

## MERCHANT ACCOUNT TERMS AND CONDITION

### DEFINITIONS AND INTERPRETATIONS

In this Agreement, the following definitions shall apply:

**3-D Secure** – the “Three Domain Secure” protocol developed by Visa International Inc. (Visa) branded as “Verified by Visa”, the “MasterCard Secure Code” developed by MasterCard International Inc. successive versions thereof and any amendments thereto.

**Additional Collateral** – non-interest bearing funds provided to us by the Merchant as a security (financial collateral) to guarantee payment of any and all debt or liability from the Merchant to us and/or the Payment Schemes such as, without limitation, unpaid MS Fees, Deductions such as Chargebacks, Assessments, and Refunds, or other potential debt or liability, including those arising out of or in connection with any Settlement services.

**Agreement** – this agreement between Violet and the Merchant for the provision of Services to the Merchant, consisting of these Merchant account Terms and Conditions, General Payment Services Terms and Conditions all Applications set forth in the Hub and any other Application or document incorporated by reference. In the event of any inconsistency, the Applications set forth in the Hub shall prevail.

**API (Application Programming Interface)** – a set of routines, protocols and tools developed by Violet or a third party to provide the Services to the Merchant via a secure internet connection between the Merchant’s system and the Violet’s system.

**Applicable Law** – all laws (including the requirements of any regulatory authority) applicable to a party or to any Transaction, Refund or Chargeback for the time being in force in any jurisdiction. These include but are not limited to anti-money laundering, anti-bribery, data privacy, tax and consumer protection laws.

**Application** – the documentation setting forth the Merchant Underwriting Data, URLs.

**Authorization** – the process whereby a Buyer (or a Merchant on a Buyer’s behalf) requests permission for a Payment Method to be used for a particular purchase of the Merchant Product/Service. As this Agreement covers a variety of different Payment Methods the Merchant agrees that if a Transaction status is “authorized”, this means the payment transaction is likely to be successful but the payment may still be blocked or subject to Chargeback by the Buyer (where Chargeback is possible under the relevant Payment Scheme Rules). The likelihood of a payment as “authorized” being blocked or unsuccessful depends on the Payment Method which is used.

**Authorized Representative** – the individual who has legal authority to agree to bind the Merchant to this Agreement and/or the individual who has legal authority to make any amendments to this Agreement via Hub, or any other method required by us.



**Business Day** – a day other than a Saturday or Sunday on which banks are open for normal business in the Republic of Lithuania.

**Buyer** – any Person who is authorized to use a Payment Method issued to him/her and has ordered products and/or services from the Merchant and has initiated a Transaction in respect of that order, including a Cardholder.

**Card** – any form of Credit Card or Debit Card, which may be used by a Cardholder to carry out a Transaction on a Cardholder’s account.

**Cardholder** – any person who is issued a Card and possesses and uses a Card, and where required on the Card, whose signature appears on the Card as an authorized user.

**Card Scheme** – Visa Inc., MasterCard Worldwide or comparable bodies which provide Cards, and regulate Card acceptance.

**Chargeback** – a Transaction which is successfully charged back on request of the Buyer or the Issuer pursuant to the relevant Payment Scheme Rules resulting in cancellation of a Transaction in respect of which the Merchant has been paid or was due to be paid. If a Chargeback occurs for a Transaction in respect of which the Merchant already received Settlement of the related funds, this results in the unconditional obligation for the Merchant to immediately return the remitted funds to us.

**Confidential Information** – any and all information disclosed in a manner clearly indicating its confidential nature or which, in the absence of such indication, would under the circumstances appear to a reasonable person to be confidential or proprietary. Such information shall include but not be limited to information relating to operations, plans, strategies (including but not limited to geographic expansion plans, target customer segment, merchant acquisition strategy, recruitment strategy, and corporate acquisition strategy), concepts, proposals, intentions, know-how, trade secrets, market information, copyright and other intellectual property rights (whether registered or not), software, market opportunities, organisational internal chart, corporate structure chart, details of customers and potential customers, details of competitors and potential competitors, business and/or financial affairs including any such information relating to, disclosed or provided by the Disclosing Party. For the avoidance of doubt, the fact that the parties entered into this Agreement and that the parties may disclose or may have disclosed information shall be Confidential Information.

**Data Controller** – the entity which alone or jointly with others determines the purposes and the means of the Processing of Personal Data.

**Data Processor** – the entity which Processes Personal Data on behalf of a Data Controller.

**Data Subject** – Buyer, Cardholder, employee of Merchant, employee of Vialet, or other natural person whose Personal Data are processed in the context of this Agreement.

**Disclosing Party** – the party disclosing or allowing access to any particular item of Confidential Information, or, where appropriate, the party to whom such Confidential Information relates.



E-Commerce Transaction - a Transaction by a Buyer where the payment details are presented to the Merchant or us by the Buyer by means of secure Internet communications.

EU Data Protection Law – the EU General Data Protection Regulation 2016/679 (as amended and replaced from time to time) and the e-Privacy Directive 2002/58/EC (as amended by Directive 2009/136/EC, and as amended and replaced from time to time) and their national implementing legislations; Law of the Republic of Lithuania on Legal Protection of Personal Data (as amended and replaced from time to time); and any other applicable law or regulation related to Personal Data protection.

GDPR – the EU General Data Protection Regulation 2016/679 (as amended and replaced from time to time).

General Payment Services Terms and Conditions- General Payment Services Terms and Conditions of Violet that set out the general principles and the procedure for communicating with and serving clients, payment services as well as the terms and conditions for conducting payment transactions.

Hub – the secured interface on Violet’s website where Merchant, inter alia, can access information relating, to: (i) the Transactions (such as number of approved Transactions, status of Transaction, Transaction ID, value/amount of Transaction, Payment Method used during the Transaction, sales revenue relating to processed Transactions, net sales revenue relating to processed Transactions); (ii) the number of Chargebacks and Refunds; (iii) the Buyers; and (iv) risk settings. This also includes access to the Merchant’s payment balance.

Issuer – an institution that issues Payment Methods to the Buyer and whose name appears on the Card.

MATCH (‘Member Alert to Control High Risk’) database – a database of terminated merchants maintained by MasterCard International. It is referred to in MasterCard’s Security Rules and Procedures as MATCH System.

Merchant – has the same meaning as “You”.

Merchant Payment Account(s) – Your IBAN(s) in Violet.

Merchant Products/Services – goods and/or services which the Merchant is selling on the URLs, and for which the Transactions are submitted for processing by us.

Merchant Service Fees (“MS Fees”) – the sum of all applicable including card fees, gateway fees, administration fees and any other fee as set out in the Pricing Schedule and clause 5.1 of this Agreement.

Payment Method – a method of enabling the Merchant to accept payments initiated by Buyers including Cards. The Payment Methods offered by us are published on our website [www.violet.eu](http://www.violet.eu).

Payment Scheme – the party regulating and/or offering the relevant Payment Method. This specifically includes Card Schemes such as Visa Inc., MasterCard Worldwide etc.



Payment Scheme Rules – the collective set of by-laws, rules, regulations, operating regulations, procedures and/or waivers issued by the Payment Scheme, as may be amended or supplemented over time, and with which the Merchant must comply when using the relevant Payment Method.

PCI DSS (Payment Card Industry Data Security Standards) – the security standards for transmitting, processing or storing cardholder data and sensitive authentication data.

PCI SSC – means Payment Card Industry Security Standards Council.

Personal Data – has the meaning given to it in GDPR, as amended from time to time, and is “any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to his physical, physiological, genetic, mental, economic, cultural or social identity of that natural person”. This includes but is not limited to personal and financial details of the Buyer, Merchant’s employees, directors and shareholders (or Merchant itself where it is a sole trader).

Personal Data Breach – a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.

Pricing Schedule – the schedule setting out the fees as set forth in clause 5.1 of these Terms and Conditions.

Privacy Policy- Violet's document describing the personal data processing, retention and protection matters.

Processing of Personal Data (or “Process Personal Data”) – any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

Recipient – means in relation to any particular item of Confidential Information a party that receives or otherwise obtains such Confidential Information.

Recurring Transaction – a repetitive periodic Transaction agreed in writing and in advance between the Merchant and the Buyer for which the Merchant debits Buyer’s Debit/Credit Card, such as subscriptions or instalments.

Refund – a full or partial reversal of a particular Transaction, whereby the funds are reimbursed to the Customer on the initiative or request of the Merchant.

Representative – means (i) any employee, officer or director of the Party, and appointed lawyer(s), and statutory auditors; and (ii) an advisor (e.g. accountant, financial adviser and consultant) with respect to whom a prior written consent of the Disclosing Party was obtained from the Recipient for sharing of the Confidential Information.



Reported Fraud – value of the Issuer fraud advices reported to us by the Payment Scheme.

Reported Fraud-to-sales Ratios – value of the Reported Fraud divided by the gross sales volume, and calculated on a monthly basis for a one month period.

Reserve Account – the Violet's account to which is transferred and kept the Merchant's Rolling Reserve.

Rolling Reserve(s) – an amount withheld by us from the funds received from the Payment Scheme as security for Chargebacks, Assessments or Refunds and held on the Reserve Account. The Rolling Reserve is one of the financial collateral types.

Rolling Reserves Rate – a percentage of the daily gross sales volume processed by us, which shall be subtracted from the daily settlements received by us from the Payment Schemes and held in the Reserve Account. The applicable Rolling Reserve Rate shall be set out in the Pricing Schedule.

Service(s) – as defined in clause 2 of these Terms and Conditions.

Sensitive Authentication Data – security-related information (including but not limited to card validation codes/values, full track data (from the magnetic stripe or equivalent on a chip), PINs, and PIN blocks) used to authenticate cardholders and/or authorize Transactions.

Settlement – the amount paid by us to the Merchant, with respect to the amounts received by us from the Payment Scheme for Transactions validly processed for the Merchant net of deductions.

Settlement Currency – the currency in which the funds are remitted to the Merchant.

Settlement Date – means the Business Day on which Settlement occurs.

Software – the collective set of programs and data developed and/or operated by us and provided to the Merchant so that it can receive our Services.

Sub-Processor – the entity engaged by the Data Processor or any further sub-contractor to Process Personal Data on behalf of and under the instructions of the Data Controller.

Tokenisation Service – is the process of taking sensitive information (e.g. credit card number) and substituting it with a non-sensitive string of characters, usually referred to within the payments industry as 'Card Token'. The 'Card ID' is Violet's internal term for card token.

Traffic – the profile of Merchant Transactions, including the volume of Transactions, average ticket size, spread across Payment Methods, geographical spread and other relevant information.

Transaction – a request to us by the Merchant to process the payment request and/or consent of the Buyer to his/her payment service provider in order for the Merchant to receive the payment for goods and/or services purchased by the Buyer.

Transaction/Authorization Currency – the currency in which the Transaction is originally offered to the Buyer and submitted to the Payment Schemes.



URLs – the address of any websites owned and operated by the Merchant where the Merchant accepts, or states that it will accept, payments by Payment Methods supported by us in relation to products and/or services which are purchased by the Buyer from the Merchant’s websites.

