENTIALITY OF INFORMATION

9.1. Each Party shall treat Confidential Information as strictly confidential and no Party shall disclose Confidential Information without the written consent of the other Parties, except as permitted by Clauses 9.2 to 9.4 or as may be.

9.2. Each Party shall be entitled to disclose Confidential Information without prior notice to the others:

9.2.1. if required under applicable law and regulation, including of England and Wales and/or European Union; and/or

9.2.2. if requested by any government, law enforcement, supervisory or regulatory body or by any court, tribunal or other judicial or quasi-judicial body, in each case having jurisdiction over that Party; and/or

9.2.3. in order to disclose Transaction Data and information about Refunds and Chargebacks to the Data Centre and/or the International Payment Systems; and/or

9.2.4. if the disclosure is to its professional advisers acting under a duty of confidentiality in relation to that Confidential Information.

9.3. The Acquirer is entitled to disclose Confidential Information about the Gateway Provider and the E-Merchant to International Payment Systems in accordance with the Rules of the International Payment Systems.

9.4. Each of the Parties shall be entitled to disclose the fact of signing this Agreement without prior notice to the other Parties.

9.5. The obligations in this Clause 9 shall survive the termination or expiration of this Agreement.

## 10. DATA PROTECTION

10.1. In this Clause 10 the terms '**Personal Data**', '**Controller**', '**Data Subject**', '**Processor**', or '**process/processing**' shall have the meaning set out in the GDPR or UK GDPR (as applicable).

10.2. In relation to the performance of its obligations under this Agreement, each Party shall comply with the provisions of the Data Protection Legislation and any equivalent legislation or regulations in any relevant jurisdiction. For the avoidance of doubt, the Acquirer shall only comply with Data Protection Legislation, directly applicable to it.

10.3. Each party shall maintain records of all processing operations under its responsibility that contain at least the minimum information required by the Data Protection Legislation, and shall make such information available to any DP Regulator on request.

10.4. The parties acknowledge and agree that they shall each be a Controller for the purposes of Data Protection Legislation. In particular the Acquirer shall determine the purposes and manner of its own processing of Personal Data, including for the purposes of:

10.4.1. risk management including fraud monitoring, prevention, detection and prosecution;

10.4.2. regulatory compliance activity including anti-money laundering, financial crime compliance and identity screening;

10.4.3. the Acquirer's compliance with the Rules of the International Payment Systems and

10.4.4. the Acquirer's compliance with any other applicable laws.

10.5. If any party receives any complaint, notice or communication which relates directly or indirectly to the processing of Personal Data by another party or to another party's compliance with the Data Protection Legislation, it shall promptly notify the other party and it shall provide the other party with reasonable co-operation and assistance in relation to any such complaint, notice or communication.

10.6. Where the E-Merchant transfers Personal Data to the Acquirer or Gateway Provider, the E-Merchant warrants and represents to the Acquirer or Gateway Provider (as applicable) that it has the right to transfer such Personal Data to the Acquirer or Gateway Provider (as applicable), and that it has either:

10.6.1. obtained all necessary consents to transfer the Personal Data to the Acquirer or Gateway Provider (as applicable) at the appropriate time, or

10.6.2. secured another lawful basis, in accordance with applicable Data Protection Legislation, to process the Personal Data and to share such Personal Data with the Acquirer or Gateway Provider (as applicable) for processing as envisaged by this Agreement,

and provided appropriate privacy notices to the relevant Data Subjects (as required by Data Protection Legislation) to enable it to share the Personal Data with the Acquirer or Gateway Provider (as applicable) for the purposes of providing the services envisaged by this Agreement.

