

## 1. Definitions

**"Affiliate"** means, with respect to either Party, any entity that directly or indirectly controls, is controlled by, or is under common control with that Party. For the purposes of this definition, 'control' refers to the power to direct or influence the management and policies of an entity, whether through ownership of voting securities, contract, or other means.

**"Agreement"** means this agreement including the Merchant Order Form, the Merchant Terms & Conditions as well as any schedules.

**"AML Regulations"** means all applicable laws and regulations related to anti-money laundering and terrorist financing, including but not limited to Directive (EU) 2018/843 of the European Parliament and Council of 30 May 2018, which amends Directive (EU) 2015/849 on preventing the use of the financial system for money laundering or terrorist financing, as well as amending Directives 2009/138/EC and 2013/36/EU, as transposed into national legislation (the "AML Directive"), as amended from time to time.

**"API" or "Ivy API"** means Ivy's Application Programming Interface used to provide the Service.

**"Applicable Law"** means all legally binding laws, legislation (including statutes, statutory instruments, treaties, regulations, orders, directives, by-laws, and decrees), common law, regulatory rules, guidance, license conditions, judgments, resolutions, decisions, orders, notices, demands, industry guidelines, or codes of conduct issued by any Authority in any jurisdiction applicable to the relevant party, including, without limitation, EU Consumer Protection and Financial Promotions rules.

**"Authority"** means any regulatory, legislative, administrative, supervisory, or governmental agency, body, or authority, or competent court or tribunal in any jurisdiction to whose rules, regulations, or guidance any party (or any assets, resources, or business of such party) is, from time to time, subject or submits.

**"Collection Services"** means the provision of a Collection Account for payment collection, payouts, settlements, and other related products by Ivy Pay Oy.

**"Collection Terms & Conditions"** means Schedule C of this Agreement.

**"Confidential Information"** means any information, regardless of its form or medium, disclosed by one Party ("Disclosing Party") to the other Party ("Receiving Party") during the term of this Agreement, that is either (i) marked as 'confidential' or 'proprietary,' or (ii) disclosed under circumstances that reasonably suggest the information is confidential or proprietary by its nature. Confidential Information includes, but is not limited to, business plans, strategies, financial information, trade secrets, technical data, and other sensitive information.

**"Data Subject"** shall have the meaning ascribed to it in the DP Laws.

**"Discount"** means any incentives, rebates, or other commercial arrangements agreed upon by the Parties from time to time. Such Discounts shall be documented in the Merchant Order Form and may include any adjustments or modifications to pricing or fees as specified therein.

**"DP Laws"** means all applicable laws and regulations in any relevant jurisdiction relating to the use or processing of personal data including: (i) EU General Data Protection Regulation 2016/679 ("GDPR"); (ii) the GDPR as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 and as amended by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulation 2019 (SI 2019/419) ("UK GDPR"); (iii) any laws or regulations ratifying, implementing, adopting, supplementing or replacing the GDPR (iv) in the UK, the Data Protection Act 2018 (the "DPA") (v) any laws and regulations implementing or made pursuant to EU Directive 2002/58/EC (as amended by 2009/136/EC) and (vi), in the UK, the Privacy and Electronic Communications (EC Directive) Regulations 2003; in each case, as updated, amended or replaced from time to time.

**"Effective Date"** shall be the date this Agreement is fully executed by both Parties.

**"End User"** means the natural or legal person who is the payer in respect of a Pay-in and the payee in respect of a payout.

**"Fees"** means the fees to be paid by the Merchant for access to the Service, as agreed upon in the Merchant Order Form.

**"Implementation"** means the integration and implementation of the Service.

**"Intellectual Property Rights"** means all patents, rights to inventions, utility models, copyrights and related rights, trademarks,

service marks, trade names, business names, domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets), and any other intellectual property rights, whether registered or unregistered, including all applications for and renewals or extensions of such rights, as well as all similar or equivalent rights or forms of protection in any jurisdiction.

**“Ivy Group”** refers to Ivy GmbH and its affiliated subsidiaries.

**“Ivy Service(s)”** means the product(s) applicable according to the Merchant Order Form.

**“KYC Data”** means personal data and other information pertaining to a specific End User such as name, full address, date of birth, personal identification number, bank, and bank account number.

**“KYC Service”** means the provision of KYC Data, when applicable.

**“Market”** means the countries specified in the Merchant Order Form.

**“Merchant Dashboard”** means the virtual portal provided by Ivy to the Merchant.

**“Merchant Onboarding”** means Ivy’s initial onboarding of the Merchant as well as any additional documentation or information requested by Ivy from time to time to supplement or update the initial onboarding.

**“Merchant Order Form”** means the Merchant Order Form which forms an integral part of the Agreement.

**“Merchant Platform”** means the website, mobile application, or other technical solution operated by the Merchant, into which the Solution is to be integrated.

**“Merchant Terms & Conditions”** means these Merchant Terms & Conditions as amended by Ivy from time to time.

**“Pay-in”** means a payment transaction initiated from an End User’s bank account. Pay-ins may be collected in a collection account (Collection Services) or directly transferred to the merchant’s bank account (Direct Settlement).

**“Payout”** means a payment transaction is executed from a partner account to an End User’s bank account. Payouts require Collection Services.

