

# **PAX2PAY STANDARD TERMS AND CONDITIONS**

*Last updated: 12 November 2021*

## **1. Definitions**

1.1 In this Agreement, unless the context otherwise requires, the following terms shall have the following meanings:

*“Agreement”* – means these Pax2Pay Standard Terms and Conditions, the Application Form, and any documents, terms and policies incorporated by reference;

*“Application Form”* – means the application form completed by the Client and submitted to P2P for the supply of the Service;

*“Client”* – means the recipient of the Service pursuant to the Agreement, as specified in the Application Form;

*“Client Account”* – a bank account used to hold the Deposit;

*“Client Data”* – the data inputted by the Client or its authorised users, or otherwise provided to P2P in connection with the Service;

*“Commencement Date”* – the date on which this Agreement comes into force, in accordance with clause 2.1;

*“Credit VCNs”* – VCNs which provide Clients with credit to carry out Transactions;

*“Deposit”* – monies held by P2P, or P2P’s nominated third party electronic payment provider, on behalf of the Client as security for funding Transactions, the required amounts of which will be communicated to the Client from time to time;

*“Effective Date”* – means the date on which the Service commences;

*“Fees”* – all fees and charges payable by the Client under this Agreement as specified in the Application Form or otherwise agreed;

*“Initial Deposit”* – an initial Deposit that is required for the Services to commence, as specified in the Application Form or otherwise agreed;

*“Initial Term”* – means a period of five years from the Effective Date, unless otherwise stated in the Application Form;

*“Intellectual Property Rights”* – all copyrights, patents, database rights, domain names, registered and unregistered design rights, topography rights, trademarks and service marks and applications for any of the foregoing, together with all trade secrets, know-how, rights to confidence and other intellectual and industrial property rights in all parts of the world;

*“Minimum Fee”* – the minimum amount payable by the Client in each payment period, as set out in the Application Form (where applicable);

*“P2P”* – means, as applicable, either Pax2Pay Ltd (company number 11747127) where Modulr acts as the Provider, or Paxport Group (UK) Ltd (company number 2447353) where Ixaris acts as the Provider. Both entities have their registered office at The Landing, 125 Redcliffe Street, Bristol, BS1 6HU;

*“Pre-paid VCNs”* – VCNs where a Deposit is required prior to carrying out Transactions;

*“Provider”* - means, as applicable, either Modulr Finance Limited (if the Client is UK domiciled and operating Clients), Modulr FS Europe Limited (if the Client is EU domiciled and operating Clients), and/or Ixaris Solutions Limited/Ixaris Technologies Limited;

*“Provider Terms”* - means the [Provider Terms](#) (for Ixaris) and/or the [Provider Terms](#) (UK domiciled and operating Client) and/or the [Provider Terms](#) (EU domiciled and operating Client) (for Modulr), each as updated from time to time in accordance with clause 10.2;

*“Service”* – the online payment solution provided by P2P, facilitating the Client’s access to and use of VCNs;

*“Set-up Fee”* – P2P’s fee for setting up the Service, if any, as detailed in the Application Form;

*“Transactions”* – payment transactions carried out by the Client using the Service;

*“VCN”* – means a virtual card number, used to make payments online or offline and which may include a Credit VCN or Pre-paid VCN;

*“VCN Issuer”* – the ultimate issuer of the VCN; and

*“VCN Issuer’s Terms and Conditions”* – the VCN Issuer’s terms and conditions relating to use of the VCNs, as notified to the Client from time to time.

1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement. References to clauses are to the clauses of this Agreement.

1.3 A person includes an individual, corporate or unincorporated body (whether or not having a separate legal personality).

1.4 Unless the context otherwise requires, words in the singular shall include the plural and vice versa.

1.5 A reference to writing or written includes any method of reproducing words in a legible and non-transitory form.

## **2. Service and Payments**

2.1 The Application Form, completed and submitted by the Client, constitutes an offer to purchase and receive the Service subject to the terms of this Agreement. The Application Form shall be deemed to be accepted by P2P and this Agreement shall come into force on written confirmation of acceptance from P2P, notification from P2P that access to the Service is to be set-up, or commencement of the performance of the Service (whichever occurs earliest).

