

# TERMS AND CONDITIONS ON PROVISION SERVICES

## (PUBLIC OFFER)

This public offer is available on the web-site [www.b2binpay.com](http://www.b2binpay.com) and contains terms and conditions (hereinafter – the “Terms”) on provision services by World Master System LP, company number SL026460, registered office address, 272 Bath Street, Glasgow, United Kingdom, G2 4JR, that works under business name B2BinPay (hereinafter referred to as the “B2BinPay”) to the merchants.

The merchant is any legal entity who has signed the separate Merchant agreement with B2BinPay (hereinafter referred to as the “Merchant”). The Merchant agreement contains some essential conditions that may be unique for a particular Merchant, and together with this Terms constitute an agreement between B2BinPay and Merchant.

### 1. Definitions and Interpretation

1.1. The following terms when used in this Agreement or any document referred to herein shall have the following meaning:

**Merchant agreement** – a separate document signed between the Merchant and the B2BinPay, that contain some essential conditions that may be unique for a particular Merchant, exactly the information on terms of payment, fees and currencies;

**Agreement** means these Terms and signed Merchant agreement. These documents together are an integral part of each other and constitute an Agreement between the B2BinPay and the Merchant;

**Business Day** means any day other than a Saturday or a Sunday or a public or bank holiday in Scotland;

**Confidential Information** means any information which is marked as “Confidential” or “Proprietary” or should be reasonably expected to be confidential having regard to the context of disclosure or the nature of the information; including, without prejudice to the generality of the foregoing, the terms of the Agreement as well as business plans, data, strategies, methods, customer and client lists, technical specifications, transaction data and customer data shall be deemed confidential;

**Merchant Account** means the Merchant’s registered electronic money account(s) held with B2BinPay;

**Merchant Product/Service** means any product or service offered by a Merchant to its customers and which is ordered, purchased, leased, or otherwise provided to a customer pursuant to a Transaction;

**Merchant Website** means the website operated by or on behalf of the Merchant (as amended from time to time) through which its customers are able to make Transactions;

**B2BinPay Services** means services on acquiring and processing Transactions which will be transmitted by Merchant to B2BinPay via the Software;

The B2BinPay Services for particular Merchant should be specified in the Merchant agreement;

**Software** means software and hardware of the B2BinPay, certified according to the international requirements of the payment card industry.

**B2BinPay Website** means the website operated by B2BinPay (as amended from time to time) for the provision of its services, currently accessible at [www.b2binpay.com](http://www.b2binpay.com), excluding any external websites to which the website points by way of hyperlink or otherwise;

**Person** means an individual, a body corporate, an association, a partnership, a trust or any other entity or organization;

**Regulatory Requirements** means any law, statute, regulation, order, judgment, decision, recommendation, rule, policy or guideline passed or issued by parliament, government or any competent court or authority or any payment system (including but not limited to bank payment systems, card payment systems such as Visa, MasterCard, American Express etc., or any other payment, clearing or settlement system or similar arrangement that is being used for providing the services hereunder);

**Reserve** means an amount which is determined by B2BinPay (in its sole discretion) in accordance with clause 6, for the purpose of securing any claims by B2BinPay against the Merchant;

**Security** means any form of security requested by B2BinPay (in its sole discretion) from the Merchant including: (i) a Reserve and/or (ii) a bank guarantee or other such security;

**Transaction** means any transaction between a Merchant and its customer using the Services for the purchase or lease of goods or services from the Merchant and/or a transaction for the reversal of such a purchase or lease.

1.2. Headings are for convenience only and shall not affect the construction or interpretation of this Agreement.

1.3. Unless the contrary intention appears, words in the singular include the plural and vice versa; words importing the masculine gender include the feminine and neuter and vice versa; references to persons include bodies' corporate, unincorporated associations, partnerships or an authority.

1.4. Any phrase introduced by the term "included", "including", "in particular" or any similar expression will be construed as illustrative only and will not limit the sense of the words preceding that term.