**“Personal Data”** means in respect of PIS, the Personal Data of End Users.

**“Sanctioned Person(s)”** means a natural person or legal person subject to Sanctions.

**“Sanctioned Country(ies)”** means a country or territory subject to Sanctions.

**“Sanctions”** means sanctions administered by or enforced by the United States, the United Nations Security Council, the United Kingdom, the European Union, a member state of the European Union or other relevant sanctions authority.

**“Service Legal Agreement”** or **“SLA”** means Schedule A of this Agreement.

**“Specifications”** means the specifications for the Ivy Service set out in the documentation relating to the implementation or operation of the Service.

**“Stablecoin Services”** means the exchange of FIAT funds to stablecoins and vice versa by Ivy Pay Sp. z o.o. or an external provider.

**“Stablecoin Terms & Conditions”** means Schedule D of this Agreement.

**“Term”** means the period for which this Agreement shall remain in effect between the Parties, as set out in the Merchant Order Form and as extended from time to time.

**“Transaction Fee(s)”, “Fee(s)”** means the transaction fee(s) specified in the Merchant Order Form payable by the Merchant to Ivy in consideration of the Service.

## **2. Representation and Warranties**

Merchant hereby covenants, represents, and warrants to Ivy that:

- 2.1.** Merchant has full corporate power and authority to own, lease and operate its property and to carry on its business as conducted and is duly qualified to, and is in good standing, in all jurisdictions wherein the nature of its business or its ownership, lease or operation of property requires Merchant to be qualified as a foreign corporation or where the failure to qualify might impair its right to enforce its contracts or expose it or its business, properties or assets to material liabilities.
- 2.2.** Merchant has all the necessary licences and permits for its business activities and will conduct its business in compliance with Applicable Law and regulations.
- 2.3.** Merchant has full corporate power and authority to enter into and execute the Agreement, the Merchant Terms & Conditions, and all other agreements specified in or contemplated by the Agreement, and to perform its obligations under each of these documents. The execution and delivery of the Agreement by the Merchant have been duly authorized by all requisite corporate actions on its part.
- 2.4.** Neither the execution and delivery by Merchant of the Agreement or any of the instruments or agreements herein referred to nor the consummation by it of any of the transactions contemplated hereby or thereby nor the performance by Merchant of the Agreement or any of the instruments or agreements herein referred to in accordance with their respective terms requires the consent, approval, order or authorization of, or registration with, or the giving of notice to any governmental body or any third party.
- 2.5.** Neither the execution and delivery of the Agreement, nor any of the instruments or agreements referenced herein, nor the consummation of any of the transactions contemplated thereby, will contravene any existing law, rule, regulation, judgment, decree, or order applicable to or binding upon the Merchant.
- 2.6.** Merchant warrants and declares that it will not, and will not allow its Affiliates or any third party to: (i) copy, sell, license, distribute, transfer, modify, adapt, translate, prepare derivative works from, decompile, reverse engineer, disassemble any of the intellectual property provided by Ivy; (ii) use the products or services provided by Ivy to access, copy, transfer, transcode or retransmit content in violation of any law or third party rights.
- 2.7.** Merchant acknowledges that Ivy is solely a technology provider and is not and will at no event be deemed to be a party to any transaction between the Merchant and its End Users or brands. The Merchant will be solely and exclusively liable to its End Users and brands and will be solely responsible to any relationships between the Merchant and its End Users.
- 2.8.** Neither the Merchant nor any of its subsidiaries nor, to the knowledge of the Merchant, any director, officer, agent, employee or Affiliate of the Merchant or any of its subsidiaries (i) is, or is controlled or 50% or more owned in the aggregate by or is acting on behalf of, one or more individuals or entities that are currently the subject of any

Sanctions, (ii) is located, organized or resident in a country or territory that is, or whose government is, the subject of Sanctions that broadly prohibit dealings with that country or territory, or (iii) will, directly or indirectly, use the proceeds of the Ivy Service or otherwise make available such proceeds to any subsidiary, joint venture partner or other individual or entity in any manner that would result in a violation of any Sanctions by, or could result in the imposition of Sanctions against, any individual or entity. Neither the Merchant nor any of its subsidiaries has engaged in any dealings or transactions with or for the benefit of a Sanctioned Person, or with or in a Sanctioned Country, in the preceding five (5) years, nor does the Merchant or any of its subsidiaries have any plans to engage in dealings or transactions with or for the benefit of a Sanctioned Person, or with or in a Sanctioned Country.

### **3. Services**

Ivy provides the following services (“**Ivy Services**”):

- 3.1.** Ivy will provide the services, as defined in the Merchant Order Form and amended by the Parties in writing from time to time, against the Fees, and on the terms stipulated in this Agreement. Ivy will provide the services in accordance with the service levels and other provisions set out in the SLA in Schedule A. Services shall be provided by Ivy in its sole discretion with respect to each option, market, payment method, and service selected in the Merchant Order Form, for as long as Ivy has respective agreements with any required partners and the Parties have signed the respective Merchant Order Form and the Merchant Terms & Conditions as set forth in this Agreement.
- 3.2.** The Ivy API is a technical interface that facilitates data transfer between banking infrastructure providers and the Merchant Platform. Ivy serves exclusively as the Merchant's technical service provider and will act solely as the Merchant's transmitting or receiving agent in this capacity.
- 3.3.** As part of the Services, in consideration of the Fees and subject to the Merchant's compliance with this Agreement, Ivy grants the Merchant rights of use to the software of the Ivy API, whereby Ivy grants the Merchant a simple, non-transferable right of use for this purpose, limited to the Term of the Agreement. Statutory mandatory rights remain unaffected by this.
- 3.4.** The following services are provided under this agreement and form the basis of the products outlined in the Merchant Order Form. The provision of each service is contingent upon successful onboarding in accordance with the relevant clauses.
  - 3.4.1 Technology Services**
    - 3.4.1.1** Access to the Ivy API, which enables it to accept open banking payments, including but not limited to Pay-in and Payout (“**API Access**”).
    - 3.4.1.2** Access to the Merchant Dashboard (together with the API Access referred to as the “**Technology Services**”).