2.2 Acceptance of the Application Form shall be dependent on the Client accepting the Provider Terms and satisfactorily completing the KYC (know your client) requirements of the third party provider.

### **Pre-paid VCNs**

2.3 Within 7 days of the Commencement Date and in any event prior to setting up any Pre-paid VCN, the Client undertakes to pay the Initial Deposit into the Client Account and the Set-up Fee directly to P2P.

### **Credit VCNs**

2.4 Within 7 days of the Commencement Date and in any event prior to setting up any Credit VCN, the Client undertakes to pay the Set-up Fee directly to P2P.

### **Service obligations**

2.5 Subject to the Client meeting the requirements and performing the obligations set out in clause 2.2 and 2.3, P2P shall (within a reasonable period of time and subject to any other formalities required, including those required by third party providers) activate the Client's access to the Service (Effective Date). For the avoidance of doubt, if the Client fails to meet any requirements (including KYC requirements) or P2P (acting reasonably) suspects that the Client may not satisfactorily meet P2P's

and/or the relevant third party provider's terms and conditions for use of the Service, P2P may refuse to grant access to the Service, in which case this Agreement shall automatically terminate without liability.

2.6 From the Effective Date, and subject to receipt by P2P of all Fees payable as at that date, P2P grants to the Client a non-exclusive, non-transferable licence to use the Service only for the internal business purposes of the Client, subject to the terms of this Agreement, the Provider Terms and the VCN Issuer's Terms & Conditions. The Client agrees to implement any procedures, business processes and systems to P2P's reasonable specification to enable the Client to access and use the Service. P2P shall use its reasonable endeavours to have the Services ready for use in accordance with any agreed timetable but time for the Services being ready shall not be of the essence of the contract and P2P may, in its sole discretion, delay the Effective Date if necessary.

2.7 P2P will act as an intermediary between the Client and the third party electronic payment provider, carrying out the necessary works preparatory to facilitate Transactions and the transfer of/dealing with electronic payments, using the Service.

2.8 The Client hereby grants P2P authority to access and operate the Client's VCNs on its behalf to facilitate such Transactions only in relation to the Client's use of the Service.

2.9 The Client acknowledges that it is responsible financially and legally for all use made of the Service and agrees not to enable any third party (other than subsidiaries, as defined in section 1159 Companies Act 2006) to make use of the Service without the express written permission of P2P. In addition, the Client acknowledges that it is the Client that is contracting with the payee/merchant who receives a payment using a VCN and that P2P is merely assisting with facilitating a payment mechanism on behalf of the Client. The Client will indemnify P2P against all claims, liabilities, demands, proceedings, damages, losses, costs, expenses fines and charges which are made or brought against or incurred by P2P as a result of it being alleged/held to be the contracting party.

### **3. Funds and Fees**

3.1 For Pre-paid VCNs, P2P or its third party providers may at any time request further funds from the Client in order to replenish the Deposit so that it contains adequate funds to cover Transactions and Fees. P2P may suspend the Client's access to and use of the Service until any such request has been complied with. The Client shall indemnify and hold P2P harmless in relation to any payments that P2P has to make to the third party provider due to the Deposit not containing adequate funds to cover Transactions and Fees.

3.2 If the Client has not complied with its payment obligations under this Agreement or in accordance with the Provider Terms, P2P may suspend the Client's access to and use of the Service until any such obligations have been complied with.

3.3 P2P will charge the Client Fees in accordance with the Application Form and/or the Schedules. These Fees are in consideration for P2P providing the preparatory works and intermediary services detailed this Agreement. The Client will pay the Set-up Fee direct to P2P in accordance with clause 2 above. All other Fees will either be: (i) collected from the Client by the third party provider, on behalf of P2P; or (ii) paid directly to P2P as indicated in the Application Form. Where any Fees are subject to the Minimum Fee and do not reach or exceed the Minimum Fee amount, P2P shall be entitled to charge such amount as necessary to make the Client's total payment liability equal to the Minimum Fee.

