

Part 1 General Terms and Conditions of Acceptance

**§ 1 Scope of Application, Subject Matter of the Agreement, Risk Warning**

- (1) **Scope of Application**  
The Merchant named in the Contract Form (hereinafter referred to as “Merchant”) is a card-present merchant, who sells goods and/or services. The Merchant offers his customers the possibility of being able to pay for the goods and/or services purchased from him by cashless payment by means of the types of payment agreed in the Contract Form (hereinafter together referred to as “POS Payments”). Wirecard UK & Ireland Limited (hereinafter referred to as “Wirecard”) provides a solution which enables merchants to accept POS Payments. The subject matter of the business relationship between the Merchant and Wirecard is the processing of the respective POS Payments agreed between the parties in the Contract Form. These General Terms and Conditions of Acceptance apply to such processing. Separate terms and conditions of business (hereinafter referred to as “Special Terms and Conditions”), which include derogations from or additions to these General Terms and Conditions of Acceptance, shall apply to the processing of individual POS Payments; (the General Terms and Conditions of Acceptance and the respectively additionally agreed Special Terms and Conditions together with the Contract Form are hereinafter referred to as the “Contract”). In the event of any conflict between the Special Terms and Conditions and the General Terms and Conditions of Acceptance, the Special Terms and Conditions shall take precedence. Unless otherwise expressly stated, any references to Clauses refer to these General Terms and Conditions of Acceptance.
  - (2) When concluding and performing the Contract the Merchant is acting solely in the exercise of its commercial or self-employed occupational activity. The goods/services to be provided under the Contract may not be used for other purposes.
  - (3) Wirecard has an agreement in place with Wirecard Bank AG (hereinafter referred to as “Acquirer”) which allows Wirecard to facilitate the acceptance of POS Payments and submit them to the Acquirer for settlement. Wirecard itself does not provide any payment services to the Merchant and has no access to funds settled by the Acquirer (on its own or a Merchant’s behalf), but Wirecard instructs the Acquirer to safeguard Merchant funds and pay them out to the Merchant in accordance with the Merchant’s instructions and the terms of the Contract. The Merchant has no direct relationship with the Acquirer, although funds will be paid direct to the Merchant by the Acquirer pursuant to the settlement instructions provided to the Acquirer by Wirecard on the Merchant’s behalf.
  - (4) For the avoidance of doubt, the Contract is not an agreement for payment services, and Wirecard does not manage any payment account on behalf of the Merchant. Accordingly, the provisions of the European Communities (Payment Services) Regulations 2009 do not apply to the Contract and/or the relationship between Wirecard and the Merchant
- The Merchant’s Terms and Conditions**
- (5) Any conditions of purchase or other conditions of the Merchant shall apply only to the extent that they do not conflict with the Contract. This applies even if Wirecard provides the Merchant with the service without reservation while being aware of the Merchant’s conflicting or deviating terms and conditions.
- Risk Warning**
- (6) The Merchant is advised that the acceptance of certain POS Payments involves a risk of fraudulent use because, for example, a direct debit payment or a card payment may be charged back because the customer demands a corresponding refund. Therefore, it is financially justifiable to accept such payments only if every possibility of preventing fraudulent use is taken. In this regard the greatest responsibility lies with the Merchant, who has direct contact with the customer and can in each case decide whether, depending on the circumstances of the individual case, it can accept a particular POS Payment despite the risk of fraudulent use.

**§ 2 Basic Rules for the Relationship between the Merchant and Wirecard**

- (1) Wirecard shall provide information to the Merchant on each POS Payment processed and settled under the Contract through the Mobile Application (as defined in Clause 6(10)) in accordance with Clause 3. If no other agreement has been reached, Wirecard shall provide the merchant with the POS Payment information at least once per month through the Mobile Application.
- (2) If, at the Merchant’s request, Wirecard provides information other than through the Mobile Application, or as otherwise agreed, the Merchant agrees Wirecard can charge a fee for doing so.

**Amendments to the Contract**

- (3) Wirecard shall notify the Merchant in text form of any amendments to the Contract including to the General Terms and Conditions of Acceptance and to the Special Terms and Conditions. If the Merchant has agreed an electronic method of communication (cf. Clause 3) the amendments can also be sent by said method of communication. They shall be deemed to have been approved if the Merchant does not raise an objection to Wirecard in writing or using the agreed electronic method of communication within six (6) weeks following notification of the amendments. If an objection is raised it is sufficient if the objection is dispatched within the six-week deadline.
- (4) If the Merchant is offered amendments to the Special Terms and Conditions, the Merchant shall - up until the amendment becomes effective - also have the right to terminate the Contract with regard to the POS Payment affected by the amendment without notice and free of charge (partial termination).
- (5) Wirecard can terminate the Contract with six (6) weeks’ notice either in whole or in relation to the services affected by the amendments if the Merchant objects to any such amendment in time in accordance with Clause 2 sub-clause (5).
- (6) No verbal side agreements to the Contract have been entered into. In all other respects the provisions of the Contract, including this requirement of written form, can be amended only by the parties’ written agreement.
- (7) Any version of the provisions of the Contract in any other language is provided only for assistance; the English version, which shall be provided to the Merchant at any time upon request, shall be the sole authoritative version and shall be solely binding for the purposes of interpretation.