10.7. Notwithstanding Clause 10.4, where (and only to the extent that) any party processes any Personal Data as a Processor on behalf of another party in connection with this Agreement or the Services, the first party will comply with the provisions and obligations imposed on a Processor by the GDPR or UK GDPR (as applicable), including the stipulations set out in Article 28(3)(a)-(h) of GDPR or UK GDPR (as applicable) which shall form a part of, and be incorporated into, this Agreement as if they were set out in full, and the reference to "documented instructions" in Article 28(3)(a) shall include the provisions of this Agreement. Such processing shall be in respect of Cardholder Data and for the purposes, set out in this Agreement, and such processing shall take place for the term of this Agreement.

10.8. E-Merchant acknowledges that, in order to provide the services under this Agreement, the Acquirer may be required to share Personal Data with (i) payment processors, credit reference and fraud prevention agencies; (ii) any other person if required by applicable law or regulation (including, without limitation, statutory or regulatory reporting obligations); and (iii) any other person to whom the Acquirer transfers its rights under this Agreement in accordance with Clause 16.4.

## 11. FORCE MAJEURE

11.1. Each Party shall be exempted from liability for total or partial non-performance of its obligations, as well as for improper performance of its obligations under this Agreement, if such failure resulted from any event beyond its reasonable control (including acts of God, fires, explosions, accident, floods, earthquakes, storms, embargoes, strikes, lock-outs, labour disputes, epidemic, war, acts of terrorism or nuclear disaster)(an **"Event of Force Majeure"**).

11.2. At the commencement and cessation of an Event of Force Majeure, the Party whose performance was impeded shall immediately, and not later than 3 (three) Business Days after becoming aware of the Event of Force Majeure, inform the other Parties about the Event of Force Majeure, giving evidence of the existence of that Event of Force Majeure and its impact on that Party's ability to perform.

11.3. If a Party fails to give timely notice under Clause 11.2, that Party shall be liable to the other Parties for any damages caused to those other Parties by the absence of, or delay in, the notification.

11.4. The Party whose performance is impeded by an Event of Force Majeure shall be excused from performing to the extent that obligations were directly influenced by the Event of Force Majeure and the other Parties shall not be obliged to pay for services under this Agreement which are not delivered; all obligations which are unaffected by that Event of Force Majeure shall continue to be subject to proper performance in accordance with this Agreement.

11.5. A Party whose performance is impeded by an Event of Force Majeure shall take all reasonable measures to eliminate that Event of Force Majeure and its consequences.

11.6. If an Event of Force Majeure or its consequences last for more than 20 (twenty) calendar days, the Parties shall cooperate with the aim of amending those provisions in this Agreement which were affected by that Event of Force Majeure. If such written agreement is not reached within the next following 5 (five) calendar days, any Party may give 5 (five) calendar days' notice in writing to the others unilaterally suspending its performance under this Agreement.

## 12. DURATION AND TERMINATION OF THE AGREEMENT

12.1. The Agreement shall come into effect as soon as signed by all Parties and shall remain in force until terminated in accordance with its terms.

12.2. Each of the Parties may terminate the Agreement by giving 2 (two) months' notice in writing to the other Parties.

12.3. The Acquirer has the right to terminate the Agreement immediately without notice if:

12.3.1. either the Gateway Provider or the E-Merchant has given inaccurate information to the Acquirer about its financial position and such statements influenced the Acquirer's decision to enter into this Agreement, to assume a particular level of risk, and/or to set the security requirements at a particular level; or

12.3.2. there is a considerable worsening of the Gateway Provider's and/or the E-Merchant's financial position or in the value of any security (including the Security Deposit) provided by the E-Merchant, or there is a threat of such worsening which calls into question the Gateway Provider's and/or the E-Merchant's ability to satisfy its obligations under the Agreement; or

12.3.3. either the Gateway Provider or the E-Merchant is unable to pay its debts as they fall due; suspends making payments on any of its debts; commences negotiations with its creditors with a view to rescheduling any indebtedness; has a moratorium declared in respect of its assets; is subject to any action, proceedings or other step to wind up, dissolve, administer, liquidate, receive assets of, or reorganize that entity, or any analogous process in any jurisdiction; or if it disposes of its operation or business, either in whole or in part, outside the ordinary course of business; or

