

**PAYSAFE**  
**MERCHANT TERMS AND CONDITIONS**  
**Version 1.0 – June 2021**

**1. Definitions and Interpretation**

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

**Agreement** means these Paysafe Merchant Terms and Conditions, any cover pages hereto, any Schedules hereto and the Skrill Terms of Use and/or NETELLER Terms of Use;

**Card or Payment Scheme** shall mean any card payment systems (such as VISA, MasterCard®, American Express or others, including national or local systems) or bank payment scheme (such as direct banking systems, direct debit systems or bank transfer systems);

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

**Data Controller** means a controller or data controller (such term is defined in Data Protection Legislation);

**Data Protection Legislation** means applicable laws, rules and regulations which relate to the protection of individuals with regards to the Processing of Personal Data including, without limitation and to the extent applicable from time to time: (i) national laws implementing the Electronic Communications Data Protection Directive 2002/58/EC; (ii) the General Data Protection Regulation (2016/679) (the "GDPR"); (iii) GDPR implementation legislation, and (iv) any other laws, regulations and rules, relating to the Processing of Personal Data, and any guidance or code of practice relating to the Processing of Personal Data issued by a relevant regulatory authority or other relevant competent authority;

**Digital Wallet Payment Service** means the digital wallet based payment service through which a Skrill or NETELLER account holder can send funds to a recipient using an e-mail address as the recipient's identifier (regardless of whether this is facilitated through the use of the Skrill Website or the NETELLER Website or a payments gateway integrated into the Merchant Website or otherwise);

**Gateway Service** means any Skrill service using a payment gateway integrated into (but not necessarily hosted on) the Merchant Website for receiving payment instructions from a customer;

**Manual** means any of the technical manuals applicable to the Skrill Services and/or NETELLER Services, including but not limited to the Skrill Gateway Manual, the NETELLER Integration Guide and the Automated Payments Interface Manual, each as amended from time to time and published on the Skrill Website and/or NETELLER Website, or, in case of a merchant integration through a third party service provider, any third party integration instructions or manuals;

**Merchant** means the Person who has entered into this Agreement for Paysafe Services;

**Merchant Account** means the Merchant's registered electronic money account(s) held with Skrill and/or PFSL and/or PPSL in accordance with the Skrill Terms of Use and/or NETELLER Terms of Use;

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

**Merchant Website** means the website operated by or on

behalf of the Merchant (as amended from time to time) through which its customers are able to make Transactions;

**NETELLER Services** means the Digital Wallet Payment Service provided by PFSL and/or PPSL.

**NETELLER Terms of Use** means the terms and conditions available here, as amended from time to time in accordance with clause 19 of said NETELLER Terms of Use, which govern the use of the NETELLER Service

**NETELLER Website** means the website (as amended from time to time) for the provision of the NETELLER services, currently accessible at <http://www.neteller.com>, excluding any external websites to which the website points by way of hyperlink or otherwise;

**Paysafe** means Skrill, PFSL and/or PPSL (as the case may be);

**Paysafe Services** means the Skrill Services and/or NETELLER Services provided by Skrill and/or PFSL and/or PPSL under this Agreement, and any other service as agreed between the parties from time to time;

**Paysafe Websites** means the Skrill Website and/or the NETELLER Website (as the case may be);

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

**Personal Data** means any personal data (as such term is defined in Data Protection Legislation) processed under or in connection with this Agreement. Sensitive Personal Data will not be shared between the parties.

**PFSL** means Paysafe Financial Services Limited (registered number: 4478861) whose registered office is at Floor 27, 25 Canada Square, London, England, E14 5LQ, United Kingdom;

**PPSL** means Paysafe Payment Solutions Limited (registered number: 626665) whose registered office is at Grand Canal House, Grand Canal Street Upper, Dublin 4, DO4 Y7R5, Ireland.

