

# Settle Merchant Agreement

between

**Settle Group**

and

You, (the **“Merchant”**)

Settle Group and Merchant also jointly referred to as the **“Parties”** and individually as a **“Party”**.

This Agreement incorporates the attached Settle Merchant Terms and Conditions (version 12-05-2021) and any schedules as listed below and as added and amended from time to time. This Agreement also incorporates the [Settle Acceptable Use Policy](#) that applies to every Settle user account.

Any translation of the English version of this Agreement is provided for convenience only and only the English version shall be legally binding.

Enclosed:

- Settle Merchant Terms and Conditions



# Settle Merchant Terms and Conditions

Version 12-05-2021

## 1. Definitions and Interpretations

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

**Acceptable Use Policy** means the terms and conditions available [here](#), as amended from time to time in accordance with the provisions of said Acceptable Use Policy, which govern the use of the Merchant Account, including any other documents or policies referred to in the Acceptable Use Policy, such as any Payment Card Network Operator Policy;

**Admin** means a person that the Merchant appoints to take on the administrative responsibility for the customer relationship between the Merchant and Settle.

**Affiliate** means any entity, individual, firm, or corporation, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with a Party.

**Agreement** means these Settle Merchant Terms and Conditions, any cover pages hereto, any Schedules hereto and the Acceptable Use Policy;

**Applicable Laws** means the laws of Norway and any other laws and regulations that may apply to a Party or this Agreement based on the Home Country, Parties' domicile or physical location, or otherwise by virtue of this Agreement; such also include any appurtenant regulations, decisions, orders or guidance documents issued by the Regulator or any other relevant authorities, and, for the avoidance of doubt, the GDPR.

**Business Portal** means a web-based Settle business portal for Merchants linked to the Merchant Account, to which the Merchant is granted individual access, as further described in clause 6.

**Chargeback** means reversal or cancellation of a Transaction in respect of which the Merchant has been paid or was due to be paid. If funds were already received by the Merchant, the Merchant becomes obliged to immediately return such funds to Settle.

**Claims** means any amounts due and payable by the Merchant under or in relation to this Agreement, including but not limited to Service Fees, Reversal Amounts, Fines, late charges and interest, or other monies due and payable by Merchant under this Agreement.

**Confidential Information** means all information, in whatever medium, shared, disclosed or exchanged between the Parties in relation to this Agreement, relating to the trade secrets, operations, processes, pricing, business plans, intentions, product information, know-how, designs, market opportunities, transactions, affairs or business of a Party or its customers, clients, suppliers, holding companies, affiliates or subsidiaries, including but not limited to all information relating to the Settle Services, including any related product or service documentation; the specific terms of this Agreement and the negotiations relating to this Agreement.



**Customer** means a person or entity, including the Merchant, which uses Settle Services and which has been accepted as a customer by Settle Group.

**Customer Control** means a know-your-customer/business control and investigation on prospective or current Customers and/or ensuing Transactions in an effort to avoid and reduce risk, money laundering, terror financing, fraud and criminal or otherwise unlawful or prohibited use of Settle Services.

**Fine** means any fine, uplifted fee, charge or other additional payment imposed on Settle Group and/or the Merchant by the Regulator, payment card network operator, acquirer, bank or other third party as a result of a Merchant's breach of Applicable Laws, this Agreement or otherwise as a result of Merchant's act or omission.

**Force Majeure** means any unforeseeable event or occurrence which is beyond the control of a Party and that such Party is not able to overcome, despite exercising appropriate level of due diligence and having adopted reasonable, industry-standard measures to overcome such, and which directly prevents that Party from performing its obligations under the Agreement, and is inclusive but not limited to any act of God, terrorism act, war, blockade, insurrection, riot, epidemic, pandemic, landslide, earthquake, storm, lightning, flood, civil disturbance, embargo, fire, accident, interruption of or delay in transportation and/or telecommunication service and/or power supply and/or environmental control, explosion, disruptions in any services, systems or networks (including electric power) which are outside the control of the affected Party, strikes, lock-outs or industrial disturbances

**Funding Source** means a payment card, bank account, credit account, Settle Customer account and any other source of funds that Settle can connect to and legally debit as instructed by the Customer in a Payment Order.

**GDPR** means the General Data Protection Regulation (EU) 2016/679, and any applicable national or local laws and regulations implementing or supplementing the GDPR.

**Home Country** means the country where the Merchant is based and where it offers Merchant Products/Services to its customers.

**Intellectual Property** means the Marks and all other objects of intellectual and industrial property rights, both moral and proprietary, including but not limited to patents, know-how, trademarks, business names and domain names, designs, utility models, applications for and rights to apply for any of the foregoing, rights to prevent passing off for unfair competition, copyright, database rights, topography rights and any other rights in any creation, invention, discovery or process, and/or software, including records, reports, documents, drawings, photographs, graphics, logos and designs, in each case whether registered or unregistered or (not-) capable of formal protection, and whether or not recorded in any medium, whether in hard copy or electronic form, and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world, and which are held or owned by or licensed to any Party, including its Affiliates. For the purpose of this Agreement, Intellectual Property shall also include any documentation and materials accompanying or pertaining to the Intellectual Property, such as but not limited to API documentation, branding and marketing materials etc..



**Manual(s)** means any technical, security, integration or API manuals and guides applicable to the Settle Services, each as amended from time to time and published on the Settle Website, in Business Portal or otherwise communicated or referred (in case of third party manuals or instructions) to the Merchant.

**Mark(s)** means all trademarks, trade names, brand designs or logos and/or any other proprietary marks or designations owned by Settle Group or Merchant or their Affiliates, relating to the Settle Services and Merchant Products/Services, respectively.

**Material Breach** is defined in clause 16.4.

**Merchant** means any person or entity who has entered into a Merchant Agreement for Settle Services with Settle Group and who has become a Customer;

**Merchant Account** means the Merchant's registered electronic money account(s) held with Settle and operated for Merchant in accordance with this Agreement;

**Merchant Bank Account** means a bank account held by Merchant to which Settlements shall be made.

**Merchant Products/Service** means any product or service offered by a Merchant to its customers and which is offered, marketed, ordered, purchased, leased, or otherwise provided to a customer using Settle Services.

**Merchant Website** means an e-commerce website, mobile application, electronic portal or similar digital asset operated by the Merchant and used for offering and sale of Merchant Products/Services to end customers.

**Payment Card Network Operator Policy** means any policy applicable to Merchants accepting payments via Settle when payment cards are used as a Funding Source, such policy being issued by the respective payment card network operator, scheme operator or acquirer.