**Banking Secrecy and Bank Reference**

- (8) Wirecard is under an obligation to keep all facts and assessments relating to the Merchant, of which it learns, secret (banking secrecy). The Merchant hereby gives Wirecard express permission to pass on information about the Merchant and any POS Payment to the Acquirer. Otherwise, Wirecard may pass on information about the Merchant only if statutory provisions so require or the Merchant has consented or Wirecard is authorized to provide a bank reference.
- (9) Wirecard and/or the Acquirer is entitled to issue bank references in accordance with the following provisions. A bank reference contains findings and comments about the Merchant’s financial situation, its creditworthiness and solvency, which are kept general; details of the amount of assets entrusted to Wirecard or details about the amount of any loans taken up shall not be stated.
- (10) Wirecard and/or the Acquirer is authorized to provide bank references concerning legal entities and merchants to the extent that the enquiry relates to their business activity. Wirecard shall not and shall ensure the Acquirer shall not provide any references if it has been provided with contrary instructions by the Merchant. Wirecard and/or the Acquirer shall provide bank references about other persons, particularly about associations, only if said other persons have expressly consented either generally or in the individual case. A bank reference shall only be provided if the person making the request has demonstrated that he has a legitimate interest in the information requested and if there is no reason to suppose that the Merchant’s interests worthy of protection preclude the provision of the information.

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- (11) Wirecard and/or the Acquirer shall provide bank references only to its own contract partners, other credit institutions for their purposes or for the purposes of their customers and to persons, who are authorized by statute or by reason of a court or administrative order to receive such information.
- (12) The Merchant hereby revocably authorizes the financial institutions, who are named in the Contract Form for payments to the Merchant, to provide Wirecard with a general bank reference and insofar releases said banks from their obligation to maintain banking secrecy. Said authorization simultaneously applies to all financial institutions where the Merchant maintains a bank account at the time of the request if Wirecard has been notified of said bank account for the purposes of instructions to effect credit entries, direct debits or bank debits. Wirecard shall make use of said authorization only in connection with the conclusion and the performance of the Contract.

### Confidentiality and Data Protection

- (13) Each party shall treat all information or documents, which they have received from the respective other party (hereinafter referred to as the “Disclosing Party”) or otherwise through said Disclosing Party before or after the entry into force of the Contract, and which pertain to the Contract or its terms and conditions or sales documentation or to the Disclosing Party’s business, financial situation, products and expectations, processes and methods, customers and employees (particularly company or trade secrets, as well as information about customers, which has not been rendered anonymous) as well as all other information concerning the Disclosing Party and documents as strictly confidential (hereinafter together referred to as “Confidential Information”). This applies irrespective of whether the Confidential Information is marked as confidential or whether it is reasonably to be classified as confidential.
- (14) Neither of the parties shall use or disclose Confidential Information in relation to their respective employees, contract partners or advisers, nor shall they transmit Confidential Information to third parties (particularly affiliated undertakings of the parties) except if necessary to perform their respective obligations arising out of the Contract. This particularly concerns Wirecard’s right to transmit
  - a) transaction or other data to the payment systems in connection with Wirecard’s services, or to third-party service providers, or
  - b) the transaction details presented by the Merchant for batch processing and (as regards customer data) rendered anonymous in accordance with the applicable data protection laws to other contract partners and to the agent responsible for the Merchant, or
  - c) the Merchant’s details set out in the Contract to information agencies set up for the purpose of checking any previous breaches of contract in relation to other service providers or in the event of any breach of contract, which entitles Wirecard to terminate this Contract, and to do so for said purpose in accordance with the provisions of this Contract and in accordance with the statutory provisions.

Before transmitting Confidential Information the parties shall inform every recipient of Confidential Information of its confidential nature and shall oblige every recipient to comply with obligations to maintain confidentiality which are equally strict as the obligations governed by this Contract.

- (15) The obligation to maintain confidentiality shall not apply to Confidential Information to the extent that said information
  - a) may be published by reason of an express contractual agreement between the parties and/or by reason of the written consent of the party affected (in particular pursuant to Clause 12 sub-clause (7)), or
  - b) was already known to the receiving party irrespective of the conclusion or the implementation of this Contract, or
  - c) is already generally known or becomes generally known by the receiving party by some means other than by a breach of Clause 2 sub-clause (14) or Clause 2 sub-clause (17), or
  - d) must be disclosed by one of the parties by operation of law or by reason of a court or administrative order or the Confidential

Information is disclosed to a person, who is under a professional obligation to maintain confidentiality (e.g. tax advisers, lawyers).

In the circumstances stipulated under letter d) the Disclosing Party shall - to the extent legally permitted - in the event of a court or administrative order, first immediately notify the other party submitting evidence of said order so that the other party can take action for interim relief or other suitable legal remedies. The Disclosing Party shall thereby provide the other party with a reasonable amount of support.

- (16) Any Confidential Information shall remain the property of the Disclosing Party and may be copied or reproduced only with said party’s prior written consent. Upon request by the Disclosing Party the other party must return or destroy the Confidential Information and its embodiment and must confirm the destruction in writing.
- (17) The parties undertake that they will comply with all of the respectively applicable laws for the protection of personal data when collecting, processing and using said data.
- (18) The Merchant is under an obligation to take reasonable precautions against any unauthorized use of customer data. Customer data may only be stored if and to the extent that it is lawful and necessary to do so.
- (19) The above obligations shall also continue to apply after termination or expiry of the Contract until the receiving party proves that the Confidential Information has become generally known by the receiving party by some means other than by a breach of Clause 2 sub-clause (14) to sub-clause (19).