## **2. Subject of the Agreement**

2.1. According to the Agreement B2BinPay provides the B2BinPay Services to the Merchant and the Merchant shall pay for the duly provided B2BinPay Services.

## **3. Term**

3.1. The Agreement shall become valid starting from the Effective date, specified in the Merchant agreement, and remains in full legal force until either party terminates the Agreement by giving writing notice to the other party about such termination.

## **4. Special conditions for provision of B2BinPay Services**

4.1. Transactions received by B2BinPay shall be processed immediately after deduction of any fees due to B2BinPay.

4.2. The Merchant remains liable to B2BinPay for the full amount of the payment and any fees deducted therefrom if the payment is later reversed for any reason (the "Reversal Amount"). In the event of a payment reversal, B2BinPay will first debit the Merchant Account with the Reversal Amount and any applicable third party chargeback or reversal fee. If B2BinPay is unable to fully recover the Reversal Amount and the applicable third party chargeback or reversal fee from the Merchant Account (including any monies transferred into it after the payment reversal), the Merchant is required to repay the Reversal Amount and/or any negative balance of the Merchant Account by uploading sufficient funds into the Merchant Account. Failure to do so is a breach of this Agreement. Repayment of the Reversal Amount and/or any negative balance is due immediately without notice. B2BinPay reserves the right, at any time, to send reminders or take debt collection measures including but not limited to mandating a debt collecting agency or solicitors to pursue the claim in court. B2BinPay reserves the right to charge the Merchant the expenses reasonably incurred in connection with any debt collection or enforcement efforts.

4.3. B2BinPay reserves the right to suspend or limit the B2BinPay Services pending full payment of any outstanding claims, charges, penalties, costs or charges by the Merchant.

4.4. B2BinPay reserves the right to suspend, at any time and at its sole discretion, the Merchant Account (or certain functionalities thereof such as uploading, receiving, sending and/or withdrawing funds), inter alia, for audit:

4.4.1. where B2BinPay believes it is necessary or desirable to protect the security of the Merchant Account; or

4.4.2. if any Transactions are made which B2BinPay in its sole discretion deems to be (a) made in breach of this Agreement or in breach of the security requirements of the Merchant Account; or (b) suspicious, unauthorized or fraudulent, including without limitation in relation to money laundering, terrorism financing, fraud or other illegal activities; or

4.4.3. upon the insolvency, liquidation, winding up, bankruptcy, administration, receivership or dissolution of the Merchant, or where B2BinPay reasonably considers that there is a threat of the same in relation to the Merchant; or

4.4.4. where anything occurs which in the opinion of B2BinPay suggests that the Merchant shall be unable to provide the Merchant Products/Services and/or otherwise fulfil the contacts that it has with its customers; or

4.4.5. if the Transactions are for the sale of goods and/or services which fall outside of the agreed business activities of the Merchant, or where the Merchant presents a Transaction and fails to deliver the relevant goods and/or services and/or where the Merchant is third party processing and not delivering goods and/or services itself; or

4.4.6. where there is a change in the Merchant circumstances (including a deterioration in or change to the Merchant's financial position), or a change in the Merchant's business or in the Merchant Products/Services which B2BinPay considers, in its sole discretion, material to the continuation of the B2BinPay Services; or

4.4.7. where the Merchant undergoes a Material Change as defined in clause 5.11; or

4.4.8. if B2BinPay considers, in its sole discretion, that the level of chargebacks or number of claims for non-delivery of Merchant Product/Service that are being incurred in respect of the Merchant are unreasonable; and B2BinPay will make reasonable efforts to inform the Merchant of any such suspension in advance, or if this is not practicable, immediately afterwards and give its reasons for such suspension unless informing the Merchant would compromise security measures or is otherwise prohibited by law or Regulatory Requirements.

4.5. In addition, B2BinPay reserves the right (at its sole discretion) to suspend the Merchant Account (or certain functionalities thereof such as uploading, receiving, sending and/or withdrawing funds) at any time where it is required to do so under relevant and applicable laws and regulations. B2BinPay will make reasonable efforts to inform the

Merchant of any such suspension unless B2BinPay is prohibited from doing so by law or under an order from a competent court or authority.