**Payment Order** means an instruction for the transfer of funds from one party ("Payer") to one or several other parties ("Payee").

**Personal Data** means personal data, as defined in the GDPR, processed by either Party in relation to this Agreement.

**Regulator** means the Norwegian Financial Authority and any other authority or regulatory body having jurisdiction and competence over either Party to this Agreement and its subject matter.

**Reserve** means an amount which is determined by Settle Group (in its sole discretion) in accordance with clause 10., requested by Settle Group for the purpose of securing any Claims by Settle Group against the Merchant, including a collateral, bank guarantee or other form of security.

**Reversal Amount** is defined in clause 12.

**Service Fees** means any charges or fees charged to the Merchant by Settle Group for the provision of Settle Services under this Agreement, as further specified in clause 9.



**Settle Group** or **Settle** means Settle Group AS, a company incorporated under the laws of Norway, with its registered office at Tordenskiolds Gate 8, 0160 Oslo, Norway, company number 995 073 064, including, where context allows, its Affiliates.

**Settlement** means debiting the Merchant Account held with Settle and crediting the Merchant Bank Account with the Settlement Amount.

**Settlement Amount** means the net amount due for Settlement to the Merchant after all Claims have been deducted.

**Settlement Report** means a report issued by Settle Group containing an overview of Transactions and the sum of total amounts received by the Merchant from Transactions, and calculation of all applicable Claims, resulting in the Settlement Amount.

**Settle Service(s)** or **Service(s)** means the Settle mobile payment service and associated services provided under this Agreement, as described in clause 4. and as presented on the Settle Website, and as specifically offered to the Merchant with terms, conditions and Service Fees presented to the Merchant in the Business Portal.

**Settle Website(s)** means the website(s) operated by Settle Group (as amended from time to time) for the provision of Settle Services, currently accessible at <https://settle.eu/> and any localized versions of such website(s), including customer support and FAQ website(s), currently accessible at <https://support.settle.eu>.

**Term** means the duration of this Agreement.

**Terms and Conditions** means the current version of these terms and conditions of Settle Group.

**Transaction** means any transaction between a Merchant and its customer using the Settle Services, including but not limited to transactions for the purchase or lease of Merchant Goods/Service, a transaction for the reversal of such purchase or lease or a transaction from the Merchant to another Customer as a means of payment for amounts owed as agreed between the parties.

- 1.2. Headings are for convenience only and shall not affect the construction or interpretation of this Agreement.
- 1.3. 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.
- 1.4. If there is any conflict between the clauses of these Settle Merchant Terms and Conditions and any other document incorporated into the Agreement, the conflict shall be resolved in accordance with the following order of precedence:
  - 1.4.1. any cover pages to the Agreement;
  - 1.4.2. any appendices or annexes to the Agreement;
  - 1.4.3. these Settle Merchant Terms and Conditions;
  - 1.4.4. the Acceptable Use Policy; and



- 1.4.5. any other document referred to in this Agreement or any other document attached to this Agreement.
- 1.5. The above order of precedence is without prejudice to the ultimate superiority of any information, fees or terms agreed between the Parties via the Business Portal as stipulated in this Agreement, which shall always take precedence.

## **2. Scope of Agreement**

- 2.1. Settle Group is a payments service provider and a holder of an electronic money license issued by the Norwegian Financial Supervisory Authority. Settle has the right to provide Settle Services in all EU/EEA member states, including the Home Country.
- 2.2. This Agreement contains the terms for the provision of the Settle Services as described in clause 4. and such other services as agreed between the Parties from time to time. The current list of features of the Settle Service are available on Settle Website.
- 2.3. The Merchant acknowledges that the scope of the Settle Services and available features may vary depending on in which jurisdiction the Merchant operates (Home Country). Additional general limitations may be specified as part of the applicable Services or features in respect of the Merchant's Home Country, as published on the Settle Website, in addition to any limitations and terms set specifically for the Merchant.

## **3. Merchant Eligibility and Conditions of Use**

- 3.1. The following conditions must be fulfilled for a Merchant to be allowed to use Settle Services:
  - 3.1.1. Verification of Merchant identity and legal standing of Merchant and performance of Customer Control on Merchant;
  - 3.1.2. Ensuring that a person authorised to negotiate and enter into the Merchant Agreement on behalf of the Merchant has verified his/her identity and provided accurate and sufficient information for Settle Group to be able to perform Customer Control;
  - 3.1.3. Merchant is a legal entity duly registered with the appropriate official registry with a valid domestic identification number issued by the applicable authority in the Home Country, where such Home Country is a member of the EU/EEA.
  - 3.1.4. Merchant owns a bank account issued in its own name in a bank that is duly licensed and operates in an EU/EEA member state (Merchant Bank Account);
  - 3.1.5. Merchant or its business activities do not fall within the restricted or prohibited categories listed in the Acceptable Use Policy, or otherwise deemed too high of a risk to Settle Group in its sole discretion;
  - 3.1.6. Merchant must have read and accepted this Agreement in its entirety;
  - 3.1.7. Settle must approve the Merchant as a Customer and set up a Merchant Account.
- 3.2. Settle is obligated, subject to Applicable Laws and Payment Card Network Operator Policy(ies) to comply with anti-terrorism, anti-money laundering, financial services law, rules and regulations regarding KYC (know-your-customer) requirements. As a result, Settle must conduct appropriate Customer Controls. Such controls may be conducted prior to entering into this Agreement and during or after the Term and Merchant must submit, at Settle



Group's request, any and all documentation and information required for a successful completion of the Customer Control, including information about the Merchant's business, corporate structure and constitution, shareholders, partners, members, directors, key employees or beneficiaries, customers, copies of financial information and other information on the business of the Merchant, including bank and/or trade references. ("Due Diligence Information"). The Merchant hereby warrants that any provided Due Diligence Information is accurate, complete and up to date. Merchant further agrees that Settle may, at its discretion, conduct further background checks and collect additional information on Merchant's status, identity and creditworthiness from available sources as well as from Settles partners with whom the Merchant has a customer relationship, such as other financial institutions as well as vendors who serve the Merchant with related services.. ("Enhanced Due Diligence Information").