12.3.4. the E-Merchant fails to comply with a request to increase the amount of the Security Deposit within a period of time set by the Acquirer, acting reasonably; or

12.3.5. a suspension under Sub-Clauses 3.6.15 to 3.6.20, inclusive lasts for more than 25 (twenty-five) Business Days; or

12.3.6. the Gateway Provider and/or the E-Merchant does not comply with this Agreement and/or applicable law and regulation and/or Rules of the International Payment Systems within any period of time set by the Acquirer, acting reasonably; or

12.3.7. the proportion and/or the number of Chargebacks arising from the Transactions exceeds the limits set out in Sub-Clause 3.6.18 of the Agreement; or

12.3.8. the proportion and/or the number and/or the amount of fraudulent Transactions, conducted via the Cards, exceeds the limits set out in Sub-Clause 3.6.19 of the Agreement, or

12.3.9. either the Gateway Provider or the E-Merchant has not provided to the Acquirer the Action plan in the time specified in Sub-Clauses 4.2.4. and 5.1.28; or

12.3.10. the bilateral agreement between the Gateway Provider and the Acquirer necessary to the provision of merchant acquiring services and gateway services under this Agreement terminates in accordance with its terms, such that that bilateral agreement and this Agreement shall expire at the same time.

12.4. The Acquirer may terminate this Agreement by giving at least 2 (two) months' notice in writing to the other Parties if the E-Merchant is or becomes a Dormant Merchant.

12.5. Either the Acquirer or the Merchant may terminate this Agreement immediately if:

12.5.1. Any International Payment Scheme, acting with good cause, permanently prohibits the Gateway Provider and its principals from providing services with respect to the products of that International Payment Scheme. Examples of good cause shall include (on a non-exhaustive basis) if the Gateway Provider is engaged in fraudulent activity; engages in activity which causes the Acquirer to repeatedly violate the Rules of the International Payment Schemes; operates in an unsound, unsafe manner; and/or engages in any other activities that may result in undue economic hardship or damage to the goodwill of the system of an International Payment Scheme and the Gateway Provider fails to take corrective action; or



12.5.2. The Acquirer or the E-Merchant becomes insolvent.

12.6. The expiry or termination of the Agreement shall not prejudice the accrued rights of any Party.

12.7. In the event that the Agreement is terminated, any charges already paid to the Acquirer under the Agreement will not be refunded.

## 13. GOVERNING LAW AND RESOLUTION OF DISPUTES

13.1. This Agreement is governed by the laws of England and Wales.

13.2. In carrying out any activity under this Agreement, the Parties shall observe the laws of England and Wales and the Rules of the International Payment Systems. In case of discrepancies between the laws of England and Wales and the Rules of the International Payment Systems, the laws of England and Wales shall prevail.

13.3. In the first instance, the E-Merchant shall raise any complaint relating to the services provided under this Agreement with the Acquirer. If the Acquirer is unable to resolve such complaint to the satisfaction of the E-Merchant, the E-Merchant may be able to refer that complaint to the UK's Financial Ombudsman Services ("FOS") who offers a free complaints resolution service to individuals, micro-enterprises, small charities and trustees of small trusts. The FOS can be contacted:

13.3.1. On Monday to Friday from 8am to 8pm (UK time) and on Saturday from 9am to 1pm (UK time), by telephone on 0300 123 9123 (from inside the UK) or +44 20 7964 0500 from other countries; or

13.3.2. By post at Exchange Tower, Harbour Exchange Square, London E14 9SR; or

13.3.3. By email to: [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk).

The FOS is available in a number of languages and can introduce the E-Merchant to a translator if required.

13.4. The Parties shall endeavour to settle all disputes and discrepancies arising from this Agreement and relating to execution, validity and abrogation of this Agreement via negotiations. If such negotiations last for more than 22 (twenty-two) Business Days and if the matter is not one that can be referred to the FOS, this dispute and discrepancy shall be submitted, at the discretion of any Party to the Courts of England and Wales. The Acquirer may also sue the Gateway Provider and/or the E-Merchant in connection with the Agreement in the jurisdiction in which that respective Party has its registered office (if different).