### Limits on the Merchant’s Right of Set-Off

- (20) The Merchant can claim a right of set-off against Wirecard’s claims only if its claims are undisputed or have become final and absolute. Objections arising out of the Underlying Transaction
- (21) The Merchant must advise its customers that it is responsible for the delivery of the goods and/or the performance of the services underlying the transactions which the Merchant has presented to Wirecard for processing, as well as all questions in connection therewith (particularly customer complaints).
- (22) The Merchant must clearly inform its customers of its identity so that the customer can distinguish the Merchant from third parties who may be involved in the processing of the underlying transaction.

### Notice regarding Acceptance / Copyrights

- (23) The Merchant is obliged to make the marks/logos/other distinctive signs, which advertise the possibility of paying by the payment cards included in this Contract, clearly visible at its business premises and at the point of sale. The Merchant may use logos, trade marks or distinctive signs of Wirecard, the Acquirer and of the operators of the payment systems underlying the POS Payments (e.g. card organizations MasterCard and Visa; hereinafter generally referred to as “Operators”) or any payment cards, particularly the designations “MasterCard”, “Visa”, “Visa Electron”, “Maestro” or “V PAY” protected by trade mark, for advertising purposes only with the prior written consent of Wirecard unless it is otherwise entitled to do so. In addition the Merchant is under an obligation to comply with Wirecard’s respective requirements (e.g. by reason of any specifications, on which the Contract may, as the case may be, be based). The logos and/or marks may particularly not be used in any manner which impairs the interests of the respective rights holder. This includes, inter alia, that the impression may not be given that the respective rights holder produces, renders or supports the Merchant’s goods and/or services. Use of the logos and trademarks must be discontinued, and corresponding distinctive signs at the Merchant’s premises and/or on its website must be removed promptly after termination of this Contract. If one of the Operators requires, whether directly or through Wirecard, that use of the respective trademark/logo be ceased or requires that it be adapted to be in line with the requirements of the respective Operator, the Merchant shall promptly comply with this requirement at its own cost.

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**Engaging Third Parties**

- (24) If one of the parties uses third parties for rendering services it shall be responsible towards the other party for all acts, mistakes or omissions of the third party in the same way as it is for its own acts and omissions. The Merchant is not entitled to engage or otherwise use third parties to perform the obligations incumbent upon the Merchant by reason of this Contract without the prior written consent of Wirecard. Wirecard shall refuse said consent only if there is good cause. This does not affect the right to engage third parties in areas, which do not affect Wirecard’s security situation. Wirecard has the right to engage third parties to perform its contractual obligations.

**Business Day**

- (25) A Business Day is any day on which Wirecard, the Acquirer and, as the case may be, the other payment service providers involved in the execution of a payment transaction maintain the business operations required for executing the payment transactions. Wirecard maintains the business operations required for executing payments on all working days except the following:
- a) Saturdays,
  - b) 24th and 31st December,
  - c) all statutory public holidays in the District of Munich, even if they fall on a working day,
  - d) working days, on which Wirecard is closed because of local particularities (e.g. carnival, works meetings or other reasons) and the closure has been announced in good time in advance.

**§ 3 Contractual Communication**

Unless expressly otherwise agreed in these General Terms and Conditions of Acceptance or in the Special Terms and Conditions (as is for example the case for notices of termination) the parties are entitled to communicate by e-mail or in any other form agreed between the parties (e.g. in the Contract Form). For this the parties can use the contact details stated in the Contract Form. Wirecard is additionally entitled to provide the Merchant with information, which is material to the Contract (e.g. inter alia statements of account, notifications of the execution of payment transactions and the receipt of payments, statistics) through the Mobile Application and via e-mail.

**§ 4 Wirecard’s Liability, Services which are not Contractually Owed**

- (1) In rendering the services, Wirecard shall be liable towards the Merchant for acts, omissions or breaches of contract only to the extent that such liability is due to:
- a) intent; or
  - b) gross negligence on the part of Wirecard, or
  - c) personal injury (injury to life, body or health) caused intentionally or negligently, or
  - d) mandatory liability by reason of any provision of applicable Irish law; or
  - e) a careless breach of a material contractual obligation which puts the purpose of the Contract at risk. A material contractual obligation is an obligation, the fulfilment of which is crucial for the successful implementation of this Contract (hereinafter referred to as “Material Contractual Obligation”).
- (2) Wirecard’s liability towards the Merchant in the event of a careless breach of a Material Contractual Obligation is limited to the typical damage that was foreseeable when the Contract was concluded.
- (3) To the extent permitted by law, Wirecard shall not be liable to the Merchant for: (i) business interruption or for loss of revenues, reputation, goodwill, opportunity or anticipated savings; or (ii) any loss or damage whatsoever which does not stem directly from a breach of the Contract by Wirecard.
- (4) Claims of the Merchant are excluded if the circumstances giving rise to a claim:
- a) are due to an unusual and unforeseeable event (force majeure)

outside the control of Wirecard and the consequences of which could not have been avoided even if all due care had been exercised (such as, for example, events of war and acts of God, strike, lockout, traffic disruption, acts of domestic or foreign governmental authorities) or