- 3.3. Settle may reject the Merchant as a Customer or terminate this Agreement effective immediately, if the Merchant does not provide the Due Diligence Information or Enhanced Due Diligence Information, or if the such information is insufficient, incomplete or cannot be verified.
- 3.4. Settle Group may impose further conditions or restrictions, if deemed reasonable or necessary. Settle reserves the right to reject a Merchant as a Customer without providing a reason, despite Merchant having complied with all required conditions.
- 3.5. As a principal rule, Settle will not accept Merchants that may represent an unacceptable risk for Settle, Settle's partners or other Customers, including but not limited to Merchants with abnormally high or low turnover, who engage in business that may be perceived as potentially damaging to reputation, as decided by Settle, or Merchants who have a low credit score or violate any applicable law or regulation.
- 3.6. Additionally, Settle may also approve the Merchant as a Customer but limit the Merchant's access and use of the Settle Services and/or certain features at any given time without notice, analogously to provisions under clause 16.2.
- 3.7. The Merchant may only issue and accept Payment Orders via Settle Services when there is a valid agreement between the involved parties governing the Transaction. Breach of this requirement constitutes a Material Breach of the Agreement. Exceptions may be granted by Settle to the Merchant, specifically in writing.

#### **4. Description of Services**

- 4.1. Settle provides a mobile payment network and services which enable its users to send and receive electronic money between individuals - consumers (P2P transactions), between individuals and businesses (P2B), and between businesses (B2B)<sup>1</sup> using the tools provided as part of the Service, including a mobile application, acceptance software and APIs. The Settle Service enables the Payer to debit a variety of Funding Sources when using the Service for performing Transactions. Settle Services and available features and functionalities provided to a particular Merchant are listed in the Business Portal. This Agreement governs provision of the Settle Services in the context of the P2B and B2B transactions, referred to as Transactions, only. However, provision of B2B transactions may be subject to additional terms and conditions.

---

<sup>1</sup> Currently under development.



- 4.2. The Merchant acknowledges that Settle may, at any time, decide to change or cease the provision of a service or feature that is part of the Services, in part or in whole in the Home country of the Merchant. Settle will give a reasonable notice prior to the effective termination of that service or feature. Provisions of clauses 18.1. - 18.3. apply accordingly.
- 4.3. Transactions are performed through receipt and execution of Payment Orders by way of debiting the applicable Funding Source of the Payer, and crediting the account of the Payee. When performing Transactions where the Merchant is the Payee, Settle will credit the Merchant Account. All Transactions contain a unique reference (hereafter "Transaction ID" or "TID") to facilitate reconciliation and traceability of each individual Transaction.
- 4.4. At the frequency agreed between the Parties, Settle shall issue a Settlement Report covering the agreed period. The Settlement Report shall be made available to the Merchant through the Business Portal. The Merchant shall review the Settlement Report and verify that each Transaction and the sum of Transactions as stated in the Settlement Report and as paid out to the Merchant Bank Account as a result of the Settlement, are true and accurate. The Merchant is obliged to report any errors or discrepancies without delay. Settle shall investigate such reports and seek to identify the cause of- and rectify any errors, and the Merchant is obliged to assist Settle in the investigation by providing the relevant documentation that Settle requests.
- 4.5. Following issuance of the Settlement Report and subject to the Reserve being at the required level and Settle having deducted all Claims, Settle shall perform Settlement of the respective Settlement Amounts to the Merchant Bank Account stated in the Business Portal at the time of the execution of the Settlement, and at the frequency Settle has specified as part of the pricing and terms for the specific Merchant. Settlement is considered performed when Settle has made a Payment Order to its bank for the Settlement Amount to be paid to the Merchant Bank Account. It is the sole responsibility of the Merchant to ensure the account information is true and accurate. Settle is not liable for delay in Settlement as a result of bank errors or errors in payment systems external to Settle.
- 4.6. The obligation to perform Settlement does not apply in respect of a Transaction or Payment Order, where:
- 4.6.1. the Merchant knew or should have known that the Payer was not eligible or allowed to make the Payment Order;
  - 4.6.2. Payment Order or Transaction has been made by mistake or contains errors assignable to the Merchant or systems, equipment or software directly or indirectly under the control of the Merchant; or
  - 4.6.3. For reasons stipulated in clause 17.2.5 and 16.2.7.
- 4.7. The Merchant acknowledges and agrees that Settle Group operates solely as a payment intermediary and that Settle Group: (i) under no circumstances functions as a seller, buyer, dealer, middleman, retailer, auctioneer, supplier, distributor, manufacturer, broker, agent or merchant of Merchant Products/Services; and (ii) makes no representations or warranties and does not ensure the quality, safety, eligibility or legality of any Merchant Products/Services.
- 4.8. The Merchant acknowledges and agrees that any dispute regarding any Merchant Products/Services 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. Settle Group 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. The Merchant shall fully indemnify Settle against any loss or liability (including full reimbursement of any legal and professional costs) Settle 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. Integrations and APIs

- 5.1. A variety of services and features of the Service are available through the APIs provided by Settle as documented on Settle Website. Integrations are subject to Settle's approval, and Settle reserves the right to deny, at any time, access to the API and block such integrations if:
  - 5.1.1. The integration is considered a security risk;
  - 5.1.2. The integration does not adhere to the implementation Manuals;
  - 5.1.3. The use of the Service through the integration is in breach with this Agreement; or
  - 5.1.4. The integration produces abnormal amounts of API calls not resulting in Transactions.
- 5.2. Settle reserves the right to test and require improvements for integrations before approving such integrations, or before lifting a block for further use of said integration.
- 5.3. It is the sole responsibility and obligation of the Merchant to keep any private access keys or other API credentials granted to the Merchant by Settle Group in respect of the API and/or implementation of the Service, including the Business Portal ("Access Keys") safe and secure. The Merchant shall not disclose or allow access to the Access Keys by unauthorized persons. Settle Group bears no responsibility and can not be held liable for any loss or damage caused to the Merchant, including any loss of funds from the Merchant Account, caused by Merchant's failure to adhere to the foregoing obligations and potential or actual exposure to fraud, misappropriation, abuse etc.
- 5.4. Settle is constantly improving the Service, including changing the way services and features work, terminating, and introducing new services and features. As a result, the API will be changed. Settle commits to notifying the Merchant of changes to the API with 2 months notice, and further pursuant to the terms of clause 18. Settle strives to maintain backwards compatibility and in cases where a new version of the API does not cater to such, Settle will provide the legacy API for a minimum of 3 months past the release of the new API. The Merchant is obligated to update their integrations to adhere to the new API within the sunset of the old API in order to maintain the right to use the Service.
- 5.5. The API and the Service as a whole is available based on the best effort principle. Settle provides no uptime guarantee and has no obligation to ensure the Service or the API is technically available for the Merchant. Any errors, service disruption, scheduled or unscheduled maintenance and any other communication relative to the availability of the Service will be made according to the agreed forms of communication as stated in this Agreement and as timely as practically doable by Settle.
- 5.6. Any costs arising from the Merchant's implementation and integration of the API and the Service or maintenance and updates of such shall be covered in full by the Merchant.