## 14. THIRD PARTY RIGHTS

14.1. No term of this Agreement is intended to confer a benefit on, or to be enforceable by, any person who is not a party to this Agreement.

## 15. INTELLECTUAL PROPERTY RIGHTS

15.1. This Agreement does not transfer, and is not intended to transfer, to the E-Merchant:

15.1.1. any of the Intellectual Property Rights that the Acquirer owns or any Intellectual Property Rights that the Acquirer creates, acquires or develops during the term of this Agreement; nor

15.1.2. any of the Intellectual Property Rights that the Gateway Provider owns or any Intellectual Property Rights that the Gateway Provider creates, acquires or develops during the term of this Agreement.

15.2. The E-Merchant receives a non-transferable, non-exclusive, terminable and royalty-free license to use the Acquirer's trademark to the extent such serves the purposes of this Agreement. The E-Merchant shall follow the Acquirer's instructions in regard to the use of said trademarks and name and accepts that said license may be altered or revoked at any time with immediate effect.

15.3. The E-Merchant receives a non-transferable, non-exclusive, terminable and royalty-free license to use the Gateway Provider's trademark to the extent such serves the purposes of this Agreement. The E-Merchant shall follow the Gateway Provider's instructions in regard to the use of said trademarks and name and accepts that said license may be altered or revoked at any time with immediate effect.

15.4. Each Party will comply with the other's Party's brand rules and requirements provided to each other from time to time and which govern the use of the other's brands and marks or other relevant intellectual property.

## 16. MISCELLANEOUS PROVISIONS

16.1. If a Party needs to convert currency in order to perform an action under this Agreement, the Party shall apply the rate of the Acquirer at the moment of converting.

16.2. All other services, which are not stipulated in this Agreement, but are provided to the Gateway Provider and/or the E-Merchant by the Acquirer, shall be charged in accordance with the fees of the Acquirer, as published from time to time on the web site of the Acquirer: [www.aureavia.com](http://www.aureavia.com).

16.3. Neither the Gateway Provider nor the E-Merchant shall be entitled to assign its rights and obligations under the Agreement without the prior written consent of the Acquirer.

16.4. The Acquirer may assign its rights and obligations under this Agreement to another company at any time, on giving 2 (two) months' prior written notice to the Gateway Provider and the E-Merchant. If the Acquirer does this, the Gateway Provider's and the E-Merchant's rights under this Agreement will not be affected.

16.5. The Acquirer shall notify the Gateway Provider and the E-Merchant in writing (which may include by email) of any amendments it proposes to make to the terms of this Agreement. Those amendments shall be deemed to have been accepted by the Gateway Provider and the E-Merchant and shall take effect on the date stated in the notice (which shall be at least 2 (two) months after the date of the notice) unless either the Gateway Provider or the E-Merchant notifies the Acquirer in writing of its objection and the Acquirer receives that objection before the date on which those amendments are due to take effect. Any notice from the Gateway Provider or the E-Merchant objecting to the amendments shall operate to terminate the Agreement immediately prior to the proposed amendment becoming effective.

16.6. All notifications and correspondence in connection to this Agreement shall be sent in English and in writing to the contact persons of the Parties and shall be considered as delivered, if such notifications and correspondence have been sent as follows:

16.6.1. Contact person of the Acquirer –

**Name:** \_\_\_\_\_

**Email:** [info@aureavia.com](mailto:info@aureavia.com);

16.6.2. Contact person of the Gateway Provider and the E-Merchant shall be as set out in the Application Form at Appendix 1. It is the responsibility of the Gateway Provider and the E-Merchant to inform the Acquirer of any changes to the contact details.

