

PAYMENT PROCESSING SERVICES AGREEMENT

THIS PAYMENT PROCESSING SERVICES AGREEMENT ("**Agreement**"), is entered into by and between **Contracting Entity** (as this term defined below) (Contracting Entity, also known acting under the commercial brand "**Direct Pay Online**" or "**DPO**", shall be hereinafter referred to as "**DPO**") and **Merchant** (as this term defined below).

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1) INTRODUCTION

- a) DPO is an Internet-based payment processing service provider pursuant to which DPO facilitates Merchants (defined below) in payment processing of all kinds of online payment methods as part of the DPO Payment Processing Services (defined below).
- b) This Agreement sets out the terms and conditions under which Merchant may utilize the DPO Payment Processing Services.

2) DEFINITIONS

In this Agreement, unless clearly inconsistent with or otherwise indicated by the context:

- a) "**Account**" means the account that DPO will establish for Merchant upon this Agreement becomes effective.
- b) "**Agreement**" means this Payment Services Agreement, including all exhibits and other agreements, and documents incorporated herein.
- c) "**AML**" means Anti-Money Laundering.
- d) "**Association**" means Visa, Mastercard, American Express and any ATM or debit network, and the other financial service card organizations.
- e) "**Association PCI-DSS Requirements**" has the definition ascribed to such term in Section 12.3.
- f) "**Association Rules**" has the definition ascribed to such term in Section 9.
- g) "**Business Day**" means a day where banks are generally open in Ireland and the Merchant's country of domicile.
- h) "**Chargeback**" means a challenge to a payment that a Customer files directly with his or her credit or debit card issuer as a result of a Customer dispute, and Invalid transaction or Fraudulent Transaction.
- i) "**Confidential Information**" has the definition ascribed to such term in Section 16.
- j) "**Contracting Entity**" means the contracting entity listed in the chart attached hereto as **Exhibit A** that corresponds to Merchant's domicile, which is: (i) if Merchant is an individual- the country of Merchant's residence; or (ii) if Merchant is a company, corporation, or other legal entity the – the place where Merchant is incorporated. Exhibit A may be amended from time to time by DPO.

- k) "**Control Panel**" is the user interface for the DPO Payment Processing Services.
- l) "**Customer**" or means the individual/entity that uses a payment instrument to pay for good or services at Merchant.
- m) "**Customer Data**" means all information that Customer provides in the course of making a payment to Merchant, including Card Information, Transaction Data and/or security-related information (including Security Codes, full track data (from the magnetic stripe or equivalent on a Chip), PINs, and PIN blocks) used to authenticate cardholders and/or authorize Transactions.
- n) "**Data Compromise**" means the unauthorized access, disclosure, modification, transmission and/or use of the Customer Data by a third party and/or the loss, theft, degradation, destruction, dissemination, distribution, erasure, copy and/or corruption of the Customer Data in any manner.
- o) "**DPO Card**" means a credit or debit card issued by DPO to the Merchant.
- p) "**DPO Services**" means Payment Facilitator Services provided by DPO to Merchant.
- q) "**DPO's Website**" means www.directpay.online.
- r) "**Fee Schedule**" has the definition ascribed to such term in Section 5.
- s) "**Force Majeure Event**" means riots, war, acts of terrorism, fire, flood, extreme weather, storm or earthquake, epidemics and pandemics and/or any disaster which prevents a Party from performing this Agreement but shall not include strikes, walk-outs or other industrial action.
- t) "**HMT**" means Her Majesty Treasury.
- u) "**Intellectual Property**" means all of the following owned by a party: (a) registered and unregistered trademarks and service marks and trade names, and goodwill associated therewith; (b) patents, patentable inventions, computer programs, and software; (c) databases; (d) trade secrets and the right to limit the use or disclosure thereof; (e) copyrights in all works, including software programs; and (f) domain names.
- v) "**Intellectual Property Rights**" means the rights owned by a party in its Intellectual Property.
- w) "**Invalidated Payment**" means any of the following: (i) Chargebacks; (ii) Refunds; (iii) over-payments; (iv) Customer disputes; and (v) fraudulent Transactions, but excluding any of the following: (a) Chargebacks and overpayments caused by a technical error on the DPO system; and (b) fraudulent transactions which do not involve the Merchant or any of its employees and that have been cleared by DPO's fraud prevention team.