- b) were caused by Wirecard due to a statutory obligation.
- (5) The Merchant must notify Wirecard promptly of any unauthorised or incorrectly executed payment transaction, and in any event within six (6) weeks of the date of the relevant payment transaction. Wirecard shall not be strictly liable in the event of any non-executed or incorrectly executed payment transaction. If the Merchant has contributed towards the occurrence of any loss by any intentional or negligent conduct, the extent to which Wirecard and the Merchant have to pay for the loss shall be determined in accordance with the principles of contributory negligence.
- (6) Wirecard’s liability for any damage caused by any non-executed or incorrectly executed payment order is limited to EUR 12,500. Wirecard shall have no liability to the Merchant if the Merchant fails to notify Wirecard of the non-executed or incorrectly executed payment order within the timescales set out in Clause 4(5) above.
- (7) If an instruction is, by reason of its content, typically executed in such a form that Wirecard entrusts the further settlement to a third party, Wirecard fulfils the order by forwarding it to the third party in its own name (Forwarded Order). This concerns, for example, the obtaining of bank references from other credit institutions. In such cases Wirecard’s liability shall be limited to carefully choosing and instructing the third party.
- (8) Wirecard shall not be liable under the Contract for any failure or disruption in the technical infrastructure outside its sphere of responsibility, in particular not for the proper functioning of the technical transmission procedure, devices, cable routes and other technical equipment, which the Merchant uses (e.g. to present the data records resulting from the payment transactions).
- (9) Wirecard shall not be liable for any loss of data and other malfunctions or for damage if said loss of data, other malfunctions and damage is due to the fact that the Merchant does not comply with the requirements for the delivery of data pursuant to the provisions of this Contract. In the event that data is lost following delivery by the Merchant or by a third party commissioned by the Merchant and upon delivery to Wirecard, Wirecard shall not be liable for that part of the damage that is due to the fact that no proper backup was made by the Merchant or by the third party commissioned by the Merchant on the Merchant’s or the third party’s own systems prior to transmission – provided that such a backup is permitted under the provisions of this Contract, the applicable statutory provisions and the requirements of the Operators.
- (10) The following are not contractually owed obligations of Wirecard:
- a) The data transmission within the Merchant’s systems or in telecommunications networks of third parties; Wirecard cannot influence the data traffic on the Internet and does not accept any responsibility for the availability and reliability of telecommunications networks of third parties or for transmission errors or alterations to the data to be transmitted in telecommunications networks or systems of third parties.
  - b) The provision, servicing, maintenance and, as the case may be, configuration and programming of the hardware and software to be maintained by the Merchant during the term of this Contract.

**§ 5 The Merchant’s Liability, Indemnity, Contractual Penalty**

- (1) The Merchant shall be liable towards Wirecard for the proper fulfilment of its obligations exercising the care of a responsible businessman. The Merchant shall be liable for and shall indemnify Wirecard from and against all expenses, costs, claims, obligations or any liability arising out of the non-performance of the obligations of the Merchant under this Contract or any applicable laws.
- (2) The Merchant acknowledges that if charges are imposed on Wirecard pursuant to such charges being levied on the Acquirer by the Operator due to a negligent or intentional breach of a Material Contractual Obligation within the meaning of Clause 4 sub-clause (1)(e)

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by the Merchant, the Merchant shall indemnify Wirecard from and against any such penalty charges or shall refund Wirecard any penalty charges paid by way of damages. For this, it shall be irrelevant whether the penalty charges are justified in the relationship between Wirecard, the Acquirer and the Operator. The duty to indemnify shall also apply if the Merchant had no opportunity of raising objections or defences prior to payment by the Acquirer. Wirecard shall, upon request, provide the Merchant with a catalogue of the current penalty charges for the individual payment methods. The Merchant shall remain entitled to prove less damage; Wirecard shall remain entitled to prove greater damage. Sentence 1 above applies mutatis mutandis for other claims of third parties against Wirecard and/or the Acquirer based on the fact that the Merchant or a third party employed by the Merchant intentionally or negligently breaches its obligations under the Contract.

- (3) For each case of breach of a contractual duty under these contractual terms and conditions (particularly the duty to comply with the requirements of the rules of any Operator, the Merchant is under a duty to pay Wirecard a reasonable contractual penalty to be fixed by Wirecard acting reasonably. Any further claims for damages by Wirecard, against which the contractual penalty may be offset, remain unaffected hereby.

## § 6 The Merchant's Duties

### Notification of Changes

- (1) So that business dealings can be properly processed, the Merchant must notify Wirecard of any changes to its name and its address as well as of any expiration of or change to any power of representation (particularly any power-of-attorney) in relation to Wirecard without undue delay. This duty to notify shall even apply if the power of representation is registered in a public register and the expiration thereof or change thereto is entered in such Register. The Merchant acknowledges that notification of changes may trigger further notification duties on the Merchant, for example pursuant to anti-money laundering legislation.

### Clarity of Orders

- (2) Orders must reveal their content without ambiguity. Orders, which are not clearly formulated, may give rise to queries, which may lead to delays. The Merchant must particularly pay attention to the correctness and completeness of details it provides, particularly the correctness and completeness of the account number and bank sort code or IBAN and BIC as well as of the currency. Any changes to, confirmations or repetitions of orders must be marked as such.

### Notification of Unauthorized or Incorrectly Executed Payment Transactions

- (3) The Merchant must notify Wirecard of any unauthorized or incorrectly executed payment transaction without undue delay after discovering it, and in any event in accordance with the timescales set out in Clause 4(5).