3.4 The Client will be solely responsible for any additional fees or charges and incidental costs arising from its use of the Service, including without limitation and as applicable, (i) **VCN scheme fees, including cross-border fees**; (ii) 'merchant fees' that are imposed upon the Client by a merchant or the merchant's bank, including charges related to currency fluctuations; (iii) financial institution and government fees, charges and taxes, **including any negative interest charges**; and (iv) any and all costs relating to the Client's systems, internet access and means of accessing and using the Service.

3.5 In relation to any additional fees, charges and/or costs detailed in clause 3.4, at P2P's option it may either:

- (a) issue an invoice to the Client, which shall be payable within 15 days of receipt; or
- (b) recover the sum from the Deposit as and when incurred as a result of use of the Service, and a report of such deduction will be made available to the Client at reasonable intervals.

3.6 Depending on card type, some VCNs may result in rebate payments to the Client. Where applicable, any rebates will be paid to the Client monthly in arrears. P2P will send the Client a monthly statement showing any rebates due to the Client (the "Rebate Report"). The Client must issue an invoice to P2P for the amount of the rebate due within 6 months from the date of the Rebate Report. If the Client does not issue an invoice within this time period, P2P shall be entitled to retain all rebates.

3.7 If the Client fails to pay any sum due under this Agreement within 15 days from date of the related invoice, P2P shall be entitled to suspend the Service and charge interest on a daily basis on such overdue amounts from the due date of payment until the date of actual payment (whether before or after judgment) at an annual rate 8% above the base rate from time to time being in force of the Bank of England, or

such other rate as provided by the Late Payment of Commercial Debts (Interest) Act 1998 from time to time. P2P shall be entitled to claim fixed compensation in respect of each late payment in the amounts set out in section 5A of the aforementioned Act.

3.8 Fees and all other monies due pursuant hereto are stated exclusive of any applicable taxes (including without limitation VAT), duties, fees or other government levies, delivery and insurance costs which may be incurred or imposed on or in respect of the Service. If such monies become due in connection with the delivery of the Service, they shall be paid by the Client together with payment of the Fees.

3.9 P2P reserves the right to vary its Fees and reduce the rebate payable to Client accordingly by a proportionate amount if any variation is made by VISA or MasterCard or processors or issuers for their services to P2P or the third party electronic payment providers relating to this Agreement, including but not limited to any changes in the interchange rates applicable to the VCNs. P2P shall, where reasonably possible, inform the Client in writing of any such changes in advance.

#### **4. Compliance Issues**

4.1 P2P and its third party providers are required to verify certain information about Clients due to regulatory and legal requirements such as anti-money laundering and anti-terrorist financing, including verifying company directors and beneficial owners, and whether the company is in good corporate standing. P2P and the Provider(s) are also required to monitor Transactions to ensure that the Service is not being used for money laundering, terrorist financing and other illegal or illicit activities, or otherwise in contravention of the Provider Terms, VCN Issuer's Terms & Conditions, or any applicable card scheme rules. The Client consents to P2P and its third party providers monitoring Client's Transactions for this purpose and that any such activity may be reported to the relevant authorities; and agrees to submit information to P2P or its third party providers as reasonably required to comply with these commitments.

4.2 In relation to the use of all VCNs, the Client accepts to be bound by the Provider Terms and VCN Issuer's Terms & Conditions.

4.3 The Client shall not use the VCNs to conduct activity that is illegal or is in contravention of the relevant card scheme rules for the card type used.

4.4 The Client shall take positive measures and shall use its best endeavours to prevent VCNs from being accessed, used or distributed by unauthorised persons.

4.5 The Client shall adhere to any reasonable instructions or guidelines, issued by P2P or the third party provider, relating to the use of the VCNs and the Service.