**3.4.1.3** The Technology Services are made available as a subscription service and are included in the Fee. The Technology Services will be provided in accordance with the Service Level Agreement in Schedule A. Technology Services are provided from the Launch Date and throughout the Term.

**3.4.1.4** The Ivy API also has other functionalities for managing and monitoring all current transactions. The Technology Services are described on the website <https://www.getivy.io>. The Technology Services can be used via a standard web browser. Currently, the Technology Services are optimized for the following web browsers: Google Chrome v16 or later.

**3.4.2** Collection Services

**3.4.2.1** Provision through Ivy: The provision of Collection Services through Ivy is contingent upon the merchant receiving approval as outlined in Section 5.4 of Schedule C.

**3.4.2.2** Provision through external provider: If the Ivy Affiliate does not grant access, Ivy will make its best commercial effort to secure a backup service provider to deliver the Collection Services. This external provider is fully integrated into the Ivy API and does not incur any additional fees, as Section 3 of the Merchant Order Forms remains fully applicable.

**3.4.2.3** If the Collection Services are not provided by an Ivy affiliate or an external provider, this service will not be offered by Ivy. All other services remain unaffected.

**3.4.2.4** If, after onboarding was initially not granted, the requirements set forth in Section 5.4 of Schedule C are met, Ivy will reassess the merchant's eligibility for the provision of Collection Services through Ivy.

**3.4.3** Stablecoin Services

**3.4.3.1** Provision through Ivy: The provision of Stablecoin Services through Ivy is contingent upon the merchant receiving approval as outlined in Section 7.5 of Schedule D.

**3.4.3.2** Provision through external provider: If the Ivy Affiliate does not grant access, Ivy will make its best commercial effort to secure a backup service provider to deliver the Stablecoin Services. This external provider is fully integrated into the Ivy API and does not incur any additional fees, as Section 3 of the Merchant Order Forms remains fully applicable.

**3.4.3.3** If the Stablecoin Services are not provided by an Ivy affiliate or an external provider, this service will not be offered by Ivy. All other services remain unaffected.

**3.4.3.4** If, after onboarding was initially not granted, the requirements set forth in Section 7.5 of Schedule D are met, Ivy will reassess the merchant's eligibility for the provision of Stablecoin Services through Ivy.

- 3.5. The Merchant shall integrate the Services in accordance with the Specifications and timelines communicated by Ivy to the Merchant, and no later than the Launch Date.
- 3.6. If the completed Implementation by the Merchant does not conform to the Specifications, Ivy shall, within five (5) Business Days of the Launch Date, notify the Merchant in writing (with e-mail being sufficient) of the specific ways in which it does not conform to the Specifications. Upon receiving such notice, the Merchant shall use reasonable endeavors to correct any non-conformity.
- 3.7. If the Merchant encounters or believes it will encounter any delays in achieving Implementation by the Launch Date, the Merchant shall notify Ivy in writing (with e-mail being sufficient) as soon as it becomes aware of the delay or likely delay. The Merchant will provide detailed reasoning for the delay and accept, and complete Implementation by, the new Launch Date provided by Ivy.
- 3.8. The Merchant may request that reasonable changes be made to the Specifications and tasks associated with the implementation. If the Merchant requests such a change, Ivy will assess the request and will provide the response without delaying the implementation.
- 3.9. If the proposed change would, in the sole discretion of Ivy, delay the Launch Date or result in additional expense, then the Merchant and Ivy shall confer and the Merchant may either withdraw the proposed change or, if approved by Ivy, implement the proposed change provided it accepts full liability for the additional expense. The Merchant agrees and acknowledges that the decision as to whether there will be any delay or additional expense shall be made solely by Ivy.

#### **4. Merchant Obligations**

- 4.1. Onboarding: The Merchant must provide all necessary information to complete the onboarding process. This includes ensuring that the information has been examined according to regulatory and legal requirements, particularly the identification of natural persons acting as legal representatives of the company, as well as the review of the Merchant's business details, including the beneficial owners, in accordance with applicable anti-money laundering (AML) regulations. The submitted materials will be assessed for approval by Ivy for Ivy Services, as outlined in Section 5.4 of Schedule C and Section 7.5 of Schedule D.
- 4.2. Permitted use: As a condition for receiving the Services, the Merchant is required to adhere to the terms of this Agreement, the accompanying documentation, and any reasonable codes of conduct or policies that Ivy may notify the Merchant of from time to time, including those related to Ivy's KYC, AML, CTF, KYB, and Sanctions Policies. The Merchant shall demonstrate compliance with these requirements to Ivy in an appropriate manner upon request. The Merchant shall ensure that it will not use the Ivy Services for businesses that would fall within any of the Restricted Uses as laid out in Schedule B. If Ivy discovers that the Ivy Services are being used by those businesses, Ivy can immediately terminate the use of the Ivy Services with respect to that Merchant. Additionally, the Merchant agrees to continuously monitor its operations and business

activities, including those of any third parties, to ensure ongoing compliance with applicable laws, including but not limited to laws governing gambling. The Merchant shall take immediate corrective action if illegal activities are suspected or identified. The Merchant must promptly notify Ivy if it becomes aware of any use of Ivy's services in violation of laws, and shall provide Ivy with updates on its compliance efforts upon request.