### Duty to Inform

- (4) The Merchant must provide the information and documents requested in the course of the establishment and performance of the Contract (particularly in the Contract Form) fully, correctly and truthfully. The Merchant must notify Wirecard of all changes without being asked to do so and without undue delay in writing, particularly
- any change in the objects of its business,
  - any change to the type of product range,
  - any disposal or leasing of the business or any other change of ownership,
  - any change of legal form or company name,
  - any change of address or bank details,
  - any change in the Merchant's financial situation, and
  - any change to the information, which the Merchant has provided pursuant to the laws on the fight against money laundering and financing of terrorism, particularly regarding the beneficial owner.

The Merchant shall, without being asked, also provide Wirecard with all other information and documents, which may be of relevance to Wirecard for rendering the services under the terms of this Contract.

The Merchant must bear the cost of any and all damage suffered by Wirecard as a result of any negligent or intentional breach of this duty to notify.

- (5) Upon request by Wirecard the Merchant shall promptly provide Wirecard with its certified Commercial Register extracts, other extracts from registers, trading licences, articles of association/partnership agreement, annual accounts and all information required pursuant to any and all laws, ordinances or official notices and circulars for combating money laundering and terrorist financing. In addition the Merchant shall promptly provide Wirecard with all other current information and documents requested by Wirecard concerning the Merchant (e.g. regarding the Merchant's financial situation) to a reasonable extent. If documents have been drafted in a language other than English or German, the Merchant shall provide such documents together with an English translation, which shall be a certified translation if so requested by Wirecard. The Merchant shall in each case, upon request by Wirecard, provide information about the organization of its business operation (including security measures) including information, which in Wirecard's judgement has to be provided to third parties (e.g. Operators) for the purposes of performing this Contract.

### Security

- (6) If the Merchant has reasonable grounds for believing that the customer who uses a payment card is not the person authorized to use the payment card, the Merchant must check the customer's authorization on the basis of a valid identification document.
- (7) The Merchant shall ensure that within its sphere of influence it is not possible for the data input to be manipulated, in particular that any unauthorized use of terminals by members of the firm or unauthorized persons is not possible.

### Compliance with law, Permits

- (8) The Merchant undertakes to comply strictly with all laws, enactments, subordinate legislation, rule, regulation, order, directive or other provision, including those of the European Community, and any judicial or administrative interpretation or application thereof, which has, in each case, the force of law and is applicable to the Merchant ("Applicable Law") when performing the Contract; this particularly applies to compliance with Applicable Law which applies in relation to consumers.
- (9) If the Merchant conducts business, which under Applicable Law requires an official permit (e.g. in relation to certain customer groups such as, for example, young persons), particularly games of chance, lotteries, betting and suchlike, the Merchant shall without undue delay following conclusion of the Contract prove to Wirecard that such permit has been granted (including by submitting a certified copy if so requested by Wirecard), and shall inform Wirecard without undue delay if any such permit is changed, expires, is withdrawn or otherwise loses its validity. The Merchant shall inform potential customers if in certain countries where the Merchant directs its offering no such permit has been issued, or if any such permit changes, expires or is withdrawn or otherwise loses its validity, if the goods/services concerned are prohibited for other reasons or if the Merchant is unclear what the legal situation is. In these cases Wirecard shall have the right, but not the obligation, to refuse to process transactions or payouts. Wirecard shall inform the Merchant of any such exclusion in a timely manner. The provisions in individual Special Terms and Conditions on inadmissible goods/services of the Merchant and Wirecard's right not to process services relating to any such inadmissible goods/services of the Merchant shall remain unaffected.

### Other Obligations regarding Conduct when Presenting Transactions

- (10) The Merchant may only use a data entry device (hereinafter referred to as "Terminal") that has been approved by Wirecard for presenting transactions). Furthermore, the Merchant may transmit transaction details to Wirecard using only the method of communication approved by Wirecard. The Terminal shall either be a traditional payment transaction terminal or a mobile end device (e.g. smartphone) on which a software application ("Mobile Application") provided by Wirecard has been installed and which is equipped with a card reader provided by Wirecard. The type of Terminal which the Mer-

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Merchant may use is agreed in the Contract Form.

- (11) The Merchant must not publish in any way any false or misleading details about the goods/services it sells.
- (12) The Merchant is not entitled:
  - a) to present to Wirecard transactions for charges for goods/services, which are not provided solely for its own account or are not provided solely in its own name or which are provided by order of a third party or which are not effected on the basis of a direct contractual relationship with the cardholder,
  - b) to present to Wirecard transactions from its own services/sale of goods together with transactions of other providers bundled into one transaction or have the aforesaid presented to Wirecard by third parties,
  - c) to present to Wirecard transactions for charges for goods/services that are not provided in the Merchant's ordinary course of business stated in the Contract with Wirecard; in particular no grant of credits or other cash payments may underlie such transactions,
  - d) to present to Wirecard transactions for charges for goods/services, the content of which is illegal or immoral; this particularly applies to goods/services in connection with gambling that is illegal under the Applicable Law; even if the goods/services are not illegal under Applicable Law, this also applies to goods/services in connection with gambling within the meaning of Applicable Law, the cardholder or the Merchant's goods/services, if the payment card which was accepted as payment for said goods/services was issued in the United States of America,
  - e) to present to Wirecard transactions for charges for goods/services, which comprise content that is subject to the law governing the protection of young persons,
  - f) to present to Wirecard transactions for charges for goods/services that are owed for, or are associated with, instructions on how to produce weapons, bombs or other explosive devices,
  - g) to accept payment for goods/services if the payment card is not physically present (“card-not-present” transactions); this also applies in exceptional cases and emergency situations,
  - h) to accept payment cards as payment to meet a non-collectable debt or to pay for a cheque that has not been honoured or for the purposes of payment out in cash,
  - i) to accept payment by means of a payment card if, due to circumstances surrounding the transaction, there is cause to believe that there is a case of fraudulent use, particularly if there are any doubts about the cardholder's right to use the payment card or the card details. There shall particularly be grounds to suspect such fraudulent misuse if the order is unusual (because e.g. the cardholder uses more than one card) or other reasons give rise to a suspicion of fraudulent use of the card details (e.g. because at the cardholder's request the total amount of the card transaction is to be divided or even split amongst several payment cards or because the cardholder says that problems may arise in connection with acceptance of the payment card when the transaction has already been initiated),
  - j) to offer dynamic currency conversion (“DCC”) at the point of sale without Wirecard's express consent and subject to any special terms Wirecard may apply to a Merchant who wishes to offer DCC at the point of sale.