Violet/we- Via Payments UAB, reg. No. 304531663, with registered office at Konstitucijos pr. 7, Vilnius, Lithuania, data is collected and stored in the Register of Legal Entities of the Republic of Lithuania, website: [www.vialet.eu](http://www.vialet.eu), e-mail: [info@vialet.eu](mailto:info@vialet.eu), licensed as an electronic money institution, license No. 16, issued on 10/10/2017 by the supervisory authority Bank of Lithuania ([www.lb.lt](http://www.lb.lt)).

Violet’s Gateway – a payment gateway used in the provision of the Payment Gateway Service, described in clause 2.2 of these Terms and Conditions.

VMAS (“Visa Merchant Alert Service”) database – a database of terminated merchants maintained by Visa.

“You” and “Your” – refers to the legal entity or natural person (sole trader) that has concluded this Agreement and that is using the Services or otherwise exercising rights under this Agreement.

## 1. SERVICE PROVIDER

- (a) For the card acquiring services the service provider is Violet.
- (b) For the payment gateway services that the Merchant receives under this Agreement the service provider is Violet.

## 2. OUR SERVICES

The services provided by us include card acquiring services, payment gateway services, handling of funds services, and other business services (“Services”). In accepting the Services provided by us the Merchant commits to comply with the terms of these Terms and Conditions, General Payment Services Terms and Conditions, Payment Scheme Rules, Privacy Policy, and the Applicable Law relating to the supply of goods/services by the Merchant.

### 2.1 CARD ACQUIRING

As part of our card acquiring we will provide the Merchant with the following services:

- (a) Enabling Transactions to be routed to the relevant Payment Scheme;
- (b) Providing information and messaging about the status of the Transaction on the Payment Scheme network, including authorization status (e.g. authorized, declined, etc.), clearing and settlement advisement, Chargeback dispute status, etc.;
- (c) Collecting and/or receiving the funds from the relevant Payment Scheme;
- (d) Value dating and crediting the amount of the settled Transaction to the Merchant’s payment balance following our receipt of the funds from the relevant Payment Scheme;



- (e) Safeguarding of the funds;
- (f) Reconciling of: (i) the information routed to the relevant Payment Scheme with the information processed by that Payment Scheme, and communicated to us; (ii) the records and accounts of the entitlement of the Merchant to relevant funds with the records and accounts of the amounts safeguarded; and (iii) our internal records and accounts with those of our banking partners safeguarding the relevant funds;
- (g) Handling of the funds related to refunded or disputed Transactions, and supporting the representment of disputed Transactions upon the request of the Merchant;
- (h) Foreign exchange services, where applicable;
- (i) Paying out the funds to the Merchant Payment Account(s) as per clause 2.5 of these Terms and Conditions; and
- (j) Providing statements to the Merchant relating to the Settlements, Merchant Service Fees and deductions.

## **2.2 PAYMENT GATEWAY SERVICE VIA HUB**

As part of our payment gateway service we will provide the Merchant with services such as the following:

- (a) Technical reception of the information regarding the status of Transactions provided by the acquirer;
- (b) Information reporting including information related to Transactions, Merchant Service Fees, Chargebacks, Refunds, disputes, etc.;
- (c) Tokenisation Service;
- (d) Dispute resolution interface, where applicable;
- (e) Recurring billing and one-off billing management;
- (f) Settlement instruction interface;
- (g) Technically enabling an access to the Merchant via Hub to the statements relating to the Transactions, Settlements, Merchant Service Fees, and Disputes;
- (h) Technical integration support.

## **2.3 HANDLING OF FUNDS SERVICE**

As part of the handling of funds service, we will be receiving funds from the Payment Schemes.

## **2.4 OUR ACCEPTANCE OF THE MERCHANT**



(a) Our acceptance of the Merchant as a user of our Services and the relevant Payment Methods is strictly personal and limited to the use by the Merchant of the Services for payment of the Merchant's own products and services.

(b) Support for each Payment Method is subject to acceptance by the relevant Payment Scheme used, which the Payment Scheme may withhold or withdraw at their discretion at any time.

(c) You and Your Authorized Representative individually affirm to Violet that Your Authorized Representative is authorized on Your behalf to provide any information required in order for Violet to provide the Services, to bind You to this Agreement, and to make any amendments to this Agreement in accordance with its terms, via Hub or any other method required by us. We may require You or Your Authorized Representative to provide additional information or documentation demonstrating Your Authorized Representative's authority. Without the express written consent of Violet, neither You nor Your Authorized Representative may register or attempt to register for a Merchant Payment Account on behalf of a user Violet previously terminated from use of the Services.

(d) If You are an individual trader, You and Your Authorized Representative also affirm that Your Authorized Representative is personally responsible and liable for Your use of the Services and Your obligations to Buyers, including payment of any amounts owed under this Agreement.

## **2.5 VALUE DATING AND SETTLEMENT TO THE MERCHANT**

(a) Where we provide the Merchant with the card acquiring service or handling of funds service, we will record each settled Transaction to the Merchant payment balance following our receipt of the corresponding funds from the Payment Scheme.

(b) Following value dating and recording of validly processed Transactions to the Merchant payment balance, we will initiate or procure the initiation of each Settlement by transfer to the Merchant Payment Account(s) of the following: (i) the Settlement Date, or (ii) the expiry of any period of deferment in respect of the relevant Transactions.

(c) We are only obliged to remit the funds related to the Transactions for which we have received settlement(s) from the Payment Scheme, and this is net of the Merchant Service Fees and any applicable deductions. It is the Merchant's responsibility to evaluate if the conditions of Settlement (which are set by us, among others, taking into consideration the frequency of the Payment Schemes settlements to us) are acceptable to the Merchant before entering into this Agreement. Merchant agrees that any overpaid and/or unduly received funds (e.g. related to the Transactions for which we have not received the settlements from the Payment Scheme, or overpaid due to the IT infrastructure breakdown) shall be, upon our written notice to the Merchant of such overpayment, at our option: (i) deducted by us from the funds related to the subsequent Transactions before the next Settlement(s), and/or (ii) refunded immediately by the Merchant, and/or (iii) deducted from the Reserve Account.

(d) The Settlement shall be subject to any agreed Settlement threshold, as stipulated in the Hub.



(e) The Merchant understands and agrees that, to the extent permissible by the Applicable Law, we will not compensate the Merchant for late or non- performance, insolvency or bankruptcy of the Payment Scheme due to which there was a late Settlement or non-Settlement at all for processed Transactions.

(f) Notwithstanding anything to the contrary in the Agreement, we reserve the right to withhold and/or defer Settlements related to Transactions if they are submitted for authorization, but suspected to be fraudulent, suspected to be related to illegal activities or likely to become subject to a Chargeback and/or Payment Scheme investigation, until satisfactory completion of our investigation, that of the relevant Payment Scheme or that of a third party nominated by any of the parties hereby. The Merchant is obliged to give its full co-operation to any such investigation. No interest will be due over amounts held prior to Settlement to the Merchant pending the satisfactory completion of our investigation.

## **2.6 PAYMENT METHODS AND CURRENCIES SUPPORTED**

(a) We will support the use by the Merchant of the Payment Methods and currencies approved by the Payment Schemes.

(b) We may decide at our reasonable discretion, or as requested by the Payment Scheme, or the relevant regulator, to discontinue in certain circumstances the support of one or more of the Payment Methods or make future support conditional on the acceptance by the Merchant of additional conditions or fees. We will give at least 2 months' written notice of any discontinued or changed support of any Payment Method, unless this is not reasonably possible given the cause for this decision. We will use our reasonable endeavours to offer an alternative for any discontinued Payment Method to the Merchant.

## **2.7 VIALET'S FRAUD AND RISK CONTROLS**

(a) All Transactions processed by us can be screened by Vialet's anti-money laundering (AML), sanctions, fraud and risk monitoring tools, which perform a number of checks on the Transactions according to a series of risk settings and rules, which are either defined by Vialet or by the Payment Scheme, where applicable, prior to the usage of our Services, and flags transactions as potentially fraudulent or as not compliant with the requirements of legal acts.

(b) The Vialet fraud and risk monitoring tools do not guarantee the prevention of fraudulent Transactions, nor the prevention of resulting Chargebacks and/or Payment Schemes' fines. Regardless of the resulting fraud flags, Transactions may be fraudulent or non-fraudulent.

(c) We reserve the right to change the risk settings and rules in case we, at our reasonable discretion on the basis of clear and objective indications, judge the existing ones to result in an unacceptable risk of fraudulent Transactions or creating increasing Chargeback levels. Furthermore, we have the right to add new risk and fraud features and/or checks or change the existing features or checks without prior notice.

(d) For some Payment Methods, Transactions can be cancelled by the Merchant after having been authorized. The final responsibility for accepting or cancelling a Transaction will remain with the Merchant. The Merchant shall not honour delivery address changes for any Transaction after requesting the Authorization. We reserve the right to reject or cancel Transactions that we have



reasonable grounds to suspect to be fraudulent, violating AML requirements, sanctions or involving other criminal activities.

## **2.8 PROVIDING MERCHANT SUPPORT**

If the Merchant experiences problems with the Services, it may contact us via HUB. We will investigate and notify the Merchant whether the problem is related to the Services, determine the severity of the problem and use reasonable efforts to remedy the problem, if possible. We will notify the Merchant upon the resolution of any request directed to us.

## **3. MERCHANT'S OBLIGATIONS**

### **3.1 OBLIGATION TO PROVIDE MERCHANT UNDERWRITING DATA, KEEP US INFORMED OF DATA CHANGES, AND PROVIDE ANY ADDITIONAL FINANCIAL INFORMATION AS REQUIRED**

(a) In order to enable us to comply with the Applicable Law, including but not limited to anti-terrorism, sanctions, financial services, anti-tax evasion and anti-money laundering laws and regulations imposing „Know Your Customer“ (KYC) requirements, as well as with the Payment Scheme's requirements, the Merchant must, before entering into the Agreement, and thereafter on our first request, provide information: about itself, and in particular about its financial status, solvency and liquidity, its activities, its payment acquiring and processing arrangements, its shareholders, its ultimate beneficial shareholders, the Merchant Products/Services, its registered office address, as well as any and all regulatory licences and registrations required to sell Merchant Products/Services (herein defined as “the Merchant Underwriting Data”). The Merchant warrants unconditionally that all Merchant Underwriting Data it provides to us is correct and up to date, and undertakes to provide us with at least five (5) Business Days prior written notice of any material change of the Merchant Underwriting Data, including in particular (but not limited to) any change of its directors, shareholders and/or ultimate beneficial owners.

(b) In addition to data specified in (a) of this clause, we may also from time to time request the Merchant to provide additional financial and other information such as relating to: (i) the current actual or expected delivery dates for processed Transactions; (ii) estimates for the average time between Transaction authentication and the related delivery date; (iii) Merchant's ability to provide the Merchant Products/Services; (iv) Merchant's financial status, solvency and liquidity and/or (v) other information necessary for VIALET's risk management and compliance. The Merchant shall provide such requested information within five (5) Business Days of our written request.

(c) If the Merchant fails to provide the data requested in accordance with paragraphs (a) and (b), we reserve the right to suspend the provision of our Services until such data is provided and/or terminate the Agreement unilaterally.

(d) The Merchant agrees that we may run further checks on Merchant's identity, creditworthiness and background by contacting and consulting relevant registries and governmental authorities or any other relevant sources.

