

ACQUIRING SERVICES - APPLICABLE TERMS

**Online Terms and Conditions**

These Online Terms and Conditions apply when you, Merchant, enter into the Agreement with us, Shift4 (as defined below), to receive the Acquiring Services. Capitalized terms that are not defined in these Online Terms and Conditions shall have the meaning given to them in the Agreement.

For Merchants receiving Acquiring Services together with our Equipment, these additional terms shall apply.

**1. Definitions**

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| <b>Acquiring Services</b> | <b>means the services that we provide under this Agreement: (i) the submission of Transactions to obtain Authorization and funds for settlement for subsequent transfer, (ii) the submission of data to effect a Refund, (iii) the handling of Chargeback disputes on your behalf, (iv) the provision of relevant reporting statements and/or (v) any ancillary services required to facilitate the processing and settlement of Transactions, Chargebacks, Refunds and/or payouts, as agreed between Parties from time to time;</b> |
| <b>Adjustments</b>        | <b>means any Refunds, CFT Transactions, returns, Chargebacks, Fees, Penalties, surcharges, expenses and Assessments and other payments or amounts that you are due under this Agreement or for which you are liable with respect to the Services or Transactions, or in certain cases credits owed to you;</b>   |
| <b>Agreement</b>          | <b>means all the terms that are applicable when you receive Acquiring Services from us, including Schedules, Fees and Definitions of Fees, these Online Terms and Conditions, Card Schemes Guidelines, Data Processing Addendum, any URLs, such as epower Portal and Accepted Industry Policy provided in these Online Terms and Conditions, Merchant application form, guidelines, procedures, rules or conditions that we notify you of, and amend from time to time, as permitted under the Amendments clause;</b>                |
| <b>Assessments</b>        | <b>means fees or charges imposed by the Card Schemes or by the authorities or other official bodies;</b>   |
| <b>Applicable Law</b>     | <b>means any laws, rules or regulations which are made by a public authority and are binding on and applicable to a Party. For you this may include such laws, rules, or regulations in both the country from which you offer your services and/or products and the country to which you provide such services and/or products;</b>  |
| <b>Authorization</b>      | <b>means a confirmation by the Card issuer, that a Transaction which a Cardholder is proposing to make would be within its available credit limit and that the Cardholder has not reported the Card lost or stolen;</b>  |
| <b>Business Day</b>       | <b>means a day other than a Saturday or a Sunday or a public holiday in <b>Malta</b>, if you are an <b>EEA/EU Merchant</b>, as defined herein;</b><br><br><b>or a day other than a Saturday or a Sunday or a public holiday in the <b>UK</b>, if you are a <b>UK Merchant</b>, as defined herein;</b>  |
| <b>Card</b>               | <b>means any valid payment card accepted by us and issued under any Card Scheme;</b>   |

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| Cardholder               | means a buyer of your goods and/or services and who is using a Card to pay for their purchase;   |
| Card Schemes             | means Mastercard, Visa, American Express, Discover and/or any other payment scheme, such as Girocard, as indicated in the Agreement, where we are registered as a member or otherwise authorized to process Transactions;<br><br><b>Additional terms applicable to Merchants using the Girocard Scheme are set out in Clause 17.</b>   |
| Card Schemes Marks       | means the names, logos, service marks, trademarks, trade names, taglines, or any other proprietary designations belonging to any Card Scheme;  |
| Card Scheme Rules        | means all current and future by-laws, rules, regulations, interpretations, and other guidelines promulgated by any Card Scheme from time to time;  |
| Card Schemes Guidelines  | means certain requirements under the Card Scheme Rules which are mandatory for you to follow, depending on your business and operations. The Card Schemes Guidelines are updated from time to time here: <a href="https://www.shift4.com/s4i-card-scheme-guidelines">https://www.shift4.com/s4i-card-scheme-guidelines</a> and we will notify you of any updates that impact your compliance with the Guidelines. You should also endeavour to review these Guidelines on a periodical basis and reach out to us in case of any questions; |
| Chargeback               | means a disputed Transaction for which the Card issuer seeks reimbursement for the Cardholder in circumstances as stipulated by the Card Scheme Rules. We charge a fee for Chargebacks, and the fee is indicated in Schedule 1 or the Fee Section of your Agreement, as applicable, and in the Definitions of Fees;  |
| Confidential Information | means: (i) all trade secrets; (ii) any commercial, marketing, technical or other confidential information exchanged between the Parties relating to the business activities of the Parties; and/or (iii) any other information of whatever nature made available to a Party by another Party which would reasonably be understood to be confidential, including any information provided to you prior to entering the Agreement;   |
| CFT Transaction          | means a Transaction initiated by Merchant that transfers funds to a Card. Such transfers may be used as payouts made by insurance, airline, gambling money transfer Merchants to Cardholders. This is not an exhaustive list. The transfer of funds results in credit to a Card. We charge a fee for CFT Transactions, and the fee is indicated in Schedule 1 or the Fee Section of your Agreement, as applicable, and in the Definitions of Fees;   |
| DEFAULT EVENT            | MEANS AN EVENT WHERE:<br><br>(I) YOU OR THE PROVISION OF YOUR SERVICES OR PRODUCTS ARE REASONABLY SUSPECTED BY US TO BE IN BREACH OF APPLICABLE LAW IN THE COUNTRY WHERE YOU ARE ESTABLISHED OR WHERE YOUR SERVICES/PRODUCTS ARE OFFERED FROM OR TO;<br><br>(II) YOU BREACH ANY OF THE CARD SCHEME RULES OR MATERIALLY   |

BREACH ANY OF THE TERMS OF THE AGREEMENT;

- (III) YOU ARE, OR ARE LIKELY TO BECOME INSOLVENT AND/OR UNABLE TO PROVIDE A MATERIAL PART OF YOUR PRODUCTS AND/OR SERVICES;
- (IV) THE TRANSACTIONS SUBMITTED INCLUDE A PERCENTAGE OF FRAUDULENT OR UNAUTHORIZED TRANSACTIONS WHICH, IN OUR SOLE (BUT REASONABLE) OPINION, EXCEED THE PERCENTAGE ACCEPTABLE FOR YOUR BUSINESS, OR WHICH CAUSE A VIOLATION OF THE CARD SCHEME RULES OR WHERE YOU FAIL TO COMPLY WITH OUR CHARGEBACK THRESHOLDS AS REASONABLY DEFINED IN OUR GENERAL INTERNAL PERFORMANCE MONITORING PROGRAM;
- (V) YOU FAIL TO COMPLY WITH OUR REQUEST FOR INFORMATION OR DOCUMENTATION FROM TIME TO TIME FOR THE PURPOSE OF CONDUCTING KYC AND AML CHECKS, WHICH WE ARE REQUIRED TO OBTAIN UNDER CARD SCHEME RULES OR APPLICABLE LAW, INCLUDING MATTERS RELATED TO CUSTOMER DUE DILIGENCE AND ANTI-MONEY LAUNDERING;
- (VI) WE DISCOVER THAT ANY INFORMATION YOU PROVIDED IS FALSE OR MISLEADING IN A MATERIAL WAY;
- (VII) CHANGES TO THE BUSINESS ACTIVITIES, PRACTICES OR BANK SETTLEMENT DETAILS HAVE OCCURRED OF WHICH WE WERE NOT INFORMED AND/OR HAVE NOT APPROVED;
- (VIII) YOUR ACCOUNT BEING, IN OUR REASONABLE OPINION, SUBSTANTIALLY INACTIVE OR LOW-PROCESSING FOR A PERIOD OF AT LEAST TWO (2) MONTHS;
- (IX) YOUR TURNOVER DOES NOT EXCEED THE 'MINIMUM ANNUAL TURNOVER' AS MAY BE STIPULATED BY US, IN ANY TWELVE (12) MONTHS PERIOD; ("MINIMUM ANNUAL TURNOVER");
- (X) YOU PROCESS ANY TRANSACTIONS VIA YOUR ACCOUNT ID FOR WEBSITES NOT APPROVED BY US;
- (XI) ANY SECURITY THAT YOU PROVIDED US, FALLS OR CEASES TO HAVE FULL FORCE AND EFFECT FOR ANY REASON, INCLUDING THE WITHDRAWAL OF A GUARANTOR FROM ANY GUARANTEE PROVIDED IN RELATION TO THE AGREEMENT;
- (XII) ANY LITIGATION, ARBITRATION, ADMINISTRATIVE OR OTHER INVESTIGATION INCLUDING BY THE CARD SCHEMES PROCEEDING OR DISPUTE IS COMMENCED AGAINST YOU, WHICH IS REASONABLY LIKELY TO BE ADVERSELY DETERMINED AND IF ADVERSELY DETERMINED IS REASONABLY LIKELY TO HAVE A MATERIAL ADVERSE EFFECT ON YOUR OPERATIONS;
- (XIII) ANY OTHER EVENT OR SERIES OF EVENTS (INCLUDING, ANY ADVERSE CHANGE IN YOUR BUSINESS, ASSETS OR FINANCIAL CONDITION) OR ANY ACTS OR OMISSIONS BY YOU, YOUR DIRECTORS OR ULTIMATE BENEFICIAL OWNERS WHICH IN OUR SOLE (BUT REASONABLE) OPINION (1) ARE LIKELY TO MATERIALLY AND