In the above-mentioned cases the Merchant is not permitted to retrieve any details from payment cards.

## § 7 Retention and Documentation

- (1) For every transaction presented to Wirecard the Merchant is obliged to record the signatures to be obtained from the customer as well as the respective text, under which the customer signed his/her signature, and to do so electronically or in writing.  
The documentation and retention obligations agreed in individual Special Terms and Conditions and further-reaching statutory retention obligations of the Merchant shall remain unaffected thereby.

- (2) The Merchant must retain the documents and data defined in Clause 7 sub-clause (1) above for at least eighteen (18) months calculated from the date of presentation of the transaction unless a prior deletion is prescribed by law. The above sentence applies mutatis mutandis to the all and any other documentation relating to the transactions underlying the card transactions. The statutory duties of the Merchant to retain documents/data shall remain unaffected. The data and documents must, upon request, be made available to Wirecard for review purposes on paper or in a readable electronic format. If the Merchant does not comply with any such request without undue delay, Wirecard shall have the right to charge back the corresponding transaction amount.
- (3) The Merchant shall use the information and payment details obtained in connection with the execution of a payment transaction solely for performing the contractually owed performance and beyond that shall not pass such information or data on to unauthorized third parties or otherwise exploit such information.
- (4) The obligations contained in this Clause 7 shall continue to apply even after the termination or expiry of the Contract.

## § 8 Fees, Expenses

### Fees and Reimbursement of Expenses

- (1) The Merchant shall pay Wirecard the fees in consideration of Wirecard performing the services under the Contract. The fees payable by the Merchant to Wirecard (which include any applicable transaction charge and all and any chargeback or any other reversal charges) are as set out in the Contract Form and/or in the current price list from time to time, which shall be sent to the Merchant at any time upon request (subject to any fee which may apply for the provision of this information in paper form).
- (2) Wirecard shall furthermore be entitled to demand a charge for services, which, in the circumstances, can only be expected against payment of a charge (e.g. providing copies of statements of account).
- (3) Unless expressly otherwise agreed all prices are stated net of any value added tax (“VAT”). Insofar as individual services under the Contract can be provided subject to VAT Wirecard can opt for VAT irrespective of whether the Merchant can deduct the amount of VAT paid as input tax. The Merchant shall be charged the VAT amount in addition to Wirecard's agreed charges.
- (4) Wirecard has the right from time to time to adjust the charges and shall give the Merchant notice of such changes in accordance with Clause 2(3).

### Expenses

- (5) All expenses which Wirecard incurs whether directly or indirectly in connection with the performance of this Contract (e.g. long-distance telephone calls, postage, the processing of chargebacks, costs in connection with the creation, administration, release or realization of security) must be reimbursed by the Merchant after a corresponding statement of account has been issued. In lieu of the refund Wirecard can demand an indemnity from and against any liability entered into by it or incurred by it in this connection.

### Charges in the event of Termination by the Merchant

- (6) In the event of termination any charges already paid will not be refunded pro rata. The Merchant must pay the charges agreed up until the time notice of termination was given.

## § 9 Payments to the Merchant, Settling of Accounts

### Payout

- (1) Payouts regarding payment transactions presented to Wirecard by the Merchant shall be made less the agreed fees and any expenses as well as any VAT applicable thereto, if any. Wirecard is not obliged to hand over to the Merchant any benefits received from the amounts to be paid out up to and including the date of the payout. This shall be without prejudice to any further-reaching set-off rights of Wirecard that may exist. Provided the transaction details required for the processing have been received by the Wirecard in full and in a processable form by 24:00 on a Business Day and no particular payout date has been requested by the Merchant and agreed with

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the Wirecard in writing, Wirecard shall instruct the Acquirer to remit the amounts to be paid out to the Merchant without undue delay after Wirecard has received notification from the Acquirer that the Acquirer has received the sums of money in full. Otherwise the sums to be paid out to the Merchant shall be remitted within the payout cycle agreed between the parties to the bank account designated by the Merchant.

- (2) All payouts and statements to the Merchant are made conditionally; Wirecard shall have no obligation to instruct the Acquirer to make payments to the Merchant if the prerequisites for payout agreed under this Contract (including the Special Terms and Conditions) for the corresponding payment transaction and the service concerned are not met in full and if the corresponding amount of the payment transactions concerned has been charged (back) to Wirecard or the Acquirer. If Wirecard nevertheless instructs the Acquirer to make payouts to the Merchant, Wirecard can demand that they be repaid to the Acquirer or can offset them against its own payment obligations owed towards the Merchant (also under other contracts with the Merchant) provided that it is foreseeable that payments by the Merchant cannot be obtained without instituting court measures. Accordingly, any and all payouts paid by the Acquirer to the Merchant on Wirecard's instructions shall be deemed to have been paid subject to chargeback up until the time when Wirecard learns that the respectively agreed prerequisites for payment out have been fulfilled (however no longer than eighteen (18) months as of the date of presentation of the respective payment transaction to Wirecard, hereinafter referred to as the “Chargeback Period”). The payouts shall no longer be subject to any chargeback after the Chargeback Period has expired.