(e) The Merchant hereby authorizes us to submit Merchant Underwriting Data, or any other relevant information received from the Merchant, to the relevant Payment Scheme to obtain a



permission for providing access to their Payment Methods for the Merchant, or for any ongoing monitoring related purpose.

### **3.2 OBLIGATIONS AND RESTRICTIONS RELATED TO MERCHANT PRODUCTS/SERVICES**

(a) The Merchant agrees to the following obligations and restrictions:

(i) The Merchant will only use the Services for payment of those Merchant Products/Services which the Merchant registered for when entering into the Agreement with us, and which are reflected in the Merchant Underwriting Data;

(ii) The Merchant may not use the Services to facilitate the payment for products or services sold on the URLs other than the one(s) set forth in the Hub. It may not resell the Service to the third parties whether in its entirety or partially;

(iii) Prior to submitting Transactions in relation to the products and services which materially differ in value and/or type from those set out in the Merchant Underwriting Data, and could as such impact either of the following: risk and fraud profile of the Transaction, compliance with the Payment Schemes Rules and/or the Applicable Law, the Merchant must update its Merchant Underwriting Data in writing;

(iv) The Merchant is and remains solely responsible to ensure that the Merchant Products/Services sold are compliant with the Payment Scheme Rules and the Applicable Law in its country and the countries its customers are based in; and

(v) The Merchant shall not use the Services for the payment of the products and services which are illegal.

(b) Our acceptance of the Merchant as our customer should not be interpreted as an advice or opinion as to the legality of the Merchant Products/Services, and/or of Merchant's intended use of the Services therefore. Our Services may not be used (and Transactions may not be submitted for processing) for prepaying the Merchant Products/Services for which the delivery date (i.e. date on which a complete Merchant Product/Service is delivered to the Buyer who paid for the Merchant Product/Service) is in part, or in whole, more than 6 months after the date the Transaction is submitted for processing, unless we provided an explicit written consent stating otherwise.

### **3.3 OBLIGATIONS RELATING TO THE MERCHANT'S WEBSITE**

(a) The Merchant is required to provide exact URL(s) and may amend existing URLs/add new URLs from time to time, subject to our written approval, in which case the same obligations as apply to existing URLs shall apply with respect to these additional URLs.

(b) For E-commerce Transactions the Merchant agrees to include the following information clearly and conspicuously on its websites: (i) Payment Scheme's brand mark in full colour to indicate that Payment Scheme's acceptance; (ii) complete description of the Merchant Products/Services offered by the Merchant and the applicable terms and conditions; the terms and conditions should be displayed to the Buyer during the order process; (iii) complete description of the refund, return and cancellation policies (if the Merchant has a limited refund policy, it must be clearly communicated to the Buyer prior to the purchase); (iv) "click to accept" button, or other



acknowledgment, evidencing that the Buyer has accepted the return/refund policy; (v) Merchant service contact information including email address or telephone number; (vi) Merchant's European Union (EU) permanent business address; (vii) Transaction currency in both words and symbols; (viii) all export restrictions (if known); (ix) delivery policy, and special delivery policy if any; (x) Merchant's EU country which must be provided to the Buyer during the payment process; (xi) Consumer data privacy policy; and (xii) security capabilities and policy covering transmission of payment card details when the Payment Method used is a credit/debit card, or any other sensitive Buyer's details in relation to other Payment Methods. Additional information may be required, depending on the business model of the Merchant or the Payment Method used by the Merchant.

### **3.4 OBLIGATIONS RELATING TO THE SUBMISSION OF TRANSACTIONS AND REFUNDS FOR PROCESSING, INTEGRATION, AND RELATED CONSENTS**

(a) The Merchant shall ensure all data requested by us to be provided for a Transaction and/or Refund (including those needed for fraud checks) are provided with each Transaction and/or Refund submitted for processing by us. If the Merchant fails to provide the requested data with each Transaction and/or Refund, we reserve the right to immediately suspend the Transaction and/or Refund processing. We may revise the required data needed to process Transactions and Refunds from time to time by giving notice to the Merchant by email or via Hub. Where we execute a Transaction or a Refund in accordance with the data provided by the Merchant, the Transaction or Refund will be deemed to have been correctly executed by us, and/or the Payment Scheme involved. Where the data provided by the Merchant to us is incorrect, we are not liable for the non-execution or defective execution of the Transaction and/or Refund. We will however endeavour to recover the funds involved in such a Transaction and/or Refund and reserve the right to claim from the Merchant the related costs and losses to us.

The Merchant agrees to share with us the email address of the Buyer, in compliance with the applicable data protection laws, and procure and provide consent where required for us to contact the Buyer directly for the purposes of:

- (i) sending the receipt to confirm the status of Transaction and/or Refund, and/or to confirm the billing descriptor to appear on the Buyer's debit/card and bank statement;
- (ii) requesting any additional information to confirm the Transaction and/or Refund, and/or;
- (iii) performing risk and/or fraud assessments and/or investigation, and of compliance with the anti-money laundering and counter-terrorism financing laws and regulations.

(b) With respect to Card related Transactions, all E-commerce Transactions shall be submitted to us for processing through: (i) the Violet Web-based Payment Solutions, or (ii) direct server-to-server integration using Violet's Merchant API.

(c) For all Transactions processed through the Violet Web-based Payment Solutions or direct server-to-server integration, 3-D Secure authentication will be offered as an option, provided it is supported by the Payment Method used and implemented by the current Software of Violet. 3-D Secure authentication may be required and imposed by Violet should a Transaction be suspected to be fraudulent. We shall not be liable for any delays in the authentication response time or other malfunctioning of 3-D Secure authentication, where such malfunctioning is caused by third parties such as, but not limited to, the issuer banks and their 3-D Secure providers.



(d) Subject to the Merchant complying with this Agreement, Merchant's use of the Violet Web-based Payment Solutions is PCI compliant under Violet's or any Third Party involved PCI DSS.

(e) Notwithstanding clause 3.4(e) above, the Merchant must fully comply with the PCI DSS, as amended from time to time, and any other applicable standards, rules or recommendations of the PCI SSC and must complete a self-assessment questionnaire – [https://www.pcisecuritystandards.org/document\\_library?category=saqs#results](https://www.pcisecuritystandards.org/document_library?category=saqs#results) at least once annually. The Merchant is obliged to provide evidence of its compliance with PCI DSS prior to the commencement of this Agreement and thereafter at least once annually, and at any time promptly on our first request.

### 3.5 OBLIGATIONS RELATED TO RECURRING TRANSACTIONS

(a) For each Recurring Transaction the Merchant is required to obtain a prior express Recurring Transaction consent from the Buyer (including specifically the Cardholder), at the point of checkout or sale, for the Merchant Products /Services sold using our Services. The Merchant must provide the Buyer with the following information when obtaining consent: (i) the amount of the Recurring Transaction; (ii) whether the amount is fixed or variable; (iii) the date of the Recurring Transaction; (iv) whether the date is fixed or variable; and (v) an agreed method of communication for all future correspondence with the Buyer.

(b) Merchant must also, using the agreed method of communication, provide the Buyer with a confirmation that a Recurring Transaction agreement has been entered. This confirmation must be provided within two business days of entering that Recurring Transaction agreement, which must be separate from the sales agreement.

(c) The Merchant must notify the Buyer that this Recurring Transaction consent is subject to cancellation by the Buyer at any time, and should not debit or attempt to debit the Buyer's Card after being notified of the cancellation of the Recurring Transaction consent.

(d) The Merchant shall notify the Buyer in writing of the amount to be debited and the due date of the debit at least 14 days prior to (i) the first debit, and (ii) each subsequent debit (unless the Recurring Transaction consent sets out the amounts payable and the due dates and none of these have changed or other objective criteria are agreed with the Buyer for calculating the due dates).

(e) The Merchant shall retain the Recurring Transaction consent for the duration of the recurring transactions, and for a period of 18 months after the final payment that is made pursuant to it. The Merchant shall produce the Recurring Transaction consent to us on first demand.

(f) The Merchant shall not submit for processing by us an existing Recurring Transaction without our prior written consent, shall provide us with a correct Recurring Transaction indicator, the frequency of the Recurring Transactions, and the period over which the Recurring Transactions will take place, and shall comply with any and all additional Payment Scheme's requirements and/or recommendations relating specifically to Recurring Transactions.

### **3.6 OBLIGATIONS TO COMPLY WITH THE PAYMENT SCHEME RULES**

(a) The Merchant shall comply with the applicable Payment Scheme Rules, and is strongly advised to regularly review the current Payment Scheme Rules and the Applicable Law as applicable to its Merchant Products/Services and business practices to ensure compliance therewith. For violations of certain key requirements, certain Payment Schemes such as Card Schemes can levy significant fines. Where the Merchant considers the Payment Scheme Rules to be unacceptable, the Merchant is free to stop using the relevant Payment Method, however the Payment Scheme Rules (and specifically the Card Scheme Rules) and the Agreement shall apply to processed Transactions.

(b) Where we become aware of and/or receive any notice of a potential exposure to a fine related to any Merchant behaviour, the Merchant is obliged on first request provide all reasonable co-operation to help investigate the relevant circumstances and remedy the relevant violation, notwithstanding all other rights and remedies we might have in such situation as per this Agreement. Where possible we will share with the Merchant the relevant feedback regarding the potential fine by the Payment Scheme. If fines are applied for the Merchant's violations, these may be invoiced by the Payment Scheme to us as their contracting party. The Merchant shall fully indemnify and hold us harmless from any fines applied by the Payment Scheme as a result of the Merchant's breach of the terms of the Agreement and the Payment Scheme Rules. We reserve the right to apply an additional penalty of 50,000 euros for each case of violation of the rules of card schemes.

### **3.7 OBLIGATION TO IMPLEMENT RISK MANAGEMENT CONTROLS AND RECORDS RETENTION**

(a) The Merchant agrees to implement other risk management controls (including but not limited to the restrictions to certain geographies required by us to manage fraud or credit risk exposure) within a period of one month following the written notice by us. The Merchant also agrees to maintain the proper facilities, equipment, inventory and records.

(b) In addition to complying with all records retention provisions under the Applicable Law, and subject to the requirements of PCI DSS, the Merchant must maintain a copy of all electronic and other records related to the Transaction ordering and delivery of the Merchant Products/Services for a period of 18 months. The copy of the records shall include, but not be limited to: shipping details (if relevant), invoices for the delivered Merchant Products/Services and all contacts with the Buyer. In case of any investigation by us, the Payment Scheme with respect to Chargebacks, suspected fraud or other requests for information, the Merchant must fully cooperate in the auditing of such records.

### **3.8 OBLIGATIONS RELATED TO THE SECURITY OF BUYER'S PAYMENT INSTRUMENT**

(a) The Merchant guarantees not to copy, capture or intercept Buyer's payment instrument related information such as card number and Sensitive Authentication Data that are entered on the Viallet web based payment solutions. Strict rules on the security of payment instruments are imposed by the Payment Schemes (and specifically Card Schemes) and PCI SSC to protect Buyers against misuse of their payment instruments, and are strictly enforced by the Card Schemes. A violation of these rules can lead to the application of fines by the Card Schemes. If we have any reasons to believe that the Merchant is copying, capturing or intercepting the above-mentioned



information, in violation of the Payment Scheme Rules and PCI SSC's rules, recommendations and standards (including specifically PCI DSS), we reserve the right to inspect Merchant's locations and to suspend processing of Transactions and/or Refunds and to suspend Settlements. The Merchant shall fully indemnify and hold us harmless from any losses, claims (including applied fines by the Payment Scheme), costs or damages incurred as a result of the Merchant's breach of this obligation.