4.6 The Client shall indemnify P2P and keep P2P fully and effectively indemnified against any and all losses, claims, damages, costs (including legal and other professional costs), charges, expenses, liabilities, demands, proceedings and actions which P2P may sustain or incur, or which may be brought or established against P2P by any person and which arise out of or in connection with (i) the use or misuse of VCNs or the Service by the Client; (ii) any fraudulent use of VCNs or the Service; or (iii) the breach by the Client of the VCN Issuer's Terms & Conditions or the Provider Terms.

4.7 The Client will inform P2P immediately if it becomes aware of any actual or suspected misuse of the VCNs and/or fraudulent activity in relation to them and will provide to P2P all information and assistance as it reasonably requests in relation to such actual or suspected misuse/fraudulent activity.

## **5. Client's Obligations**

The Client shall:

(a) provide P2P with:

(i) all necessary co-operation in relation to this Agreement; and

(ii) all necessary access to such information as P2P may require,

in order to provide the Service;

(b) comply with all applicable laws and regulations with respect to its activities under this Agreement;

(c) carry out all other Client responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in the Client's provision of such assistance as agreed by the parties, P2P may adjust any agreed timetable (i.e. in relation to set-up or payment of Fees) or delivery schedule as reasonably necessary and without liability to the Client;

(d) ensure that access to the Service is only made available to authorised users of the Client and that all access credentials (including user names and passwords) are kept secure, using appropriate technical and organisational measures;

(e) ensure that its authorised users use the Service in accordance with this Agreement and shall be responsible for any breach of this Agreement by its users of the Service;

(f) ensure that its network and systems comply with the relevant specifications provided by P2P from time to time and otherwise meet good industry standards;

(g) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to P2P's data centres and systems, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Client's network connections or telecommunications links or caused by the internet;

(h) subject to any additional access granted by this Agreement, only access the Service for the Client's own internal business purposes. Otherwise, the Client shall not access the Service for or on behalf of a third party or allow any other person to access the Service or disclose the Service to any person in any other way whatsoever;

(i) ensure that when transmitting sensitive/confidential information to the Service (for example, payment card details, or personal data (as defined in applicable laws)) it shall use the secure SSL connections provided by P2P from time to time;

(j) save to the extent set out in this Agreement, not sub-contract, sub-licence, assign, transfer or resell any part of the Service; and

(k) procure that its systems and equipment meet P2P's minimum system requirements and continue to do so for the duration of this Agreement. The Client shall provide P2P with such reasonable information and access to its equipment as P2P may require to monitor compliance with the minimum system requirements and shall notify P2P of any significant changes in the way it accesses the Service, its systems or processes.

## **6. Confidentiality and Intellectual Property Rights**

6.1 Each party undertakes that it shall not at any time, disclose to any person any confidential information belonging or relating to the other party, including technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to it by or on behalf of the other party, except as permitted by clause 6.2.

6.2 Each party may disclose the other party's confidential information:

(a) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this Agreement. It shall ensure that its employees, officers, representatives or advisers to whom it discloses the confidential information comply with this clause 6 and shall remain fully liable for the acts and omissions of such persons; and

(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

6.3 The Client shall not use P2P's confidential information, including documentation and materials relating to the Service, for any purpose other than the performance of this Agreement.

6.4 The Client warrants and undertakes that it shall not use its access to the Service to engage in any activity which involves developing, creating, offering, selling or distributing product, software, service or system which would compete with the Service.

6.5 P2P shall be entitled to disclose and publicise the name of the Client as a user of the Service.

6.6 Other than the licence granted in clause 2 of this Agreement, the Client acknowledges that it obtains no copyright or any other right in the nature of copyright or any other Intellectual Property Right whatsoever in the Service or any documentation by virtue of this Agreement. The Client warrants and undertakes that it shall:

(a) not either directly or indirectly, itself or via a third party, duplicate or otherwise reproduce the Service, whether in whole or in part;

(b) not either directly or indirectly, itself or via a third party, copy, translate, modify, adapt, create a derivative work of, reverse-engineer, reverse-assemble, disassemble, decompile or attempt to discover any source code in the Service and any related software;

(c) not remove, delete or obscure any copyright notices, confidentiality notices, or other names and marks displayed on or in the Service or any related documents or materials;

(d) promptly notify P2P of any claim which may be made against P2P or the Client alleging that the use of the Service infringes the rights of a third party as soon as it becomes aware of any such actual or potential claim; and

(e) promptly notify P2P of any infringement or suspected infringement by any third party of any of the Intellectual Property Rights in the Service of which it is aware.