4.6. Where B2BinPay suspends the Merchant Account and/or the B2BinPay Services, B2BinPay shall reinstate the same and where necessary, provide new security details, such as a password, as soon as practicable after the reasons for the suspension cease to exist.

4.7. Notwithstanding clause 4.3, where the Merchant acts as a payer B2BinPay reserves the right to suspend at any time the Merchant Account login, password and other security details ("**Security Features**") if Transactions are made which B2BinPay has reasonable grounds to believe relate to (i) the security of the Security Features or (ii) the suspected unauthorized or fraudulent use of the Security Features. B2BinPay will inform the Merchant of any such suspension in advance, or, if this is not possible, immediately afterwards and give its reasons for the suspension unless to do so would compromise reasonable security measures or is otherwise unlawful. B2BinPay will reinstate the Security Features and where necessary provide new Security Features as soon as practicable after the reasons for the suspension cease to exist.

4.8. The Merchant acknowledges and agrees that the B2BinPay operates solely as a payment intermediary and that B2BinPay: (a) under no circumstances functions as a seller, buyer, dealer, middleman, retailer, auctioneer, supplier, distributor, manufacturer, broker, agent or merchant of Merchant Product/Service; and (b) makes no representations or warranties and does not ensure the quality, safety or legality of any Merchant Product/Service.

4.9. The Merchant acknowledges and agrees that any dispute regarding any Merchant Product/Service is between the sender and receiver of the funds and/or the supplier and receiver of the goods or services. Any Transaction connected with the Merchant Products/Services shall only obligate the Merchant. B2BinPay shall not be a party to any resulting dispute including but not limited to disputes over performance and liability issues relating to the delivery, quality, quantity or use of the Merchant Products/Services. Without applying the liability restrictions contained in clauses 13.1 and 13.2, the Merchant shall fully indemnify B2BinPay against any loss or liability (including full 3 reimbursements of any legal and professional costs) B2BinPay suffers or incurs as a result of, or in connection with, any claim made or threatened by a third party relating to any Merchant Products/Services.

## **5. Obligations**

5.1. B2BinPay shall make available to the Merchant and its customers the Services as specified in this Agreement and as further described on the B2BinPay Website.

5.2. The Merchant shall open and maintain a Merchant Account by registering as a merchant on the B2BinPay Website.

5.3. The Merchant shall integrate the B2BinPay Services into the Merchant Website and operate the same in accordance with the relevant Manuals.

5.4. The Merchant grants B2BinPay the right to access the Merchant Website for the purpose of conducting manual checks or automated searches in order to investigate the accuracy of information contained on the Merchant Website in relation to the B2BinPay Services, provided that (i) B2BinPay shall be under no obligation to conduct such searches or checks and (ii) any such searches shall under no circumstances be deemed an approval of any contents of the Merchant Website.

5.6. The Merchant shall submit to B2BinPay for pre-approval the content of every website that the Merchant intends to connect to its Merchant Account for accepting payments. The same applies if the content of the Merchant's website materially changes, including but not limited, to a material change of the Merchant Product/Services offered on the Merchant's website.

5.7. The Merchant shall not receive payments as consideration for the delivery of tobacco products, prescription or non-prescription drugs, pornographic content or services, illegal downloads, illegal gambling or goods or services infringing intellectual property rights of a third party, or for any other goods or services the offering or provision of which is illegal under applicable law.

5.8. The Merchant shall co-operate with B2BinPay to investigate any suspected illegal, fraudulent or improper activity.

5.9. Upon commencement of the Agreement and at any time thereafter for purposes of complying with Regulatory Requirements, the Merchant shall provide B2BinPay with such information as B2BinPay may request, including information about the Merchant's business, corporate structure and constitution, shareholders, partners, members, directors, key employees or, in the case of a trust, its beneficiaries. The Merchant shall provide, upon request by B2BinPay, copies of financial information and other information on the business of the Merchant, including bank and/or trade references.