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|                              | <p>DETRIMENTALLY AFFECT YOUR ABILITY OR WILLINGNESS TO COMPLY WITH YOUR OBLIGATIONS UNDER THE AGREEMENT; (2) ARE LIKELY TO OR MATERIALLY NEGATIVELY IMPACT OUR INTEGRITY, REPUTATION OR BRAND OR A CARD SCHEMES; OR (3) ARE LIKELY TO PUT US IN BREACH OF CARD SCHEME RULES OR LEAD TO OUR MEMBERSHIP WITH A CARD SCHEME BEING WITHDRAWN; OR</p> <p>(XIV) ANY MATERIAL BREACH OF THE DATA PROTECTION RULES AS LAID DOWN IN DATA PROCESSING ADDENDUM AVAILABLE HERE;</p>  |
| E-Commerce Transaction       | means a Transaction initiated by a Cardholder to purchase goods or services over the Internet, where said Cardholder is not physically present at the point of sale at the time of the Transaction;  |
| Effective Date               | means the date this Agreement enters into force, which is the date that you execute the Agreement;   |
| Excessive Chargebacks        | means thresholds that are above 1% of the total value of Transactions as measured monthly, or as may be amended from time to time in accordance with the Amendments clause. The thresholds may be found here: <a href="https://www.shift4.com/s4i-fraud-chargebacks-policy">https://www.shift4.com/s4i-fraud-chargebacks-policy</a> ;  |
| Exchange Rate                | means the applicable conversion rate according to Reuters or ECB, while adding a percentage markup, as established by us; The Exchange Rate will be made available to you upon request;  |
| Fees                         | means the fees or other payments that are due for payment by you in exchange for the Services. The Fees are set out in Schedule 1 or the Fee Section of your Agreement, as applicable, and are explained and defined here: <a href="https://www.shift4.com/s4i-fees">https://www.shift4.com/s4i-fees</a> . The Fees may be changed from time to time upon notice to you, and in accordance with the Amendments clause;   |
| Force Majeure                | means abnormal and unforeseeable circumstances beyond our control. Such circumstances might include, but are not limited to, natural calamities, accidents, fires, public disorders, walkouts, revolutions, hostilities, legislative acts, government orders and directives of the authorities, which directly or indirectly prohibit the types of business stipulated herein or otherwise render the performance of our obligations incompatible with other provisions of Applicable Law;   |
| Intellectual Property Rights | means any and all intellectual property rights of whatever nature including patents, inventions, know-how, proprietary knowledge, trade secrets and other confidential information, copyrights, database rights (including rights of extraction), design rights (registered or unregistered), trademarks, service marks, logos, internet domain names, business names, trade names, rights protecting goodwill and reputation, moral rights, all registrations or applications to register any of the aforesaid items, and all rights and forms of protection of a similar nature of any of the aforesaid items or having equivalent effect in any country or jurisdiction, rights in the nature of unfair competition rights and rights to sue for passing off; |
| Loss or Losses               | means any and all liabilities, losses, damages, costs, charges, claims, demands, proceedings, actions, settlements, expenses (including legal expenses calculated  |

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|                               | on a full indemnity basis) and fines and/or penalties (including those levied by a Card Scheme or regulatory body);   |
| Merchant                      | means you, a business selling its goods and/or services;  |
| EU Merchant                   | <b>means a Merchant legally incorporated in an EU or in an EEA country. If you are an EU Merchant, the Agreement applies to you in its entirety as written, except where it is indicated otherwise. Guidance is provided throughout the Agreement;</b>  |
| UK Merchant                   | <b>means a Merchant legally incorporated in the UK. If you are a UK Merchant, the Agreement applies to you in its entirety as written, except where it is indicated that different terms apply to UK Merchants, in which case such terms apply to you. Guidance is provided throughout the Agreement;</b>   |
| Maximum Transaction Value     | means the maximum amount that is allowed for any single Transaction made by a Cardholder through the card machine or payment platform, as set in Schedule 1, under Payment Conditions, or the Fee Section of your Agreement, where such term forms part of your Agreement;  |
| Maximum Transactions Per Card | means the maximum number of payments that a Cardholder can make in a day, as set in Schedule 1, under Payment Conditions, or the Fee Section of your Agreement, where such term forms part of your Agreement;   |
| Operational Terms             | means your processing details that you provide to us. These terms are indicated in Schedule 2 of the Agreement, where such schedule forms part of your Agreement, and described in clause 3.3, i.e, the type of Cards and/or Transactions to be accepted; your category code(s); the currencies to be accepted; website(s); bank account to which settlement was requested; Chargeback and fraud thresholds; Transaction caps or thresholds; any country, Transaction, Card or IP blocks; and/or conditions relating to card security;  |
| Penalties                     | means any fine or amount or other additional payment as imposed by the Card Schemes on us as a result of a breach of Card Scheme Rules or another act or omission by you, other than as a result of you complying with this Agreement, directions given by or on our behalf, Applicable Law or the Card Scheme Rules. Penalties may include without limitation any such fines, amounts or additional payments the quantum of which is dependent on or affected by factors external to you. Penalties exclude any fine, amount or additional payment which is caused by our failure (or any person acting on our behalf) to comply with this Agreement, Applicable Law or Card Scheme Rules (unless our failure to comply with Card Scheme Rules is a result of your failure to comply with such rules); |
| Provider                      | means, [where applicable for Merchant] an intermediate party appointed by you, that is introducing and/or connecting you to us, providing you with payment related services, which include but are not limited to: (i) technical processing of your Transactions to enable us to obtain Authorization and make clearing/settlement; (ii) forwarding you reporting statements from us for Transactions processed and associated Fees, Chargebacks, Penalties and Assessments; (iii) engaging in all communications from us to you regarding the Transactions; (iv) enabling you technical integration to us via its (or a third-party's) systems; (v) providing gateway services; and (vi) any supporting and ancillary services reasonably required to support the above;                               |