## 6. Business Portal and Communication

- 6.1. The Business Portal is part of the Settle Services provided to Merchants. Merchant agrees that it shall be used as the primary and valid communication channel between Merchant and Settle Group, along with email communication. Settle will use the contact information provided by the Merchant within the Business Portal. For contacting Settle, the Merchant shall use the Customer support contact information assigned to the Merchant according to its Home Country, as stated on the Settle Website.
- 6.2. The Business Portal also serves as the main source of information for the Merchant about the scope of Services provided by Settle Group and Service Fees for such Services, access to an overview of all Payment Orders, Transactions history and Settlements. Subject to clause 7.9., any changes to the Merchant Bank Account or other information pertaining to the Merchant shall be performed through the Business Portal; Merchant is responsible for keeping all such information accurate and up to date.
- 6.3. Access to the Business Portal shall be under the control of an appointed Admin and/or any additional users who have been granted such permission by the Merchant. It is the sole responsibility of the Merchant to ensure that unauthorized persons do not get access to the Business Portal and Settle Group bears no responsibility for Merchant's failure to keep its access to the Business Portal secure and restricted.
- 6.4. In case the Merchant has concluded the Merchant Agreement via Settle Website or via any other online and electronic means, Settle may at any time request that Merchant re-confirms its acceptance of the Agreement and all its terms by executing a physical version of the Agreement signed by an authorized representative of the Merchant within a period stated by Settle. Should the Merchant fail to comply with the aforesaid requirement, Settle may, at its sole discretion, suspend the Merchant Account and/or provision of Settle Services until the Merchant has complied with such request, or, terminate the Agreement immediately.

## 7. Merchant Obligations and Warranties

- 7.1. The Merchant warrants that:
  - 7.1.1. it will deliver the Merchant Products/Services to its customers without undue delay and that they comply with Applicable Laws, especially in respect of the jurisdiction where they are offered;
  - 7.1.2. it does not allow its customers to use or purchase its goods/service where the Merchant or its customers are prohibited to do so;
  - 7.1.3. it has and will maintain at all times all requisite licences and permits in place to engage in the advertising and provision of Merchant Goods/Services;
  - 7.1.4. it will not use the Settle Services for activities or market, sell or accept payments in breach of any of the conditions and restrictions set out in the Acceptable Use Policy, unless an express written prior approval is given by Settle;
  - 7.1.5. it does not process payments on behalf of or for the benefit of any third party, including but not limited to Merchant's Affiliates.
- 7.2. For the use of the Settle Services Merchant shall pay the Service Fees pursuant to the terms of clause 9.



- 7.3. The Merchant shall not charge its customers a processing fee, mark-up or other surcharge for making payments through the Settle Services. The Merchant shall provide its customers with a clear and fair return and refund policy. Upon request, the Merchant shall provide to Settle a copy of its return and refund policy.
- 7.4. The Merchant is allowed, within the Business Portal, to set and modify its business name, logo and address alongside additional information exposed to users of the Service. This information is considered public and it is the Merchants obligation to ensure the information is true, accurate, updated and does not infringe the Intellectual Property rights of others. Settle retains the right to deny the use of any information, name or logo that may cause confusion between the Merchant and other users of the Service.
- 7.5. The Merchant is obliged to adhere to the marketing and brand guidelines of the Settle Services, including any additional guidelines developed by Settle in relation to specific campaigns or the use of affiliated brands. The currently applicable guidelines are made available for the Merchant on the Business Portal. It is the obligation of the Merchant to ensure that all relevant employees and representatives of the Merchant are informed and adhere to applicable guidelines.
- 7.6. The Merchant grants Settle Group the right to access the Merchant Website for the purpose of conducting manual checks or automated searches in order to investigate:
- 7.6.1. the accuracy of information contained on the Merchant Website in relation to the Settle Services;
  - 7.6.2. Merchant's adherence to the brand and marketing guidelines and other relevant obligations under this Agreement.
- provided that (i) Settle 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.
- 7.7. The Merchant agrees to share data with Settle about Merchant Products/Services. This includes line item details and any additional detail that is transmittable in a rational way based on the technical integration between Merchant and Settle.
- 7.8. The Merchant further agrees that information about the Merchant, such as name, logo, Merchant Products/Services, contact information, opening hours and any other relevant information may be shared with other users of Settle and extended to marketing Settle Services in channels other than the Service itself. The Merchant may limit sharing of and access to certain information, if such restrictions are made available to the Merchant as part of the Service. For this purpose the license granted to Merchant in clause 11.1. shall be deemed extended to such additional information and purposes.
- 7.9. The Merchant is obliged to immediately notify Settle Group of any planned or executed change to its company or corporate information, such as any material corporate change (including change of control), change to its name, address, scope of business, Admin, Merchant Bank Account, or any other material change. Failure to comply with this provision may, in the sole discretion of Settle Group, be considered a Material Breach.

## 8. Other Rights and Obligations of the Parties



- 8.1. Settle is obliged to provide the Services as stipulated in this Agreement and according to the specific service, feature and price specification that is applicable in the Home Country of the Merchant, and the specific terms granted to the Merchant as published on the Business Portal.
- 8.2. When enrolling for the Settle Service, the Merchant shall appoint an Admin, who shall act on behalf of the Merchant, including responsibility for:
  - 8.2.1. creating additional users and granting to such users the same level of authorisation and responsibility as he bears;
  - 8.2.2. negotiate and - if possessing special authorisation - enter into new agreements between the Merchant and Settle on behalf of the Merchant;
  - 8.2.3. manage (including editing or adding) the Settle Services and features used by the Merchant;
  - 8.2.4. any other matters relating to this Agreement, as communicated and agreed between the Parties.
- 8.3. The Merchant is liable for all actions made, or the lack thereof, by any Admin under such authorisation, including actions of any persons the Admin has delegated its responsibilities on.
- 8.4. It is the sole obligation of the Merchant to record its sales, perform bookkeeping and provide its customers who have paid using Settle with whatever proof of purchase or receipt that is required under Applicable Laws. The Service does not, and is not intended to provide a valid receipt of purchase or tax document or similar, and shall solely be considered as a means of payment.
- 8.5. The Merchant shall maintain a copy of all electronic and other records related to the Transactions and orders/deliveries of Merchant Products/Services for at least 2 years following execution of the Transaction. The Merchant shall cooperate with Settle to investigate any suspected illegal, fraudulent or improper activity and for that purpose agrees to share with Settle such records.
- 8.6. Unless agreed otherwise, the Merchant shall grant equal visibility of Settle as a payment option alongside other payment options offered in all available channels and on Merchant Websites, if such other options exist.