5.10. The Merchant hereby authorizes and consents to B2BinPay obtaining credit and financial information relating to the Merchant from any third parties and to undertake credit and financial reviews on the Merchant at its sole discretion.

5.11. The Merchant shall inform B2BinPay in writing of any changes to its business (including any change of control or constitution), business model or the goods and/or services it sells, leases or distributes or of any change to Regulatory Requirements to which it is subject (including but not limited to changes to or the revocation of the licenses it



requires for its business) which might have an adverse impact on B2BinPay' compliance with applicable law or any of its Regulatory Requirement, or the Merchant's credit and/or financial standing ("Material Change") without undue delay prior to the change(s) coming into effect and in any event prior to taking or making payments related to the Material Change. Without applying the liability limits contained in clauses 13.1 13.2 and 13.3, the Merchant shall indemnify B2BinPay against all losses arising out of the Merchant's failure to notify B2BinPay of any such changes that are relevant for compliance with Regulatory Requirements applicable to B2BinPay or the Merchant.

5.12. The Merchant shall not charge its customers a processing fee, mark-up or other surcharge for making payments through the B2BinPay Services.

5.13. The Merchant shall provide its customers with a clear and fair return and refund policy. Upon request, the Merchant shall provide to B2BinPay a copy of its return and refund policy and shall notify B2BinPay of any subsequent change to such policy.

## **6. Reserve and Security**

6.1. B2BinPay may establish a Security in relation to the Merchant for the purpose of providing a source of funds to pay B2BinPay for any and all, actual and reasonably anticipated claims, losses, cost, penalties and expenses.

6.2. If B2BinPay elects that the relevant Security shall include the establishment of a Reserve, then: B2BinPay shall be entitled to prevent the Merchant from withdrawing a sum determined by B2BinPay (in its sole discretion) from the Merchant Account. Alternatively, at its' sole discretion, B2BinPay may elect for the Security to be a bank guarantee in which case the Merchant shall, upon request, procure a bank guarantee in favor of B2BinPay by a bank and in a form acceptable to B2BinPay and in an amount determined by B2BinPay. The Security shall remain in place regardless of any termination of this Agreement for as long as there are residual or contingent liabilities of the Merchant to B2BinPay. The amount of the Reserve (either expressed as an absolute amount or as a percentage of past payments into the Merchant Account) shall be determined by B2BinPay from time to time in its sole discretion. Where a Reserve has not been established at the commencement date of this Agreement, B2BinPay shall notify the Merchant of the imposition of a Reserve, its method of calculation, its amount as well as any increase or reduction of the Reserve without undue delay in writing at any time during the term of this Agreement.

6.3. Without restricting B2BinPay' discretion under clauses 6.1 and 6.2, B2BinPay may take into account, amongst others, the following factors when determining the amount to be secured in a Reserve:

6.3.1. the risk of the Merchant ceasing or transferring its business or a substantial part thereof;

6.3.2. the risk of the Merchant materially altering the nature of its business;

6.3.3. If the Merchant's business activities carry a higher than normal risk of chargebacks or other reversals of customer payments;

6.3.4. the Merchant's overall financial standing;

6.3.5. the risk of the Merchant becoming insolvent or otherwise unable to pay debts as they fall due;

6.3.6. where B2BinPay receives a disproportionate number of customer complaints, chargebacks or other payment reversals, fines, penalties or other liability related to the Merchant Account; or

6.3.7. where B2BinPay reasonably believes that the Merchant will not be able to perform its obligations under this Agreement.

6.4. The Merchant agrees to provide B2BinPay, upon reasonable request and at the Merchant's expense, with information about its financial and operational status, including but not limited to the most recent financial statements and management accounts. The Merchant shall also undertake, at its own expense, any further action (including executing any necessary documents) necessary to establish such Security as is reasonably required by B2BinPay.