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| PSRs  | means the Payment Services Regulations 2017 as may be amended or replaced from time to time;  |
| Reserve                                       | means an amount that we withhold and retain from you (based on a reasonable assessment of the potential Adjustments, exposure and other liabilities and on the basis of the information provided by you regarding your anticipated use of the Services at the time of onboarding), as a security against any sums due (including Chargebacks) to us by you under the Agreement. The Reserve may take the form of either a fixed sum ("Fixed Reserve") or a percentage of the settlement funds ("Rolling Reserve") as may be set by us from time to time and may be funded by one or more of the following means: (i) an extended settlement period of settlement funds to you; (ii) one or more deductions or offsets to any settlement funds otherwise due to you, before any deductions or payments are made from the amounts processed by you; and/or (iii) transfer of a monetary value to us by or on your behalf; |
| SAQ   | means self-assessment questionnaires, as detailed in the Card Schemes Guidelines;   |
| SCA   | means Strong Customer Authentication, as defined and required by the 2 <sup>nd</sup> Payment Service Directive (PSD2) applicable to EU Merchants or PSRs applicable to UK Merchants;  |
| Schedule 1 or Fee Section                     | means the Fees payable to us for the provision of Acquiring Services, as set out in Schedule 1 or the Fee Section of your Agreement, as applicable. The Fees also include other applicable third-party fees, such as, but not limited to Card Scheme or issuer fees. The Fees are detailed in Schedule 1 or the Fee Section of your Agreement, as applicable, and may be subject to change according to the stipulations of the Amendments clause;  |
| Settlement Currency                           | means the currency in which payment is made to Merchant, as indicated in Schedule 1 or the Fee Section of your Agreement, as applicable, and as may be amended from time to time by the Parties;  |
| Shift4  | means <b>Shift4 Limited</b> , company registration no. C46342, with its registered address at 80 Strait Street, Valletta VLT 1436, Malta, a financial institution authorized and regulated by the Malta Financial Services Authority OR <b>Shift4 Payments UK Limited</b> , company registration no.10694402, having its registered address at Suite 19.03-19.04 Heron Tower, 110 Bishopsgate, London, United Kingdom, EC2N 4AY,a payment institution authorized and regulated by the Financial Conduct Authority, FCA FRN: 778473. See <b>Shift4 companies most updated information here: <a href="https://shift4.com/licenses">shift4.com/licenses</a></b> ;  |
| Online Terms and Conditions ("OTC" or "OTCs") | means these OTCs as the same may be amended from time to time by us, in accordance with the terms of this Agreement. The latest version of the OTCs is published here: <a href="https://shift4.com/s4i-otc">shift4.com/s4i-otc</a> ;  |
| Territory                                     | means the territories where we are authorized to provide the Services;<br><br><b>For EU Merchants this means the European Union, EEA. For UK Merchants this means the UK.</b>   |

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| Transaction          | means any type of payment Transaction that relates to a purchase of your goods and/or services, whether the Transaction is approved or declined. A Transaction may refer, inter alia, to a purchase, a return, a Refund, error, credit, Adjustment; |
| Transaction Currency | means the currency in which the Transaction is initiated.   |

## 2. Representations and Warranties

- 2.1. Parties undertake that they are and shall remain compliant throughout the Term (as defined in the Term and Termination clause) with the Applicable Law, Card Scheme Rules and Card Schemes Guidelines, as may be amended from time to time.
- 2.2. Parties represent and warrant throughout the Term of the Agreement that:
- 2.2.1. their business is a legitimate, lawful business.
- 2.2.2. You warrant that your business operations are conducted from your country of incorporation and you are required to maintain your operations within such country, unless you provide us with prior notification and we explicitly accept.
- 2.2.3. You are using the Services for legitimate business purposes, and are not engaged, and will not engage in any conduct or Transactions which may be considered unlawful or non-compliant according to Applicable Law, Card Scheme Rules and any related policies, procedures and instructions provided by us.
- 2.2.4. Parties shall not do any act that shall infringe the rights of any third party including the publishing or transmission of any materials contrary to Applicable Law; and
- 2.2.5. you will not do nor omit to do anything which you would reasonably expect to be capable of materially damaging our reputation or goodwill or a Card Scheme.
- 2.3. all information and documentation that you provide to us, or that is provided to us by Provider, or by another party on your behalf, is true, accurate and complete and properly reflects your corporate structure, business, and financial condition, to enable us to make an informed assessment of you and your ability to perform your obligations under the Agreement;
- 2.4. Parties possess the licences, permits and approvals required in terms of Applicable Law to carry out their business lawfully;
- 2.5. Parties have and shall continue to have all the necessary assets and liquidity to perform their obligations under the Agreement as they become due;
- 2.6. there is no action, suit, or proceeding pending, or to your knowledge, threatened which if decided would significantly adversely impair your ability to carry on your business substantially or which would significantly adversely affect your financial condition or operations;
- 2.7. For E-Commerce Transactions: You warrant that you are the lawful owner of the website(s) that are submitted by or on your behalf for processing and you have full control and authorization of the website content;
- 2.8. any and all persons executing documents on your behalf and/or representing you are lawfully authorized to do so;

2.9. You are financially liable for the Transactions processed under this Agreement, its Fees, Adjustments and Assessments; and

2.10. You shall pay for and cover upon request any fees, debts or liabilities whether required by us, the Card Schemes, or by authorities, and you further authorize us to apply set-off from the settlement funds, the Reserve, or any other security held by us, in order to cover such fees, debts or liabilities.

### 3. Our Obligations

During the Term of this Agreement and subject to your compliance with this Agreement, we undertake to:

- 3.1. Provide you with the Acquiring Services, that include, but are not limited to: (i) submission of Transactions we receive to obtain Authorization and funds for settlement or for subsequent transfer, (ii) handling of Chargeback disputes on your behalf, (iii) provision of relevant reporting statements and/or (iv) ancillary services required to facilitate the processing and settlement of transactions, Chargebacks and/or Refunds, as agreed between the Parties in writing from time to time through our proprietary technology (the "Platform");
- 3.2. Grant you a non-exclusive, non-transferable, non-sublicensable, limited, revocable right for your permitted employees, agents, representatives and contractors to access the Services we provide ("Authorized Users"), including access to the Platform, solely for your internal business use;
- 3.3. Consider and, acting reasonably, approve or establish: (i) the type of Cards and/or Transactions to be accepted; (ii) the category code(s) applicable to you; (iii) the currencies that we are able to accept; (iv) any website(s), if applicable, through which you carry your business, and propose changes to any such website(s); (v) any bank account to which settlement was requested; (vi) Chargeback and fraud thresholds; (vii) Transaction caps or thresholds; (viii) any country, Transaction, Card or IP blocks; and/or (ix) conditions relating to card security (such as CVV, CVV2, AVS and 3D Secure);
- 3.4. When making or updating a determination pursuant to clause 3.3 from time to time, we shall act reasonably and in good faith, having appropriate regard to your needs, our operational capabilities and reasonable risk controls, the Card Scheme Rules, Applicable Law, our own general internal policies and procedures to the extent reasonable, and the other provisions of the Agreement.
- 3.5. Settle the Cardholder funds to you, in accordance with the Processing and Settlement Clause and this Agreement.
- 3.6. Safeguarding funds. We are committed to safeguard your funds to ensure that your money is safe. We hold your funds in regulated banking institutions, separate from our own business funds. This means your funds are never used for our daily operations. We are compliant with the Payment Service Regulations 2017 (PSRs) and your funds are protected through segregation rather than through the Financial Services Compensation Scheme (FSCS) (in relation to **UK Merchants**) and with Financial Institutions Act (in relation the **EU Merchants**) whereby we keep your funds separate from our own and place them in a safeguarding account.  
  
You have the right to request information about how your funds are being safeguarded. If you have any questions about the protection of your funds, please contact your account manager or contact us at support.europe@shift4.com.
- 3.7. If you are a **UK Merchant**, additional terms apply within the last section titled, "**For UK Merchants**" further down below.

### 4. Your Obligations

- 4.1. You authorize us to collect Card payments represented by submitted Transactions from Card issuers and to otherwise control and administer the settlement of funds relating to such Transactions in accordance with this Agreement.
- 4.2. For Merchants that receive our Services via their Provider.
  - 4.2.1. Where you are receiving our Services via your Provider, you authorize us to accept instructions

from your Provider and communicate with your Provider on your behalf and to rely on Provider's representations and warranties with respect to you and your business.

4.2.2. Where your Provider is permitted and it has the required authorizations, and upon your Provider's request, you authorize us to perform settlement of funds in accordance with the Processing and Settlement clause, to your Provider's designated bank account.

4.2.3. You will not hold us liable for relying on your Provider's instructions when providing our Services and exercising the terms of the Agreement.

4.3. During the Term of this Agreement you:

4.3.1. shall cooperate with us in establishing and maintaining one or more merchant account IDs ("MID") to facilitate Transactions.

4.3.2. shall manage and secure all API keys and login credentials used by Authorized Users in connection with their use of the Platform, and to protect the same against unauthorized use or disclosure.

4.3.3. shall without delay inform us in writing of any change in any information which to your knowledge has been provided to or otherwise held by us and which relates to you, your business, products, and/or services, your corporate structure and/or your location.