**Processing or Process** has the meaning given to it in Data Protection Legislation;

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

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

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

**Skrill** means Skrill Limited (registered number: 4260907) whose registered office is at 25 Canada Square, London E14 5LQ United Kingdom;

**Skrill Services** means the Digital Wallet Payment Service and the Gateway Service provided by Skrill and/or PPSL.

**Skrill Terms of Use** means the terms and conditions available [here](#), as amended from time to time in accordance with clause 18 of said Skrill Terms of Use, which govern the use of the Skrill Services;

**Skrill Website** means the website (as amended from time to time) for the provision of the Skrill Services, currently accessible at <http://www.skrill.com>, excluding any external websites to which the website points by way of hyperlink or otherwise;

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

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

- 1.3. Unless the contrary intention appears, words in the singular include the plural and vice versa; words importing the masculine gender include the feminine and neuter and vice versa; references to persons include bodies' corporate, unincorporated associations, partnerships or an authority.
- 1.4. Any phrase introduced by the term "included", "including", "in particular" or any similar expression will be construed as illustrative only and will not limit the sense of the words preceding that term.
- 1.5. If there is any conflict between the clauses of these Paysafe Merchant Terms and Conditions and the Skrill Terms of Use and/or NETELLER Terms of Use, the conflict shall be resolved in accordance with the following order of precedence:
  - 1.5.1. the cover pages to the Agreement;
  - 1.5.2. the Schedules to the Agreement;
  - 1.5.3. these Paysafe Merchant Terms and Conditions;
  - 1.5.4. the Skrill Terms of Use and/or NETELLER Terms of Use; and
  - 1.5.5. any other document referred to in this Agreement or any other document attached to this Agreement.

## 2. Scope

- 2.1. This Agreement contains the terms for the provision of the Paysafe Services as described in clause 4 and such other services as agreed between the parties in writing from time to time.
- 2.2. The Skrill Terms of Use and/or NETELLER Terms of Use shall form a binding part of this Agreement.

## 3. Term

- 3.1. This Agreement will continue in full force and effect unless and until either party terminates this Agreement by giving notice to the other party in accordance with the Skrill Terms of Use and/or NETELLER Terms of Use or clause 16 hereof.

## 4. Description of Services

- 4.1. The Paysafe Services facilitate the execution of payments from a customer to the Merchant. Any payment monies collected from customers and received by Paysafe shall be transferred into the Merchant Account immediately after deduction of any fees due to Paysafe in accordance with Schedule No 1.
- 4.2. Paysafe reserves the right to suspend or limit the Paysafe Services pending full payment of any outstanding claims, charges, penalties, costs or charges by the Merchant.
- 4.3. Paysafe reserves the right to suspend, at any time and at its sole discretion, the Merchant Account (or certain functionalities thereof such as uploading, receiving, sending and/or withdrawing funds), inter alia, for audit:
  - 4.4.1. where Paysafe believes it is necessary or desirable to protect the security of the Merchant Account; or
  - 4.4.2. if any Transactions are made which Paysafe in its sole discretion deems to be (a) made in breach of this Agreement or in breach of the security requirements of the Merchant Account; or (b) suspicious, unauthorised or fraudulent, including without limitation in relation to money laundering, terrorism financing, fraud or other illegal activities; or
  - 4.4.3. upon the insolvency, liquidation, winding up, bankruptcy, administration, receivership or dissolution of the Merchant, or where Paysafe reasonably considers that there is a threat of the same in relation to the Merchant; or
  - 4.4.4. where anything occurs which in the opinion of Paysafe suggests that the Merchant shall be unable to provide the Merchant Products/Services and/or otherwise fulfil the contacts that it has with its customers; or
  - 4.4.5. if the Transactions are for the sale of goods and/or services which fall outside of the agreed business

activities of the Merchant, or where the Merchant presents a Transaction and fails to deliver the relevant goods and/or services and/or where the Merchant is third party processing and not delivering goods and/or services itself; or