- x) **"MATCH"** means the Member Alert to Control High-Risk.
- y) **"Merchant"** means the entity and/or individual who enters into this Agreement, as indicated in the Registration Form.
- z) **"Merchant's Bank Account"** means the bank account that Merchant specifies in the Registration Form to receive its Payouts.
- aa) **"Mobile Money Wallet"** means an electronic wallet held by the Merchant with a licensed mobile money operator.
- bb) **"OFAC"** means the Office of Financial Assets Control.
- cc) **"Payment Facilitator Services"** means the facilitation of payment processing services offered by DPO which provide Merchants with the ability to accept credit cards, debit cards, mobile money, bank transfers and other payment methods on a website, mobile wallet or mobile application. These services include a bank-sponsored merchant account, fraud protection tools, recurring billing functionality, payment card encrypted storage (tokenization), foreign currency acceptance, and other software, and services and technology as described from time to time on the DPO Website.
- dd) **"Payout"** means the amount due to Merchant from Merchant Transactions less DPO's fees and any Refunds, Chargebacks, Reversals, or other amounts due to DPO.
- ee) **"Personal Information"** means information relating to an identifiable natural or juristic person, including information relating to race, gender, sex, marital status, nationality, ethnic or social origin, colour, sexual orientation, age, physical or mental health, religion, belief, disability, language, birth, education, identity number, telephone number, email, postal or street address, biometric information and financial, criminal or employment history as well as correspondence that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence.
- ff) **"Reversal"** means a cancelation of a previous Transaction or any payment that DPO reverses to Merchant's Customer.
- gg) **"Refund"** means a refund issued by Merchant through the DPO Control Panel or through Merchant API access.
- hh) **"Registration Form"** means the form attached hereto as **Exhibit B**, which Merchant has to file in order to open an Account with DPO and receive the DPO Payment Processing Services.
- ii) **"Reserve"** means an amount or percentage of Merchant Payouts that DPO holds in order to protect against the risk of Reversals, Chargebacks, or any other risk, exposure and/or potential liability to DPO related to Merchant use of the DPO Payment

Processing Services.

jj) "**Required Documents List**" has the definition ascribed to such term in Section 4.

kk) "**Restricted Activities**" means any activity specified in **Exhibit C** attached hereto as may be amended by 30 days prior notice by DPO to Merchant.

ll) "**Software**" has the definition ascribed to such term in Section 13.

mm) "**Trademark**" has the definition ascribed to such term in Section 14.

nn) "**Transaction**" means any transaction in respect of which the Customer purchased goods and/or services from Merchant and for which a payment instrument is used by a Customer to transfer funds to Merchant.

oo) "**UNSC**" means the United Nations Security Council.

3) ACCEPTANCE AND EFFECTIVE DATE

This Agreement, as it may be amended from time to time, becomes effective upon the earlier of the following: (a) Merchant's acceptance of this Payment Processing Services Agreement by checking the "I Accept" box on the DPO Payment Service Platform; (b) Merchant creates an Account on the DPO Website; or (c) Merchant begins using the DPO Payment Processing Services (the "**Effective Date**").

4) UNDERWRITING

- a) Merchant will provide the documents specified in the list attached hereto as **Exhibit D** ("**Required Documents List**") by attaching them to the Registration Form as part of the registration process.
- b) DPO will establish an Account for Merchant upon completion of the Registration Form and prior to the verification of Merchant's identity or determination of Merchant's creditworthiness. Merchant agrees to comply with any and all reasonable requests for further information by DPO.
- c) Merchant authorizes DPO, directly or through third parties, to make any inquiries or take any actions DPO considers necessary to validate Merchant's identity, evaluate Merchant's creditworthiness, and verify information that Merchant has provided to DPO. Merchant authorizes DPO to obtain financial and credit information, such as pulling Merchant's personal credit report, or the credit report for Merchant's directors, officers, and principals.

- d) In the event that Merchant fails to provide additional information, as requested by DPO or DPO is unsuccessful in receiving satisfactory information for DPO to verify Merchant's identity or determine that Merchant is creditworthy, DPO reserves the right to terminate this Agreement with immediate notice to Merchant, cease to provide access to the DPO Payment Processing Services, and refuse or rescind any payment by Merchant's Customers.

5) PAYMENT OF FEES

- a) Merchant agrees to pay DPO's setup fees, all Transaction fees, discount rate fees and other amounts required by this Agreement, all as set forth in the fee schedule attached hereto as **Exhibit E ("Fee Schedule")**.

6) PAYOUTS, AND RIGHT TO SET-OFF

- a) Subject to the terms of this Agreement, DPO will remit to Merchant's Bank Account or Mobile Money Wallet or DPO Card, as instructed by Merchant to DPO, all amounts due to Merchant from the Merchant Transactions, less any DPO fees as set forth in the Fee Schedule and less any Invalidated Payments.
- b) Settlement of Payouts by DPO to Merchant shall be made in accordance with process set forth in the Fee Schedule.