## 9. Service Fees

- 9.1. The generally applicable Service Fees for the use of Services and various features are provided on the Settle Website. Such publicly available Service Fees are for information purposes only and are not binding on either Party.
- 9.2. The Service Fees actually payable by the Merchant for the Settle Services at any given time are set out in the Business Portal, once the Merchant has enrolled and Settle has accepted the Merchant as its Customer. Upon first use of the Settle Service, the Service Fees are deemed accepted by the Merchant. The Service Fees are subject to change pursuant to clause 18. In Addition, some Services may be subject to variable, dynamic or a bid-based price; to the extent possible the Merchant will be informed at the time of use what the price is or is estimated to be. For subscription-based Services, if applicable, Settle will notify the Merchant of any change in such Service Fees with at least a 30 (thirty) day notice.



- 9.3. Unless otherwise indicated, all Service Fees are quoted in Euro and exclusive of VAT. In case VAT or any other taxes are or become chargeable, Settle will add such tax to the amount charged but shall, where required, provide information on the net amount, the amount of tax and the tax rate applied. Unless expressly stated or agreed otherwise, Service Fees are due at the time the Service is delivered.
- 9.4. Settle reserves the right to, and will (as a general principle) offset any due Service Fees for the Merchant's use of the Services, and any other applicable amounts due between the Parties, including any Claims, against the balance on the Merchant Account. If the balance on the Merchant Account is insufficient to cover the amounts due or the Merchant Account balance becomes negative, the Merchant shall immediately upload sufficient funds to its Merchant Account. Failure to do so is a Material Breach of this Agreement. If applicable and required by Settle, the Merchant shall pay such amounts into its Merchant Account as reasonably determined by Settle to fund a Reserve or to react to any increased risk of Chargebacks that are not covered by the Merchant Account's then current balance.
- 9.5. Notwithstanding Settle's right to utilize the Reserve (clause 10.), as applicable, the Merchant agrees that Settle may charge the Merchant Bank Account by any means available, hereunder issuing a Payment Order or equivalent with the account operator of the Merchant Bank Account for any amounts it has not been able to recover pursuant to clause 9.4. In case the account operator of said Merchant Bank Account requires a power of attorney, explicit consent or any other formal confirmation of the rights for Settle to debit the Merchant Bank Account, the Merchant hereby grants such required permission to Settle Group. Should Settle Group, for any reason whatsoever, be unable to charge the Merchant Bank Account with any due Service Fees or other Claims, Settle Group may invoice the Merchant for any such monies due. Invoices are payable within fifteen (15) days of the date of the invoice. In case of any overdue payments, Settle reserves the right to charge interest in the amount of 8% p.a.; the foregoing is without prejudice to any other remedies available to Merchant under this Agreement with regards to overdue payments.

## 10. Reserve

- 10.1. Settle reserves the right to and may establish at its discretion, prior or any time during Merchant's use of the Settle Services, a Reserve in relation to the Merchant for the purpose of providing a source of funds to pay for any and all, actual or anticipated Service Fees and/or other Claims.
- 10.2. If Settle determines that a Reserve is established, then Settle shall be entitled to prevent the Merchant from withdrawing a sum determined by Settle (in its sole discretion) from the Merchant Account corresponding to the amount of Reserve required. Equally Settle reserves the right to establish such Reserve against the balance of the Merchant Account, and withhold such Reserve from future Settlement as a means to safeguard such Reserve. Alternatively, at Settle's sole discretion, Settle may elect for the Reserve to be in the form of a bank guarantee, security deposit or another form of collateral, in which case the Merchant shall, upon request, procure such other guarantee or collateral in favour of Settle by a bank and/or in the form acceptable to Settle and in an amount determined by Settle. The Reserve 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 Settle.
- 10.3. The amount of the Reserve (either expressed as an absolute amount, as a percentage of Service Fees or as a percentage of Transaction amounts) shall be determined by Settle from



time to time in its sole discretion. Where a Reserve has not been established at the commencement date of this Agreement, Settle 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.

- 10.4. Without restricting Settle's discretion, the following factors may be taken into account when determining the amount to be secured in a Reserve:
  - 10.4.1. the risk of the Merchant ceasing or transferring its business or a substantial part thereof;
  - 10.4.2. the risk of the Merchant materially altering the nature of its business;
  - 10.4.3. if the Merchant's business activities, by their nature, carry a higher than normal risk of Chargebacks, or other reversals of payments;
  - 10.4.4. the Merchant's overall financial standing;
  - 10.4.5. the risk of the Merchant becoming insolvent or otherwise unable to pay debts as they fall due;
  - 10.4.6. where Settle receives a disproportionate number of Customer complaints, Chargebacks or other payment reversals, or other liabilities related to the Merchant Account;
  - 10.4.7. where Settle reasonably believes that the Merchant will not be able to perform its obligations under this Agreement.
- 10.5. The Merchant shall provide, at its own expense, any reasonable and necessary assistance to Settle (including executing any necessary documents) to establish such Reserve.
- 10.6. Settle shall have the right, at any time, without notice to offset any outstanding Service Fees and other Claims from the Reserve. In addition, the Merchant shall pay such amounts as required by Settle into the Reserve to replenish any deducted amounts.
- 10.7. Refusal or failure of the Merchant to comply with the provisions of this clause constitutes a Material Breach of this Agreement.