4.3.4. shall without delay inform us in writing in the event of: (i) an occurrence or the likelihood of an occurrence pursuant to which the carrying out of your business is likely to or would be considered unlawful under Applicable Law; (ii) any change in circumstances which may affect your condition or status or ability to perform your obligations under the Agreement or in the event that you are or likely to be unable to pay your debts; and/or (iii) of a change in your ownership or control as a result of a person (or persons acting in concert) acquiring 10% or more of the share capital or voting rights in your company or of a parent undertaking of your company.

4.3.5. shall (i) provide reasonable assistance we may require for the prevention and detection of money laundering, funding of terrorism or any other fraudulent or criminal activity and for general compliance with the Agreement and with any Applicable Law; and (ii) co-operate with us (acting reasonably) to carry out an inspection at your premises for the purpose of ascertaining compliance with this Agreement. You shall be responsible to cover for the fees and expenses imposed as a result of performing an inspection.

4.4. Should you fail to comply with any obligations under this clause 4 and thereby causing us to be in breach of Applicable Law or materially in breach of Card Scheme Rules or to suffer or incur significant costs or losses, we shall have the right to suspend and/or terminate this Agreement in accordance with the provisions of the Agreement.

## **5. Due Diligence and Information Rights**

5.1. We shall at all times have the right to request from you any documentation or information, which may also be in the form of personal data, which we will reasonably require for the purposes of verifying and complying, among others, with Anti Money Laundering regulations, including: (i) your identity, your directors and direct or indirect ultimate beneficiary owners; (ii) your (proposed or actual) business activities; (iii) your ongoing compliance with the Agreement, the Card Scheme Rules and/or any Applicable Law or requests from any relevant competent authority; (iv) your risk profile, including – but not limited to – your financial position; (v) proof that any information you provided to us, or that we obtained, is correct and true.

5.2. The requested documentation stipulated above, shall be provided to us as soon as possible and in any event within such period as may be reasonably requested by us.

5.3. **You acknowledge and agree that throughout the Terms of the Agreement, you are subject to periodic ongoing monitoring where reasonably requested by us which shall include but is not limited to – the periodic review of your physical site and website (if so, our reasonable costs will be quoted and borne**

by you). Further, you acknowledge and agree that the Card Schemes have the right to audit your business to confirm compliance with the Card Scheme Rules. You shall grant us all reasonable access to your physical site as we may require for the purposes of the Agreement. You shall bear any applicable costs related to any audit and monitoring, reasonably conducted by or on our behalf or by or on behalf of the Card Schemes.

- 5.4. Where you are reasonably requested by us or by a Card Scheme to make any changes to your website(s) to ensure compliance with the Card Scheme Rules, you shall make any such change within five (5) Business Days from the date of such request (or such other shorter time frame as may be requested by the Cards Schemes).
- 5.5. In the event that you are non-compliant with our request pursuant to this clause 5 within the specified time frames, we reserve the right to promptly suspend and/or terminate the Agreement in accordance with the Term and Termination clause of this Agreement. We will, to the extent feasible and where such action would not make it subject to potential material detriment, initially issue an additional request to you prior to exercising our immediate suspension or termination rights as aforementioned.

## 6. Processing and Settlement

- 6.1. For E-Commerce Transactions: you agree and acknowledge that all Transactions must originate from websites approved by us as provided for in this Agreement and be submitted in accordance with these OTCs, as well as any other reasonable specifications or instructions provided by us for provision of Services including the e-power manual: <https://epower.credorax.com>. You agree that we shall not be obliged to provide the Services when the relevant data is not delivered accurately and in the format reasonably specified by us. You acknowledge that you have been notified of the prohibited industries, that can be found here: <https://www.shift4.com/s4i-accepted-industry-policy>, and shall neither process Transactions for, nor promote such prohibited industries on your websites.
- 6.2. SCA. You are aware of and understand the SCA requirements and undertake to implement an SCA compliant solution, either independently or via our solution, alternatively, process only Transactions that qualify for the SCA exemption, in accordance with Applicable Law. You shall ensure at all times that you meet all the requirements set under the Card Scheme Rules with respect to (i) your location; (ii) SCA requirements; and any other requirement of the Card Schemes. Any Penalties imposed on us due to your non-compliance with Card Scheme Rules shall be levied to you.
- 6.3. You understand that our provision of Services is subject to certain conditions, such as, but not limited to, operation models (i.e. recurring, subscriptions etc), Transaction caps or thresholds, limits on Transaction amounts, secure Transaction processing, volume caps, currency limitations, country blocks, MCC code allocations, amendments to the funding delay or frequency of settlement, and if relevant a Reserve and/or guarantee, which may be imposed or amended from time to time if reasonably required by us, and upon notice to you. Should you disagree with any of the imposed conditions, you may terminate this Agreement immediately.
- 6.4. You acknowledge and agree that you are liable for all Transactions that you process under your Merchant account ID and that you are liable for all Chargebacks, Refunds and Penalties with respect to Transactions processed under the Agreement. This liability is not subject to any limitation of liability that may be expressed elsewhere in the Agreement and survives termination or expiration of the Agreement. You may not, under any circumstances, submit Transactions for any activity, product or entity not explicitly authorized by us.
- 6.5. **Settlement.** Subject to the terms of the Agreement, we will transfer the settlement funds less Chargebacks, Refunds, Penalties, Adjustments and/or Fees in accordance with the terms of this Agreement ("Net Settlement"). Unless otherwise agreed by the Parties in writing, we shall have no

obligation to transfer settlement funds under the Agreement where we have not received such settlement funds from the Card Schemes. Settlement will be done to an account duly designated by the Merchant, or by the Provider [where applicable] subject to our reasonable acceptance criteria (the “Designated Account”). We shall report to you, or to your Provider [where applicable] all Chargebacks, Refunds, Penalties and Adjustments (including those imposed by the Card Schemes) on a periodic basis in accordance with Applicable Law. You further agree that settlement shall constitute full and final settlement of any claim that you may have against us and that by settling, we are fulfilling our obligations to transfer settlement funds to you in accordance with the Agreement and we shall have no further liability to you in this respect.

**6.5.1 Gross Settlement.** Where Parties agree otherwise and subject to Shift4 approval and to the terms of the Agreement, we will transfer the full amount of settlement funds due for processed Transactions less Chargebacks, Refunds, Penalties and non-fee related Adjustments (“Gross Settlement”), and will issue an invoice to you for all applicable Fees and Fee related Adjustments. Notwithstanding the aforesaid, it is agreed by the Parties that should we find ourselves at imminent risk exposure we may deduct without delay any Fees, Penalties and Adjustments from the full amount of the settlement funds at our own discretion.

- 6.6. You understand and agree that, except where we are at fault (for example, as a result of breaching Card Scheme Rules where the breach is not caused by your failure), we shall not compensate you for late or non-performance by the Card Schemes due to which you receive late settlement or no settlement at all for transactions already processed but not yet settled by us or the Card Schemes.
- 6.7. Where we settle funds to you prior to receipt of the corresponding amounts from the relevant Card Scheme, we shall recover such amounts from you if the Card Scheme does not pay those amounts to us.
- 6.8. No interest will be due over amounts held by us prior to settlement of the funds to you except where settlement is delayed due to our gross negligence for more than thirty (30) days. The interest due over a late settled amount would be the standard interest rate that applies as a matter of Maltese law, for Merchants from the **EU/EEA**, or of English law, for Merchants from the **UK**.
- 6.9. Settlement shall occur in a frequency as agreed between Parties, or between us and Provider acting on your behalf [where applicable], and shall be subject to funding delay as stipulated by us in Schedule 1 or the Fee Section of your Agreement, as applicable, and as may be amended from time to time as permitted under the Agreement. Settlement shall only occur during Business Days.
- 6.10. If you are an **EU/EEA Merchant**: The Parties agree that Title III of the Payment Services Directive as implemented under Maltese law or any other EU relevant law, as well as any equivalent or similar requirements under any succeeding legislation, shall not apply between the Parties in so far as such disapplication is permissible under the Payment Services Directive or any succeeding legislation. If you are a **UK Merchant**, different terms are applicable to you within the last section titled, “For UK Merchants” further down below.
- 6.11. In order to reduce administrative and other costs, unless you request otherwise, we shall only transfer funds to you where the said funds exceed the below listed minimum amounts, unless stipulated otherwise in the Agreement:

| Settlement Currency Name | Settlement Currency Code | Payment Threshold |
|--------------------------|--------------------------|-------------------|
| Australian Dollar        | AUD                      | 100               |

|                    |     |       |
|--------------------|-----|-------|
| British Pound      | GBP | 100   |
| Canadian Dollar    | CAD | 100   |
| Czech Koruna       | CZK | 3000  |
| Danish Krone       | DKK | 750   |
| Euro               | EUR | 100   |
| Hong Kong Dollar   | HKD | 1000  |
| Japanese Yen       | JPY | 15000 |
| New Zealand Dollar | NZD | 200   |
| Norwegian Krone    | NOK | 1000  |
| Polish Zloty       | PLN | 500   |
| Singapore Dollar   | SGD | 200   |
| South African Rand | ZAR | 1500  |
| Swedish Krona      | SEK | 1000  |
| Swiss Franc        | CHF | 100   |
| Turkish Lira       | TRY | 300   |
| US Dollar          | USD | 100   |