- 4.4.6. where there is a change in the Merchant circumstances (including a deterioration in or change to the Merchant's financial position), or a change in the Merchant's business or in the Merchant Products/Services which Paysafe considers, in its sole discretion, material to the continuation of the Paysafe Services; or
- 4.4.7. where the Merchant undergoes a Material Change as defined in clause 5.11; or
- 4.4.8. if Paysafe considers, in its sole discretion, that the number of claims for non-delivery of Merchant Product/Service that are being incurred in respect of the Merchant are unreasonable;

and Paysafe will make reasonable efforts to inform the Merchant of any such suspension in advance, or if this is not practicable, immediately afterwards and give its reasons for such suspension unless informing the Merchant would compromise security measures or is otherwise prohibited by Regulatory Requirements.

- 4.4. In addition, Paysafe reserves the right (at its sole discretion) to suspend the Merchant Account (or certain functionalities thereof such as uploading, receiving, sending and/or withdrawing funds) at any time where it is required to do so in accordance with Regulatory Requirements. Paysafe will make reasonable efforts to inform the Merchant of any such suspension unless Paysafe is prohibited from doing so by law or under an order from a competent court or authority.
  - 4.5. Where Paysafe suspends the Merchant Account and/or the Paysafe Services, Paysafe shall reinstate the same and where necessary, provide new security details, such as a password, as soon as practicable after the reasons for the suspension cease to exist.
  - 4.6. Notwithstanding clause 4.3, where the Merchant acts as a payer Paysafe reserves the right to suspend at any time the Merchant Account login, password and other security details ("**Security Features**") if Transactions are made which Paysafe has reasonable grounds to believe relate to (i) the security of the Security Features or (ii) the suspected unauthorised or fraudulent use of the Security Features. Paysafe will inform the Merchant of any such suspension in advance, or, if this is not possible, immediately afterwards and give its reasons for the suspension unless to do so would compromise reasonable security measures or is otherwise unlawful. Paysafe will reinstate the Security Features and where necessary provide new Security Features as soon as practicable after the reasons for the suspension cease to exist.
  - 4.7. The Merchant acknowledges and agrees that Paysafe operates solely as a payment intermediary and that Paysafe: (a) under no circumstances functions as a seller, buyer, dealer, middleman, retailer, auctioneer, supplier, distributor, manufacturer, broker, agent or merchant of Merchant Product/Service; and (b) makes no representations or warranties and does not ensure the quality, safety or legality of any Merchant Product/Service.
  - 4.8. The Merchant acknowledges and agrees that any dispute regarding any Merchant Product/Service is between the sender and receiver of the funds and/or the supplier and receiver of the goods or services. Any Transaction connected with the Merchant Products/Services shall only obligate the Merchant. Paysafe shall not be a party to any resulting dispute including but not limited to disputes over performance and liability issues relating to the delivery, quality, quantity or use of the Merchant Products/Services. Without applying the liability restrictions contained in clauses 13.1 and 13.2, the Merchant shall fully indemnify Paysafe against any loss or liability (including full reimbursement of any legal and professional costs) Paysafe 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. Merchant Obligations
- 5.1. Paysafe shall make available to the Merchant and its customers the Paysafe Services as specified in this Agreement and as further described on the Paysafe Websites.
  - 5.2. The Merchant shall open and maintain a Merchant Account by