6.5. B2BinPay shall have the right, at any time, without notice to offset any claims, costs, charges, penalties and expenses from any Security, Reserve or current balance in the Merchant Account. In addition, the Merchant shall pay such amounts as B2BinPay notifies it into the Reserve to replenish any deducted amount. If required by B2BinPay, the Merchant shall pay such amounts into its Merchant Account as reasonably determined by B2BinPay to fund a Reserve or to react to any increased risk of payment reversals that are not covered by the Merchant Account's then current balance.

## **7. Representations and Warranties**

Each party warrants and represents to the other party that:

7.1. it has and will maintain all required rights, powers and authorizations to enter into this Agreement and to fulfil its obligations hereunder;

7.2. it will perform its obligations hereunder with reasonable skill and care; and



7.3. it has in place and will maintain adequate facilities (including staff training, internal controls and technical equipment) to comply with its data protection, in the case of B2BinPay with the UK Data Protection Act, and confidentiality obligations hereunder.

## **8. Additional Merchant Warranties**

The Merchant warrants and represents that:

8.1. where it is a registered entity (in any form, e.g. LLC), the Merchant will have and maintain at least one (1) director who is domiciled in the place of the Merchants incorporation and registered address;

8.2. it will deliver the Merchant Products/Services to its customers without undue delay;

8.3. the Merchant Products/Services that are made available to customers comply with applicable law in any jurisdiction in or to which the Merchant is making its goods and services available;

8.4. the Merchant has at all times all requisite licenses and permits in place to engage in the advertising and provision of its goods and services; and

8.5. it is not receiving funds in connection with any illegal, fraudulent, deceptive or manipulative act or practice and that the Merchant is not sending or receiving funds to or from an illegal source.

## **9. Fees**

9.1. The fees payable by the Merchant for the B2BinPay Services are as set out in the Merchant agreement.

## **10. Change of Terms and Conditions**

10.1. These Terms are subject to change from time to time. Unless otherwise agreed, changes should be made by B2BinPay's sole discretion by placing the new version of the Terms on the Website and with notification about such changes on the Website.

## **11. Taxes**

It is the Merchant's responsibility to determine which, if any, taxes apply to the payments received, and to report and remit the correct tax to the appropriate tax authority. B2BinPay is not obligated to determine whether taxes apply, and is not responsible to collect, report, or remit any taxes arising from any Transaction.

## 12. Intellectual Property

12.1. For the duration and strictly for the purpose of this Agreement, the parties grant each other a non-exclusive, worldwide, royalty-free, non-transferable license to copy, use and display any logo, trademark, trade name or other intellectual property owned by, or licensed to the other party, to the extent that B2BinPay is entitled to grant a sublicense.

12.2. Any use, adaptation or amendment of intellectual property (except for non-material adaptation or amendments necessitated by the use for a particular purpose as contemplated by the parties) shall be subject to prior written approval by the party licensing the intellectual property in question. No party shall use the other party's intellectual property or mention the other party in any public communication without the first party's prior written approval.

12.3. Except as expressly stated, nothing in the Agreement shall grant or be deemed to grant to any party any right, title or interest in any logos, trademarks, trade names or other intellectual property licensed to that party by the other party.

12.4. In using the other party's intellectual property (or intellectual property licensed to that other party by a third party), each party shall follow the other party's reasonable instructions having regard to the purpose of such use under this Agreement and the jurisdiction in which the other party's intellectual property is used.

12.5. Each party warrants and represents that it owns or has the right to use and sublicense any intellectual property which it uses or licenses for use to the other party.

12.6. B2BinPay reserves the right at any time and in its sole discretion to require the Merchant to stop displaying, distributing or otherwise making use of the intellectual property licensed to the Merchant by B2BinPay.

12.7. Each party ("Indemnifying Party") shall indemnify and hold harmless the other party and its employees and directors ("Indemnified Party") for and against any and all claims, losses, liabilities, costs expenses or damages (including reasonable legal fees) incurred by reason of any claim, demand, lawsuit or action by a third party (other than an employee or director of the Indemnified Party) resulting from an actual or alleged infringement of any third party intellectual property right in connection with material provided by the Indemnifying Party.