(b) The Merchant shall immediately notify us if any Cardholder data, Sensitive Authentication Data or similar Buyer's payment instrument related information is breached or compromised. The Merchant must strictly comply, with respect to the security of the Buyer's payment instrument, with the terms of this Agreement, and with all the requirements of the Applicable Law, of the Payment Schemes (e.g. MasterCard's Site Data Protection Program), as well as with the guidance, requirements and standards of PCI SCC such as PCI DSS.

### **3.9 OBLIGATION TO NOTIFY OF ERRORS, MISAPPROPRIATION AND/OR UNAUTHORIZED USE OF THE VIALET GATEWAY AND/OR THE HUB**

(a) The Merchant must notify us in writing immediately if it believes there has been or will be an error, or misappropriation or unauthorized use of the Hub and/or Vialet Gateway. The Merchant must give us all the information in its possession as to the circumstances of any errors and/or misappropriation or unauthorized use of the Vialet Gateway and/or the Hub and take all reasonable steps to assist us in any investigation we may conduct. We might provide third parties with the information we consider relevant in such circumstances. In order to prevent misappropriation or unauthorized use of the Hub and/or Vialet Gateway, the Merchant must keep safe any and all password(s) that are necessary to access or use the Hub, and/or any confidential instruction provided by us for the integration of the Service whether through Vialet Web-based Payment Solutions or direct server-to-server integration using Vialet's API.

(b) The Merchant shall also inform us promptly, and no later than within 13 months (or 60 days in case of corporate opt-out), after it becomes aware of any unauthorized or incorrectly executed Transaction and/or Refund, and where legally required, we shall refund the Merchant immediately for such unauthorized or incorrectly executed Refunds.

(c) The Merchant shall inform us promptly, and no later than within 13 months (or 60 days in case of corporate opt-out), after it becomes aware of any non-execution or defective execution of the Refund, and we will make immediate efforts to trace the Refund and notify the Merchant of the outcome. Where we are liable for non-execution or defective execution, and where legally required, we will immediately refund the amount of the non-executed or defective Refund subject to corporate opt-out under clause 14.8.

### **3.10 OBLIGATIONS RELATING TO ON-SITE AUDIT/INSPECTION**

(a) If we believe that a security breach or compromise of any Buyer's data has occurred, we may require the Merchant to have a third party auditor that is approved by us to conduct a security audit of its systems and facilities and issue a report to be provided to us, the Payment Schemes, and the Merchant shall be required to remedy any defects identified within a reasonable period or a timeframe given by the Payment Schemes.



(b) In addition to the above, the Merchant agrees to allow us, subject to a thirty (30) days written notice from us, to inspect its locations to confirm that the Merchant is in compliance with the terms of this Agreement, and is maintaining the proper facilities, equipment, inventory, records, licences and permits where necessary to conduct its business. Our representatives may, during normal working hours, inspect, audit and make copies of Merchant's books, accounts, records, and files pertaining to any Transaction processed under this Agreement.

### **3.11 OBLIGATIONS RELATING TO THE HUB**

You may be given access to the Hub to allow You to make certain changes to Your account including but not limited to changes to URLs, Merchant Underwriting Data and Merchant Bank Accounts. Where You have such access, You represent and warrant that only You shall make such requests via Hub and any information submitted via Hub shall be legally binding and subject to the terms and conditions of this Agreement. You are solely responsible for the accuracy and completeness of any information You submit via Hub.

## **4. CHARGEBACK, ASSESSMENT AND REFUNDS**

### **4.1 CHARGEBACK AND ASSESSMENT LIABILITY**

(a) The Merchant agrees to be held responsible and liable for: (i) any and all Chargebacks; and (ii) any assessment, fines, fees, charges or expenses of any nature which a Payment Scheme, Issuers, levy on us at any time directly or indirectly in relation to any aspect of our relationship with the Merchant (all together defined herein as "Assessment"). Each Chargeback and Assessment represents a debt immediately due and payable to us.

(b) Any Chargebacks for which the Merchant is required to reimburse us shall correspond to the whole or part of the processing value of the original Transaction.

(c) Where a Chargeback or an Assessment occurs, we shall immediately be entitled to debit the Reserve Account, Additional Collateral, and/or make a deduction from any amount received by us from the Payment Schemes in accordance with this Agreement ('settled amount'), and/or invoice the Merchant to recover: (i) the full amount of the relevant Chargeback or Assessment; and (ii) any other costs, expenses, including without limitation legal fees and other legal expenses, liabilities or fines which we may incur as a result of or in connection with such Chargeback or Assessment ("Chargeback and Assessment Costs").

(d) Where the full amount of any Chargeback, Assessment and/or any Chargeback and Assessment Costs is not debited by us from the Reserve Account, Additional Collateral, and/or deducted from any settled amount and/or invoiced, then we shall be entitled to otherwise recover from the Merchant by any means the full amount of such Chargeback, Assessment or 'Chargeback and Assessment Costs'.

(e) We shall not be obliged to investigate the validity of any Chargeback or Assessment by any Issuer, Payment Scheme, whose decision or determination shall be final and binding in respect of any Chargeback or Assessment.

### **4.2 CHARGEBACK AND ASSESSMENT PERIOD**



As Chargebacks and Assessments may arise a considerable period after the date of the relevant Transaction, the Merchant acknowledges and agrees that, notwithstanding any termination of the Agreement for any reason, we shall remain entitled to recover Chargebacks, Assessments and 'Chargeback and Assessments Costs' from the Merchant (and, where relevant, from any person who has provided us with a guarantee or security relating to Merchant's obligations under the Agreement) in respect of all Chargebacks, Assessments and 'Chargeback and Assessment Costs' that occur in relation to Transactions effected during the term of the Agreement.

#### **4.3 REFUNDS**

(a) As per clause 3.3 (b) of this Agreement the Merchant must disclose to the Buyer the description of the refund, return and cancellation policy (if the Merchant has a limited refund policy it must be clearly communicated to the Buyer prior to the purchase). The Merchant shall not: (i) give cash Refunds to a Buyer where the payment is made with a Card, or (ii) accept cash or other compensation for making a Refund to a Card.

(b) We reserve the right to refuse to execute a Refund if it is prohibited by the Applicable Law or does not meet the conditions of this Agreement. We also reserve the right to suspend Merchant's 'refund functionality' provided by us and this is where the Merchant is placed under fraud investigation, is deemed by us to be generating an excessive amount of Chargebacks, and/or for any other risk related reasons. We will notify the Merchant of such refusal or suspension, subject to any restrictions by the Applicable Law, indicating the reasons for such refusal or suspension and the procedure for correcting factual mistakes that led to it where possible. Any payment order that we refuse will be deemed not to have been received for the purposes of (i) any execution times, and in particular those set out in paragraph (b) of this clause, and of (ii) liability for non-execution or defective execution.

### **5. PAYMENTS AND FEES**

#### **5.1 MERCHANT SERVICE FEES**

(a) The Merchant shall pay to us all applicable fees set out in the Pricing Schedule or as notified to the Merchant in accordance with the notification procedure set out in clause 14.5, in which case the Merchant's use of the Services after such notification shall constitute acceptance of the terms in the Pricing Schedule.

(b) In addition, the transactions which involve a currency conversion to complete payments (e.g. processing and Settlement in different currencies) are subject to a Currency Conversion Fee of 2,5% above the wholesale exchange rate provided by xe.com. The wholesale exchange rate is determined by xe.com and is adjusted regularly based on market conditions. Adjustments may be applied immediately and without notice to the Merchant.

(c) Furthermore, the average Reported Fraud-to-Sales Ratios should not exceed 0.5 % and/or 50,000 USD per Card Scheme in any period of 3 consecutive months. Should the average Reported Fraud-to-Sales Ratios exceed 0.5 % and/or 50,000 USD per Card Scheme in any period of 3 consecutive months, in addition to the fees under (a) and (b) of this clause, the Excessive Fraud Fee shall apply, and such fee shall be payable on a rolling basis in the month that follows the relevant 3 month period in respect of which it was accrued.



(d) All of the fees referred to in (a), (b) and (c) of this clause 5.1 are together and collectively referred to in this Agreement as the Merchant Service Fees (“MS Fees”).

## 5.2 DEDUCTIONS

The Merchant shall be liable for all deductions applicable under this Agreement (“Deductions”). Deductions include: (i) Chargebacks, (ii) Assessments, (iii) Refunds, and (iv) amounts needed to comply with the Rolling Reserve Rate.

## 5.3 COLLECTION OF MS FEES AND/OR DEDUCTIONS, AND RELATED STATEMENTS

(a) We may collect the MS Fees and/or Deductions, at our option, by: (i) debiting such amounts from the received funds held by us, without notice or demand, before Settlements; (ii) debiting such amount from the Reserve Account and/or Additional Collateral Account, without notice or demand, (iii) debiting such amounts from the Merchant Payment Account(s) (iv) invoicing the amount of the MS Fees and/or Deductions to the Merchant; and/or (v) taking any lawful collection measures, in court or otherwise to collect such sums.

(b) Where the MS Fees and Deductions are collected by invoicing the amount to the Merchant, the Merchant must pay sums due under any invoice under this Agreement within ten (10) days of the date of the receipt of such invoice. Interest shall accrue on any unpaid invoice owned by the Merchant to us at the rate of ten (10) % per annum. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Merchant shall pay the interest together with the overdue amount.

(c) We provide electronic statements and/or invoices as applicable. Printed statements can be requested for subsequent statements by email (additional costs may be charged by us).

## 5.4 INFLATION

We shall be entitled to change our prices to adjust for inflation. Said price change may be applied by us only once annually and will be announced at least one (1) month in advance. For an increase under this clause, the termination right referred to in clause 10.2 (a) does not apply.

## 5.5 MS FEES CHANGE AND FURTHER INFORMATION ON MS FEES

(a) We shall have the right to change the MS Fees at any time upon one month’s notice to the Merchant. The Merchant may, however, during the one (1) month’s notice period, terminate the Agreement with us by providing a written notice.

(b) The Merchant acknowledges that the MS Fees are assessed by us based on Traffic characteristics provided by the Merchant including but not limited to the average ticket size, and the volume of Transactions. If the actual Traffic differs materially from the figures provided by the Merchant, we have the right to proportionally adjust our fees, based on the actual then-current Traffic characteristics. One of the reasons for this is that certain types of Transactions are subject to higher interchange fees and higher scheme fees (e.g. corporate cards, credit cards issued outside of specific countries, etc.).



## 5.6 RESERVE ACCOUNT, ADDITIONAL COLLATERAL AND OTHER RELATED PROVISIONS

(a) The Merchant agrees that a percentage of the daily gross sales volume processed by us will be subtracted from daily settlements received by us from the Payment Schemes (“Rolling Reserves”), and shall be retained by us in order to be used to cover for unpaid MS Fees, Deductions such as Chargebacks, Assessments, and Refunds, or other payment obligations of the Merchant under this Agreement. Rolling Reserves may be capped or converted to a fixed reserve amount after a set period of time, to be held in the Reserve Account, as determined by us. The difference between the held and released Rolling Reserves will be communicated to the Merchant in the statements under section ‘Reserve Account’. The Reserve Account is a separate element of the Merchant Payment Account, which serves the reserve functionality. The Rolling Reserves Rate shall be set out in the Pricing Schedule. However, we, at our sole discretion, may change the Rolling Reserves Rate and/or the terms of the Reserve Account based on Merchant’s payment processing history immediately upon a written notification to the Merchant. The Merchant agrees that it is not entitled to any interest on the funds credited in the Reserve Account, that it has no right to manage that account, and that it cannot and will not assign or grant any security interest in those funds or that account, or allow any encumbrance upon the funds contained on that account.