- registering as a merchant on the Paysafe Websites. As part of the registration process, the Merchant shall accept the respective Skrill Terms of Use and/or NETELLER Terms of Use.
- 5.3. The Merchant shall integrate the Paysafe Services into the Merchant Website and operate the same in accordance with the relevant Manuals.
  - 5.4. The Merchant grants Paysafe the right to access the Merchant Website for the purpose of conducting manual checks or automated searches in order to investigate the accuracy of information contained on the Merchant Website in relation to the Paysafe Services, provided that (i) Paysafe shall be under no obligation to conduct such searches or checks and (ii) any such searches shall under no circumstances be deemed an approval of any contents of the Merchant Website.
  - 5.5. In addition to the security requirements set forth in the Skrill Terms of Use and/or NETELLER Terms of Use, the Merchant shall enable the login restriction tools offered in the "Merchant Tools" section of the Paysafe Websites for both the Automated Payment Interface (as defined in the Manuals) and the Merchant Account login through the Paysafe Websites. The Merchant shall further restrict any login to its Merchant Account to only one or a range of IP addresses. If the Merchant has registered more than one Merchant Account, the foregoing shall apply to all Merchant Accounts.
  - 5.6. The Merchant shall submit to Paysafe for pre-approval the content of every website that the Merchant intends to connect to its Merchant Account for accepting payments. The same applies if the content of the Merchant's website materially changes, including but not limited to, a material change of the Merchant Product/Services offered on the Merchant's website.
  - 5.7. Without prejudice to payments prohibited under the Skrill Terms of Use and/or NETELLER Terms of Use, the Merchant shall not receive payments as consideration for the delivery of tobacco products, prescription or non-prescription drugs, illegal downloads, illegal gambling or goods or services infringing intellectual property rights of a third party, or for any other goods or services the offering or provision of which is illegal under Regulatory Requirements.
  - 5.8. The Merchant shall co-operate with Paysafe to investigate any suspected illegal, fraudulent or improper activity.
  - 5.9. Upon commencement of the Agreement and at any time thereafter for purposes of complying with Regulatory Requirements, the Merchant shall provide Paysafe with such information as Paysafe may request, including information about the Merchant's business, corporate structure and constitution, shareholders, partners, members, directors, key employees or, in the case of a trust, its beneficiaries. The Merchant shall provide, upon request by Paysafe, copies of financial information and other information on the business of the Merchant, including bank and/or trade references.
  - 5.10. The Merchant hereby authorises and consents to Paysafe obtaining credit and financial information relating to the Merchant from any third parties and to undertake credit and financial reviews on the Merchant at its sole discretion.
  - 5.11. The Merchant shall inform Paysafe in writing of any changes to its business (including any change of control or constitution), business model or the goods and/or services it sells, leases or distributes or of any change to Regulatory Requirements to which it is subject (including but not limited to changes to or the revocation of the licences it requires for its business) which might have an adverse impact on Paysafe's compliance with any of its Regulatory Requirement, or the Merchant's credit and/or financial standing ("**Material Change**") without undue delay prior to the change(s) coming into effect and in any event prior to taking or making payments related to the Material Change. Without applying the liability limits contained in clauses 13.1 13.2 and 13.3, the Merchant shall indemnify Paysafe against all losses arising out of the Merchant's failure to notify Paysafe of any such changes that are relevant for compliance with Regulatory Requirements or the Paysafe Partner Code applicable to Paysafe or the Merchant.
- 5.12. The Merchant shall not charge its customers a processing fee, mark-up or other surcharge for making payments through the Paysafe Services.
  - 5.13. The Merchant shall, where relevant to the Merchant Product/Service, provide its customers with a clear and fair return and refund policy. Upon request, the Merchant shall provide to Paysafe a copy of its return and refund policy and shall notify Paysafe of any subsequent change to such policy.
- ## 6. Reserve and Security
- 6.1. Paysafe may establish a Security in relation to the Merchant for the purpose of providing a source of funds to pay Paysafe for any and all, actual and reasonably anticipated claims, losses, cost, penalties and expenses.
  - 6.2. If Paysafe elects that the relevant Security shall include the establishment of a Reserve, Paysafe shall be entitled to prevent the Merchant from withdrawing a sum determined by Paysafe (in its sole discretion) from the Merchant Account. Alternatively, at Paysafe's sole discretion, Paysafe may elect for the Security to be a bank guarantee in which case the Merchant shall, upon request, procure a bank guarantee in favour of Paysafe by a bank and in a form acceptable to Paysafe and in an amount determined by Paysafe. The Security shall remain in place regardless of any termination of this Agreement for as long as there are residual or contingent liabilities of the Merchant to Paysafe. The amount of the Reserve (either expressed as an absolute amount or as a percentage of past payments into the Merchant Account) shall be determined by Paysafe from time to time in its sole discretion. Where a Reserve has not been established at the commencement date of this Agreement, Paysafe shall notify the Merchant of the imposition of a Reserve, its method of calculation, its amount as well as any increase or reduction of the Reserve without undue delay in writing at any time during the term of this Agreement.
  - 6.3. Without restricting Paysafe's discretion under clauses 6.1 and 6.2, Paysafe may take into account, amongst others, the following factors when determining the amount to be secured in a Reserve:
    - 6.3.1. the risk of the Merchant ceasing or transferring its business or a substantial part thereof;
    - 6.3.2. the risk of the Merchant materially altering the nature of its business;
    - 6.3.3. If the Merchant's business activities carry a higher than normal risk of chargebacks or other reversals of customer payments;
    - 6.3.4. the Merchant's overall financial standing;
    - 6.3.5. the risk of the Merchant becoming insolvent or otherwise unable to pay debts as they fall due;
    - 6.3.6. where Paysafe receives a disproportionate number of customer complaints, chargebacks or other payment reversals fines, penalties or other liability related to the Merchant Account; or
    - 6.3.7. where Paysafe reasonably believes that the Merchant will not be able to perform its obligations under this Agreement.
  - 6.4. The Merchant agrees to provide Paysafe, upon reasonable request and at the Merchant's expense, with information about its financial and operational status, including but not limited to the most recent financial statements and management accounts. The Merchant shall also undertake, at its own expense, any further action (including executing any necessary documents and registering any form of document) necessary to establish such Security as is reasonably required by Paysafe.
  - 6.5. Paysafe shall have the right, at any time, without notice to offset any claims, costs, charges, penalties and expenses from any Security, Reserve or current balance in the Merchant Account. In addition, the Merchant shall pay such amounts as Paysafe notifies it into the Reserve to replenish any deducted amount. If required by Paysafe, the Merchant shall pay such amounts into its Merchant Account as reasonably determined by Paysafe to fund a Reserve or to react to any increased risk of payment