## 11. Intellectual Property Rights

- 11.1. For the Term and strictly for the purpose of this Agreement, the Parties grant each other a non-exclusive, royalty-free, non-transferable, non-sublicensable (save for Parties' Affiliates, where reasonably necessary) licence to copy, use and display the Marks (and in case of Merchant including any related marketing materials) owned by, or licensed to the other Party. This license extends to each Party's right to display, in a fair manner, the other Party's Marks, subject to any branding or marketing guidelines provided by either Party, in any commercial presentation and on Settle and Merchant Website, respectively, in the context of this Agreement and existing business cooperation.
- 11.2. Settle Group retains all rights, interest and title in/to any Intellectual Property relating to or vested in any part of the Settle Services. Except as otherwise expressly provided in this Agreement, the Merchant holds and may not claim any rights, title or interest in the Intellectual Property of Settle Group. Nothing in this Agreement shall be construed as conferring any Intellectual Property rights of Settle Group onto the Merchant or any third party. No implied rights or licenses are granted under this Agreement. Save as expressly provided for in this Agreement, the Merchant may not use or allow others to use Settle's Intellectual Property in any manner or form. For the avoidance of doubt, the Merchant shall not, nor permit others to:



- 11.2.1. use, copy, modify, create derivative works from or distribute the Settle's Intellectual Property, any part of it, or any copy, adaptation, transcription, or merged portion of it;
  - 11.2.2. decode, reverse engineer, disassemble, decompile or otherwise translate or convert the Settle's Intellectual Property, or any part of it;
  - 11.2.3. transfer, loan, lease, assign, rent, or otherwise sublicense Settle's Intellectual Property;
  - 11.2.4. remove any copyright, proprietary or similar notices from Settle's Intellectual Property (or any copies of it);
  - 11.2.5. apply for, file or otherwise attempt to secure any Intellectual Property rights relating to, derived from, or identical or similar to Settle's Intellectual Property in any jurisdiction.
- 11.3. In using the other Party's Intellectual Property, each Party shall follow the other Party's reasonable instructions having regard to the purpose of such use under this Agreement. Each Party warrants and represents that it owns or has the right to use and sub-licence any Intellectual Property which it licenses for use to the other Party under this Agreement. Without prejudice to its right to give instructions under this clause 11., Settle 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 Settle's Intellectual Property licensed to the Merchant.
- 11.4. Any license or sub-license granted to the Merchant under this clause 11. shall be limited to the territory of Merchant's Home Country.
- 11.5. When using the other Party's Intellectual Property subject to this clause 11., each Party shall include all applicable proprietary rights' notices and any other notices of the holder of the Intellectual Property as they appear and to adhere to any and all branding or marketing instructions and guidelines provided by such holder of the Intellectual Property.
- 11.6. Any and all licenses or rights of use granted under this clause 11. automatically terminate and expire upon termination or expiry of this Agreement and both Parties shall cease use of the other Party's Intellectual Property immediately, including removal of any Marks and return of any materials or documentation pertaining to the Marks or other Intellectual Property of the other Party.

## **12. Chargebacks**

- 12.1. A Funding Source may be subject to different rules, regulations and terms, including the right for the Funding Source operator to perform a full or partial reversal of a Transaction debited from such Funding Source. Merchant's receipt of a Settlement Amount regarding a particular Transaction therefore does not unconditionally entitle the Merchant to receive or keep the Settlement Amount in case of a successful Chargeback claim.
- 12.2. If the Merchant is involved in a Transaction that is subject to a Chargeback, the Merchant is obligated to provide all information related to the Transaction to Settle who in turn may use all information related to the Transaction in an attempt to avoid the execution of the Chargeback. If the Merchant fails to provide the required information within the date as set by Settle, or such information is incorrect or incomplete or otherwise leads to the





Chargeback being executed, the Merchant is liable to pay a fee of €25 to Settle per each Chargeback event. In any case, the Merchant remains liable to Settle Group for the full amount of and any eventual loss, including any third party fees deducted, or otherwise arising from the Chargeback ("Reversal Amounts"). Repayment of the Reversal Amount and/or any negative balance is due immediately without notice. Settle reserves the right to debit the Merchant Account to cover any Reversal Amounts. Should Settle be unable to recover the Reversal Amount from the Merchant Account or Reserve, as the case may be, the provisions of clause 9.4. - 9.5. and 10.6 respectively, apply accordingly.

- 12.3. As Chargebacks may arise with a considerable delay after the respective Transaction, the Merchant agrees that Settle Group shall remain entitled to claim and recover any Reversal Amounts even after the lapse or expiry of this Agreement, where such Chargebacks occurred as a result of Transactions that were executed during the Term.

### **13. Security; Fraud Prevention**

- 13.1. In addition to the requirements set out in the Manuals and Acceptable Use Policy, Settle may apply and require additional security and anti-fraud measures to avoid, prevent or reduce security incidents, fraud or fraud attempts etc., and to ensure proper use of the Settle Services, which the Merchant agrees to follow at all times.
- 13.2. Settle reserves the right to inspect and audit the Merchant's adherence to the Manuals, Acceptable Use Policy, and generally Merchant's compliance with security and compliance obligations. Such inspection and audit rights shall include, Settle's right to:
- 13.2.1. onsite visits;
  - 13.2.2. requests for information;
  - 13.2.3. requests for physical or remote access to Merchant's systems.
- 13.3. Settle may at its sole discretion appoint an independent third party auditor to conduct such inspections or audit.

### **14. Liability and Indemnification**

- 14.1. In addition to any limitations of liability hereunder, Settle Group shall:
- 14.1.1. only be liable for its own acts or omissions and not for acts or omissions of third parties; this exclusion expressly, but not exclusively, applies to payment card network operators, banks and scheme operators or acquirers;
  - 14.1.2. any suspension or refusal of a Payment Order or Transaction, which Settle does not execute in accordance with disclaimers provided under this Agreement (e.g. under clause 16.2.);
- 14.2. In addition to any limitations of liability hereunder, 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.
- 14.3. Subject to clause 14.1. and 14.4. and any other clause explicitly excluding the effect of this clause, the total aggregate liability of Settle 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 shall be limited to the lower of (i) EUR 5,000





(five thousand euro); or (ii) the total amount of Service Fees received by Settle Group from the Merchant in the previous six (6) months (and in case less than 6 months have lapsed since the first use of the Services, an amount calculated pro-rata based on the average amount of Service Fees received per month to date).

- 14.4. Nothing in this Agreement shall operate to exclude or restrict a Party's liability:
- 14.4.1. for fraud and fraudulent misrepresentation;
  - 14.4.2. for death or personal injury;
  - 14.4.3. for wilful and malicious misconduct;
  - 14.4.4. for damage to real or tangible personal property;
  - 14.4.5. in relation to a Material Breach; or
  - 14.4.6. any indemnity provided under this Agreement, unless expressly stated otherwise.

to the extent that such exclusion or restriction is prohibited under Applicable Laws.

- 14.5. In addition to the exclusion from any liability limitations, the Merchant shall fully indemnify Settle Group and its Affiliates against any and all Fines and third party claims, losses, damages, fines, penalties, arising out of or in connection with a Material Breach of this Agreement by Merchant; provided always that any contributory negligence on Settle Group's part shall be taken into account so as to reasonably and proportionately reduce the Merchant's liability under this clause.