12.8. The indemnity under clause 12.7 shall only be available if the Indemnified Party:

12.8.1. uses reasonable efforts to notify the Indemnifying Party of such claim as early as possible and in writing;

12.8.2. uses reasonable efforts to mitigate the loss or amount of the claim;

12.8.3. refrains from admitting any liability or settling any claim without the prior written consent of the Indemnifying Party; and

12.8.4. provides, at its own cost, reasonable cooperation in the defense or settlement of such claim.

### **13. Liability**

13.1. Neither party shall be liable in contract, tort (including negligence or breach of statutory duty) or otherwise for any indirect or consequential loss or damage of any kind including punitive or exemplary damages or for any loss of profit or loss of contract, loss of goodwill or reputation, loss of opportunity, loss of revenue or third party loss whether foreseeable or otherwise.

13.2. Subject to clauses 13.3, 13.4 and 13.5 and any other clause explicitly excluding the effect of this clause, the aggregate liability of B2BinPay in contract, tort, negligence or otherwise arising out of or in connection with this Agreement in any period of 12 months from the commencement date or any anniversary thereof (each a "Contract Year") shall be limited to the lower of (i) EUR 10,000 (ten thousand) or (ii) the total amount of fees received by B2BinPay from the Merchant in the previous Contract Year (or, in the first Contract Year, the fees received to date).

13.3. Nothing in this Agreement shall operate to exclude or restrict a party's liability

13.3.1. for fraud and fraudulent misrepresentation;

13.3.2. for death or personal injury due to negligence;

13.3.3. for remittance payments due to the Merchant subject to the provisions of this Agreement;

13.3.4. for wilful and malicious misconduct;

13.3.5. for damage to real or tangible personal property;

13.3.6. for a breach of clause 14 (Confidentiality); and

13.3.7. to the extent that such exclusion or restriction is prohibited under applicable law.

13.4. Unless expressly stated otherwise, no indemnity obligation under this Agreement shall be subject to the limitations of liability contained in this clause 13.

13.5. the Merchant shall indemnify B2BinPay against all third party claims, losses, damages, fines, penalties, arising out of or in connection with breach of Merchant's obligations under the Agreement;

13.6. B2BinPay shall not be liable for any of the following:

13.6.1. a hardware, software or internet connection is not functioning properly;

13.6.2. any suspension or refusal to accept payments which B2BinPay reasonably believes to be made fraudulently or without proper authorization;

13.6.3. the payment instructions received contain incorrect or improperly formatted information; or

13.6.4. unforeseen circumstances preventing the proper performance despite any reasonable precautions taken by B2BinPay. Such circumstances may include but are not limited to acts of God, power outages, fire, flood, theft, equipment breakdowns, hacking attacks, internal mechanical or systems failures as well as downtimes of the B2BinPay Website.

#### **14. Confidentiality**

14.1. During the term of this Agreement and thereafter, each party shall use and reproduce the other party's Confidential Information only for purposes of this Agreement and only to the extent necessary for such purpose and will restrict disclosure of the other party's Confidential Information to its employees, consultants, advisors or independent contractors with a need to know and will not disclose the other party's Confidential Information to any third party without the prior written approval of the other party.

14.2. Notwithstanding the foregoing, it will not be a breach of this Agreement for either party to disclose Confidential Information of the other party if required to do so under law or in a judicial or governmental investigation or proceeding.

14.3. The confidentiality obligations shall not apply to information that (i) is or becomes public knowledge through no action or fault of the other party; (ii) is known to either party without restriction, prior to receipt from the other party under this Agreement, from its own independent sources as evidenced by such party's written records, and which was not acquired, directly or indirectly, from the other party; (iii) either party receives from any third party reasonably known by such receiving party to have a legal right to transmit such information, and not under any obligation to keep such information confidential; or (iv) information independently developed by either party's employees or agents provided that either party can show that those same employees or agents had no access to the Confidential Information received hereunder.

## **15. Data Protection**

15.1. Each party, when acting as data processor, shall process personal data in accordance with Regulatory Requirements.

15.2. Where one party acts as the data processor (“Data Processor”) of personal data processed by the other party as data controller (“Data Controller”), the Data Processor shall at all times follow the Data Controller’s reasonable instructions with regards to the personal data processed.