reversals that are not covered by the Merchant Account's then current balance.

- 6.6 Where a Merchant incurs a negative balance on its Merchant Account or becomes otherwise liable for the repayment of monies, the Merchant shall be obliged to make good such negative balance or make a corresponding payment to Paysafe within seven (7) days of Paysafe's request or demand for such payment. In respect of overdue payments, Paysafe has the right to charge interest in the amount of 4% above the base lending rate of Lloyds TSB Bank per year (accruing daily).

## 7 Warranties

Each party warrants and represents to the other party that:

- 7.1 it has and will maintain all required rights, powers and authorisations to enter into this Agreement and to fulfil its obligations hereunder;
- 7.2 it will perform its obligations hereunder with reasonable skill and care; and
- 7.3 it has in place and will maintain adequate facilities (including staff training, internal controls and technical equipment) to comply with its data protection, in the case of Paysafe with the Data Protection Legislation, and confidentiality obligations hereunder.

## 8 Additional Merchant Warranties and Obligations

- 8.1 The Merchant warrants and represents that:
- 8.3.1 where it is a registered entity (in any form, e.g. a limited liability company), the Merchant will have and maintain at least one (1) director or other lawful representative who is domiciled in the place of the Merchants incorporation and registered address;
- 8.3.2 the Merchant Products/Services that are made available to customers comply with Regulatory Requirements and the Paysafe Partner Code in any jurisdiction in or to which the Merchant is making its goods and services available;
- 8.3.3 it: (i) has all necessary permits, licences and authorisations to conduct and advertise its business, and in particular its gaming and/or forex operations (if any); and (ii) conducts and advertises its service in accordance with Regulatory Requirements in each jurisdiction in which it or its customers are located, in which its services are available or in which it directly or indirectly advertises its services;
- 8.3.4 it does not allow customers to use its service where the Merchant or customers are prohibited from using the Merchant's services;
- 8.3.5 it does not process any payments through the Paysafe Services in contravention of the above provisions;
- 8.2 The Merchant is not allowed to process payments on behalf of or for the benefit of any third party, including but not limited to companies within its corporate group without Paysafe's prior written agreement.
- 8.3 The Merchant shall indemnify Paysafe and its directors, officers, employees, shareholders, agents and representatives against any loss arising out of or in connection with the Merchant's breach of this clause 8.