(b) Funds in the Reserve Account will remain in the Reserve Account for one hundred eighty (180) days following the date of termination set out in the termination letter of this Agreement or Merchant’s last Transaction submitted to us, provided, however, that the Merchant will remain liable to us for all liabilities occurring beyond such one hundred eighty (180) days period. If after such one hundred eighty (180) days period there is still a risk of more Deductions such as Chargebacks, Assessments, and Refunds, or other potential debt or liability, then we will have the right to withhold the funds until such risk is eliminated.

(c) In case of Merchant’s insolvency, the funds held in the Reserve Account will be available for the purposes of the insolvency administration only after one hundred eighty (180) days, and subject to any additional Merchant’s liability to us under this Agreement occurring between the Merchant’s insolvency event and the expiry of the period of one hundred eighty (180) days.

(d) In addition to the Reserve Account, we may request the Merchant to provide funds to us as non-interest bearing ‘Additional Collateral’ as a security to guarantee payment of any and all debt or liability from the Merchant to us, the Payment Schemes such as, without limitation, unpaid MS Fees, Deductions such as Chargebacks, Assessments, and Refunds, or other potential debt or liability, including those arising out of or in connection with any Settlement services. The Agreement shall also be considered a financial collateral arrangement concluded in accordance with the Law on Financial Collateral Arrangements of the Republic of Lithuania, i.e. upon providing Rolling Reserve and/or Additional Collateral the Merchant shall be deemed to have given a financial collateral with transferring ownership stipulated in the Law on Financial Collateral Arrangements. The Merchant shall not be entitled to pledge and re-pledge, transfer for possession, encumber, alienate, change the legal form of the Rolling Reserve and/or Additional Collateral.

(e) We may at our sole discretion at any time and without prior notice draw and receive amounts from the Rolling Reserve and/or Additional Collateral to cover any amounts owed to us, the Payment Schemes, which cannot be deducted from the Merchant’s Settlements because of lack of funds or otherwise. We may subsequently replenish the Additional Collateral or instruct the Merchant to do so, from Settlements and funds due to the Merchant under this Agreement or



require that the Merchant makes a payment to us for the amount required to replenish the Additional Collateral.

(f) Unless otherwise advised by us, the Additional Collateral will be held and maintained for a minimum of one hundred eighty (180) days from the termination of this Agreement. If after such one hundred eighty (180) days period there is still a risk of more Deductions such as Chargebacks, Assessments, and Refunds, or other potential debt or liability, then we will have the right to withhold the funds until such risk is eliminated. Upon expiration of this one hundred eighty (180) days period (or longer, as the case may be), any remaining amount of Additional Collateral will be transferred to the Merchant. We will inform the Merchant of any charges debited to the Additional Collateral during this period.

(g) We may change the Additional Collateral upon notice and at our sole discretion depending on refund ratios, fraud ratios, Chargeback ratios and other risk considerations.

(h) The Merchant expressly acknowledges and agrees:

(i) that the Rolling Reserve/Additional Collateral is separate to and does not form part of the funds subject to Violet's safeguarding obligations;

(ii) to any charge or debit made by us against the Rolling Reserve/Additional Collateral;

(iii) that it is not entitled to any interest on the Rolling Reserve/Additional Collateral;

(iv) that it has no right to manage the Rolling Reserve/Additional Collateral; and

(v) that it cannot and will not assign or grant any security interest in the Rolling Reserve/Additional Collateral, or allow any encumbrance upon those funds.

(i) we may, without notice to Merchant, apply deposits in the Reserve Account and/or to the Additional Collateral against any outstanding amounts owed to us under this Agreement, or any other future agreement between the Merchant and any of us. All our rights with respect to the Reserve and Additional Collateral shall survive the termination of this Agreement.

## 5.7 SET-OFF

The Merchant hereby authorizes us to set-off by whatever means the whole or any part of Merchant's liabilities to us under this Agreement (or any other contract with us) against any funds credited to or owing to the Merchant under this Agreement (or any other contract with us). We may exercise this right of set-off at any time, without notice to the Merchant, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Agreement. If the liabilities to be set off are expressed in different currencies, we may convert either liability at a market rate of exchange for the purpose of set-off. In the event such set-off does not fully reimburse us for the amount owed, the Merchant shall immediately pay us such amount. The Merchant shall hold harmless any financial institution that follows our request pursuant to this clause. Any exercise of our right under this provision is without prejudice and in addition to any rights or remedies available to us under this Agreement or otherwise. Merchant is not entitled to use set-off without the prior written consent of Violet.



## 5.8 TAXES

(a) Unless stated otherwise, all our fees, charges and other payments to be made are exclusive of VAT, and any other applicable taxes or levies under any Applicable Law, for which the Merchant will be separately liable.

(b) It is the Merchant's responsibility to determine what, if any, taxes apply to the sale of its products and services and/or the payments it receives in connection with its use of the Service ("Taxes"). It is solely the Merchant's responsibility to assess, collect, report, or remit the correct tax to the relevant tax authority. We are not obligated to, nor will we, determine whether Taxes apply, and will not calculate, collect or remit any Taxes to any tax authority arising from any Transaction, and this remains strictly Merchant's liability.

## 6. API AND OTHER SOFTWARE

### 6.1 SOFTWARE GENERAL

(a) We provide the Violet API and Software (and, where applicable, any other relevant software) to enable the Merchant to use the Service. Subject to clause 6.2, we reserve the right to change or amend these and the interface at any time, to provide the Merchant with a new version thereof, and/or to change the functionalities and characteristics, and to require the Merchant to install or update any and all software to continue using the Service.

(b) The property rights in the API, the Software and other materials, and all other intellectual property rights related to our Services are owned by us and our licensors. The Agreement does not transfer any intellectual property rights with respect thereto and only provides the Merchant with a limited, non-exclusive and non-transferable licence (without the right to sub-licence) to use the Software and all other materials made available by us solely for the purpose of using the Services in accordance with this Agreement and the applicable usage instructions communicated to the Merchant via Hub. The Merchant shall not prepare any derivative work based on Violet's intellectual property, nor shall it translate, reverse engineer, decompile or disassemble Violet's intellectual property.

### 6.2 CHANGES TO SOFTWARE

(a) No changes will be implemented by us which materially reduce the functionality of the Services which was explicitly committed to be provided under the Agreement, except where this is made necessary by: (i) the need to follow generally accepted changes in the payment industry standards, (ii) changes in the Applicable Law, Payment Scheme Rules, (iii) the need for increased security due to security risks identified by us, or (iv) other reasonable grounds which warrant the reduction of functionality. If the Merchant is significantly impacted by a material reduction of functionality due to a change in our Software and, where applicable, any other relevant software, it may terminate the Agreement by giving written notice to us within 30 days after we announced the change.

(b) We will announce material changes to the API, our Software and, where applicable, any other relevant software to the Merchant where reasonably possible at least two (2) weeks in advance to allow the Merchant to prepare for any impact. We endeavour to minimize changes to the API and applicable software. Shorter notice periods may have to be made to comply with the



Applicable Law, changes in requirements from the Payment Scheme, the need for increased security due to security risks identified by us, or in case of any updates to software.

## 7. CONFIDENTIALITY

### 7.1 CONFIDENTIALITY OBLIGATIONS

The Recipient shall:

- (a) use the Confidential Information only for the purposes of this Agreement;
- (b) not disclose Confidential Information to any third party, unless legally required or specifically authorized under this Agreement, without the prior written consent of the Disclosing Party;
- (c) disclose Confidential Information only to such of its Representatives, Payment Schemes that have a need to obtain or to have access to such information and that are obliged by a written confidentiality agreement to keep such information in confidence. For the purposes of this clause 7.1(c), notwithstanding anything to the contrary therein, where we are the Recipient, we reserve the right to disclose such information to the Merchant's shareholders;
- (d) protect and safeguard Confidential Information against unauthorized disclosure and access to a standard that it applies to its own confidential information and in any case with reasonable skill and care;
- (e) only make such copies of the Confidential Information as is necessary for the purpose of this Agreement;
- (f) promptly inform the Disclosing Party, to the extent permitted by law, of any breach or suspected breach of any of the obligations hereunder; and
- (g) upon request in writing from the Disclosing Party and at the Disclosing Party's cost, immediately deliver to the Disclosing Party all copies of all or part of the Confidential Information (regardless of the form in which, or the medium on which, it is stored) or shall destroy such information and confirm in writing (which includes email) that all copies of such information have been so delivered or destroyed as requested. However, the Recipient and its Representatives may, subject to the terms of this Agreement, retain copies of the Confidential Information to comply with (i) Applicable Law, and/or (ii) the Recipient and its Representatives' respective bona fide document retention and disaster recovery policies and procedures.

### 7.2 EXCEPTIONS TO CONFIDENTIALITY OBLIGATIONS

Clause 7.1 shall not apply to information which:

- (a) the Recipient knew or possessed before the Disclosing Party disclosed it to the Recipient;
- (b) is or becomes publicly known, other than as a result of a breach of the terms of this Agreement by the Recipient or by anyone to whom the Recipient disclosed it;



(c) the Recipient obtains from a third party, and the third party was not under any obligation of confidentiality with respect to the Confidential Information;

(d) is independently developed by, or for the Recipient, or by the Recipient's Representatives who have not had any direct or indirect access to, or use, or knowledge of, the Disclosing Party's Confidential Information;

(e) is required to be disclosed by the Recipient to a third party, which at least have the same confidentiality obligations as stated in this Agreement, for the purposes of (i) the performance of the obligations under this Agreement, (ii) equity or debt financing, (iii) the acquisition or sale of a business or assets, or (iv) the acquisition or sale of a body corporate or the shares in a body corporate; or

(f) is required to be disclosed by order of a court, or other competent public body or authority, or under the Applicable Law.

### **7.3 REMEDIES**

The parties to this Agreement acknowledge that in the event of an actual, impending or threatened breach of any term of this Agreement, damages may be an inadequate remedy and therefore, without limiting any other remedy available at law or in equity, an injunction, specific performance or other forms of equitable relief or monetary damages or any combination thereof shall be available to the non-breaching party without the need to give security or undertakings as to damages.

### **7.4 SURVIVAL OF CONFIDENTIALITY OBLIGATIONS**

The rights and obligations under clause 7 will survive the expiration or termination of this Agreement and shall stay in force for a period of five (5) years thereafter, or until such time as such information becomes public information through no fault of the Recipient.

## **8. DATA PROTECTION AND PRIVACY**

Violet's Privacy Policy, as published on our website (<https://vialet.eu/en/legal/privacy-policy>), sets out the Personal Data we may collect, the uses made of such Personal Data and the purposes for obtaining it, and other related useful information. By accepting these Terms and Conditions the Merchant acknowledges that it has read and understood the content of Violet's Privacy Policy and undertakes to acquaint its employees and beneficial owners with Violet's Privacy Policy. Personal Data includes certain details of the Processing of Personal Data as required by Article 28(3) GDPR are defined in Annex A to this Agreement.