#### 6.12. Aggregated Fees – Blended/MDR

If you have requested a Merchant Discount Rate (Blended) pricing or IC+ pricing, as stipulated in Schedule 1 or the Fee Section of your Agreement, as applicable, you agree that with reference to the obligation under Regulation (EU) 2015/751 as it forms part of UK law by virtue of the European Union (Withdrawal) Act 2018 (UK IFR), you have elected to be charged Blended Fees as set out in Schedule 1 or the Fee Section of your Agreement, as applicable. You understand that you may request unblended Fees and specified information on the components of such Fees applicable to each category and brand of payment cards for those cards that are subject to Regulation (EU) 2015/751 and in accordance with the same.

#### 6.13. Information

You have elected to receive the information on individual payment Transactions on an aggregated basis. Such information shall include:

- 6.13.1. the reference enabling you to identify the card-based payment Transaction;
- 6.13.2. the amount of the payment Transaction in the currency in which your account is credited; and
- 6.13.3. the amount of any charges for the card-based payment Transaction, indicating separately the Merchant Discount Rate and the amount of the Interchange.

### 7. Conversion of Currencies

- 7.1. By executing the Agreement you authorize us to convert Transaction Currencies into the applicable Settlement Currencies agreed between the Parties where such amounts are received by us or payable by you in a Transaction Currency different from the Settlement Currency. To avoid any doubt, if a Transaction Currency is not supported as a Settlement Currency, then the designated amounts will be converted into **Euro (EUR)** if you are an **EU/EEA Merchant**, or into **British Pound (GBP)** if you are a **UK Merchant**, after which it would be converted into the requested Settlement Currency.
- 7.2. Conversions shall be carried out using the Exchange Rate. We shall make the Exchange Rate available to you via periodical reports. You shall also receive the information relating to the applicable Exchange Rate upon a written request to us.
- 7.3. All Transactions and settlement funds are subject to our audit and final review and may be adjusted for inaccuracies and errors.
- 7.4. The processing and settlement of merchant Transactions may incur Chargebacks, Refunds, Penalties and/or Adjustments, for which you are responsible and shall cover for in full.
- 7.5. You shall maintain a zero or positive account balance in every currency at all times during and after the term of the Agreement. If at any time the settlement funds are not sufficient to cover your amounts that are due to us under the Agreement, you shall transfer the full amount of funds due as instructed by us within fourteen (14) calendar days of receipt of written notice.
- 7.6. Furthermore, you authorize us to recover amounts due under the Agreement in the Settlement Currency as agreed between the Parties if the funds are unavailable in the Transaction Currency specified in the Agreement or any subsequent notice amending the same.

## **8. Financial Securities**

You may be requested to provide any or all of the following securities to us:

### **8.1. Reserve**

- 8.1.1. We may establish, maintain, or increase a Reserve subject to assessment of your risk profile and the level of credit risk involved. The Reserve would be set for an amount that is reasonably in proportion to the amount of the exposure and the credit risk involved.
- 8.1.2. Any funds held by us as Reserve shall be held in accordance with Applicable Law. The Reserve may be used for any form of contractual compensation as defined in the Agreement, including amounts that you failed to pay when due and payable, which may for example include reimbursement of payments to Card Schemes against Adjustments and/or potential Chargebacks. Furthermore, a guarantee may also be required as a security against potential liabilities arising under the Agreement where we reasonably believe that you are unlikely to be able to pay any amounts due to us under this Agreement due to your risk profile, where for example, we are unable to comfortably ascertain your individual standing where exposure calculations are high based on the financial information you provided.
- 8.1.3. Furthermore, we reserve the right to retain the Reserve and/or any other requested guarantee or security for such period as we reasonably anticipate requiring it in order to address your risk failing to pay Adjustments or other liabilities you have to us, subject to a maximum period of six (6) months after termination of the Agreement or six (6) months after the goods and/or services of the last processed Transaction have been delivered to the Cardholder, whichever occurs later (the "Chargeback Period"). Provided that upon the termination of the Chargeback Period, any Adjustments or your other liabilities under the Agreement remain contingent or pending, we may

extend the Chargeback Period to the extent necessary to cover such Adjustments and/or other liabilities. We shall release the Reserve and/or any other requested guarantee or security and any outstanding balances as soon as reasonably practicable following expiry of the Chargeback Period or extended period. Interest on any overdue amounts shall be due: For **EU/EEA Merchants** the interest rate shall be calculated according to the Late Payment Directive, 2011/7/EU. For **UK Merchants**, the interest rate shall be at 2% over Bank of England bank rate or (if lower) the maximum rate of statutory interest allowed by English law from the due date for payment until payment is received.

8.1.4. We may hold as a Reserve funds we would otherwise be obligated to pay to you. If we require, in accordance with this Agreement, that you transfer into the Reserve additional funds, we may, among other remedies, terminate the Agreement or suspend providing Services pursuant to the Agreement if you fail to make such transfer within a reasonable period of time as requested by us.

8.1.5. In addition, and without prejudice to the Reserve, we may block and retain a percentage or the full amount of the settlement funds as a cover against actual and reasonably anticipated losses from Chargebacks, Penalties, Assessments and/or Fees which cannot be recovered by us. Furthermore, we may (without prejudice to any other rights we may have) defer settlement of sums due to you, in our sole (but reasonable) opinion, for a specified period in the event (i) you fail to provide information within the timescales set hereunder; (ii) the financial information indicates a deterioration in your financial condition; (iii) there are suspected fraudulent Transactions related to illegal activities and/or (iv) there is an increased risk exposure to us, until such time as we (acting swiftly) have completed our investigation to our reasonable satisfaction. You shall as far as reasonable fully cooperate in the investigation process. You shall exercise the rights as stipulated in this section in good faith. In the event that your financial condition and risk profile improves, in our reasonable opinion, then we will return any (or part thereof) of the funds withheld in excess of the Reserve.

## **8.2. Set-Off**

We may at any time, and without prior notice or consent, set off all or part of any liability you have (including for example, any liability for Adjustments, Chargebacks, Fees and Penalties) against all or part of any liability that you or any of your affiliates have. We may set-off for present liabilities or suspected liabilities should there be fines or a sudden increase in Chargebacks, liquidated or unliquidated, and whether either liability arises under or in connection with this Agreement or any other agreement between you and us or our affiliates. If the liabilities to be set off are expressed in different currencies, we may convert either liability at a reasonable market rate of exchange for the purpose of set-off.

## **8.3. Guarantee**

8.3.1. We may, in accordance with the Reserve clause 8.1, and upon discussion with you, require that you procure, within thirty (30) days (or such longer period as is reasonable) after receiving our written request, that a person (or persons) reasonably satisfactory to us provide us with a guarantee, indemnity, cash reserve or other security (including the replacement of any existing security) in such form and over such assets as we may reasonably require to secure to our reasonable satisfaction the performance of your obligations (including contingent or potential obligations) under this Agreement, provided we are of the reasonable belief that you are unlikely to be able to pay any amounts due to us under this Agreement.