## 9 Fees

- 9.1 The fees payable by the Merchant for the Paysafe Services are as set out in the cover pages and/or the Fee Schedule(s).
- 9.2 Unless otherwise indicated, fees are quoted in Euro [GBP].

- 9.3 Fees are quoted exclusive of value added tax. In case value added tax or any other sales tax is or become chargeable, Paysafe will add such tax to the amount payable but shall, where required, provide information on the net amount, the amount of tax and the tax rate applied.

- 9.4 Any fee payable by the Merchant shall be deducted from the Merchant Account balance. If the Merchant Account balance is insufficient, or the Merchant Account balance becomes negative, Paysafe reserves the right to invoice the Merchant for any shortfall. Invoices are payable within fifteen (15) days of the date of the invoice. In case of overdue payments, Paysafe reserves the right to (i) charge interest in the amount of 4% above the base lending rate of Lloyds TSB Bank per year (accruing daily); and/or (ii) terminate this Agreement with immediate effect by giving written notice to the Merchant.

- 9.5 The fees are subject to change pursuant to clause 10.

## 10 Change of Terms and Conditions

This Agreement is subject to change from time to time. Unless otherwise agreed, changes may be made by notice from Paysafe to the Merchant under the following procedure:

- 10.1 Paysafe shall give the Merchant notice of any proposed change to this Agreement (a "Change Notice").
- 10.2 A Change Notice may be given by email to any of the emails registered with the Merchant Account or letter to the current or last known trading address of the Merchant or the Merchant's registered office if so required by law.
- 10.3 The proposed change shall come into effect automatically thirty (30) days after the date of receipt of the Change Notice, unless the Merchant gives written notice to Paysafe that it objects to the proposed changes ("Objection Notice").
- 10.4 Paysafe may stipulate in a Change Notice a different time period for the coming into effect of any change due to a Regulatory Requirement.
- 10.5 If no Objection Notice is received by Paysafe within the stipulated time frame, the Merchant is deemed to have accepted the change.
- 10.6 The Merchant has the right to terminate this Agreement with immediate effect at any time and without charge after receiving a Change Notice and before any change stipulated in the Change Notice becomes effective.
- 10.7 Unless the parties agree otherwise and subject to clause 10.6, a Merchant's Objection Notice shall be deemed to constitute a notice to terminate this Agreement with the termination effective immediately before the date on which the proposed change would otherwise come into effect under clause 10.3.

## 11 Taxes

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

## 12 Intellectual Property

- 12.1 For the duration and strictly for the purpose of this Agreement, the parties grant each other a non-exclusive, worldwide, royalty-free, non-transferable licence to copy, use and display any logo, trademark, trade name or other intellectual property owned by, or licensed to the other party.
- 12.2 Any use, adaptation or amendment of intellectual property (except for non-material adaptation or amendments necessitated by the use for a particular purpose as contemplated by the parties) shall be subject to prior written approval by the party licensing the intellectual property in question. No party shall use the other party's intellectual property or mention the other party in any public communication without the first party's prior written approval.
- 12.3 Except as expressly stated, nothing in this Agreement shall grant or be deemed to grant to any party any right, title or interest in any logos, trademarks, trade names or other intellectual property licensed to that party by the other party.

12.4 In using the other party's intellectual property (or intellectual property licensed to that other party by a third party), each party shall follow the other party's reasonable instructions having regard to the purpose of such use under this Agreement and the jurisdiction in which the other party's intellectual property is used. With respect to intellectual property owned or licensed by Card or Payment Schemes, the Merchant shall also follow instructions given by the relevant Card or Payment Scheme. The Merchant shall not use such intellectual property in a way that is or may be detrimental to the business or brand of the relevant Card or Payment Scheme.