16.7. If the Gateway Provider or the E-Merchant:

16.7.1. knows or suspects that there has been a breach of security which might impact on the E-Shop, any Cardholder, any Transaction or otherwise, or

16.8. This Agreement shall be legally binding for the legal successors and assigns of the Parties.

16.9. Each Party confirms that it has obtained all necessary authorisations permitting it to sign and execute this Agreement and that it is not bound by any previous agreements that would prohibit the execution of this Agreement.

16.10. If any provision of this Agreement becomes invalid, the other provisions shall remain effective and shall be interpreted in the context of aims of the Parties and in accordance with applicable laws.

16.11. This Agreement has been drawn up in English language in three copies. Each copy shall have equal legal effect. Each Party shall get one copy of this Agreement.



## 17. SIGNATURES OF THE PARTIES

### The Acquirer

GCCH Management FZE, by its  
Director  
Jerome Schonbachler

\_\_\_\_\_  
(signature)

### The Merchant

\_\_\_\_\_, by its

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(signature)

### The Gateway Provider

\_\_\_\_\_, by its

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(signature)

# Appendix 1:

## E-Merchant Application

*(see enclosed separately)*

# Appendix 2:

## Table of Parameters

Appendix to the Tripartite Merchant Acquiring and Gateway Services Agreement No. \_\_\_\_\_  
concluded on \_\_\_\_\_ between GCCH Management FZE, \_\_\_\_\_ and \_\_\_\_\_

London, UK

\_\_\_/\_\_\_/20\_\_

### 1. FEES PAID TO THE ACQUIRER BY THE E-MERCHANT

**UNLESS OTHERWISE SPECIFIED ALL FEES AND CHARGES SET OUT BELOW BECOME DUE AND PAYABLE BY THE E-MERCHANT AT THE TIME THE RELATED SERVICES ARE RENDERED OR TRANSACTION PROCESSED BY THE ACQUIRER.**

Name of the Parameter	Value of the Parameter	Payable
1.1 Initial fee for consideration of the application for service and the accompanying documents of the E-Merchant	_____ EUR	Acquirer will deduct this fee from the first Transaction Amounts received under this Agreement before transferring to the E-Wallet.
1.2 Monthly fee for the maintenance of the system accepting the Cards	_____ EUR	This fee becomes due and payable on the 1st Business Day of the month. The Acquirer will deduct this fee from the E-Wallet Balance within 5 Business Days of it becoming due.
1.3 Fee for the services of the Acquirer in acceptance of the Cards	_____ EUR	Acquirer will deduct this fee from the Transaction Amounts before transferring to the E-Wallet.
EU issued cards:	_____% from Transaction Amounts in EUR, GBP, USD ____% from Transaction Amounts in RUB	
Non-EU issued cards:	_____% from Transaction Amounts in EUR, GBP, USD ____% from Transaction Amounts in RUB	
1.4 Commission fee for each successful Card Payment	___ EUR / ___ GBP / ___ RUB / ___ USD	Acquirer will deduct this fee from the Transaction Amounts before transferring to the E-Wallet.