**4.3. Provision of documentation and information, KYC:** The Merchant performs adequate customer due diligence on any third parties (including End Users) involved in the Ivy Services, including:

**4.3.1** In the case of natural persons as required under Applicable Law.

**4.3.2** In the case of a legal person or partnership:

**4.3.2.1** the company and any trading names;

**4.3.2.2** the legal form of the entity;

**4.3.2.3** the commercial register number;

**4.3.2.4** the address of the registered office and head office address; and

**4.3.2.5** (i) the names of the members of its representative bodies or the names of its legal representatives and, (ii) if a member of its representative body or the legal representative is a legal person, the data listed under clauses 4.2.2.1 through 4.2.2.5 (i) for this legal person;

**4.3.2.6** the verification of legal persons or partnerships must be carried out by means of: (i) an extract from the commercial register or a comparable official register or directory; (ii) formation documents or equivalent substantiating documents; or (iii) a documented inspection by the obliged entity itself of the data in the register or directory.

**4.3.3** In the case of both natural and legal person checks, the following must also be carried out:

**4.3.3.1** a check on the purpose and intended nature of the business relationship;

**4.3.3.2** sanctions screening;

**4.3.3.3** politically exposed persons ("PEP") screening, which includes family members or persons known to be a close associate the PEP;

**4.3.3.4** identification verification of the ultimate beneficial owner;

**4.3.3.5** financial checks, including the following: (i) notices in the insolvency publications/records; (ii) bankruptcy and insolvency registers; (iii) checks of adverse court judgments; and checks on any negative statements appearing in the media.

- 4.4.    Reporting:** The Merchant undertakes to provide to Ivy, upon written request (with e-mail being sufficient), due diligence information and documentation in relation to any third parties (including End Users) relating to Merchants, that Ivy requires to:
- 4.4.1**    monitor transaction;
  - 4.4.2**    establish Merchant’s use of the Ivy Services;
  - 4.4.3**    comply with any obligation under anti-money laundering and terrorist financing regimes and regulations, sanctions or any other Applicable law, a request from a regulator, bank or payment partner, or Ivy’s internal policy.
- 4.5.    Changes in documentation or information:** The Merchant undertakes to notify Ivy promptly (where legally permissible, in advance) and with any supporting documentation and information of any changes which may occur regarding any documentation and information it provided including but not limited with respect to the Merchant’s business (goods and services, trade names or URLs, territories served and/or targeted, payment account details etc.), Merchant’s location (physical address) and fixed place of business through which it conducts its business as such address was disclosed to and approved by Ivy, Merchants legal representatives, direct or indirect directors and shareholders, or any change in control as such term is commonly used, as well as with respect to Merchant’s financial standing and ability to meet its obligations in this Agreement.
- 4.6.    Restrictions on the use of services:** Except to the extent expressly permitted by this Agreement, the Merchant shall not:
- make the Ivy Services available to any third party;
  - disassemble, decompile or reverse engineer all or any part of the Services except to the extent permitted by Applicable Laws;
  - mask or hide from Ivy the identity of the Merchant Platform as it connects to the Ivy API;
  - access or attempt to access the Services except from the Merchant Platform through the Ivy API;
  - do anything to impair the functionality or availability of the Ivy Service; and
  - use the Ivy Services in a way that: (i) may damage our or any other person’s computer systems, computing devices, software or data or which otherwise causes damage or injury to any person or property; (ii) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; (iii) is discriminatory based on race, gender, color, religious belief, sexual orientation, disability, or is otherwise illegal or facilitates illegal activity;



(iv) infringes a third party intellectual property rights or privacy rights; or (v) otherwise infringes Ivy's policies or poses a material risk of reputational damage to Ivy of any of its Affiliates.

- facilitates payments activities that are prohibited by law, including but not limited to illegal gambling, such as online gambling conducted without the necessary licenses or in violation of applicable gambling laws in any jurisdiction, including but not limited to Germany.

**4.7. Obligations of complaint and legal conduct:** While using the Ivy Services, the Merchant warrants and undertakes:

- to comply with the Terms & Conditions of this Agreement and observe, maintain and comply with all Applicable Laws;
- cooperate with and assist Ivy, at the Merchant's expense, in identifying and resolving compliance issues with regard to any and all Applicable Laws;
- to provide such necessary information to its End Users as required pursuant to Applicable Laws;
- not to sell any goods or offer services prohibited pursuant to Applicable Laws; and
- to comply with any rules set forth by card scheme, partners, and financial institutions, in using the Ivy Services.

**4.8. Security:**

**4.8.1** The Merchant shall implement adequate security measures to protect its programs, including data storage, from damage. The Merchant shall ensure that the Merchant Platform remains free at all times from any software program or code that could destroy, interfere with, corrupt, or disrupt program files, data, other information, or any system or network. This includes executable code, application software macros, viruses, worms, trojan horses, bots, or any other harmful software, regardless of whether their operation is immediate or delayed, and irrespective of whether such software is introduced willfully, negligently, or unknowingly. The Merchant shall use up-to-date, industry-standard, and comprehensive anti-virus software and shall use all reasonable endeavors to prevent the introduction of such harmful elements into the Ivy API.