## 15. Personal Data and Privacy

- 15.1. The Parties acknowledge that processing of Personal Data relating to Customers, Merchant's customers or Merchant's representatives, employees etc. (as inter alia part of the Customer Controls) ("Data Subjects") is required in the context of this Agreement, for the purposes of fulfilling Parties' obligations hereunder and compliance with Applicable Laws.
- 15.2. The Parties acknowledge that in relation to any Personal Data relating to Customers (including for the avoidance of doubt end-consumers of Merchant Goods/Services) in their possession, they act as independent Data Controllers, whereas sharing of Personal Data between Merchant and Settle Group necessary for the performance of this Agreement, such as, but not limited to line item details (clause 7.7.) is anticipated. Thus each Party is the Controller for the processing of the personal data it carries out towards the respective end-user. Each of the Parties independently determines the purposes and means of processing of Personal Data. In their capacity as Data Controllers, each Party commits to adhere to their respective obligations under Applicable Laws, including the GDPR. Each Party shall cooperate with the other Party in good faith in order to comply with Applicable Laws in relation to Personal Data. Each Party, acting as a Controller, shall give full information to any Data Subjects whose Personal Data may be processed under this Agreement, and the nature of such processing. This includes giving notice that, the Personal Data may be shared with third parties or recipients, including, as the case may be, between the Parties. In this context the Merchant confirms that it has read and implemented, to the extent necessary, Settle Group's [Privacy Policy](https://settle.eu/privacy-policy/) here: <https://settle.eu/privacy-policy/>
- 15.3. The Merchant acknowledges that processing referred to in the previous clauses may be performed by Settle as well as Settle's Affiliates, subcontractors and additional partners of Settle (as part of providing the Service) in their capacity as Settle's Data Processors.



- 15.4. To the extent either Party inadvertently processes, for the purpose of fulfilling its obligations under this Agreement, certain Personal Data on behalf of the other Party as a Data Processor (as defined under GDPR), it shall:
- 15.4.1. process such Personal Data only in accordance with instructions from the other party acting as a Data Controller (which shall be as specific as possible, taking into account the purpose and nature of the Settle Services and this Agreement and Parties' obligations);
  - 15.4.2. process such Personal Data only to the extent, for purposes and in such manner, as is necessary for the provision of the Settle Services or as is required by Applicable Laws;
  - 15.4.3. implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure (which shall be appropriate to the harm which might result from any unauthorised or unlawful processing, accidental loss, destruction or damage to the Personal Data); and
  - 15.4.4. notify the other Party acting as a Data Controller (without undue delay) if it receives a request from a data Subject (as the same is defined in the Data Protection Laws) to have access to that person's Personal Data or a complaint or request relating to the Data Controller's obligations under Applicable Law concerning the use of Personal Data; and
  - 15.4.5. comply with any and all obligations applicable to that Party acting as a Processor.

## 16. Term and Termination

- 16.1. Subject to the conditions set out in clause 3., this Agreement enters into force upon it being validly accepted by both Parties and shall continue in full force and effect unless and until either Party terminates this Agreement in accordance with the terms of this Agreement.
- 16.2. Without prejudice to any other termination rights provided under this Agreement, Settle may terminate this Agreement immediately, or at its discretion, suspend the Merchant Account (or certain functionalities or features), and/or suspend or stop processing the Transactions:
- 16.2.1. 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;
  - 16.2.2. 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
  - 16.2.3. if the Merchant violates or fails to comply with any Applicable Law in the context of this Agreement and use of Settle Services;
  - 16.2.4. if Settle considers, in its sole discretion, that the level of Chargebacks or number of claims for non-delivery of Merchant Products/Services that are being incurred in respect of the Merchant are unreasonable;



- 16.2.5. if any Transactions are made which Settle in its sole discretion deems to be made in breach of the security requirements of the Merchant Account, or otherwise suspicious, fraudulent or unauthorized;
  - 16.2.6. where anything occurs which in the opinion of Settle suggests that the Merchant shall be unable to provide the Merchant Products/Services and/or otherwise fulfil the contracts that it has with its customers;
  - 16.2.7. if the Transactions are for the sale of goods and/or services which fall outside of the agreed business activities of the Merchant;
  - 16.2.8. if there is a change in the Merchant's financial position, business or other circumstances which Settle in its sole discretion considers incompatible with providing Settle Services to the Merchant;
  - 16.2.9. where Settle Group is required to do so under Applicable Laws.
- 16.3. Settle Group will make, where possible, reasonable efforts to inform the Merchant of any such suspension in advance, or if this is not possible or practicable, immediately afterwards and give its reasons for such suspension, unless informing the Merchant would be in breach of Applicable Laws. Settle Group shall reinstate the Service or Merchant Account as soon as practicable after and if the reasons for the suspension cease to exist. Any suspension of the Services or Merchant Account is without prejudice to Settle executing its termination rights.
- 16.4. For the purpose of clause 16.2. and notwithstanding other events that are generally considered a material breach, the following shall be considered as material breach of this Agreement by Merchant:
- 16.4.1. breach of any warranty provided by Merchant under this Agreement;
  - 16.4.2. breach of any obligations under the Acceptable Use Policy;
  - 16.4.3. breach of clause 11. (Intellectual Property), 15. (Data Privacy), 19. (Confidentiality); 21.3. (Assignment and Subcontracting);
  - 16.4.4. any other breach described as 'Material Breach' in this Agreement.

**(“Material Breach”).**

- 16.5. Settle may terminate this Agreement at any time without stating reason by giving 2 months notice in writing, unless a longer notice period applies by virtue of any mandatory provisions of Applicable Laws.
- 16.6. The Merchant may terminate this Agreement at any time without reason by giving 1 month notice.
17. Either Party may terminate this Agreement with immediate effect by giving notice to the other Party:
- 17.1.1. if either Party irrevocably loses or forfeits a regulatory or otherwise material license, authorisation or permit, without which it cannot continue performing its obligations under the Agreement;
  - 17.1.2. if the other Party is not able to fulfill its obligations under this Agreement for a continuous period of more than three (3) months due to a Force Majeure event, or if it is evident that given the nature of the Force Majeure event it shall altogether prevent the performance of the affected Party's contractual obligations under the Agreement for the next three (3) months, and



provided that at the time the notice is given, the Force Majeure event prevails.