1.5	Fee for the services of the Acquirer in execution of the Original Credit Transactions	___%	Acquirer will deduct this fee from the E-Wallet Balance at the time the Original Credit Transaction is transferred from the E-Wallet.
1.6	Commission fee for each successful Original Credit Transaction	___ EUR / ___ GBP ___ RUB / ___ USD	Acquirer will deduct this fee from the E-Wallet Balance at the time the OCT is transferred from the E-Wallet.
1.7	Commission fee for each declined Transaction	___ EUR / ___ GBP ___ RUB / ___ USD	Where a declined Transaction is declined by an International Payment System, the Acquirer may be charged a fee. The Acquirer reserves the right to pass this fee onto the E-Merchant. Such fees will become due and payable when the Acquirer receives notice of the fee from the relevant International Payment System. Acquirer will deduct the fee from the E-Wallet Balance.
1.8	Commission fee for processing of each Chargeback	___ EUR / ___ GBP ___ RUB / ___ USD	These fees become due and payable when the Acquirer receives notice of the Chargeback request from the relevant International Payment System. The fee will be deducted from the E-Wallet Balance by the Acquirer at the same time as the Chargeback amount.
1.9	Commission fee for Chargeback Representment	___ EUR / ___ GBP ___ RUB / ___ USD	These fees become due and payable when the Acquirer, having agreed to proceed with a Representment, lodges such Representment with the International Payment System. The fee will be deducted from the E-Wallet Balance by the Acquirer at the time the Representment is lodged with the International Payment System.
1.10	Commission fee for each Refund	___ EUR / ___ GBP ___ RUB / ___ USD	Acquirer will deduct this fee from the E-Wallet Balance at the time the Refund is transferred from the E-Wallet.
1.11	Monthly Inactive Account Fee	250 EUR or equivalent amount in other currency according to the currency rate on the Fee withdrawal day	This Fee becomes due and payable on the 19 <sup>th</sup> day after the last positive transaction and then each consecutive month. The Acquirer will deduct this fee from the Settlement Account within 5 Business Days of it becoming due.

## ADDITIONAL CHARGEBACK PROCESSING FEES

On the next page

## 2. ADDITIONAL CHARGEBACK PROCESSING FEES

Name of the Parameter	Value of the Parameter	Payable
<b>Chargeback processing fee:</b>		<p>Additional Chargeback Processing Fees will become due and payable when the Acquirer receives notice of the fees from the relevant International Payment System. The Acquirer will deduct the fees from the E-Wallet Balance on a monthly basis (in respect of VISA Europe's Additional Chargeback Processing Fees) and weekly (in respect of MasterCard's Additional Chargeback Processing Fees). Where a Representation is accepted by the Cardholder bank so that the Chargeback is to be returned to the E-Merchant, MasterCard may, in its discretion, return any Additional Chargeback Processing Fees to Acquirer. In this event, the Acquirer will return any refunded fees to the E-Merchant along with the amount of the Chargeback, by crediting the E-Merchant's E-Wallet Balance</p>
<b>2.1</b> VISA Europe	12 EUR	
<b>2.2</b> MasterCard	15 EUR	
<b>Second Chargeback fee:</b>		
<b>2.3</b> MasterCard	30 EUR	

## 3. PARAMETERS NOT RELATED TO FEES

Name of the Parameter	Value of the Parameter
<b>3.1</b> Current account of the E-Merchant	
<b>3.2</b> Frequency with which the Acquirer will transfer the E-Wallet Balance to the Current Account of the E-Merchant according to Clause 3.1	Every ____ days
<b>3.3</b> Minimal Account Balance	EUR ____ USD ____ GBP ____ RUB ____
<b>3.4</b> Single OCT limit per Cardholder	2000 EUR
<b>3.5</b> Daily OCT limit per Cardholder	_____ EUR
<b>3.6</b> Monthly OCT limit per Cardholder	50 000 EUR
<b>3.7</b> Currency for transfers of the Transaction Amounts and payment of the fees	EUR / USD / GBP / RUB (amounts in other currencies are converted into ____ using Acquirer Bank's exchange rate at the moment of making the transfer according to Clause 3.1 of this Appendix).
<b>3.8</b> Amount of the Security Deposit and period of possession	Acquirer will deduct ____ % from Transaction Amount and will hold as a deposit for ____ days according to Clause 8 of the Agreement.

## 4. MISCELLANEOUS

In case the services provided under the Agreement become subject to the Value Added Tax, the Acquirer will apply this tax in addition to the fees set forth in Table of Parameters at current rate. This Appendix is an integral part of the aforementioned Agreement.

## 5. SIGNATURES OF THE PARTIES

### The Acquirer

GCCH Management FZE, by its  
Director  
Jerome Schonbachler

\_\_\_\_\_  
(signature)

### The Merchant

\_\_\_\_\_, by its  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(signature)

### The Gateway Provider

\_\_\_\_\_, by its  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(signature)