**4.8.2** The Merchant shall ensure that its technical systems are kept fully functional and compliant with market standards at all times, particularly by implementing appropriate security measures to prevent unauthorized access. The Merchant shall establish and maintain adequate internal information security procedures

and controls, including measures related to departing employees, internal data usage, and similar practices, adhering to at least the industry-standard level. The Merchant shall immediately notify Ivy if it reasonably believes there has been any security breach, including but not limited to unauthorized access or attempts to access transaction data or End User data. Furthermore, the Merchant shall cooperate fully with Ivy in any related investigations and security actions.

**4.8.3** Ivy will provide the Merchant with cryptographic keys to be incorporated into the Merchant Platform to enable the Merchant Platform to securely access the Service through the Ivy API. Ivy may also provide the Merchant with user or application IDs, passwords, access codes, and other authentication credentials or security information. The Merchant agrees that it shall not transmit the cryptographic key or disclose any other security information which Ivy provides to the Merchant to any third party without Ivy's prior written consent. Where Ivy has given consent to disclosure, the Merchant shall ensure that the cryptographic key is only used by the individual authorized to access the same and the Merchant shall be responsible for any use of cryptographic keys provided by Ivy. The Merchant shall keep all cryptographic keys, user or application IDs, passwords and other access codes or authentication credentials pertaining to the Ivy API confidential and secure from all unauthorized access and ensure relevant measures are applied to securely handle and prevent the leak or breach of such information, for example by following industry accepted security standards and good practices. Ivy may revoke and reissue cryptographic keys and/or other security information to Merchant at any time in accordance with Ivy's information security policy.

- 4.9.** Technical changes: The Merchant shall notify Ivy at least 30 (thirty) days in advance of any technical adjustments that could possibly affect the performance of Services. If Ivy notifies the Merchant of any technical changes and any associated required adjustments and/or updates to the Merchant's software or interface, the Merchant is obliged to perform such update within 6 (six) weeks upon notification.
- 4.10.** No charge for End Users: The Merchant agrees that it will not charge (or recharge) End Users any fee for using the Services.
- 4.11.** End user identification: The Merchant shall confirm the identity of the End Users in full compliance with Applicable Laws including but not limited to AML Regulations and where applicable require additional identification if required to complete the transaction.
- 4.12.** Third-party agreements and conditions: Where required for the provision of the specific Services requested in the Merchant Order Form, the Merchant agrees to comply with, and where necessary sign, any additional agreements of partners, and to provide such additional documentation as might be required by partners.

## 5. Disclaimer

Except as expressly stated in this Agreement, the Ivy API and the Ivy Services are provided on an “as is” and “as available” basis; all other representations, warranties, Terms & Conditions (whether oral or written, express or implied) including satisfactory quality, fitness for any particular purpose and availability, are excluded to the maximum extent permitted by Applicable Law; and Ivy does not give any guarantee in relation to (i) accuracy, completeness, timeliness, availability, security or errors relating to the Services, (ii) the availability of APIs; or (iii) the success of a Payment Transaction.

## 6. Rights and Obligations of Ivy

Ivy undertakes to comply with the Terms & Conditions of this Agreement.

- 6.1. Changes to the services: During the Term, Ivy reserves the right to adopt, adjust, change, or upgrade the Ivy API used to perform the Services. Ivy may also, upon thirty (30) days’ notice (or a shorter notice period if mandated by card scheme(s), partners, Applicable Law, or regulatory Authorities), modify the terms, conditions, or specifications of any Services due to (i) changes in the Services requested by card scheme(s), partners, or financial institutions; or (ii) changes in Applicable Law or regulatory guidelines. Changes to the Services requested by the Merchant and any resulting effect on Fees, if applicable, shall be addressed separately. Ivy shall not be held responsible for any inability to perform the Services due to circumstances beyond its control that are caused by the Merchant or any third party.
- 6.2. Set-off: All payments to be made by the Merchant under the Agreement shall be calculated and made without any deduction for set-off or counterclaim by the Merchant. The Merchant may only set off claims that are undisputed or have become *res judicata*. The Merchant shall be entitled to a right of retention only with respect to undisputed or legally established counterclaims arising from the contract. Ivy may set off any obligations due from the Merchant under the Agreement against any obligations (whether or not matured) owed by Ivy to the Merchant. If such obligations are in different currencies, Ivy may convert either obligation at a prevailing market rate.
- 6.3. Suspension: Without derogating from any other right available to Ivy under this Agreement, Applicable Law or otherwise, it is agreed that Ivy has the right, in its sole discretion, to suspend providing Services in any jurisdiction at any time and for any period of time on the basis of risk management considerations or where required in compliance with any Applicable Law or for any other reason. Ivy shall exert best commercial efforts to provide a prior written notice in the matter.
- 6.4. Third parties: Certain components of the Services may be provided by or rely on third parties (e.g. card scheme, partners, financial institutions, processing networks, money transfer systems, external databases, etc.) and are subject to such third party’s solvency, acts or omissions, performance, availability, service levels, Terms & Conditions and where applicable the availability of processed funds held with such third parties should a third party becomes insolvent or otherwise unavailable (e.g., settlement banks). Ivy

disclaims and will not be liable or responsible for the aforementioned reliance or dependency on third parties.