## **7. WARRANTY, DISCLAIMER AND LIABILITY**

7.1 P2P warrants to the Client that:

(a) the Service shall be provided in accordance with the Agreement, with all due care and skill, and in accordance with applicable laws and regulations;

(b) it shall not knowingly transmit or distribute any Trojan horses, viruses, or any other malicious code via the Service; and

(c) it has and will maintain all necessary licences, consents, authorisations and permissions necessary for the provision of the Service.

7.2 The Client acknowledges and agrees that the Service has not been created to meet the individual requirements of the Client and, subject to the conditions and warranties set out herein, is supplied on an 'as is' basis. All other conditions, warranties and representations, including those implied by law or statute, are excluded to the fullest extent permissible by law.

7.3 P2P is not liable for any loss of profit, revenue, wasted management time, failure to achieve anticipated savings, loss of data or goodwill, business interruption, or account for profit (in each case whether direct or indirect), or any indirect, consequential or special losses or damages arising in any way in connection with this Agreement, howsoever caused, and whether or not such loss has been discussed by the parties prior to entering into this Agreement.

7.4 P2P shall not be liable for any loss or damage of whatever nature suffered by the Client arising out of or in connection with any breach of this Agreement by the Client or any act, misrepresentation, error or omission made by or on behalf of the Client (including without prejudice use of the Service by someone unauthorised or with inadequate training or experience) or arising from any cause beyond P2P's reasonable control.

7.5 The Client acknowledges that it will have no claim in relation to degradation or unavailability of the Service or the functionality which it obtains therefrom which arises directly or indirectly from:

(a) interruptions to the flow of data to or from the Service caused by any portion of the internet or telecommunications network not under P2P's control;

(b) changes to the Service which need to be made by P2P due to changes in applicable laws or regulations, or which are enforced against P2P by a Provider;

(c) the effects of the failure or interruption of services provided by third parties;

(d) factors outside of the reasonable control of P2P;

(e) the negligent or improper actions or omissions of the Client; or

(f) problems with the Client's equipment and/or third party equipment.

7.6 Subject to the foregoing exclusions and limitations and Clause 7.8 below, P2P's maximum aggregate liability to the Client in respect of any claim or series of connected claims under or in connection with this Agreement, in respect of any direct loss (or any other loss to the extent that such loss is not excluded by Clauses 7.2-7.5 above or otherwise) whether such claim arises in contract, tort (including negligence), breach of statutory duty or otherwise, shall not exceed the total amount of Fees paid by the Client to P2P in the 12 months prior to the relevant claim or the first of a series of connected claims.

7.7 Whilst reasonable attempts are taken to exclude viruses from the Service, no liability is accepted for any malware, including but not limited to viruses, Trojan Horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programs or similar computer code designed to adversely affect the operation of any software or hardware, and the Client is recommended to take appropriate anti-virus measures when using or enabling access to the Service.

7.8 None of the clauses above shall apply so as to exclude or restrict liability for death or personal injury resulting from the negligence of P2P or its appointed agents, fraud or fraudulent misrepresentation, or any other matters for which it is illegal to limit or exclude liability.

## **8. Term and Termination**

8.1 This Agreement shall be effective for the Initial Term and shall continue thereafter, provided that either party may terminate this Agreement on expiry of the Initial Term or anytime thereafter by giving the other party at least 90 days' written notice.