- 17.2. Following termination or expiry of this Agreement for any reason:
- 17.2.1. all processing of Transactions will be stopped and the Merchant shall immediately cease all use of the Settle Services;
  - 17.2.2. any Intellectual Property licenses granted hereunder automatically expire and Merchant shall immediately remove and destroy any material, content or reference to Settle's Intellectual Property;
  - 17.2.3. any Reserve, if established pursuant to clause 10., shall be released to the Merchant, after all pertinent Claims have been executed, 6 months after processing of Transactions has ceased, unless and until specific outstanding Claims still exist;
  - 17.2.4. Settle shall perform a final Settlement Amount calculation and execute a final Settlement assuming the calculation results in amounts due to be paid by Settle to the Merchant; Services that are based on subscription may be charged for the committed period and at least until the end of the current calendar month subject to a final calculation of the Settlement Amount.
- 17.3. Settle reserves the right to delay the execution of the final Settlement to the Merchant until all Payment Orders, Transactions and Claims, relative to the Merchant have been executed and settled and the Chargeback window for all Transactions has closed.
- 17.4. Termination of this Agreement for any reason shall not affect:
- 17.4.1. any rights, obligations or liabilities accrued before the date of termination;
  - 17.4.2. any rights, obligations or liabilities intended explicitly or by their nature to survive termination or expiry, such as but not limited to provisions on Confidentiality Obligation, Customer Control, Reserve, Chargebacks, Inspection and Audit rights, clause 17.2. - 17.3.;

## **18. Changes to the Terms and Conditions**

- 18.1. Settle may revise the Terms and Conditions from time to time ("Change") by giving at least 1 month written notice to the Merchant (unless a different notice period has been stipulated in a particular case) via the Business Portal and/or via email to the Merchant's contact details provided within the Business Portal.
- 18.2. If a Change has a material adverse impact on the Merchant, to which the Merchant does not agree, Merchant may give written notice of its objection to the Change to Settle no later than within 20 days of notification of the Change ("Objection Period"), following which the Merchant and Settle shall negotiate and seek to resolve the Merchant's objections. If an agreement was not reached and Merchant continues to reject the Change, Merchant may terminate the Agreement by giving written notice no later than within 1 month following the lapse of the Objection Period. Notwithstanding the foregoing, if Merchant has not raised any objections and continues using the Services following lapse of the Objection Period, the Change is deemed accepted by the Merchant.
- 18.3. Merchant is not entitled to object to a Change which is immaterial and/or works to the benefit of the Merchant, or that is the result of a change in the Applicable Laws or the implementation of which is otherwise required in order for Settle Group to be compliant with Applicable Laws, in which cases Settle may impose shorter notice periods. The



Merchant may nevertheless terminate this Agreement by giving a 1 month written notice following the announcement of the Change.

## 19. Confidentiality

- 19.1. 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.
- 19.2. Notwithstanding the foregoing, it is not considered a breach of this Agreement for either Party to disclose Confidential Information of the other Party if required to do so under Applicable Law or in a judicial or governmental investigation or proceeding.
- 19.3. The confidentiality obligations shall not apply to information that:
  - 19.3.1. is or becomes public knowledge through no action or fault of the other Party;
  - 19.3.2. is known to either Party without restriction, prior to disclosure 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;
  - 19.3.3. 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;
  - 19.3.4. information independently of the Confidential Information developed by either Party.
- 19.4. For clarity, the following is not deemed to be Confidential Information:
  - 19.4.1. The existence of this Agreement; and
  - 19.4.2. The existence of a commercial relationship between the Parties; and
  - 19.4.3. The fact Settle provides or has agreed to provide the Merchant with the Services.

## 20. Governing Law, Disputes and Jurisdiction

- 20.1. This Agreement and all related matters, including any related non-contractual obligations, is governed by Norwegian law, excluding its conflict of law provisions and the Vienna Convention on Contracts for the International Sale of Goods.
- 20.2. The Parties shall undertake all steps necessary to resolve any disputes relating to this Agreement and/or provision of the Settle Services amicably. In the event that Parties are unable to reach an amicable settlement of their dispute relating to this Agreement, including its validity and interpretation, the Parties agree to submit to the exclusive jurisdiction of the competent courts of Oslo, Norway.

## 21. Miscellaneous

- 21.1. **Force Majeure.** A Party who becomes aware of a Force Majeure event which gives rise to, or which is likely to give rise to, any failure or delay in performing its obligations under this



Agreement shall forthwith notify the other Party as soon as reasonably possible and shall inform the other Party of the estimated impacts of the Force Majeure event on the affected Party's performance, and of the period for which it is estimated that such failure or delay will continue. The affected Party shall take reasonable steps to mitigate the effect of the Force Majeure event. Subject to due compliance with the foregoing, neither Party shall be liable to the other for any delay or non-performance of its obligations under this Agreement arising from the occurrence of a Force Majeure event.

- 21.2. **Non-solicitation.** The Merchant undertakes that it will not for the term of this Agreement and a period of 1 year thereafter on its own behalf or on behalf of any person directly or indirectly canvass, solicit or endeavour to entice away from Settle Group or its Affiliate any person who has at any time during the term of this Agreement been employed or engaged by Settle Group or its Affiliate.
- 21.3. **Assignment and Subcontracting.** The Merchant may not transfer or subcontract this Agreement or any of its rights and obligations hereunder to any third party including its Affiliates without prior explicit written consent of Settle Group. Settle Group retains the right to transfer or subcontract this Agreement and rights and obligations hereunder or provision of Settle Service or any part thereof to any third party, including its Affiliates.
- 21.4. **Notices.** Any notice to be given under this Agreement must be given in writing, which for the avoidance of doubt, includes facsimile, post, email, and other means of electronic communication, including the Business Portal. Unless expressly stated or required otherwise, the Parties agree to conduct all communication in relation to this Agreement through the Business Portal and emails. The language of communication shall be in English. Where Settle sends or accepts communication in another language, this shall be for convenience only and shall not change English as the agreed language of communication for future communications.
- 21.5. **Language versions.** The English version of this Agreement shall prevail over any other language version made available to the Merchant, exchanged between or executed by the Parties.
- 21.6. **Deviating terms.** The applicability of Merchant's purchasing or other general terms and conditions is hereby expressly excluded and this Agreement in any case shall prevail over any such terms and conditions. Any receipt of such terms and conditions by Settle shall not be construed as their acceptance.
- 21.7. **Entire Agreement.** This Agreement including all schedules and other documents referred to herein and the Acceptable Use Policy and all documents referred to therein, represents the entire agreement of the Parties in relation to its subject matter and replaces and supersedes any prior contractual commitments between the Parties.