## **7. Fees and Payment**

- 7.1.** The Merchant shall pay the Fees as specified in the Merchant Order Form and agreed upon. The payment of Discounts shall be made in accordance with the terms mutually agreed upon by the Merchant and Ivy, as outlined in the Merchant Order Form.
- 7.2.** The Merchant shall pay or reimburse Ivy for any applicable taxes and charges imposed by any government authority on the services received by the Merchant, including, but not limited to, value-added tax and service tax.
- 7.3.** All sums of money due for the Ivy Services shall be calculated in invoices in EUR. For transactions denominated in currencies other than euros, Ivy shall apply the exchange rate established by the European Central Bank (ECB) on the date of each transaction.
- 7.4.** Ivy shall issue an invoice to the Merchant for the fees due for the Ivy Services once per month, no later than the 7th day of the calendar month following the month in which the Services were rendered. The Merchant shall pay the invoice within ten (10) calendar days of receiving it via email. Additional details regarding the fees will be included in the Merchant Order Form.

## **8. Indemnities**

- 8.1.** Merchant indemnification: The Merchant shall indemnify, defend, and hold harmless Ivy, its directors, officers, employees, agents, Affiliates, successors, and assigns from and against all losses, liabilities, costs, damages, and expenses, including reasonable legal fees and court costs arising from or relating to any claims, actions, suits, or proceedings ("**Claim**") brought against Ivy as a result of:
  - Any breach by the Merchant of its warranties, representations, or obligations under this Agreement;
  - Any Claim that the Merchant or any content therein infringes, violates, or misappropriates any third-party intellectual property rights or any Applicable Law;
  - The Merchant's negligence, fraud, or willful misconduct or violations of life, body or personal health;
  - Any disputes arising between the Merchant and its customers or End Users related to Authorized Push Payment Fraud.
  - Any disputes arising between the Merchant and its customers or End Users, including but not limited to the provision of Online Gaming Services to End Users; and

- Any claims related to the Merchant's products, services, or operations, including but not limited to Online Gaming Services.
- 8.2. Sanctions for breach of gambling compliance:** In the event of non-compliance with gambling laws, including illegal gambling activities or transactions related to unlicensed gambling, the Merchant agrees to indemnify and hold harmless Ivy for any penalties, fines, or claims arising as a result of such violations. Ivy reserves the right to terminate or suspend services and block payments if it discovers illegal gambling activities facilitated by the Merchant. Any suspension or termination of services under this clause shall not relieve the Merchant from its obligations under this Agreement, including the payment of any fees due.
- 8.3. Ivy indemnification:** Ivy shall indemnify, defend, and hold harmless the Merchant, its directors, officers, employees, agents, affiliates, successors, and assigns from and against all claims brought against the Merchant arising out of:
- Any breach by Ivy of its warranties, representations, or obligations under this Agreement;
  - Any claim that Ivy's Services or technology infringes, violates, or misappropriates any third-party intellectual property rights; and
  - Ivy's fraud, or willful misconduct or violations of life, body or personal health.
- 8.4. Notice and procedure:** The indemnified Party shall provide the indemnifying Party with prompt written notice of any Claim and shall allow the indemnifying Party to control the defense and settlement of such Claim, provided that the indemnifying Party shall not settle any Claim without the indemnified Party's prior written consent, which shall not be unreasonably withheld. The indemnified Party may participate in the defense at its own expense.
- 8.5. Limitation:** The obligations set forth in this clause 8 shall not apply to the extent the claim arises from the gross negligence or willful misconduct of the indemnified Party.

## **9. Limitation of Liability**

- 9.1. General limitation:** Neither Party shall be liable to the other Party for any indirect, incidental, consequential, special, exemplary, or punitive damages (including, but not limited to, loss of profits, revenue, business, goodwill, use, data, or other economic advantage) arising out of or in connection with this Agreement, however caused and regardless of the theory of liability, whether based in contract, tort (including negligence), product liability, or otherwise, even if the Party has been advised of the possibility of such damages.
- 9.2. Cap on liability:** Notwithstanding anything to the contrary in this Agreement, the total aggregate liability of Ivy to the Merchant under or in connection with this Agreement, whether arising from breach of contract, tort (including negligence), or otherwise shall in

no circumstances exceed the total fees paid by the Merchant to Ivy during the twelve (12) month period immediately preceding the event giving rise to the claim.

**9.3.** Exceptions: Nothing in this Agreement shall limit or exclude either Party's liability for:

- death or personal injury caused by its negligence;
- fraud or fraudulent misrepresentation;
- injury to life, body or personal health.

**9.4.** Merchant: Ivy shall not be liable for any damages or loss causes as a consequence of:

- any errors or faults in the Service, to the extent such errors or faults are attributable to the Merchant's platform and/or solution;
- any changes made to the Merchant's platform and/or solution by the Merchant;  
or
- incorrect or deficient transactional data or other information made available to Ivy by the Merchant.

## **10. Term and Termination**

**10.1.** Initial term: This Agreement shall commence on the Effective Date and continue for an initial term of twenty-four (24) months unless otherwise agreed by the Parties in writing.

**10.2.** Renewal: Upon the expiry of the Initial Term, this Agreement shall automatically renew for successive twelve (12) month periods unless terminated by either Party in accordance with the provisions of this Section 10.