#### Billing

- (3) The Merchant shall be provided with statements in the individually agreed settlement period showing the payouts made, chargebacks and reverse entries, the charges and disbursements due in accordance with Clause 8 as well as the expenses and penalty charges to be reimbursed in addition in accordance with Clause 5 sub-clauses (1) and (2). If presented payment transactions are credited collectively Wirecard shall be entitled not to show the individual payment transactions in the statement but instead only the total amount. These statements shall be sent to the Merchant by e-mail, using the details set out in the Contract Form.
- (4) If the statement prepared by Wirecard shows that a negative balance is due the Merchant must settle said negative balance immediately after receipt of the statement showing the negative balance; all of the sums included in statements shall be due for payment to the Acquirer immediately upon receipt of the statement. If the Merchant has given Wirecard and/or the Acquirer a national direct debit mandate or a SEPA direct debit mandate for this, the settlement shall be effected by direct debit. If no national direct debit mandate or debit mandate has been granted or collection by direct debit is not possible for other reasons, the Merchant must settle any negative balance that is due without undue delay in some other way.
- (5) The Merchant must immediately check the statements rendered to it and must notify Wirecard of any objections or of any failure to provide statements immediately and in writing within six (6) weeks following receipt (or non-receipt) of the statement. With any objections it is sufficient if the objection is dispatched within the six-week period. After the expiry of this time limit, the statement shall be deemed to have been approved.

## § 10 Security for Wirecard's Claims against the Merchant

### The Creation of or Increase in Security

- (1) Wirecard may demand that bank security be provided for all claims arising out of the banking relationship and, more particularly, even if the claims are conditional or limited in time (for example claims for reimbursement of expenses because of the availment of a guarantee given on behalf of the Merchant). If the Merchant has assumed liability in relation to Wirecard for the liabilities of another of Wirecard's merchants (for example as a guarantor) Wirecard shall have the right to have security created or increased with regard to the debt ensuing from the assumption of liability, however only with effect from when it is due.

- (2) Unless otherwise provided in this Contract (including additionally agreed Special Terms and Conditions), Wirecard shall grant the Merchant a reasonable deadline for creating or increasing the security. If Wirecard intends to exercise its right to terminate without notice pursuant to Clause 11 sub-clause (5)(d) in the event that the Merchant fails to comply with its obligation to create or strengthen security in a timely manner it shall advise the Merchant thereof in advance.

### Changes to, and Re-Assessment of, the Risk

- (3) If Wirecard initially refrained, whether in whole or in part, from demanding that security be created or increased at a time when claims against the Merchant arose, it may also demand security at a later point in time. A prerequisite for this is, however, that circumstances arise or become known, which justify an increased risk assessment of the claims against the Merchant. This can particularly be the case if:
- a) The Merchant's financial situation has changed for the worse or there is an impending risk that they will change for the worse; or
  - b) The value of existing security has depreciated or there is an impending risk that they will depreciate.
- (4) Wirecard reserves the right to reassess the risk and to require corresponding increased security particularly if and to the extent that
- a) within a period of two (2) calendar months the average monthly transaction volume exceeds the corresponding monthly forecast stated in the Contract Form or adjusted in connection with an increase in security pursuant to this Clause 10 sub-clause (4)(a) by more than twenty percent (20 %);
  - b) The business described by the Merchant changes in such a way that the Merchant falls into a higher risk category; or
  - c) Wirecard has adequate reasons for assuming that the Merchant constitutes a risk of fraud or loss.

### Agreement of a Lien to the Benefit of Wirecard

- (5) The Merchant and Wirecard are in agreement that Wirecard acquires a lien on the claims, to which the Merchant is entitled, or will in future be entitled, against Wirecard under the Contract.
- (6) The lien shall serve as security for all existing, future and conditional claims, to which Wirecard is entitled against the Merchant. If the Merchant has assumed liability in relation to Wirecard for the liabilities of another of Wirecard's merchants (for example as a guarantor) the lien shall secure the debt ensuing from the assumption of liability, however only with effect from when it is due.

### Limits on the Right to Security and Obligation to Release Security

- (7) Wirecard may assert its right to have security created or increased for as long as until the realizable value of all security corresponds to the total sum of all claims arising out of this contractual relationship (“Cover Limit”).
- (8) If the realizable value of all security exceeds the Cover Limit not only temporarily, Wirecard shall, upon request by the Merchant, instruct the Acquirer to release security and, more particularly, in the amount of the sum that exceeds the Cover Limit. When selecting the security to be released, Wirecard shall take into account the legitimate interests of the Merchant and of any third-party guarantor, who has created security for the liabilities of the Merchant. Within these parameters Wirecard shall also carry out the Merchant's mandates for values, which are subject to the lien (for example instructing the Acquirer to pay out payment transactions).
- (9) If a different evaluation from the realizable value has been agreed for a particular security or if a different Cover Limit or a different limit for the release of security has been agreed, such different evaluation/limits shall apply.