## **16. Termination**

16.1. B2BinPay may terminate this Agreement immediately:

16.1.1. if the Merchant files a petition for bankruptcy, becomes insolvent, or makes any arrangement or composition with or assignment for the benefit of its creditors, or a receiver is appointed for the Merchant or its business, or the Merchant goes into liquidation either voluntarily (otherwise than for reconstruction or amalgamation) or compulsorily;

16.1.2. upon the occurrence of a material breach of this Agreement by the Merchant if such breach is not remedied within five (5) business days after written notice is received by the Merchant identifying the matter or circumstances constituting the material breach; or

16.1.3. if the Merchant violates or fails to comply with any applicable law, regulation or any order by a competent court or government authority.

16.2. The Merchant may terminate this Agreement at any time without reason by giving notice to B2BinPay.

16.3. B2BinPay may terminate this Agreement at any time without reason by giving three weeks’ prior notice to the Merchant.

16.4. Any termination under the Merchant agreement shall be deemed a termination of the Agreement.

## **17. Assignment, Third Party Rights**

17.1. The Merchant may not assign any of its rights under this Agreement to a third party without the prior written consent of B2BinPay.

17.2. The Merchant may not out-source the performance of any of its obligations under this Agreement without the prior written consent of B2BinPay, such consent not to be unreasonably withheld.

17.3. No person who is not a party to this Agreement shall have rights under the Contracts (Rights of Third Parties) Act 1999 or otherwise to enforce any term of this Agreement.

## **18. Relationship of the parties**

The Merchant and B2BinPay are independent contractors under this Agreement, and nothing herein will be construed to create a partnership, joint venture or agency relationship between them. Neither party has authority to enter into agreements of any kind on behalf of the other.

## **19. Non-solicitation of employees**

The Merchant undertakes that it will not for the term of this Agreement and a period of six months thereafter on its own behalf or on behalf of any person directly or indirectly canvass, solicit or endeavor to entice away from B2BinPay or an associated company any person who has at any time during the term of this Agreement been employed or engaged by B2BinPay or an associated company.

## **20. Notices**

20.1. Any notice to be given under this Agreement must be given in writing and delivered either by hand, first class prepaid post or other recognized delivery service, or by facsimile. Notwithstanding the foregoing, B2BinPay may give notice to the Merchant by sending an email to any of the email addresses registered with the Merchant Account, and such notice equals to the written notice.

20.2. The parties agree to conduct all communication in relation to this Agreement in English or Russian. Where B2BinPay sends or accepts communication in another language, this shall be for convenience only and shall not change English or Russian as the agreed language of communication for future communications.

## **21. Choice of law and forum**

This Agreement and any legal relationship between the parties arising out of or in connection with it shall be governed by and construed in accordance with the laws of Scotland regardless of the venue or jurisdiction in which a dispute is being determined. Each party hereby irrevocably submits to the non-exclusive jurisdiction of the Scotland Courts.

## **22. Waiver**

Any waiver of a right under this Agreement shall only be effective if agreed or declared in writing. A delay in exercising a right or the non-exercise of a right shall not be deemed a

waiver and shall not prevent a party from exercising that right in the future (subject to the provisions of the Limitations Act 1980).

### **23. Severability**

If any part of this Agreement is found by a court of competent jurisdiction to be invalid, unlawful or unenforceable then such part shall be severed from the remainder of the Agreement, which shall continue to be valid and enforceable to the fullest extent permitted by law.

### **24. Entire Agreement**

The Agreement includes this Terms and the Merchant agreement that together represent the entire agreement of the parties in relation to its subject matter. Each party acknowledges that it has entered into this Agreement in reliance only on the representations, warranties, promises and terms contained in this Agreement and, save as expressly set out in this Agreement, neither party shall have any liability in respect of any other representation, warranty or promise made prior to the date of this Agreement unless it was made fraudulently.

[NO CONTENT BELOW]