7) RESERVE

- a) DPO, in its reasonable discretion, may place a Reserve on a portion of Merchant's Payouts in the event that DPO believes that there is a high level of risk associated with Merchant's business. The Reserve as of the date of this Agreement is stated in the Fee Schedule. If DPO places a Reserve on Merchant's Payouts, DPO will provide Merchant with prior notice specifying the terms of the Reserve. The terms may require that a certain percentage of Merchant's Payouts are held for a certain period of time (usually a six month rolling period), that a fixed amount of Merchant's Payouts are withheld from Payout to Merchant, or such other restrictions that DPO determines in its reasonable discretion. DPO may change the terms of the Reserve at any time by providing Merchant with notice of the new terms. On termination of this Agreement for whatever reason, the Reserve shall be released and all outstanding amounts owed to Merchant or held by DPO on Merchant's behalf, shall be returned to Merchant within six months (less any amounts legitimately required to be retained by DPO in accordance with this Agreement).
- b) Subject to Section 7)a), DPO may hold a Reserve as long as it deems necessary, in its sole discretion, to mitigate any risks related to Merchant's Transactions. Merchant agrees that it will remain liable for all obligations related to Merchant's Transactions even after the release of any Reserve.

8) RESTRICTED ACTIVITIES, LIMITATIONS ON CUSTOMER TRANSACTIONS AND ON SERVICES

- a) In connection with Merchant's use of the DPO Payment Processing Services, Merchant must refrain from Transactions in the Restricted Activities. Merchant further acknowledges and agrees that DPO may amend the list of Restricted Activities, from time to time, if it is obligated to do so under Association Rules and/or any applicable law.
- b) In respect of any Transaction, DPO may in its sole discretion: (i) refuse to process Transactions to specific Customers; (ii) limit or restrict Transactions to a minimum amount; (iii) impose limits on the amount or number of Transactions which may be charged to the credit or debit card of a Customer during any time period; (iv) request additional validation information from Customers; (v) refuse to process Transactions to Customers with a prior history of questionable charges; or (vi) impose certain limits or restrictions on Transactions, either temporarily or permanently, which are more restrictive than the limit placed on other Accounts of other Merchants.

9) REPRESENTATIONS, WARRANTIES AND UNDERTAKING BY MERCHANT

- a) Merchant hereby warrants that:
 - i) Merchant has the full power and authority to execute, deliver and perform this Agreement. This Agreement is binding and enforceable against Merchant and no provision requiring Merchant's performance is in conflict with its obligations under any agreement to which Merchant is a party.
 - ii) Merchant is duly organized, authorized and in good standing under the laws of the state, region or country of its organization and is duly authorized to do business in all other states, regions or countries in which Merchant's business operates.
 - iii) Merchant is not, in respect of card transactions, a payment service provider and/or payments facilitator and/or payments gateway.
 - iv) Merchant is not listed on MATCH, OFAC, AML, any credit bureau, UNSC, HMT and/or any other sanction issuing bodies.
 - v) Merchant conducts bona fide business and is in compliance in relation to the conduct of its business with all applicable national, federal, state, and local laws, rules, regulations, requirements, registrations, filings, certificates, licenses, approvals, permits and/or other standards established by any governmental authority having jurisdiction to control such activities.
 - vi) Merchant has the technological infrastructure capable of integrating with DPO's system.
 - vii) Merchant has never been a party to a merchant agreement or similar agreement terminated at the direction of any Association, payment scheme, regulatory authority or court of law.

b) Merchant hereby undertakes to:

- i) ensure that all information and data which Merchant provides to DPO, or for which it engages a third party to provide to DPO is complete, true, and accurate in all aspects and Merchant has the right to communicate such information;
- ii) not violate any rule, guideline, or bylaw of any of the Associations (the “**Association Rules**”), as they may be amended by the Associations from time to time;
- iii) strictly comply with PCI DSS and when applicable to Merchant, obtain and keep current and valid PCI DSS certification in accordance with the currently applicable PCI DSS, only to the extent applicable to Merchant;
- iv) immediately advise DPO of any event of Data Compromise by Merchant or by anyone on its behalf or under its control;
- v) cooperate in a legal investigation or audit that may be required by the Associations;
- vi) not submit any Transaction for processing through the DPO system which does not represent a bona fide, permissible Transaction as outlined in this Agreement and in the Association Rules, or which inaccurately describes the product or services being sold; and
- vii) upon receiving a written demand from DPO, take immediate necessary measures to be insured against losses in the event of a Data Compromise. DPO may send this demand to Merchant if it believes that there is a high level of risk of potential Data Compromise with Merchant's data security and data protection in the Merchant's environment or under its control.

c) DPO hereby undertakes to:

- i) ensure the DPO Payment Processing Services will be performed in accordance with and to the standards as set out in the Service Level Agreement attached hereto as **Exhibit F** (“**SLA**”), and in any event, in a timely and professional manner by appropriately skilled and qualified persons; and
- ii) comply and ensure that all DPO Payment Processing Services at the date of provision comply with all applicable laws, enactments, orders, regulations, standards and other similar instruments and that all necessary approvals have been obtained.

d) DPO hereby warrants that:

- i) DPO has the full power and authority to execute, deliver and perform this Agreement. This Agreement is binding and enforceable against DPO and no provision requiring DPO’s performance is in conflict with its obligations under any agreement to which DPO is a party.