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

12.6 Without prejudice to its right to give instructions under clause 12.4, Paysafe reserves the right at any time and in its sole discretion to require the Merchant to stop displaying, distributing or otherwise making use of the intellectual property licensed to the Merchant by Paysafe.

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

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

- 12.8.1. uses reasonable efforts to notify the Indemnifying Party of such claim as early as possible and in writing;
- 12.8.2. uses reasonable efforts to mitigate the loss or amount of the claim;
- 12.8.3. refrains from admitting any liability or settling any claim without the prior written consent of the Indemnifying Party; and
- 12.8.4. provides, at its own cost, reasonable cooperation in the defence or settlement of such claim.

### 13 Liability

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

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

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

- 13.3.1. for fraud and fraudulent misrepresentation;
- 13.3.2. for death or personal injury due to negligence;
- 13.3.3. for payments pursuant to clauses 4.2, 6.6 and 9;
- 13.3.4. for remittance payments due to the Merchant subject to the provisions of this Agreement;
- 13.3.5. for willful and malicious misconduct;
- 13.3.6. for damage to real or tangible personal property;

13.3.7. for a breach of clause 14 (Confidentiality) (subject to clause 13.6); and

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

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

13.5 In case of a breach by the Merchant of any of the clauses 5.3 to 5.9 (inclusive), clause 7, clause 8, or clause 12 (with regard to intellectual property licensed to the Merchant under a sub-license granted by any Card or Payment Scheme):

13.5.1. the liability restrictions of clauses 13.1 and 13.2 shall not apply;

13.5.2. the Merchant shall indemnify each of Skrill, PFSL and/or PPSL (as the case may be) against all third party claims, losses, damages, fines, penalties, arising out of or in connection with such breach;

provided always that any contributory negligence on each of Skrill's, PFSL's and/or PPSL's part (as the case may be) shall be taken into account so as to reasonably and proportionately reduce the Merchant's liability under this clause.

13.6 None of Skrill, PFSL and/or PPSL shall be liable for any of the following:

13.6.1. internet connectivity not functioning properly;

13.6.2. any suspension or refusal to accept payments which Skrill, PFSL and/or PPSL reasonably believes to be made fraudulently or without proper authorisation;

13.6.3. payment instructions received containing incorrect or improperly formatted information; or unforeseen circumstances preventing the proper performance despite any reasonable precautions taken by Skrill, PFSL and/or PPSL. Such circumstances may include but are not limited to acts of God, power outages, fire, flood, theft, equipment breakdowns, hacking attacks, internal mechanical or systems failures as well as downtimes of the Paysafe Websites.

### 14 Confidentiality

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

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

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

### 15 Data Protection

15.1 Each Party acts as an independent Data Controller for the Personal Data they hold and are not joint data controllers under Data Protection Legislation.

15.2 This section 15 only applies to Personal Data held by both Parties that is used for the provision of the Paysafe Services.

15.3 Each party shall ensure that it Processes the Personal Data on the basis of the following legal grounds: (a) Processing is necessary for the performance of a contract or set of party's general terms and conditions and/or terms of use to which the data subject is a party or in order to take steps to the request of the data subject prior to entering into a contract or upon accepting a party's terms and conditions and/or terms of use; (b) Processing is necessary for compliance with a legal obligation to which the parties are subject, other than an obligation imposed by contract; or where applicable (c) the data subject has unambiguously given his or her consent.

15.4 Each Party shall:

15.4.1 comply at all times with its responsibilities and obligations under the Data Protection Legislation;

15.4.2 co-operate with each other to set out the requirements to meet relevant obligations of Data Protection Legislation (for example in respect of data portability, subject access, lawful access requests and requests for rectification, amendment and disposal); and

15.4.3 comply with the terms of this Agreement and shall not perform any of its obligations under the Agreement in such a way as to cause the other party to breach any of its obligations under Data Protection Legislation.