8.3.2. We shall only take and continue to maintain a Reserve, guarantee, indemnity, cash reserve or other security pursuant to this clause or other provisions of this Agreement, which is reasonably in proportion to the losses or costs we reasonably anticipate suffering or incurring due to your failing to pay Adjustments or other liabilities you have under this Agreement.

**8.3.3.** We will be entitled to charge you for our reasonable external costs incurred in obtaining the guarantee, indemnity, cash reserve or other security referred to in this clause.

## **9. Intellectual Property Rights; Confidentiality**

9.1. All intellectual property rights in the Services and any part thereof, including any and all derivatives, changes and improvements thereof lie exclusively with us. You shall not attempt to infiltrate, hack, reverse engineer, decompile, or disassemble the Service or any part thereof for any purpose.

9.2. The Agreement does not transfer, and is not intended to transfer, to any Party any of the Intellectual Property Rights that any other Party owns at the Effective Date or any Intellectual Property Rights that are created, acquired or developed during the term of the Agreement. You shall not acquire any Intellectual Property Rights in the Services, or any data that may be made available to you under this Agreement. You consent for us to use or refer to any trademarks, logos, copyrighted materials, business names or other similar Intellectual Property Rights in any promotional materials or literature, agreements or on any website. You may revoke such consent at any time by written notification to us. On termination of the Agreement, each Party shall remove any reference to the other Parties from any promotional materials or literature, agreements or on any websites.

9.3. Each Party agrees to keep confidential and not disclose to any third party any Confidential Information. You acknowledge and agree that Confidential Information that you provide pursuant to this Agreement, including but not limited to personal data, may be used, disclosed or processed by us and our affiliates for any or all of the following purposes: (i) to comply with Applicable Law, a court order or other legal process; (ii) to administer and operate the Agreement, including, where as provided for in this Agreement, conducting identity and credit checks on you and your principals; (iii) to conduct, monitor and analyze our businesses; (iv) to market and sell to you products and services offered by us, whether relating to the Services or otherwise; (v) to obtain advice from professional advisors; (vi) to third party investors or potential investors or their respective affiliates in the event of the sale, disposal, merger or transfer of the business of ours or our affiliates, or obtaining financing for our business, or negotiations in connection with that purpose.

9.4. Confidential Information shall not include any information which:

9.4.1. at the time of its disclosure, or thereafter, is or becomes generally available to the public other than through any fault of the receiving Party or its employees;

9.4.2. is shown to have been independently acquired or developed by the receiving Party without violating this Agreement;

9.4.3. was known to the receiving Party prior to receiving any Confidential Information from disclosing Party; or

9.4.4. becomes available to the receiving Party from a third party without restriction on disclosure and without breach of a non-disclosure obligation.

9.5. The burden of proof lies with the receiving Party to demonstrate that any one of the aforementioned requirements are fulfilled.

9.6. If the receiving Party, or any of its directors, officers, and/or employees, becomes legally compelled by written judicial or other governmental order to disclose any Confidential Information, the receiving Party shall provide the disclosing Party with prompt written notice of such required disclosures (to the extent permitted by law) and will reasonably cooperate with the disclosing Party to minimise the extent of any such disclosure. The receiving Party shall disclose the minimum amount of Confidential Information legally required and shall use

its best efforts to obtain assurances that confidential treatment will be accorded to such Confidential Information.

## 10. Use of Logos and Trademarks

- 10.1. You permit us to use your logos and/or trademarks for marketing purposes on our website and/or on our marketing material.
- 10.2. We acknowledge that your logos and/or trademarks are in your sole and exclusive right, title and interest and our uses thereof will not acquire any right, title or interest in the logos and/or trademarks during the term of the Agreement.
- 10.3. We will use and display your logos and/or trademarks only in a form and style which do not, and is not reasonably likely to, defame or otherwise injure you and will not represent in any manner that it has any ownership of right, title, or interest in the logos and/or trademarks. You retain all rights and goodwill in your logos and/or trademarks.

## 11. Data Protection and Privacy

- 11.1. Unless otherwise indicated, the capitalised terms in this clause shall have the same meaning as those assigned to them under the Data Processing Addendum available at: <https://www.shift4.com/s4i-dpa>. In the interest of clarity, the provisions of the Data Processing Addendum are an integral part of this Agreement and in the event of conflict between this clause and the Data Processing Addendum, the provisions of the Data Processing Addendum shall apply.
- 11.2. The Parties hereby acknowledge that:
  - 11.2.1. the determination of the type of cards and/or Transactions to be accepted by us does not include the extent, degree, and amount of Personal Data to be processed, which determination is made solely by you;
  - 11.2.2. the bank accounts to which settlement is requested is determined by you and we do not process Personal Data to effect settlement;
  - 11.2.3. anonymized and aggregated data is used by us for the purposes of reporting in line with our legal obligations; and
  - 11.2.4. in the case of Chargebacks, we may access and process all Cardholder data, including but not limited to name, surname and Transaction amount in order to verify and effect the chargeback solely at your request or at the Cardholder's request, and in accordance with your or Cardholder's instructions.
- 11.3. In view of the foregoing, the Parties hereby acknowledge and agree that, in the event that we process data which qualifies as Personal Data in terms of Data Protection Laws, we act solely on your instructions, and therefore act solely as data processor. The Data Processing Addendum to this Agreement regulates the relationship between you as Controller and us as Processor pursuant to Article 28(3) of GDPR.
- 11.4. Without prejudice to the fact that we act as Processor of your personal data, we may, in order to comply with our legal obligations under AML Legislation, request customer due diligence data from you pursuant to the Due Diligence clause herein. Insofar and to the extent that we make this request, we shall comply with our obligations as Controller of the Personal Data.

## 12. Indemnities

**IMPORTANT NOTE: You must read these indemnity provisions carefully. They provide important protections for you and for us. The indemnities in this clause are in addition to and do not affect any other indemnity under or in connection with this Agreement.**

- 12.1. **You shall be liable for and shall indemnify, defend and hold us harmless**, including our affiliates, employees, directors, agents and any Card Scheme (hereinafter each referred to as an “Indemnified Party”) **from and against:**
- 12.1.1. any and all **claims made by third parties** threatened, asserted, or filed against any Indemnified Party **arising out of any of your acts or omissions under this Agreement;** and
- 12.1.2. for all other **claims** (third party or otherwise), actions, proceedings and any Losses paid or incurred by any Indemnified Party **that arise out of your breach of this Agreement;** and
- 12.1.3. **Claims and Losses resulting from or relating to (i) any Transaction processed under this Agreement; (ii) Your improper activity including improper use of the Card Scheme Marks (iii) a Default Event; (iv) Your breach of the Card Scheme Rules or Applicable Law; (v) Your misrepresentation, or fraudulent or criminal activity.** This liability is not limited by any limitation in liability that may be expressed elsewhere in this Agreement, unless such limitation is required to apply by Applicable Law. The indemnity in this clause shall not apply with respect to any claim, action, proceeding, or Loss if and to the extent that it arises or results from a breach by an Indemnified Party (whether or not being the Indemnified Party seeking to rely on the indemnity) of Applicable Law, this Agreement or the Card Scheme Rules, or from any tort, breach of statutory duty, fraud, misrepresentation, or other unlawful behaviour of such Indemnified Party, or as a result of any person acting or omitting to act at the direction of such Indemnified Party.
- 12.2. You acknowledge and agree that we shall have complete and reasonable discretion to accept, dispute, compromise or otherwise deal with any claim made against us arising out of a Transaction or otherwise in connection with this Agreement, and our decision shall be binding on you.
- 12.3. We shall be liable for and indemnify, defend, and hold you harmless, including your affiliates, employees, directors, and agents (hereinafter collectively referred to as “Your Indemnified Parties”) from and against any and all claims made by third parties threatened, asserted or filed against any of Your Indemnified Parties arising out of our breach of the Card Scheme Rules (not resulting, directly or indirectly, from your business activities), and/or any misrepresentation by or fraudulent or criminal activity of ours.
- 12.4. You shall reasonably assist us as we may require in the handling of any claims or actions brought against us by any Cardholder or Card issuer and we shall be entitled to settle or otherwise deal with such claims or actions at our sole discretion.