**10.3.** Termination for valid reason: Either Party may terminate this Agreement with immediate effect by providing written notice to the other Party if:

- the other Party is in material breach of any of its obligations under this Agreement and fails to remedy such breach within thirty (30) days of receiving written notice of such breach;
- the other Party becomes insolvent, declares bankruptcy, or is otherwise unable to pay its debts as they become due;
- there is a change in control or ownership of the other Party that may adversely affect the rights or obligations of the terminating Party under this Agreement;
- there are any legal, regulatory, or policy changes or a decision by an Authority that make it unlawful or demands for either Party to continue under this Agreement;

- the other Party repeatedly breaches any of its obligations under this Agreement, demonstrating a consistent failure to meet its obligations;
- the other Party acts in breach of Applicable Law and regulations in the jurisdiction where it provides its services; or
- Ivy's Merchant terminates their partnership agreement with Ivy, preventing Ivy from offering the Services in a specific jurisdiction.
- a Service Provider rejects or declines to provide its services in accordance with the corresponding terms, and no suitable alternative Service Provider is found, and the Merchant has no interest in continuing with the other available services.

**10.4. Consequences of termination:** Upon termination or expiry of this Agreement for any reason:

- all rights and obligations of the Parties under this Agreement shall cease, except for those rights and obligations that are intended to survive termination or expiry;
- each Party shall return or, at the other Party's option, destroy all Confidential Information of the other Party in its possession, except the data required for processing remaining transactions after the termination of the Agreement; and
- any amounts owed by one Party to the other prior to termination or expiry shall become immediately due and payable.

## **11. Intellectual Property and Trademarks**

- 11.1.** Ivy makes the Ivy Services available to the Merchant during the Term of the Agreement for the contractual purpose defined in this Agreement.
- 11.2.** To the extent required for contractual purposes, Ivy grants the Merchant rights of use to the software of the Ivy API, whereby Ivy grants the Merchant a simple, non-transferable right of use for this purpose, limited to the Term of the Agreement. Statutory mandatory rights remain unaffected by this.
- 11.3.** The Merchant acknowledges and agrees that their access to the Ivy API is on a subscription basis and any failure to successfully connect the Application to the Ivy API will not impact or negate the Merchant's obligation to pay the Fees.
- 11.4.** Save as expressly set out in the Agreement, no party shall receive any right, title or interest in or to any Intellectual Property Rights owned by another party. All rights not expressly granted in the Agreement are reserved by the parties or their licensors.
- 11.5.** All Intellectual Property Rights to the Ivy API, the Ivy Documentation, the Ivy Services, any Ivy entity logos and name, and all supporting documentation, including any modifications to and derivatives of the same but excluding ASPSP Account Information

(collectively the “Ivy IPR”) together with any goodwill in or attaching to them, shall be the exclusive property of Ivy and neither the Merchant, any End User nor any Merchant shall acquire any rights or interests in the Ivy IPR. Such rights shall vest in Ivy or its licensors automatically upon their creation irrespective of whether they are made by Ivy, the Merchant or third-party providers. To the extent that such rights do not vest automatically in Ivy or its licensors, the Merchant shall and (to the extent possible pursuant to Applicable Law) hereby does assign and shall procure the assignment of all such rights to Ivy and shall, at Ivy’s cost, execute and deliver all such instruments and take such further actions that may be needed to perfect such assignment. Furthermore, the Merchant irrevocably waives and agrees never to assert any moral rights it may have in or with respect to any such rights.

- 11.6.** Nothing in the Agreement shall be construed to convey or transfer any ownership or proprietary interest in the Ivy IPR to the Merchant, any Merchant or to any other third party.
- 11.7.** All Intellectual Property Rights in any Account Information transferred to the Merchant or any Merchant under this Agreement belongs to the relevant End User.
- 11.8.** Each party agrees that it shall only use trademarks provided by another party to the Agreement for the purpose of the Agreement, without alteration, in strict accordance with the written guidelines or instructions of the party that owns the trademarks.
- 11.9.** The Merchant shall notify Ivy immediately if they become aware of any infringement or wrongful use of the Ivy IPR by a third party and agree to provide reasonable assistance in relation to Ivy’s assertion of Ivy’s Intellectual Property Rights.

## **12. Marketing**

The Parties agree on the following conditions concerning the marketing aspects of this Agreement:

- 12.1.** Ivy may announce the Ivy Services and identify the Merchant as a customer in press releases, which will also be shared on the Merchant’s social media channels. Within seven days of this Agreement, the Merchant will provide a testimonial or quote for Ivy’s marketing materials, including websites and promotional campaigns, in a form satisfactory to Ivy.
- 12.2.** The Merchant agrees to provide references for Ivy’s potential customers and allows Ivy to use the provision of Ivy Services in a case study for potential customers. The Parties agree to participate in co-branded events or webinars, with details agreed upon at least fourteen days prior.
- 12.3.** Ivy may distribute public relations materials about the partnership across its website and social media, subject to Merchant’s review and approval fourteen days before distribution.
- 12.4.** Upon Ivy’s request, the Merchant will execute an email campaign about the new integration within fourteen days, with Ivy’s support in content creation if needed. The



campaign date will be mutually agreed upon, and Ivy branding will be included in relevant marketing materials, subject to Ivy's approval.

### **13. Confidentiality**

Ivy functions exclusively as White Label Gateway. The Merchant is not entitled to use Ivy's name, brand or logo in any external communication, advertisement, announcement, press statement or any similar statement or in any stage of the payment process that is shown to the user or the merchants. In case the Reseller violates this clause, Ivy is entitled to receive a contractual penalty in an amount of EUR 50,000 for each violation of this Section 13.