- ii) DPO is duly organized, authorized and in good standing under the laws of the state, region or country of its organization and is duly authorized to do business in all other states, regions or countries in which DPO's business operates.
- iii) DPO is not listed on MATCH, OFAC, AML, any credit bureau, UNSC, HMT and/or any other sanction issuing bodies.
- iv) DPO conducts bona fide business and complies, in relation to the conduct of its business, with all applicable national, federal, state, and local laws, rules, regulations, requirements, registrations, filings, certificates, licenses, approvals, permits and/or other standards established by any governmental authority having jurisdiction to control such activities.
- v) DPO has never been a party to a merchant agreement or similar agreement terminated at the direction of any Association, payment scheme, regulatory authority or court of law.
- vi) it employs appropriate Internet and network security so that all connections to Merchant's computer systems are provided with protection from third party intrusion, viruses or other malicious software or activity;
- vii) none of the DPO Payment Processing Services nor any other service, document, material or Software (as defined below) it performs or provides to Merchant will infringe the rights of any third party; and
- viii) it has the right to grant Merchant the licence in respect of the Software upon the terms stated in Section 13.
- ix) it will perform the DPO Payment Processing Services with reasonable care and skill and in accordance with generally recognised commercial practices and standards in the industry for similar services;
- x) the DPO Payment Processing Services will conform with all descriptions and specifications provided to Merchant by DPO;
- xi) the DPO Payment Processing Services will be provided in accordance with all applicable laws and payment industry practices.

10) PRESENTATION OF A TRANSACTION AND VERIFICATION OF INFORMATION

- a) The presentation of a Transaction to DPO in term of this Agreement will be a warranty by Merchant that: (i) Merchant has supplied the product or services to the value stated on the receipt to the Customer; (ii) no fictitious and/or fraudulent Transactions were processed by Merchant to increase Merchant's cash flow; (iii) the Transaction is not illegal; (iv) the Transaction has been authorized by the Customer; and (v) there has been due compliance with all the terms of this Agreement.
- b) If DPO believes that Merchant's Transactions pose an unacceptable level of risk, that Merchant has breached the terms of this Agreement, or that Merchant's Account has been compromised, DPO may suspend or limit Merchant's ability to use the DPO Payment Processing Services, refuse to process any Transaction, reverse a Transaction, hold Merchant's Payouts (only in respect of those Transactions identified as posing a risk to DPO), and contact Merchant's Customers to verify Transactions and reduce potential fraud and disputes. DPO will provide Merchant with advance notice of its actions and resolution steps, unless there is an immediate need to take actions such as a security threat, potential fraud, or illegal activity.
- c) Merchant agrees to collaborate with DPO regarding any monitor or inspection

conducted by DPO with respect to proper use of the DPO Payment Processing Services, compliance of this Agreement and any applicable laws and/or Association Rules. Merchant shall provide, at no cost to DPO, all assistance reasonably requested in relation to any audit, including access to Merchant's personnel, records and premises.

- d) DPO has the right, but not the obligation, to monitor any activity and content associated with DPO's Website and Services. DPO may investigate any reported violation of its policies or complaints and take any action that it deems appropriate. Such action may include, but is not limited to, issuing warnings, suspension, or termination of service, denying access, and/or removal of any materials on Merchant's portion of DPO's Website. DPO reserves the right to remove or edit any content that violates this Agreement or is otherwise objectionable. As part of the investigation of content on Merchant's portion of the DPO Website that may violate this Agreement, Merchant hereby consents to allowing DPO representatives to examine Merchant's website.
- e) DPO may report any activity that it suspects is a violation of any law or regulation to appropriate law enforcement officials, regulators, or other third parties. In order to cooperate with governmental requests, to protect DPO's systems, Merchants and Customers, or to ensure the integrity and operation of DPO's business and systems, DPO may access and disclose any information it considers necessary or appropriate, including but not limited to user contact details, IP addressing and traffic information, usage history, and posted content.
- f) Merchant shall retain all records (including reports and/or data) obtained or generated by Merchant during the course of this Agreement, for a period as required by the local law or rules to which Merchant is subject to.

11) LIABILITY FOR INVALIDATED PAYMENTS AND OTHER LIABILITIES

- a) Merchant shall be liable for all claims, expenses, fines and liability DPO incurs arising out of (i) Invalidated Payments; (ii) any error, negligence, misconduct or fraud by Merchant, Merchant's employees, or someone acting on Merchant's behalf; and (iii) Any losses resulting from Merchant's failure to comply with the terms of this Agreement, or Merchant's usage of the DPO Payment Processing Services.
- b) In the event of an Invalidated Payment or other liability, DPO may deduct the amounts due to DPO from Merchant's Payouts.