### **13. Disclaimer and Liabilities**

- 13.1. We will provide the Services using reasonable due care and skill. Except as specifically provided by the foregoing, we make no other warranties, guarantees or undertakings, regarding the performance of such Services, and nothing contained in this Agreement will constitute such a warranty. You expressly agree and acknowledge that all other conditions, terms, undertakings and warranties, in respect of the Services (including but not limited to quality, performance, suitability or fitness for a particular purpose) are hereby excluded to the extent permitted under Applicable Law.
- 13.2. We shall be relieved of our liability for partial or total non-performance of obligations hereunder, if such non-performance is due to Force Majeure circumstances which we could not reasonably anticipate or prevent. In the event of Force Majeure, performance of our obligations under this Agreement shall insofar as affected by Force Majeure be suspended for the duration of the relevant circumstances, unless the suspension/performance of such obligations is in our reasonable opinion not practical, in which case we shall be entitled to immediately terminate the agreement in accordance with the provisions of clause 15 (the Termination clause). In the event of Force Majeure, we shall notify you in writing as soon as reasonably possible. The notice shall contain information about the nature of the circumstances and, if possible, an

assessment of their impact on the possibility to perform our obligations under this Agreement.

- 13.3. Except for indemnification obligations above, breach of Applicable Law, or wilful misconduct or fraud, to the maximum extent permitted by Applicable Law:
- 13.3.1. Our maximum aggregate liability under, arising out of or relating to this Agreement shall not exceed the total amount of our revenue made in the twelve (12) months preceding the date the liability first arises.
- 13.3.2. We will not be liable for lost profits, loss of use, cost of procurement of substitute goods or services, or for special, punitive, incidental, indirect, or consequential damages, however caused, whether for breach of contract, tort (including negligence and strict liability), or otherwise, whether or not it has been advised of the possibility of such damages.
- 13.4. Our settlement obligations under this Agreement, shall not be subject to the cap in clause 13.3.1.
- 13.5. Parties hereby agree that all Fees, Adjustments and/or charges assessed by the Card Scheme Rules (either directly to You or indirectly through Us) in connection with any act or omission done willfully or negligently by you (other than acts or omissions upon our or a Card Scheme instructions, or as required under this Agreement, Applicable Law or Card Scheme Rules), shall be your liability and shall be charged to you.
- 13.6. You acknowledge and agree that during the term of this Agreement and after its termination or expiration for any reason whatsoever, you shall continue to bear liability for all Chargebacks, Penalties, Fees, Adjustments and indemnification obligations pursuant to this Agreement and all other amounts due or which may become due under this Agreement. You will pay us on demand the value of all Chargebacks, Penalties and Adjustments. This clause shall not apply with respect to Chargebacks, Penalties, Adjustments or other amounts that become due amounts as a result of our failure such as our breach of this Agreement, Applicable Law or the Card Scheme Rules (unless, in the case of a breach of Card Scheme Rules, the breach was as a result of your failure). This liability is not subject to any limitation of liability that may be expressed elsewhere in this Agreement.

#### **14. Modification; Suspension**

- 14.1. Without prejudice to our other rights under this Agreement, we reserve the right to immediately modify the Operational Terms, and/or suspend the provision of some or all of the Services if and insofar as doing so is a proportionate and reasonable response to one or more of the following events:
- 14.1.1. You are (or we reasonably believe you may be) engaged in fraudulent activity, or are otherwise breaching Applicable Law in connection with your use of the Services;
- 14.1.2. You are unable or unwilling to meet your financial obligations under the Agreement, and:
- 14.1.2.1. You owe any Fees, Adjustments and/or any other sums pursuant to this Agreement;
- 14.1.2.2. any of your MIDs balance is negative;
- 14.1.3. You are unable or unwilling to meet your material future contractual obligations under this Agreement including, but not limited to, with respect to Excessive Chargebacks;
- 14.1.4. You materially fail to provide any of the requested (original) documentation as required pursuant to the Agreement or repeatedly fail to respond to communications from us in a timely manner;
- 14.1.5. Your risk profile and/or your Transactions have significantly deteriorated, including, but not limited to, as a result of an escalation of fraud, Chargebacks or Excessive Chargeback levels, counts and/or volumes;

- 14.1.6. Applicable Law or Card Scheme Rules (or the Card Scheme itself) requires suspension and/or modification;
  - 14.1.7. the Transactions relate to goods and/or services outside of your business activities agreed with us as a result of which we and/or you may be in breach of Applicable Law;
  - 14.1.8. You have a material data compromise as specified under the Data Processing Addendum; or
  - 14.1.9. a Default Event occurs.
- 14.2. In all events, you must give reasonable assistance to us in the prevention and detection of fraud;
- 14.3. Should any ground specified in the preceding section subsist for more than ten (10) Business Days or any such other shorter period at our reasonable discretion after the suspension, we shall have the right to terminate the Agreement. The provisions of this section shall not prejudice our right to terminate this Agreement according to clause 15 (Term and Termination clause).
- 14.4. We will have no liability for any Losses that you may attribute to any modification, suspension and/or termination of this Agreement and/or Services in accordance with this Agreement, including, but not limited to, the withholding of settlement funds.
- 14.5. If you are a **UK Merchant**, additional terms apply in the last section titled, "For UK Merchants" further down below.

## 15. Term and Termination

15.1 **Term.** This Agreement shall commence on the Effective Date and will continue for a period of twenty-four (24) months. The Agreement shall automatically renew for additional twelve (12) months periods. The "Term" is the period from the Effective Date until this Agreement terminates.

**Termination.** Either Party may terminate this agreement by providing sixty (60) days prior written notice to the other.

If you are a **UK Merchant** who qualifies as a **Micro Enterprise, Consumer or Charity** (in each case as defined in the PSRs), different terms are applicable to you within the last section titled, "**For UK Merchants**" further below.

15.2 Either Party may terminate this Agreement sooner:

15.2.1 in the event of a material breach by the other Party, provided first written notice of any alleged breach has been given and such breach remains unremedied for a period of fourteen (14) calendar days following receipt of the written notice; or

15.2.2 if a Party is unable to pay its debts when such debts fall due, or becomes bankrupt or insolvent, or has a receiver or manager, provisional liquidator, liquidator or administrator appointed in respect of any material part of its assets, or suffers an execution in respect of any of its property, or if a petition is presented for the winding up and such petition is not released, satisfied or withdrawn within thirty (30) calendar days, then the other Party has the right to terminate this Agreement by written notice, and such termination will be effective on the date set out in that notice.

If you are a **UK Merchant** who qualifies as a **Micro Enterprise, Consumer or Charity** (in each case as defined in the PSRs), different terms are applicable to you within the last section titled, "**For UK Merchants**" further below.

15.3 **Immediate Termination.** Without prejudice to the foregoing, we reserve the right to terminate the Agreement with immediate effect, whether in relation to all or part of the Services if one of the following events occurs:

15.3.1 a Default Event; or

15.3.2 there is a change of control in your company, its business and/or your location and such change is not accepted by us; or

15.3.3 We are required to do so by any Card Scheme or any regulatory authority or by reason of any Applicable Laws to either us or you; or

15.3.4 where in the event of Force Majeure our performance obligations under this Agreement is not reasonable or practical.

15.3.5 in the event of misuse, negligence, or improper care of any Equipment provided by us.

If you are a **UK Merchant** who qualifies as a **Micro Enterprise, Consumer or Charity** (in each case as defined in the PSRs), different terms are applicable to you within the last section titled, "**For UK Merchants**" further below.

15.4 We may agree – at our sole discretion – to support Refund processing after termination notice has been served until your final disconnection date, provided that you provide up-front payment of the value of such Refunds.

15.5 Upon termination of this Agreement by either Party, for any reason: (i) You will immediately cease use of the Services, (ii) each Party shall return to the other Party all of the other Party's Confidential Information in its possession, unless it is required to retain such information to comply with Applicable Law, and any outstanding Fees and/or Adjustments and/or Chargebacks (as may be notified to us at any time after the Termination of the Agreement) shall become due and payable. Clauses 8, 9, 12, 13, 15 shall survive any expiration or termination of this Agreement.