15.5 In the event either party becomes aware of an actual or suspected breach to the availability, confidentiality or integrity of the Personal Data of the other party when those data are being Processed both parties agree to notify the other affected party within 24 hours of identification of the breach and to consult with one another about such steps as may reasonably be necessary or appropriate to investigate, mitigate and remediate the breach and otherwise to discharge their respective obligations under applicable Data Protection Legislation.

## 16 Termination

16.1 Without prejudice to termination rights under the Skrill Terms of Use and/or NETELLER Terms of Use, Paysafe may terminate this Agreement immediately:

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

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

16.1.3. if the Merchant violates or fails to comply with any Regulatory Requirements, regulation, any order by a competent court or government authority or the Paysafe Partner Code.

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

16.3 Paysafe may terminate this Agreement at any time without reason by giving thirty (30) days' notice to Merchant.

16.4 Any termination of the Merchant Account under the Skrill Terms of Use and/or NETELLER Terms of Use shall be deemed a termination of this Agreement.

## 17 Assignment, Third Party Rights

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

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

17.3 No person who is not a party to this Agreement shall have any rights to enforce any term of this Agreement.

17.4 In case the Merchant

17.4.1. acquires another existing Paysafe merchant or its business;

17.4.2. is acquired or its business is acquired by another existing Paysafe merchant;

17.4.3. merges with another existing Paysafe merchant; or

17.4.4. enters into a cooperation with another existing Paysafe merchant

the Merchant shall pay, upon Paysafe's notice to the Merchant, either (i) its current fees or (ii) the current fees applicable to the other merchant or (iii) such reasonable combination of its own current fees and the fees payable by the other merchant as determined by Paysafe. Paysafe shall send a notice within one (1) month of the later of (a) completion of the acquisition, merger or cooperation, or (b) Paysafe' gaining knowledge of such acquisition, merger or cooperation. If no notice is sent within this time period, the Merchant shall continue to pay its current fees. Any change to the fees will be treated as a change to this Agreement for the purposes of clause 10.

## 18 Relationship of the parties

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

## 19 Non-solicitation of employees

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

## 20 Notices

20.1 Any notice to be given under this Agreement must be given in writing and delivered, unless explicitly required otherwise by law:

20.1.1 to Paysafe: by email to [merchantservices@skrill.com](mailto:merchantservices@skrill.com) and/or [merchantsupport@paysafe.com](mailto:merchantsupport@paysafe.com); and

20.1.2 to the Merchant: by email to any of the email addresses registered with the Merchant Account or by post to the current or last known trading address of the Merchant or the Merchant's registered office.

20.2 The parties agree to conduct all communication in relation to this Agreement in English. Where Paysafe 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.

20.3 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by email shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).

## 21 Waiver

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

waiver and shall not prevent a party from exercising that right in the future.

## 22 Severability

If any part of this Agreement is found by a court of competent jurisdiction to be invalid, unlawful or unenforceable then such part

shall be severed from the remainder of the Agreement, which shall continue to be valid and enforceable to the fullest extent permitted by law.

**23 Entire Agreement**

This Agreement including all Schedules and other documents referred to herein and the Skrill Terms of Use and/or NETELLER Terms of Use and all documents referred to therein, represents the entire agreement of the parties in relation to its subject matter. Each party acknowledges that it has entered into this Agreement in reliance only on the representations, warranties, promises and terms contained in this Agreement and, save as expressly set out in this Agreement, neither party shall have any liability in respect of any other representation, warranty or promise made prior to the date of this Agreement unless it was made fraudulently.

**24 Variation**

Subject to clause 18 of the Skrill Terms of Use, clause 19 of the NETELLER Terms of Use and clause 10 above, no variation or amendment to this Agreement shall be effective unless recorded in writing and signed by the duly authorised representatives of both parties.