12) MERCHANT'S PERSONAL INFORMATION, DATA SECURITY COMPLIANCE

- a) Merchant consents to DPO collecting its Personal Information from it and where lawful and reasonable, from public sources for credit fraud and compliance purposes, as well as for the purposes set out below.
- b) If Merchant gives DPO Personal Information about or on behalf of another person, it confirms that it is authorized to: (i) give DPO the Personal Information; (ii) consent (and if the Personal Information is of another person - on their behalf) to the processing of the Personal Information, specifically any cross-border transfer of Personal Information into and outside the country where the products or services are provided; and (iii) if the Personal Information is of another person receive any privacy notices on their behalf.

- c) Merchant agrees to comply with applicable data privacy and security requirements under the Payment Card Industry Data Security Standard (“**Association PCI DSS Requirements**”) and GDPR, with regards to Merchant’s use, access, and storage of certain credit card non-public Personal Information on behalf of DPO. Additionally, Merchant agrees to comply with its obligations under any applicable law or regulation as may be in effect or as may be enacted, adopted or determined regarding the confidentiality, use, and disclosure of cardholder information.

- d) With respect to all Customer Data and/or Personal Information that is owned by Merchant, Merchant hereby grants DPO for the term of this Agreement a revocable, non-sub-licensable, non-assignable, worldwide, royalty-free license to use, reproduce, electronically distribute, and display Customer Data and/or Personal Information for the following purposes: (i) providing the DPO Payment Processing Services; (ii) internal usage, including but not limited to, data analytics and metrics so long as such Customer Data and/or Personal Information has been anonymized and aggregated with other Customer Data and/or Personal Information; (iii) complying with applicable legal requirements and assisting law enforcement agencies by responding to requests for the disclosure of information in accordance with local laws; (iv) furnishing the Customer Data and/or Personal Information to any bank or relevant third party providing or connected to the provision of the DPO Payment Processing Services; and (v) any other purpose for which consent has been provided by the Customer.

13) SOFTWARE LICENSE

- a) DPO grants Merchant a revocable, non-exclusive, non-transferable license to use DPO’s software applications (the “**Software**”) in accordance with the documentation accompanying the Software. This license grant includes all updates, upgrades, new versions and replacement software for Merchant’s use in connection with the DPO Payment Processing Services. If Merchant does not comply with the documentation and any other requirements provided by DPO, then Merchant will be liable for all resulting damages suffered by Merchant, DPO and third parties (subject to Section 18). Unless otherwise provided by applicable law, Merchant consents not to alter, reproduce, adapt, distribute, display, publish, reverse engineer, translate, disassemble, decompile or otherwise attempt to create any source code that is derived from the Software. Upon expiration or termination of this Agreement, Merchant will immediately cease all use of any Software.

- b) DPO shall defend Merchant from and against any claim or action arising from the use or possession of the Software or any part thereof where such use or possession infringes the intellectual property rights (including, but not limited to, any copyright, patent, database right, registered design or trade mark) of a third party and shall indemnify Merchant from and against any losses incurred by or awarded against Merchant as a result of or in connection with such claim or action.

14) TRADEMARK LICENSE AND PUBLICITY

- a) DPO hereby grants Merchant a revocable, non-exclusive, non-transferable license to use DPO’s trademarks used to identify the DPO Payment Processing Services (the “**Trademarks**”) solely in conjunction with the use of the DPO Payment Processing Services. Merchant consents that it will not at any time during or after this Agreement

assert or claim any interest in or do anything that may adversely affect the validity of any Trademark or any other trademark, trade name or product designation belonging to or licensed to DPO (including, without limitation registering or attempting to register any Trademark or any such other trademark, trade name or product designation). Upon expiration or termination of this Agreement, Merchant will immediately cease all display, advertising and use of all of the Trademarks.

- b) Merchant hereby acknowledges that DPO may from time to time grant Merchant a revocable, non-exclusive sublicense to use a third party's trademarks and/or brands (such as of a payment scheme) (a "**Third Party Mark**"), and in such event Merchant undertakes to use the Third Party Mark in accordance with the guidelines and terms of the Third Party as provided from time to time by the Third Party and/or by DPO. Merchant shall indemnify DPO for any and all claims, expenses, fines and liability DPO incurs arising out of Merchant's failure to comply with the guidelines and terms of the Third Party Mark immediately upon demand of DPO. Upon expiration or termination of this Agreement, Merchant will immediately cease all use of any Third Party Mark.

- c) Merchant hereby grants DPO permissions to use Merchant's name and logo in its marketing materials including, but not limited to use on DPO's Website, in customer listings, in interviews and in press releases.