15.6 Parties' obligations regarding Transactions processed prior to termination will survive the termination. Settlement of funds related to Transactions processed prior to the termination may be deferred until you pay all amounts due to us under this Agreement.

15.7 In the event that settlement to the Designated Account is not possible following the termination of the Agreement and the Chargeback period, due to any reason not attributable to us, any settlement funds belonging to you will be transferred to another account held in your name, as may be specified by you, subject to our acceptance criteria. If for any reasonably justifiable reason, we are not in a position to effect settlement to the Designated Account or such other account designated by you, we may, acting reasonably, exercise one of the below options at your expense:

- i) deposit the funds in Court, by filing a schedule of deposit and lodging the funds; or
- ii) hold the funds, on an account of ours, which may be an account on which funds belonging to other customers which remain unclaimed are also held.

15.8 We shall be entitled to convert any funds that are repayable to you at any time before or upon the date of repayment, at the prevailing Exchange Rate.

## 16. General

16.1. The Agreement you signed constitutes the entire agreement between you and us and supersedes any previous agreements or representations, either oral or written, with respect to the subject matter of this Agreement.

## 16.2. Amendments

We may revise the Agreement and implement changes from time to time by giving you at least 60 days written notice. We may implement changes sooner by mutual agreement with you in writing.

If we implement changes to the Agreement in order to comply with Applicable Law or requirements imposed by the relevant Card Scheme, including any changes to the Card Schemes Guidelines, Fraud and Chargeback Policy, fees or charges applied by the Card Schemes, we may apply shorter notice periods as needed to comply with the relevant requirement and/or change.

If you do not agree to the changes, you may terminate the Agreement by giving us at least one month written notice.

16.3. You shall not assign, novate, or otherwise transfer this Agreement or any of your rights and/or obligations under this Agreement nor any part of it, nor any benefit nor interest in or under it, to any third party without our written consent, which shall not be unreasonably withheld; We may assign, novate or otherwise transfer this Agreement by providing you prior notice.

16.4. If any part of this Agreement is declared invalid or unenforceable for any reason, such part shall be deemed modified to the extent necessary to make it valid and operative and in a manner most closely representing the intention of the Parties, or if it cannot be so modified, then eliminated, and such elimination shall not affect the validity of any remaining portion, which shall remain in force and effect.

16.5. Any failure by a Party to insist upon or enforce performance by the other of any of the provisions of this Agreement or to exercise any rights or remedies under this Agreement or otherwise by law will not be construed as a waiver or relinquishment of any right to assert or rely upon the provision, right or remedy in that or any other instance.

16.6. **Disputes.** If you have a complaint related to this Agreement, you should contact [support.europe@shift4.com](mailto:support.europe@shift4.com).

16.6.1. For **UK Merchants** additional terms apply in the last section titled, "For UK Merchants" further down below.

16.7. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

## 17. Girocard Scheme

If you receive Girocard from us, the following additional terms shall apply:

17.1. **Description.** We enable you to accept the Girocard Scheme ("Girocard") by partnership with Verifone Inc. ("Processor"), and provide you with the required software and devices.

17.2. **Settlement.** Processor collects, authorizes, and clears Transactions, and settles the settlement funds to us. We shall remit such amounts to your Designated Account, less our applicable service fee.

17.2.1 You acknowledge and agree that we are responsible solely for settlement and remittance of funds to you, subject to this Agreement; We may change the Processor at our discretion by providing you prior written notice.

## 17.3 Scope and Maintenance

17.3.1 You may use Girocard solely for your internal business purposes to facilitate payment transactions. You must not distribute, resell, or otherwise make Girocard available to any third party.

17.3.2 You must permit us to install all mandatory or critical software updates within ninety (90) days of receiving notice of such updates. We shall have no obligation to support any version of the software that is not a supported version.

17.3.3 If you install or use third-party applications on the devices, you are solely responsible for their installation, support, compatibility, and for any liability or damages arising from their use.

17.3.4 You must ensure a privacy setup that prevents third parties from observing PIN entry. Desktop devices must be adjustable, and hand-held units must be handed to the Cardholder.

#### **17.4 Limited Warranty**

17.4.1 You shall be liable for all repair costs arising from any damage to the devices resulting from misuse, neglect, or improper handling.

17.4.2 Any use of Girocard in a manner not intended by Shift4 or in combination with unauthorized third-party items voids all warranties and makes you liable for resulting claims.

### **FOR UK MERCHANTS**

**If you are a UK Merchant – the following terms apply**

#### **SETTLEMENT**

**The following clause substitutes Sub-Clause 6.10**

Where applicable, the Parties agree that the following provisions of the PSRs shall not apply between the Parties:

- i) Part 6 of the PSRs (covering obligations to provide the Merchant with certain transactional and other information and governing certain charges, among other things);
- ii) the following regulations in Part 7 of the PSRs: 66(1) (charges), 67(3),(4) (withdrawal of consent), 75 (evidence on authentication and execution), 77 (payer or payee's liability for unauthorised transactions), 79 (Refunds for direct debits), 80 (requests for direct debit Refunds), 83 (revocation of a payment order), 91 (defective execution of payer-initiated transactions), 92 (defective execution of payee-initiated transactions) and 94 (liability for charges and interest), and
- iii) that the time period for regulation 74(1) (notification of unauthorised or incorrectly executed transactions) of the PSRs is amended to six (6) months.

#### **MODIFICATION; SUSPENSION**

**The following clause is added Sub-Clause 14.5**

Where we refuse to settle funds, we must (unless prohibited by Applicable Law) notify you of:

- (i) the refusal,
- (ii) if and where possible, the reasons for such refusal; and

(iii) where it is possible to provide reasons for the refusal and those reasons relate to factual matters, the procedure for rectifying any factual errors that led to the refusal.

We will provide or make available any notification under clause 14.5 in writing by e-mail and at the earliest opportunity, and in any event within the periods specified in regulation 86 of the PSRs.

Where a refusal referred to under clause 14.5 above is reasonably justified, we may charge you a reasonable sum to cover our own costs for the refusal.

## TERMS AND TERMINATION

**If you qualify as a Micro Enterprise, Consumer or Charity (in each case as defined in the PSRs):**

**The following clause substitutes Sub-Clause 15.1**

15.1 **Term.** This Agreement shall commence on the Effective Date and will continue for a period of twenty-four (24) months. The Agreement shall automatically renew for additional twelve (12) months periods. The "Term" is the period from the Effective Date until this Agreement terminates.

**Termination.** Either Party may terminate this agreement by providing ninety (90) days prior written notice to the other.

**The following Sub-Clause is added 15.2.3**

15.2.3 Sub-Clauses 15.2.1 and 15.2.2 shall apply, provided that the termination dates comply with the minimum notice periods and requirements set out in Clauses 15.1 and 15.3.

**The following clause substitutes Sub-Clause 15.3**

15.3 Our legal and regulatory obligations, including those regarding financial crime, money laundering, or directions from a competent authority, take precedence over the notice and disclosure requirements in this Agreement. We may terminate immediately and/or withhold specific reasons for termination where providing such notice or information would be unlawful.

**Immediate Termination.** Without prejudice to the foregoing, we reserve the right to terminate the Agreement with immediate effect, whether in relation to all or part of the Services if one of the following events occurs:

15.3.1 a Default Event. The Default Event permitting immediate termination shall include only the following Sub-Clauses: (I), (IV), (V), (VI), (VII), (X) and (XIV). For the avoidance of doubt, any breach of the Card Scheme Rules shall constitute a Default Event resulting in immediate termination; or

15.3.2 We are required to do so by any Card Scheme or any regulatory authority or by reason of any Applicable Laws to either us or you.

## GENERAL

**The following clause is added Sub-Clause 16.6.1**

**Disputes for Micro Enterprises:**

If you qualify as a Micro Enterprise, Consumer or Charity (in each case as defined in the PSRs) at the time of bringing a complaint, you may be entitled to refer an unresolved complaint to the Financial Ombudsman Service. Eligibility criteria and procedures are available from the Financial Ombudsman Service, Exchange Tower, London E14 9SR and on its website at: [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk). Where eligible, you may also submit a complaint online via <https://help.financial-ombudsman.org.uk/help> or using the contact details provided by the Financial Ombudsman Service website.