### **8.1 ROLES OF THE PARTIES**

(a) Where we process Merchant's employees and beneficial owners Personal Data while fulfilling our obligations under this Agreement we will act as a Data Controller. In the cases specified in clause 8.1(b), the Parties act as independent clients'-related Personal Data controllers.

(b) Violet will Process Personal Data, as a Data Controller , in the following cases:



(i) Where we determine the purpose and the manner of Processing of Personal Data, for example, in order to: (i) comply with the Applicable Law (including specifically anti-money laundering and counter-terrorism financing laws and regulations), Payment Scheme Rules, EU Data Protection Law, GDPR, or (ii) perform any obligation under this Agreement;

(ii) Where the Merchant is provided with a Tokenisation Service from us, or any other similar encryption service in the provision of which we determine the purpose and the manner of Processing of the Personal Data (for the avoidance of doubt, if the Merchant decides to switch to another payment services provider, we shall not obstruct this process by withholding the Card Tokens/Card IDs);

(iii) Where we Process Personal Data for the purpose of internal research, fraud, security and risk management and assessing financial, credit, or information security risk.

## 8.2 OBLIGATIONS OF MERCHANT

The Merchant represents and warrants to us that if in relation to the Processing of Personal Data in the context of the Services it acts as a Data Controller and Vialet acts as a Data Processor, the Merchant:

(a) Complies with EU Data Protection Law in respect of Processing of Personal Data, and only gives lawful instructions to Vialet. The Merchant must comply with the personal data protection laws of the Merchant's country of origin and of those countries in which the Merchant offers Merchant Products/Services and, in particular when Processing and sending the Personal Data to us in the context of using the Services and submitting Transactions (Lawfulness of processing).

(b) Relies on a valid legal ground under EU Data Protection Law for each purpose of its personal data processing activities, including obtaining Data Subjects' appropriate consent if required or appropriate under EU Data Protection Law (Legal ground).

(c) Provides appropriate notice to the Data Subjects regarding: (1) the Processing of Personal Data for the purpose of providing the Services, in a timely manner and at the minimum with the elements required under EU Data Protection Law; (2) the existence of Data Processors located outside of Europe (Notice).

(d) Takes reasonable steps to ensure that Personal Data is accurate, complete and current; adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed; and kept in a form which permits identification of Data Subjects for no longer than is necessary for the purposes for which the Personal Data are processed unless a longer retention is required or allowed under Applicable Law (Accuracy, data minimization and data retention).

(e) Implements appropriate technical and organizational measures to ensure, and to be able to demonstrate, that the Processing of Personal Data is performed in accordance with EU Data Protection Law, including, as appropriate, appointing a data protection officer, maintaining records of processing, complying with the principles of data protection by design and by default and, where required, performing data protection impact assessments and conducting prior consultations with supervisory authorities (Accountability).



- (f) Responds to Data Subject requests to exercise their rights of: (i) access; (ii) rectification; (iii) erasure; (iv) data portability; (v) restriction of Processing of Personal Data; and (vi) objection to the Processing of Personal Data in accordance with EU Data Protection Law (Data Subjects' Rights).
- (g) Cooperates with Violet to fulfil their respective data protection compliance obligations in accordance with EU Data Protection Law (Cooperation).
- (h) Ensures that all Merchant staff are appropriately trained in line with their responsibilities under EU Data Protection Law.
- (i) With respect to Processing of Personal Data as described in article 22 of the GDPR, should such processing occur, it has put in place suitable measures to safeguard the Data Subject's rights and freedoms and legitimate interests and the right to obtain human intervention on the part of the Merchant, to allow Data Subjects to express their point of view and to contest the decision made in relation to the Data Subject.

### 8.3 OUR OBLIGATIONS

If Violet acts as a Data Processor, Violet will:

- (a) Only Process Personal Data in accordance with the Merchant's lawful written instructions and not for any other purposes than as required for:
  - (i) the provision of our Services;
  - (ii) other purposes agreed by both Parties in writing.
- (b) Promptly inform Merchant if, in its opinion, the Merchant's instructions infringe EU Data Protection Law, or if Violet is unable to comply with the Merchants' instructions.
- (c) Cooperate with the Merchant in its role as Data Controller to fulfil its own data protection compliance obligations under EU Data Protection Law, including by providing all information available to Violet as necessary to demonstrate compliance with the Merchant's own obligations and where applicable to help Merchant conducting data protection impact assessments or prior consultation with supervisory authorities.
- (d) Keep internal records of Processing of Personal Data carried out as a Data Processor on behalf of Merchant.
- (e) Assist Merchant in fulfilling its obligation to respond to Data Subjects' requests to exercise their rights as provided under EU Data Protection Law and specified under Clause 8.2(f), and notify Merchant about such requests if Violet receives it directly from the Data Subject.
- (f) Notify Merchant when local laws prevent Violet from: (1) fulfilling its obligations under this Agreement and have a substantial adverse effect on the guarantees provided by this Agreement; and (2) complying with the instructions received from the Merchant via this Agreement, except if such disclosure is prohibited by Applicable Law, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation.



(g) When the Agreement expires or upon termination of the Agreement or upon a request to delete or return Personal Data by Merchant, except for any Personal Data which Violet processes as a Data Controller, Violet will, at the choice of Merchant, delete, anonymize, or return such Personal Data to Merchant, and delete or anonymize existing copies unless applicable law prevents it from returning or destroying all or part of the Personal Data or requires storage of the Personal Data (in which case Violet will protect the confidentiality of the Personal Data and will not actively Process the Personal Data anymore).

#### **8.4 DATA TRANSFERS**

If Violet acts as a Data Processor, Merchant authorizes (and confirms that it has obtained, on our behalf, the required informed consents from the Buyer and Merchant's employees, directors and shareholders) Violet to transfer the Personal Data Processed in connection with the Services outside of the EEA in accordance with lawful data transfer mechanisms that provide an adequate level of protection under EU Data Protection Law and appropriate or suitable safeguards as required by Applicable Law.

#### **8.5 SUB-PROCESSING**

If Violet acts as a Data Processor, Merchant gives general authorization to Violet to Process and sub-process Personal Data using internal and external Sub-Processors in the context of the Services under the conditions set forth below and Violet represents and warrants that when sub-processing the Processing of Personal Data in the context of the Services, it:

- (a) Binds its internal Sub-Processors to respect the Standard Contractual Clauses and to comply with the Merchant's instructions.
- (b) Requires its external Sub-Processors, via a written agreement, to comply with the requirements of EU Data Protection Law applicable to processors and data transfers, with the Merchant's instructions and with the same obligations as are imposed on Violet by this Agreement. This will be done by using the Standard Contractual Clauses or another appropriate transfer solution.
- (c) Remains liable to the Merchant for the performance of its Sub-Processors' obligations.
- (d) Commits to provide a list of Sub-Processors to Merchant upon request.
- (e) Will inform Merchant of any addition or replacement of a Sub-Processor in a timely fashion so as to give Merchant an opportunity to object to the change or to terminate the Agreement before the Personal Data is communicated to the new Sub-Processor, except where the Services cannot be provided without the involvement of a specific Sub-Processor.

#### **8.6 SECURITY OF PROCESSING; CONFIDENTIALITY; AND PERSONAL DATA BREACH**

(a) The Parties must implement and maintain a comprehensive written information security program with appropriate technical and organizational measures to ensure a level of security appropriate to the risk, which includes, as appropriate: (a) the pseudonymization and encryption of Personal Data; (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services; (c) the ability to restore the availability and access

to Personal Data in a timely manner in the event of a physical or technical incident; and (d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organizational measures for ensuring the security of the processing. In assessing the appropriate level of security, the Parties must take into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing of Personal Data as well as the risk of varying likelihood and severity for the rights and freedoms of Data Subjects and the risks that are presented by the Processing of Personal Data, in particular from accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Personal Data transmitted, stored or otherwise Processed. (Security measures).

(b) The Parties must take steps to ensure that any person acting under their authority who has access to Personal Data is subject to a duly enforceable contractual or statutory confidentiality obligation, and if applicable Process Personal Data in accordance with the Controller's instructions (Confidentiality).

(c) The Parties must notify a Personal Data Breach that relates to Personal Data Processed in the context of the Service to the other Party, without undue delay, and no later than 48 hours after having become aware of a Personal Data Breach. Vialet will provide reasonable assistance to Merchant in complying with its obligations to notify a Personal Data Breach (Personal Data Breaches).

(d) The Parties will use their best efforts to reach an agreement on whether and how to notify a Personal Data Breach, and must document all Personal Data Breaches, including the facts relating to the Personal Data Breach, its effects and the remedial action taken (Cooperation and Documentation in case of Personal Data Breaches).

## **8.7. LIABILITY TOWARDS DATA SUBJECTS**

Subject to the liability clauses in this Agreement, the Parties agree that they will be held liable for violations of EU Data Protection Law towards Data Subjects as follows:

(a) Merchant is responsible for the damage caused by the Processing which infringes EU Data Protection Law or this Agreement.

(b) When Vialet acts as a Processor, it will be liable for the damage caused by the Processing only where it has not complied with obligations of EU Data Protection Law specifically directed to Processors or where it has acted outside of or contrary to Merchant's lawful instructions. In that context, Vialet will be exempt from liability if it proves that it is not in any way responsible for the event giving rise to the damage.

(c) Where the Parties are involved in the same Processing and where they are responsible for any damage caused by the Processing, both Merchant and Vialet may be held liable for the entire damage in order to ensure effective compensation of the Data Subject. If Vialet paid full compensation for the damage suffered, it is entitled to claim back from Merchant that part of the compensation corresponding to Merchant's part of responsibility for the damage.



## 9. SECURITY

(a) We may at any time require the Merchant to procure that a person (either legal or physical or both) or persons satisfactory to us, provide us with a guarantee and/or indemnity in respect of the Merchant's obligations (including contingent or potential obligations) from time to time under the Agreement. In such case a separate document from this Agreement must be executed by the Merchant.

(b) We may at any time require the Merchant to grant to us, or procure the granting to us of, security other than guarantees or indemnities in such form, including the requirement to put funds into a bank account which we may specify (including a trust or other account which we may establish for such purpose) and over such assets (and free of other security interests or subject only to such other security interests and other rights as we shall permit) to secure to our satisfaction the performance of Merchant's obligations (including contingent or potential obligations) from time to time under this Agreement.

(c) We may exercise our rights under this clause either to require additional security or to require the replacement of a previous security which has been withdrawn or which we, for any reason, require to be replaced.

(d) Without prejudice to any other provision of the Agreement, Merchant's failure to comply with any requirement made under this clause 9 strictly in accordance with the relevant time limits shall constitute a material breach of this Agreement allowing for immediate termination without notice.

## 10. TERM AND TERMINATION

### 10.1 TERM AND VOLUNTARY TERMINATION

This Agreement is effective upon the date You accept these terms and conditions, by electronic means or otherwise, and except where explicitly agreed otherwise in the Agreement, the Agreement is entered into for an indefinite period until it is terminated: (i) by us by giving one (1) month's prior written notice to the Merchant; or (ii) by the Merchant by giving one (1) month's prior written notice. The rights of the Violet indicated in the article 5.6. of this Agreement will remain in force and survive during the 180 days after the Termination of the Agreement.