15) INTELLECTUAL PROPERTY

- a) Other than the express licenses granted by this Agreement, DPO does not grant any kind of right or license to the DPO Payment Processing Services or any Intellectual Property Rights of DPO. Each party shall retain all ownership rights, title, and interest in and to its own products and services and all Intellectual Property Rights therein, subject only to the rights and licenses specifically granted herein. Merchant shall in no way represent, except as specifically permitted under this Agreement, that it has any right, title or interest in or to the DPO's Intellectual Property.

- b) Other than the express licenses granted by this Agreement, Merchant does not grant any kind of right or license to Intellectual Property Rights of Merchant. DPO shall in no way represent, except as specifically permitted under this Agreement, that it has any right, title or interest in or to Merchant's Intellectual Property.

16) CONFIDENTIAL INFORMATION

- a) The parties acknowledge that in their performance of their duties hereunder either party may communicate to the other (or its designees) certain confidential and proprietary information, including without limitation information concerning the DPO Payment Processing Services and the knowhow, technology, techniques, or business or marketing plans related thereto (collectively, the "**Confidential Information**") all of which are confidential and proprietary to, and trade secrets of, the disclosing party.

- b) Confidential Information does not include information that: (i) is public knowledge at the time of disclosure by the disclosing party; (ii) becomes public knowledge or known to the receiving party after disclosure by the disclosing party other than by breach of the receiving party's obligations under this section or by breach of a third party's

confidentiality obligations; (iii) was known by the receiving party prior to disclosure by the disclosing party other than by breach of a third party's confidentiality obligations; or (iv) is independently developed by the receiving party.

- c) As a condition to the receipt of the Confidential Information from the disclosing party, the receiving party shall: (i) not disclose in any manner, directly or indirectly, to any third party any portion of the disclosing party's Confidential Information; (ii) not use the disclosing party's Confidential Information in any fashion except to perform its duties hereunder or with the disclosing party's express prior written consent; (iii) disclose the disclosing party's Confidential Information, in whole or in part, only to employees and agents who need to have access thereto for the receiving party's internal business purposes; (iv) take all necessary steps to ensure that its employees and agents are informed of and comply with the confidentiality restrictions contained in this Agreement; and (v) take all necessary precautions to protect the confidentiality of the Confidential Information received hereunder and exercise at least the same degree of care in safeguarding the Confidential Information as it would with its own confidential information, and in no event shall apply less than a reasonable standard of care to prevent disclosure.

17) INDEMNIFICATION

- a) Merchant agrees to indemnify, defend, and hold harmless DPO, its parent company, affiliates, officers, directors, agents, employees and suppliers from and against any lawsuit, claim, liability, loss, penalty or other expense (including attorneys' fees and cost of defense) they may suffer or incur as a result of (i) Merchant's breach of this Agreement or any other agreement Merchant enters into with DPO or its suppliers in relation to Merchant's use of the DPO Payment Processing Services; (ii) Merchant's use of the DPO Payment Processing Services; and/or (iii) Merchant's violation of any applicable law, regulation, or Association Rules and requirements.

18) LIMITATION OF LIABILITY

- a) DPO SHALL NOT BE LIABLE TO MERCHANT OR ANY OTHER THIRD PARTY FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE DPO PAYMENT PROCESSING SERVICES, WHETHER FORESEEABLE OR UNFORESEEABLE, AND WHETHER BASED ON BREACH OF ANY EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT, OR OTHER CAUSE OF ACTION, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF GOODWILL, PROFITS, OR INVESTMENTS, STOPPAGE OF OTHER WORK; OR LABOR CLAIMS, EVEN IF DPO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- b) DPO ASSUMES NO LIABILITY FOR MERCHANT'S FAILURE TO PERFORM IN ACCORDANCE WITH THIS AGREEMENT OR ANY RESULTS CAUSED BY ACTS, OMISSIONS OR NEGLIGENCE OF MERCHANT, A SUBCONTRACTOR OR AN AGENT OF MERCHANT OR AN EMPLOYEE OF ANY ONE OF THEM.
- c) UNDER NO CIRCUMSTANCES SHALL DPO'S TOTAL AGGREGATE LIABILITY TO MERCHANT OR ANY THIRD PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER UNDER INDEMNITY OR OTHERWISE) EXCEED THE DIRECT DAMAGES SUFFERED BY MERCHANT IN AN AMOUNT EQUAL TO THE AMOUNTS PAID OR PAYABLE BY MERCHANT TO DPO UNDER THIS AGREEMENT DURING THE FIRST TWELVE (12) MONTH PERIOD

AFTER THE EFFECTIVE DATE OF THIS AGREEMENT. FOR THE AVOIDANCE OF DOUBT THIS LIMITATION ON THE AMOUNT OF LIABILITY SHALL NOT APPLY IN RESPECT OF CHARGEBACK CLAIMS AND WILLFUL ACTS.