During the Term of this Agreement, the Parties undertake to treat the provisions of this Agreement as well as all Confidential Information. The Confidential Information shall not be disclosed to third parties unless this is necessary to comply with legal, judicial or official requirements. The Parties shall use the Confidential Information only for the performance of this Agreement. The confidentiality obligations set forth in this Section 18 shall survive the termination or expiration of this Agreement for a period of five (5) years thereafter, or in the case of trade secrets, for so long as the information remains a trade secret under Applicable Law.

### **14. Audit**

- 14.1.** Right to audit: The Merchant acknowledges and agrees that Ivy, or an independent third-party auditor appointed by Ivy, shall have the right to audit the Merchant's operations, financial transactions, records, systems, and processes related to the Services provided under this Agreement. This is to ensure compliance with the terms of this Agreement and Applicable Law and AML Regulations, including but not limited to the EU's Fifth Money Laundering Directive (5MLD) and related regulations.
- 14.2.** Frequency of audit: Audits shall be conducted as required by Applicable Law, or more frequently if Ivy determines that circumstances have increased the risks associated with the Merchant's operations.
- 14.3.** Notice: Except in circumstances where Ivy believes there is an imminent risk of non-compliance or illegal activity, the Merchant shall be given reasonable notice prior to the commencement of any audit.
- 14.4.** Full access and cooperation: The Merchant shall provide Ivy or its appointed auditors with full access to premises, personnel, data, records, and any other materials necessary to conduct the audit. The Merchant shall also provide full cooperation to ensure that the audit is comprehensive and efficient.
- 14.5.** Costs: Unless the audit reveals significant non-compliance or breaches of this Agreement by the Merchant, the costs associated with the audit shall be borne by Ivy. In cases of identified non-compliance or breaches, the Merchant shall be responsible for the costs of the audit, in addition to any other remedies available to Ivy under this Agreement.
- 14.6.** Audit findings and remediation: Upon conclusion of the audit, Ivy shall provide the Merchant with a detailed report of the findings. If areas of non-compliance are identified, the Merchant shall provide a remediation plan to Ivy within thirty (30) days,

outlining steps to address and correct such non-compliance within a reasonable timeframe agreed upon by both Parties.

- 14.7. Confidentiality:** All information obtained during the audit shall be treated as confidential and shall not be disclosed to any third party, except as required by law or with the prior written consent of the Merchant. Notwithstanding the foregoing, Ivy may disclose audit findings to regulatory authorities if required by Applicable Law or AML regulations.

## **15. Data Privacy**

Each Party shall comply with applicable DP Law when performing their respective obligations and exercising their respective rights under this Agreement.

- 15.1.** Ivy may receive, use, store and otherwise process Personal Data about the Merchant, its employees, agents and representatives for the purpose of considering the Merchant for this Agreement and managing this Agreement and its ongoing business relationship with the Merchant. Ivy will receive, use, store and otherwise process this Personal Data in accordance with its privacy policy [<https://www.getivy.io/privacy-policy>]. If the Merchant collects or passes Personal Data to Ivy, the Merchant shall comply with applicable DP Law when performing their respective obligations and exercising Data Subject's rights (in particular in relation to obtaining consent from Data Subjects). The Merchant may receive, use, store and otherwise process Personal Data about Ivy, its employees, agents and representatives for the purpose of considering Ivy for this Agreement and managing this Agreement and its ongoing business relationship with Ivy. The Merchant will receive, use, store and otherwise process this Personal Data in accordance with its privacy policy. If Ivy collects or passes Personal Data to the Merchant, Ivy Later shall comply with applicable DP Law when performing their respective obligations and exercising Data Subject's rights (in particular in relation to obtaining consent from Data Subjects).

- 15.2.** Further provisions concerning data privacy are laid out in Annex 15.3.

## **16. Miscellaneous Provisions**

- 16.1. Governing law and dispute resolution:**

- 16.1.1** This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of the Federal Republic of Germany, without regard to its conflict of laws principles except where expressly stated otherwise.

- 16.1.2** The exclusive place of jurisdiction shall be Munich, Germany.

- 16.2. Entire agreement:** This Agreement contains the entire understanding between the Parties with respect to the subject matter herein and supersedes all prior and contemporaneous agreements and understandings, whether oral or written, between the Parties hereto relating to the subject matter herein.

- 16.3.** Severability: If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be deemed severed from this Agreement and the remaining provisions shall remain in full force and effect.
- 16.4.** Waiver: No waiver by either Party of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. No waiver shall be effective unless in writing and signed by the waiving Party.
- 16.5.** Assignment: Neither Party may assign or transfer any rights or obligations under this Agreement without the prior written consent of the other Party, except that Ivy may assign or transfer its rights and obligations to an affiliate or successor entity upon written notice to the Merchant.
- 16.6.** Notices: All notices, requests, and other communications under this Agreement shall be in writing and shall be deemed given when delivered personally, by an overnight courier service, sent by email, or three (3) days after being mailed by certified or registered mail, postage prepaid, to the addresses or email addresses of the Parties set forth at the beginning of this Agreement, or to such other address or email address as either Party may specify in writing.
- 16.7.** No partnership: Nothing in this Agreement shall be construed to create a partnership, joint venture, employer-employee, or agency relationship between the Parties. Each Party remains an independent contractor in relation to the other.