### 10.2 IMMEDIATE TERMINATION

(a) The Merchant has the right to terminate the Agreement immediately in accordance with clause 11(a) relating to the Change of this Agreement.

(b) We have the right to terminate the Agreement and/or to suspend the provision of any Service to the Merchant immediately upon written notice in part, or in whole, if:

(i) The provision of Merchant Products/Services is reasonably suspected by us to be in breach of the Applicable Law (including but not limited to anti-money laundering and terrorist financing legislations) and/or the Payment Schemes Rules; or



- (ii) The Merchant has been listed on any of the financial sanction lists, Office of Foreign Asset Control's SDN list, World-Check, or a Payment Scheme's fraud and risk databases such as MATCH, VMAS or equivalent; or
  - (iii) The Merchant infringes or is suspected of infringing intellectual property rights, copyrightable works, patented inventions, trademarks and trade secrets, or is suspected of selling counterfeit and/or knockoff products/items/goods; or
  - (iv) The Merchant materially changes the type of the Merchant Products/Services without obtaining our prior written permission to use the Services for the new or changed types of Merchant Services/Products, or it is discovered by us that the Merchant provided substantially misleading and/or false information about the Merchant Products/Services as part of the Underwriting Data; or
  - (v) The Merchant materially breaches any of the terms of the Agreement, the Payment Scheme Rules, and/or Applicable Law in the context of using the Services; or
  - (vi) The Payment Scheme demands us to terminate or suspend providing Services to the Merchant with respect to Services made available by such Payment Scheme to us; or
  - (vii) The ratio of Chargebacks to Transactions exceeds 0.9% and/or 100 cases per Card Scheme, the Reported Fraud-to-Sales Ratios exceeds 0.5 % and/or 50,000 USD per Card Scheme, or we otherwise consider, at our sole and absolute discretion, that the total value of the Refunds, Chargebacks, and/or Reported Fraud, and/or the number of declined authorization requests and/or the number of Buyer complaints is excessive ("Excessive Activity"); or
  - (viii) We consider that there are clear indications that the Merchant is, or is likely to become (I) insolvent or subject to any insolvency proceedings (whether voluntarily or involuntarily) and/or (ii) unable to provide a material part of the Merchant Products/Services; or
  - (ix) The Merchant: 1) refuses to provide security requested in accordance with clause 9 of this Agreement, and the withdrawal, removal, termination or unenforceability of any security in relation to which we rely upon, or 2) grants to a third party any security or charge over all or a significant proportion of its assets; or
  - (x) The change of control of the Merchant, or a sale or other disposal of any substantial division or part of Merchant's business, that we consider at our sole discretion would adversely affect us or our ability to comply with the Applicable Law; or
  - (xi) The Merchant undertakes or has undertaken activities (such as scams or other fraudulent activities) which in our reasonable opinion are detrimental to our brand, image or reputation, or that of any Payment Schemes; or acts in a manner that, in our reasonable opinion, may or does give rise to increased risk of losses or liabilities to any of us.
- (c) When the Merchant has been immediately terminated under 10.2(b), we reserve the right to report such Merchant to the Payment Schemes for entering into MATCH, VMAS or equivalent databases of terminated merchants, in accordance with the applicable Payment Scheme Rules.



(d) This Agreement shall terminate immediately, without notice, in the event the Merchant does not satisfy Violet's initial customer due diligence checks based on the Merchant Underwriting Data submitted by the Merchant.

(e) In any case of the Immediate termination mentioned above. The rights of the Violet indicated in the article 5.6. of this Agreement will remain in force and survive during the 180 days after the Termination of the Agreement.

## 11. CHANGES TO THE AGREEMENT

(a) We may revise the Agreement from time to time by giving one(1) month's written notice to the Merchant via email, post, via a notice in the Hub or by posting such changes on our website ("Change"). If the Merchant does not notify us of its objections to the Change within one (1) month of our written notice of the Change, the Merchant will be deemed to have accepted the Change. If the Merchant notifies us of his objection to the Change within a period of one (1) months of our written notice of the Change, and we still do not withdraw the Change, the Merchant may terminate the Agreement immediately by giving us a written notice after the entry into force of the Change. However, if the Merchant does not object to the Change by terminating this Agreement within five (5) Business Days of the entry into force of the Change, it will be deemed to have accepted it. The Merchant's use of the Services after we provide any such notice, constitutes the Merchant's acceptance of the terms of the modified Agreement. The Merchant still remains liable to us after the termination of this Agreement for any liability it might have incurred and is responsible for prior to terminating this Agreement.

(b) The one (1) month notice period will not apply where: the Change (i) relates to interest rate or exchange rates and, in our reasonable opinion, is more favourable to the Merchant, or (ii) relates to the addition of a new service or extra functionality to the existing Service. In such instances, the Change will be made and shall be effective immediately upon giving the Merchant notice of it.

(c) The Merchant is not entitled to object to and shall not have the rights set out in this clause for any change, which we implement in order to comply with Applicable Law or requirements by the relevant Payment Schemes. For such imposed changes shorter notice periods may be imposed.

## 12. REPRESENTATIONS AND WARRANTIES

The Merchant represents and warrants to us that:

(a) it, shall not, directly or indirectly, mischaracterise or disparage any of us, our Representative or Violet;

(b) it shall not use the Services in connection with any illegal or fraudulent business activities;

(c) it is a validly organised and validly existing company in good standing under the laws where its principal office is located and shall inform us immediately should this change;

(d) it has obtained and shall maintain any and all licences, permits and registrations required under the Applicable Law to conduct its business in all jurisdictions where it sells the Merchant Products/Services, and shall inform us immediately should this change;



(e) it has the power to execute, deliver and perform this Agreement, and this Agreement is duly authorized, and will not violate any provisions of law, or conflict with any other agreement to which such party is subject;

(f) to the best of its knowledge, there is no action, suit or proceeding at law or in equity now pending or threatened by or against or affecting the Merchant which would substantially impair its right to carry on its business as now conducted or adversely affect its financial condition or operations;

(g) it has never experienced excessive Chargebacks, committed fraud, nor has it ever been terminated by an acquirer or asked to terminate its agreement with an acquirer or subject to any Payment Scheme's monitoring programme(s);

(h) its directors, shareholders and ultimate beneficial owners have never been convicted of a criminal offence and are not currently subject of any investigation relating to any criminal offence or sanctions, and the Merchant undertakes to inform us immediately should this change;

(i) its directors, shareholders and ultimate beneficial owners are not listed on any of the applicable financial sanction lists, EU sanctions list, and U.S. Department of Treasury's Office of Foreign Asset Control SDN list, and the Merchant undertakes to inform us immediately should this change.

### **13. INDEMNITY, LIABILITY AND LIMITATION OF LIABILITY**

#### **13.1 INDEMNITY**

(a) In any case where damages, costs and expenses are asserted against the Merchant by third parties who claim that they are the owner of any intellectual property (IP) rights regarding our Software and/or systems we shall indemnify the Merchant without delay for these third-party claims, including Merchant's reasonable costs of its legal defence, and offer the Merchant the necessary assistance in its legal defence.

(b) The Merchant shall indemnify for and hold each one of us harmless from any claim (including reasonable legal fees) brought against us by any third party (expressly including the Payment Schemes and their claims for payments of Assessments and related costs) arising out of: (i) Merchant's or its employees' or agents' breach of the terms of the Agreement, (ii) Merchant's or its employees' or agents' breach of the Applicable Law and/or of the Payment Scheme Rules applying to the Services used by Merchant.

(c) The Merchant shall indemnify for and hold each of us harmless from any losses related to Chargebacks, Assessments and 'Chargeback and Assessment Costs', third party IP right infringements, and any other losses, claims, actions, injuries, liabilities, fines, penalties or expenses (including reasonable legal costs) arising out of or in connection with this Agreement. We have the right to withdraw funds without prior notice and Merchant accept from Merchant Payment Accounts or any other account of the Merchant in Vialet.

#### **13.2 EXCLUSION OF LIABILITY FOR PAYMENT SCHEMES AND ISSUERS**

(a) We will only be liable for our own acts or omissions and not for acts or omissions of third parties. This expressly excludes our liability for acts or omissions of the Payment Schemes, and issuers, or for events or activities originating outside our system (such as infrastructure failure,



internet disturbances or malfunctioning in third party systems), except in case such events were caused by our wilful misconduct or gross negligence.

(b) We shall not be liable to the Merchant or any third party for any liquidated, indirect, consequential, exemplary, or incidental damages (including damages for loss of business profits, business interruption, loss of business information and the like) arising out of this Agreement.

### **13.3 LIMITATION OF LIABILITY**

Subject to clause 3.9, and to the fullest extent permitted by the Applicable Law, our total liability or the total liability of Violet (and our and their respective employees, directors, agents and representatives) arising out of or in connection with this Agreement, whether in contract or in tort or other legal theory, shall not exceed the total amount of the Merchant Service Fees (net of the applicable Interchange and Payment Scheme fees) in connection with the Merchant's use of the Service during the twelve (12) months period immediately preceding the event giving rise to the claim for liability.

### **13.4 NO EXCLUSION OF LIABILITY**

Nothing in this Agreement shall exclude or limit any liability of any party for fraud, death, personal injury or gross negligence.

## **14. GENERAL PROVISIONS**

### **14.1 ASSIGNMENT AND AGENCY/SUBCONTRACTING, PARTNERSHIP**

(a) Subject to the Applicable Law and the Payment Scheme Rules, we shall be entitled, at any time, to assign, novate or otherwise transfer this Agreement or any of Merchant's rights and obligations to the Payment Scheme, without the prior consent of the Merchant by providing written notice to the Merchant of such transfer.

(b) As the Agreement is specific to the Merchant, in relation to which the Merchant undergoes a due diligence approval process, the Merchant may not assign it, novate it, or transfer it or any of its rights under it without our consent.

(c) We may appoint at any time, and without prior notice to the Merchant, an agent or subcontractor to perform any of our obligations under the Agreement. The Merchant may only use an agent or sub-contractor for the performance of its obligations under the Agreement with our consent, and we may reasonably withhold that consent at any time.

(d) Nothing in this Agreement shall be construed as constitution of a partnership between the Parties, except where expressly provided, nor shall it constitute, or deem to constitute, one party as the agent of any other party for any purpose.

### **14.2 SEVERABILITY**

If any provision of this Agreement is found by any court or a competent public body or authority to be illegal, invalid or unenforceable:



(a) such illegality, invalidity or unenforceability shall not affect the other provisions of this Agreement, which shall remain in full force and effect; and

(b) if such provision would cease to be illegal, invalid or unenforceable if some part of the provision were modified or deleted, the provision in question shall apply with such minimum modification or deletion as may be necessary to make it legal, valid and enforceable.

#### **14.3 ENTIRE AGREEMENT**

(a) The parties agree that the Agreement constitutes the entire agreement between them, and supersedes all other prior agreements, arrangements, understandings or representations between them, whether oral or written, other than any securities or written pledges, undertakings or assurances which the Merchant may have previously given to us as a condition precedent or in anticipation of the Agreement.