19) DISCLAIMER OF WARRANTIES

- a) SAVE FOR AS EXPRESSLY SET OUT AND PROVIDED IN THIS AGREEMENT:
 - i) THE DPO PAYMENT PROCESSING SERVICES ARE PROVIDED "AS IS" WITHOUT ANY WARRANTY WHATSOEVER.
 - ii) DPO DISCLAIMS ALL WARRANTIES WHETHER EXPRESS, IMPLIED, OR STATUTORY, TO MERCHANT AS TO ANY MATTER WHATSOEVER, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS.
 - iii) NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY DPO OR ITS EMPLOYEES OR REPRESENTATIVES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF DPO'S OBLIGATIONS.
- b) MERCHANT ACKNOWLEDGES THAT THE DPO PAYMENT PROCESSING SERVICES ARE A COMPUTER NETWORK BASED SERVICES WHICH MAY BE SUBJECT TO OUTAGES AND DELAY OCCURRENCES. AS SUCH, DPO DOES NOT GUARANTEE CONTINUOUS OR UNINTERRUPTED ACCESS TO THE DPO PAYMENT PROCESSING SERVICES BUT SUCH SERVICES WILL BE AVAILABLE IN ACCORDANCE WITH THE SLA. MERCHANT FURTHER ACKNOWLEDGES THAT ACCESS TO THE DPO'S WEBSITE OR TO THE DPO PAYMENT PROCESSING SERVICES MAY BE RESTRICTED FOR MAINTENANCE. DPO WILL MAKE REASONABLE EFFORTS TO ENSURE THAT TRANSACTIONS ARE PROCESSED IN A TIMELY MANNER; HOWEVER, DPO WILL NOT BE LIABLE FOR ANY INTERRUPTION, OUTAGE, OR FAILURE TO PROVIDE THE DPO PAYMENT PROCESSING SERVICES.

20) TAXES

- a) Merchant shall pay, indemnify, and hold DPO harmless from (i) any sales, use, excise, import or export, value-added, or similar tax or duty, and any other tax or duty not based on DPO's income, and (ii) all government permit fees, customs fees and similar fees which DPO may incur with respect to this Agreement. Such taxes, fees and duties paid by Merchant shall not be considered a part of, a deduction from, or an offset against, payments due to DPO under this Agreement. In the event DPO relies on the indemnity in this Section 20, DPO and Merchant shall discuss in good faith how and by when such payments to DPO shall be made.

21) TERM AND TERMINATION

- a) The term of this Agreement shall commence on the Effective Date and shall continue on until terminated as set forth herein. Merchant may terminate this Agreement, without cause, by providing DPO with notice of Merchant's intent to terminate, or by ceasing to use the DPO Payment Processing Services.

- b) DPO may terminate this Agreement or suspend services to Merchant if any of the following occurs: (i) DPO is required by the Associations, the acquiring bank, or an order from a regulatory body to cease providing services to Merchant; (ii) DPO believes that Merchant has materially breached this Agreement, or is likely to do so; (iii) If DPO determines that Merchant's use of the DPO Payment Processing Services carries an unacceptable amount of risk, including credit or fraud risk; or (iv) any other legal, reputational, or risk-based reason exists, in DPO's sole discretion.
- c) In the event that DPO must terminate this Agreement, DPO shall provide Merchant with written notice as soon as reasonably practicable.
- d) After termination by either party as described above, Merchant shall no longer have access to, and shall cease all use of the DPO Payment Processing Services. Any termination of this Agreement does not relieve Merchant of any obligations to pay any fees, costs, penalties, Chargebacks or any other amounts owed by Merchant to DPO as provided under this Agreement accrued prior to termination.

22) Anti- Money Laundering

Both Parties shall ensure to strictly comply with the Anti Money Laundering and Counter Terrorist Financing laws and regulations, which are aligned to each party's business model, which are applicable to the relationship between Merchant, DPO and their Affiliates. DPO, Merchant and their respective Affiliates shall maintain a comprehensive anti-money laundering program and policies.

23) Anti-Bribery and Corruption Laws and Compliance

Each Party will comply and will ensure that each of their subcontractors and personnel complies, with all applicable anti-bribery and corruption laws, including the FCPA and UKBA, as amended from time to time and any other anti-bribery and anti-corruption laws and regulations applicable to each Party and their respective affiliates, for all business dealings and activities undertaken in connection with this Agreement. Either Party, their subcontractors and/or personnel must not, directly or indirectly, make or offer bribes, commissions, kickbacks or other similar improper payments to any third party including government officials or agencies, any other company or public organizations. Violation of this clause will constitute a material breach of this Agreement and the prejudiced Party shall be entitled to terminate this Agreement forthwith.