8.2 Either party may terminate this Agreement immediately by written notice to the other in the event that any of the following occur:

(a) the other fails to pay any amount due hereunder on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment, save where such amount is disputed; or

(b) the other breaches any term of this Agreement and such breach is irremediable or, if remediable, is not remedied within 30 days of receipt of a notice requiring it to be remedied; or

(c) an order is made or a resolution is passed for the winding up of the other party, or if a provisional liquidator is appointed in respect of the other party, or if an administration order is made in respect of the other, or a notice of administration is

issued, or if a receiver is appointed in respect of the other or all or any of its assets or if the other is unable to pay any of its debts within the meaning of Section 123 of the Insolvency Act 1986, or if any voluntary arrangement is proposed under Part 1 of the Insolvency Act 1986 in respect of the other; or

(d) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

8.3 P2P may terminate this Agreement immediately by written notice to the Client in the event that any of the following occur:

(a) the Client does not complete/pass the initial KYC/funding requirements of P2P or its Provider to its or their satisfaction or subsequently during the term of this Agreement fails to satisfy such requirements; or

(b) the Client commits an actual, suspected or attempted breach of any provision of clause 4 or clause 10.4 below; or

(c) P2P's agreement with the Provider is terminated for any reason, or it otherwise loses any necessary licence, consent, permission or authorisation to hold and provide VCNs as per the terms of this Agreement; or

(d) a change in applicable laws or regulations, card scheme rules, and/or the fees and costs charged to P2P as holder and provider of the VCNs change so as to make the performance of this Agreement impossible or commercially unviable.

8.4 P2P may immediately suspend the Client's access to the Service if it reasonably believes that the Client's conduct is compromising the performance of the Service for other users, or poses a risk to other users of the Service. In the event that such suspension continues for a period of more than 30 days, P2P shall be entitled to terminate this Agreement with immediate effect.

8.5 In the event of termination of this Agreement, the licences granted by P2P under this Agreement shall terminate and the Client shall immediately cease using the Service and within 14 days return all constituents of the Service and any documentation supplied to the Client by P2P together with any copies thereof. Any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced.

8.6 Clauses 1, 2.9, 3, 4.6, 6, 7, 9.4(g) and 10 of this Agreement shall survive termination.

## 9. Data Protection

9.1 In this clause 9, the following definitions apply:- “Data Protection Legislation” means applicable laws and regulations relating to the processing of personal data including, if relevant, the General Data Protection Regulation (EU 2016/679), the Data Protection Act 2018, and the Privacy and Electronic Communication Regulations 2003, any amendment, consolidation or re-enactment thereof, any legislation of equivalent purpose or effect enacted in the United Kingdom, and any orders, guidelines and instructions issued under any of the above by relevant national authorities, a judicial authority in England and Wales or a European Union judicial authority; and “controller”, “data subject”, “personal data”, “processor”, “process/processing” and “supervisory authority” have the meanings given in the Data Protection Legislation.

9.2 Both parties shall comply with their respective obligations under the Data Protection Legislation and the terms of this Agreement. In connection with any personal data incorporated within the Client Data (“**Client Personal Data**”), the parties acknowledge that the Client is the Controller and P2P is the Processor.

9.3 The Client shall ensure that it has all necessary and appropriate consents and notices in place to enable the lawful transfer of the Client Personal Data to P2P for the duration and purposes of the Agreement.

9.4 To the extent that the performance of the Services under the Agreement involves P2P processing Client Personal Data, P2P acting as Processor shall:

(a) only carry out processing of such Client Personal Data in accordance with the Agreement and/or the Client’s instructions (unless P2P is otherwise required to process Client Personal Data by European Union, Member State and/or UK law to which P2P is subject, in which case P2P shall inform the Client of that legal requirement unless prohibited by that law on important grounds of public interest), and shall promptly inform the Client if, in P2P’s opinion, any instruction given by the Client to P2P infringes any Data Protection Legislation;

(b) assist the Client by taking appropriate technical and organisational measures, insofar as this is possible, with fulfilling its obligations in respect of data subject rights under the Data Protection Legislation;

(c) take all security measures required in accordance with Data Protection Legislation (including where relevant, Article 32 GDPR), and within a reasonable time from a reasonable request of the Client provide a written description of, and rationale for, the technical and organisational measures implemented, or to be implemented, to protect the Client Personal Data against unauthorised or unlawful processing and accidental loss;