(b) Each party to this Agreement warrants that it has not relied on any representations, arrangements, understanding or agreement (whether written or oral) not expressly set out or referred to in the Agreement. The only remedy available to any party in respect of any such representations, arrangements, understanding or agreement shall be for the breach of contract in accordance with the terms of this Agreement.

#### **14.4 MARKETING AND OTHER USE OF LOGOS**

(a) The Merchant agrees that its name and standard logo (as published by the Merchant) may be included by us on the Violet client list on our website and in our marketing materials. We shall be entitled to use the said list freely in our commercial efforts. The Merchant also agrees that its name and standard logo may be included by us in our communications with the Buyer in relation to the Transaction. Any other use of Merchant's name, logo or information shall only occur with the Merchant's prior written consent which the Merchant shall not unreasonably withhold.

(b) The Merchant may on its website in the information related section refer to us as its payment service provider, explaining that this is the reason why the name of Violet (or other Violet names, our trade name or similar) may appear on bank statements of the Merchant. The Merchant may also include an Internet link to the website of Violet in such a context. The Merchant may not use our logo anywhere else on its website, or otherwise, without the prior express written approval of Violet.

#### **14.5 NOTICES AND CONSENT TO ELECTRONIC COMMUNICATIONS AND ELECTRONIC SIGNATURE CONSENT**

(a) Any notice or other official communication given to a party under or in connection with the Agreement shall be in writing and in the English language, and (in the case of (i), (ii) and (iii) as follows) addressed to that party at its registered office address or such other address as that party may have specified to the other party in writing in accordance with this clause and shall be:

- (i) delivered personally,
- (ii) sent by pre-paid first class post or other next working day delivery service,
- (iii) delivered by a commercial courier,
- (iv) emailed to the email address specified in writing or as set out in the Hub,
- (v) published in The Hub, or



(vi) published on our website.

All official letters to us in relation to this Agreement shall be delivered to the attention of the Office of Violet at the registered address indicated in this Agreement or any other address that we may have specified to the Merchant in writing in accordance with this clause.

(b) A notice or other communication shall be deemed to have been received:

(i) if delivered personally, when left at the address;

(ii) if sent by pre-paid first class post or other next working day delivery service, at 9.00 a.m. on the second Business Day of the recipient after posting;

(iii) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed;

(iv) if sent by email, one Business Day after the transmission;

(v) if published in the Hub, after Merchant's logged into The Hub or received a notification about this publication in the Hub via any notice means set out in clause 14.5(a); or

(vi) if published on our website, 24 hours after it is posted.

(c) The Merchant confirms that it has internet access and has an email account to receive notices, communications and information relating to the Services. The Merchant agrees to the receipt of electronic communications and notices by email, by posting of the information on Violet's website, or posting of the information in the Hub. Such communications may pertain to the Services delivered by us, changes in laws or rules impacting the service or other reasons, such as amendment of this Agreement. The Merchant may request a copy of any legally required disclosures (including this Agreement) from us and we will provide this to the Merchant in a form which allows it to store and reproduce the information (for example, by email or via Hub) and the Merchant may terminate its consent to receive required disclosures through electronic communications by contacting us as described in clause 14.5 of the Agreement. We may charge the Merchant a records request fee to provide this information. We reserve the right to terminate this Agreement if the Merchant withdraws its consent to receive electronic communications.

(d) Where Merchant has concluded this Agreement with Violet via Violet's website or via any other online means, we may at any time request that the Merchant re-confirms its acceptance of the terms of the Agreement by means of a written document signed by an authorized representative of the Merchant. If the Merchant does not comply with such request within 5 Business Days after receiving a request by Violet to do so (which request may be issued to Merchant via the contact email address submitted by Merchant when concluding the Agreement), Violet reserves the right to suspend part or all of the Services until the Merchant has complied with such request.

#### 14.6 **WAIVER**

(a) A waiver of any right or remedy under this Agreement or under Applicable Law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.

(b) A failure or delay by a party to exercise any right or remedy provided under this Agreement or under the Applicable Law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or under the Applicable Law shall prevent or restrict the further exercise of that or any other right or remedy.



#### **14.7 GOVERNING LAW AND JURISDICTION**

(a) This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of Republic of Lithuania.

(b) Each party irrevocably agrees that the courts of Republic of Lithuania shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims), provided always that we shall not be limited to the forum of Republic of Lithuania for the enforcement of any judgement relating to this Agreement and shall have the right to bring the relevant action in any jurisdiction where the Merchant is incorporated or may have assets.

#### **14.8 FORCE MAJEURE**

We shall be relieved from our obligations under this Agreement insofar as we were prevented from undertaking our obligations under this Agreement by reason of force majeure. For this clause to apply, circumstances such as the following shall be considered as reasons of force majeure: fire, flooding, earthquake and other natural disasters; industrial actions; terrorism or vandalism (including computer virus and hacking); mobilisation; war; riots; civil unrest; requisition; sanctions, currency exchange restrictions; any law or any action taken by a government or public authority including without limitation failing to grant a necessary licence or consent; revolt; interruption or failure of utility service; and more generally circumstances beyond our control and preventing us to meet our obligations. This clause does not have geographical limitation and specifically includes among others force majeure events in the Republic of Lithuania and the Republic of Latvia.

#### **14.9 ADDITIONAL COMPONENTS**

(a) In addition to the terms and conditions set out herein, the Agreement also includes the information set out in the Pricing Schedule, General Payment Services Terms and Conditions, Privacy Policy, Hub and any Applications.

(b) The Merchant accepts all of the documents and/or rules listed in this clause 14.9 as part of this Agreement.

## Annex 1. Pricing Schedule

### 1. General information.

#### 1.1. URLs:


#### 1.2. Payment methods

MasterCard, VISA
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#### 1.3. Authorisation currencies

EUR, USD,
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### 2. Financial conditions.

#### 2.1. Transaction fees

Nr.	Payment Method	Market	MDR	Transaction costs	Min transaction cost
2.1.1.	MC	EU	0.8 %	0.10 EUR	N/a
		Non EU	2.9 %	0.10 EUR	N/a
2.1.2.	VISA	EU	0.8 %	0.10 EUR	N/a
		Non EU	2.9 %	0.10 EUR	N/a

#### 2.2. Rest fees

2.2.1.	Decline transaction fee	0.10 EUR
2.2.2.	Refund fee	1 EUR
2.2.3.	Retrieval request	5 EUR

2.2.4.	Chargeback fee	15 EUR + Scheme fees
2.2.5.	Excessive chargeback fee above 0.9% and/or 100 cases per month per Card Scheme	50 EUR + Scheme fees
2.2.6.	Fraud transaction fee	15 EUR
2.2.7.	Excessive fraud transaction fee above 0.5% and/or 50,000 USD per month per Card Scheme	50 EUR
2.2.8.	Rolling reserve	10% for 90 days or 5% for 180 days
2.2.9.	Monthly maintenance fee	Free of charge

### 3. Limits.

3.1.	Min transaction volume	5 EUR
3.2.	Max transaction volume	5000 EUR
3.3.	BIN blocks	Not applicable
3.4.	Chargebacks limits	0.9% and/or 100 cases per month per Card Scheme
3.5.	Fraud transaction limits	0.5% and/or 50,000 USD per month per Card Scheme
3.6.	Turnover limits	

### 4. Settlement Cycle.

4.1.	Settlement period	Financial business day
4.2.	Settlement day	T+3 (business days)
4.3.	Settlement currency	EUR
4.4.	Settlement fee	Free of charge

4.5.	Exchange rate	Xe.com+0,5%
4.6.	Exchange cycle	On Settlement Day

5. Merchant Payment Account.

5.1.	EUR IBAN	

**ANNEX 2 on Personal data**

This Annex 2: Personal Data includes certain details of the Processing of Personal Data as required by Article 28(3) GDPR.

**1. CATEGORIES OF DATA SUBJECTS**

1.1 The categories of Data Subject to whom the Personal Data relates:

Customer him/herself	<input checked="" type="checkbox"/>
Customer related person (representative, contact person, shareholder, beneficial owner)	<input checked="" type="checkbox"/>
Former customer	<input checked="" type="checkbox"/>
Perspective customer	<input checked="" type="checkbox"/>
Guarantor, pledge/collateral provider	
Employee	<input checked="" type="checkbox"/>
Former employee	<input checked="" type="checkbox"/>

Perspective employee	<input checked="" type="checkbox"/>
Family member (customers', employees')	<input type="checkbox"/>
Other (Payment recipient - provider of service for the Customer)	<input checked="" type="checkbox"/>

## 2. NATURE AND PURPOSES OF THE PROCESSING

2.1 The Processing of data is necessary for the following purpose:

2.1.1 Payment information – merchant's clients payment data needed to process the purchase and send the Invoice.

2.1.2 Application of the merchant – company data necessary to setup an account for the merchant.

2.2 Personal Data will be processed as necessary for the provision of the Services pursuant to the Agreement and as explained in the Services description.

## 3. TYPES OF DATA

3.1 The types of Personal Data to be Processed:

name, surname	<input checked="" type="checkbox"/>	tax identification number	<input checked="" type="checkbox"/>	debt	<input type="checkbox"/>
personal id number	<input checked="" type="checkbox"/>	source of income / funds / wealth	<input type="checkbox"/>	information on social security contributions and insurance period	<input type="checkbox"/>
residence address (domicile)	<input checked="" type="checkbox"/>	transactions	<input checked="" type="checkbox"/>	information on payable pension/ allowance/ indemnification	<input type="checkbox"/>
postal address	<input checked="" type="checkbox"/>	employer / previous employer	<input checked="" type="checkbox"/>	legal proceedings	<input type="checkbox"/>

phone number	<input checked="" type="checkbox"/>	position / previous position	<input checked="" type="checkbox"/>	location data	<input type="checkbox"/>
e-mail address	<input checked="" type="checkbox"/>	working experience	<input type="checkbox"/>	correspondence records	<input type="checkbox"/>
gender	<input checked="" type="checkbox"/>	monthly salary and other regular income	<input type="checkbox"/>	bank account	<input checked="" type="checkbox"/>
date of birth	<input checked="" type="checkbox"/>	financial liabilities	<input type="checkbox"/>	risk profiling and classification	<input type="checkbox"/>
country of birth	<input checked="" type="checkbox"/>	marital status	<input type="checkbox"/>	card information	<input checked="" type="checkbox"/>
citizenship	<input checked="" type="checkbox"/>	number of dependents and/or family members	<input type="checkbox"/>	login of internet usage	<input type="checkbox"/>
passport data	<input checked="" type="checkbox"/>	property	<input type="checkbox"/>	professional certificates	<input type="checkbox"/>
photography (EXCLUDING passport)	<input type="checkbox"/>	education	<input type="checkbox"/>	transaction amount	<input checked="" type="checkbox"/>
residence for tax purposes	<input type="checkbox"/>	participation in companies	<input checked="" type="checkbox"/>	invoice details	<input checked="" type="checkbox"/>

#### 4. SENSITIVE DATA (IF APPROPRIATE)

4.1 The Personal Data to be processed fall within the following categories of sensitive data:  
*No special categories of personal data.*

#### 5. STORAGE LIMIT

5.1 Personal Data may be processed and stored for the period necessary to fulfil the intended purposes set out in the Agreement in so far as is necessary for the processing under this agreement and to comply with Applicable Law.