24) FORCE MAJEURE

- a) Neither Party shall be liable for any delay or failure in performing its obligations under this Agreement as a result of reason of a Force Majeure Event provided that it:
 - i) informs the other Party as soon as possible of the event, giving full details in writing of its expected effect or duration; and

- ii) takes all reasonable steps to resume performance of its obligations as soon as possible and to mitigate the effects of the unforeseen event and demonstrates this to the other Party on request.
- b) If the event causing the delay or failure continues for more than 1 month, this Agreement may be terminated at the option of the Party not affected by the Force Majeure Event without any liability to the other Party as a result of exercising the right of termination.
- c) Neither Party can claim relief for a Force Majeure Event if it should have reasonably foreseen and/or addressed, or which is attributable to any failure by such Party to implement a disaster recovery plan (where relevant and applicable) and/or its business continuity plans.

25) CHOICE OF LAW AND JURISDICTION

- a) This Agreement shall be governed by and shall be construed in accordance with the laws of the country listed under "Governing Law" for the country of Merchant's domicile in the chart attached hereto as **Exhibit A**. The courts of the country listed under "Courts with Exclusive Jurisdiction" for Merchant's country of domicile in the chart attached hereto as **Exhibit A** shall have exclusive jurisdiction over all disputes arising in relation to this Agreement.

26) NOTICES

- a) **Notices to Merchant.** Merchant agrees that DPO may provide notices to Merchant by posting them on DPO's Website, emailing them to Merchant, or sending them to Merchant through postal mail. Notices sent to Merchant by postal mail are considered received by Merchant within three (3) Business Days of the date DPO sends the notice. Notices posted on DPO's Website or emailed shall be considered to be received by Merchant within one (1) Business Day of the time it is posted to DPO's Website or emailed to Merchant.
- b) **Notices to DPO.** Notices to DPO shall be considered valid only if sent by postal mail to the applicable address for notice or by emailing them the email address as designated in the DPO's Website under the "Contact Us" tab.

27) GENERAL PROVISIONS

- a) **Independent Contractors.** The relationship of DPO and Merchant is that of independent contractors. Neither Merchant nor any of its employees, consultants, contractors or agents are agents, employees, partners or joint ventures of DPO, nor do they have any authority to bind DPO by contract or otherwise to any obligation. None of such parties will represent anything to the contrary, either expressly, implicitly, by appearance or otherwise.
- b) **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable for any reason, the remaining provisions not so declared shall nevertheless continue in full force and effect, but shall be construed in a manner so as to effectuate the intent of this Agreement as a whole, notwithstanding such stricken provision or provisions.

- c) **Waiver.** No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other party, whether express or implied, shall not constitute consent to, waiver of, or excuse for any different or subsequent breach.
- d) **Assignment.** This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Merchant may not assign this Agreement without the written consent of DPO. DPO may assign this Agreement in its sole discretion without the written consent of Merchant.
- e) **Amendment.** DPO may amend this Agreement at any time by posting a revised version of it on DPO's Website. The revised version will be effective at the time DPO post it. In addition, if the revised version includes a substantial change, DPO will provide Merchant with 30 days' prior notice of any substantial change by posting notice on DPO's Website. If Merchant does not consent to the updated terms, Merchant may terminate this Agreement by providing DPO with notice in the manner indicated in this Agreement. If Merchant provides DPO with termination notice within 30 days of the date of update, then Merchant current terms and conditions shall apply during this notice period.
- f) **Entire Agreement.** This Agreement sets forth the entire agreement and understanding of the parties hereto in respect to the subject matter contained herein, and supersedes all prior agreements, promises, covenants, arrangements, communications, representations or warranties, whether oral or written, by any officer, partner, employee or representative of any party hereto. This Agreement shall be binding upon and shall inure only to the benefit of the parties hereto and their respective successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer or shall be deemed to confer upon any persons or entities not parties to this Agreement, any rights or remedies under or by reason of this Agreement.
- g) **Third party rights.** Nothing in this Agreement is intended to confer any right or benefit on any third party (whether referred to herein by name, class, description or otherwise).
- h) **Survival.** Any terms which by their nature should survive, will survive the termination of this Agreement.
- i) **Communication.** Merchant consents to receive autodialed or prerecorded calls and text messages from DPO at any telephone number that Merchant has provided DPO or that DPO has otherwise obtained to (i) notify Merchant regarding Merchant's Account; (ii) collect a debt; (iii) resolve a dispute; (iv) contact Merchant about its services; or (v) as otherwise necessary to service Merchant's Account or enforce the Agreement. DPO may share Merchant's telephone numbers with DPO's service providers who DPO has contracted with to assist DPO in pursuing its rights or performing its obligations under the Agreement, its policies, or any other agreement DPO may have with Merchant. Merchant consents these service providers may also contact Merchant using autodialed or prerecorded calls and text messages, only as authorized by DPO to carry out the purposes DPO has identified above, and not for their own purposes.

Signed for and on behalf of DPO



Judy Waruiru
Managing Director DPO Pay &
Regional Head of Acquiring - Africa