(d) taking into account the nature of the processing and the information available to P2P, assist the Client in ensuring compliance with the Client's obligations to: i. keep personal data secure (Article 32 GDPR); ii. notify personal data breaches to the supervisory authority (Article 33 GDPR); iii. advise data subjects when there has been a personal data breach (Article 34 GDPR); iv. carry out data protection impact assessments (Article 35 GDPR); and v. consult with the supervisory authority where a data protection impact assessment indicates that there is an unmitigated high risk to the processing (Article 36 GDPR);

(e) without undue delay, inform the Client of becoming aware of a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, the Client Personal Data transmitted, stored or otherwise processed by P2P;

(f) in addition to the confidentiality obligations contained within the Agreement, ensure that persons authorised to process the Client Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality; and

(g) on expiry or termination of the Agreement, immediately cease to use Client Personal Data and arrange for its safe return or destruction as required by the Client (unless European Union, Member States and/or UK Law requires storage of any Client Personal Data or an exemption under GDPR applies).

9.5 Upon the Client's reasonable request, P2P agrees to provide the Client with any documentation or records (which may be redacted to remove confidential commercial information not relevant to the requirements of this Agreement) which will enable it to verify and monitor P2P's compliance with its data protection and security obligations under the terms of this clause 9, within 30 days of receipt of such request.

9.6 The Client provides their consent for P2P to use sub-processors in the delivery of the Services. Where P2P uses a sub-processor in relation to the Client Personal Data P2P shall:

(a) enter into a legally binding written agreement that places the equivalent data protection obligations as those set out in this Agreement to the extent applicable to the nature of the services provided by such sub-processor;

(b) shall remain liable for any act or omission of a sub-processor; and

(c) where required by law, P2P shall inform the Client of any intended changes concerning the addition or replacement of a sub-processor with access to Client Personal Data and give the Client the opportunity to object to such changes.

## **10. General**

10.1 Entire Agreement. This Agreement together with any other expressly incorporated document constitutes the entire agreement between the parties hereto relating to the subject matter hereof and neither party has relied on any representation made by the other party unless such representation is expressly included herein. Nothing in this clause shall relieve either party of liability for fraudulent misrepresentations.

10.2 Variation. These Pax2Pay Standard Terms and Conditions may be amended by P2P from time to time. P2P shall use its reasonable endeavours to notify the Client of any amendments by e-mail or by online notification. The Client's continued use of the Service following any amendment to these terms shall constitute acceptance of the amended terms.

10.3 Severance. If any provision or part of this Agreement is deemed void for whatever reason, it shall be deleted and the remaining provisions shall continue in full force and effect.

10.4 Assignment and other Dealings. The rights and obligations of the Client under this Agreement are personal to the Client and the Client undertakes that it shall not, without the prior written consent of P2P, assign, lease, charge, sub-license, or otherwise transfer such rights and obligations in whole or in part.

10.5 Notices. Any notice given pursuant hereto may be served personally or sent by pre-paid registered letter or recorded delivery to the addresses given here above. Such notice shall be deemed to have been duly served upon and received by the addressee, when served personally, at the time of such service or, when posted, 48 hours after the same shall have been put into the post correctly addressed and pre-paid.

10.6 Force Majeure. Neither party shall be liable for any loss suffered by the other party or be deemed to be in default for any delays or failures in performance hereunder (other than in relation to payment) resulting from acts or causes beyond its reasonable control or from any acts of God, acts or regulations of any governmental or supra-national authority.

10.7 Waiver. Any delay or forbearance by either party in enforcing any provisions of this Agreement or any of its rights hereunder shall not be construed as a waiver of such provision or right thereafter to enforce the same.

10.8 Third Party Rights. Unless stated otherwise, the terms of this Agreement may only be enforced by the parties to it.

10.9 Governing Law & Jurisdiction. This Agreement shall be governed by the laws of England and Wales and the parties submit to the exclusive jurisdiction of the Courts of England and Wales.