### The Realization of Security

- (10) If Wirecard instructs the Acquirer to realize security, Wirecard may choose from several security interests. When realizing and selecting the security to be realized, Wirecard shall take into account the legitimate interests of the Merchant and of any third party guarantor, who has created security for the liabilities of the Merchant.
- (11) If the realization is subject to VAT, Wirecard shall issue the Merchant with a credit note for the proceeds, which shall serve as an invoice



for delivery of the property acting as security and which complies with the requirements of VAT law.

#### Holdback

- (12) As security for all existing and future claims - including conditional claims and claims that are limited in time - to which Wirecard is entitled against the Merchant under the Contract, particularly claims in connection with chargebacks, including any penalty charges by the Operators, Wirecard shall instruct the Acquirer to hold back the portion of the final invoice amount defined in the Contract Form from all of the payment sums made available in the respective payout period (as agreed in the Contract Form) as a holdback (hereinafter referred to as “Holdback”), i.e. after expiry of the respective payout period the sum in the amount of the Holdback shall initially not be paid out to the Merchant but shall instead remain with the Acquirer on Wirecard’s instructions for the respective period agreed.
- (13) Wirecard shall regularly review the amount of the Holdback and shall assess the extent of the security risk. If the amount of the Holdback exceeds Wirecard’s foreseeable security requirement (hereinafter referred to as “Security Requirement”) by more than 10 % Wirecard shall instruct the Acquirer to pay out the excess amount. If the Security Requirement exceeds the current Holdback, Wirecard shall, acting reasonably, have the right to alter the amount of the Holdback and/or to extend the Holdback period. Wirecard’s Security Requirement shall particularly be increased if:
- a) The Merchant’s chargeback rate exceeds 10% for payments by direct debit or the Limits in Clause 9 sub-clause (5) of the Special Terms and Conditions for the Acceptance of Cards in Card-Present Transactions for other payment cards or has actually increased by more than 50 % compared to the preceding month;
  - b) The volume of the Merchant’s transactions processed under this Contract drops significantly;
  - c) The Merchant presents transactions under the Contract where the agreed transaction limits are significantly exceeded or transactions are repeatedly submitted, which exceed agreed transaction limits;
  - d) Taking into account the usual principles for assessing credit standing there is evidence to suggest that the Merchant’s financial circumstances have considerably worsened;
  - e) A petition for the opening of insolvency proceedings over the Merchant’s assets is filed; or
  - f) The Contract has been terminated.
- (14) After termination of the Contract, the Holdback shall in any event remain with the Acquirer pursuant to Wirecard’s instructions for a further nine (9) months in order to secure any claims for recovery resulting from chargebacks. The remaining credit balance shall be transferred to the Merchant’s account designated to Wirecard nine (9) months after termination or expiry of the Contract. If Wirecard reasonably assesses that, due to breaches of contract by the Merchant, penalties will be imposed by the Operators, the remaining credit balance can be retained for up to twelve (12) months after termination of the Contract. After expiry of the Holdback period, Wirecard shall instruct the Acquirer to pay out the remaining amount to the Merchant.

## § 11 Term, Termination and Right to Suspend Services

### Term, Mutual Termination Rights

- (1) The Contract shall come into force upon acceptance by Wirecard of the Merchant’s application for the services. Wirecard shall communicate its acceptance of the Merchant’s application by e-mail or through provision of the services to the Merchant (whichever is the earlier). The Contract shall initially have a term of one (1) year (“Initial Term”).
- (2) The Merchant agrees that acceptance of the Merchant by Wirecard may be conditional upon the Merchant providing Wirecard with information and documentation pursuant to Clause 6 sub-clause (4) and the Merchant satisfactorily fulfilling all of Wirecard’s compliance, credit and other due diligence checks it will perform on the Merchant. If the Merchant fails to provide any requested information, or does not satisfactorily complete Wirecard’s due diligence

checks, Wirecard has the right to take any action it deems appropriate under the circumstances, including suspending and/or terminating the Merchant’s use of the services. For the avoidance of doubt, Wirecard shall have no obligation to instruct the Acquirer to settle any funds to the Merchant if the Merchant fails to fulfil all anti-money laundering, counter-terrorist financing verification processes or credit checks.

- (3) Unless terminated in writing by either party with three (3) months’ notice prior to the end of the Initial Term, the Contract shall automatically be extended for an indefinite period of time. Following expiry of the Initial Term this Contract can be terminated by either party with three (3) months’ notice. This is without prejudice to any statutory rights of termination, particularly to terminate for good cause.

### The Right to Suspend Services, Wirecard’s Rights of Termination

- (4) Wirecard shall have the right to suspend its services towards the Merchant if the Merchant breaches its obligations under the Contract. In the event that services are suspended Wirecard shall notify the Merchant thereof within one (1) Business Day, unless Wirecard is prohibited from making such notification under law. If the Merchant has ceased the conduct that constitutes a breach of its contractual obligations it must inform Wirecard thereof. Wirecard shall inform the Merchant whether Wirecard considers the breach to be remedied and shall, as the case may be, resume rendering the services.
- (5) Wirecard shall particularly have the right to terminate the Contract immediately and without notice if:
- a) The Merchant is in the course of winding up or is insolvent or if the Merchant disposes of its assets, its operation or its business, either in whole or in part, outside the ordinary course of business, or
  - b) The Merchant has made incorrect statements about its financial situation if said statements were of particular significance for Wirecard’s decision to enter into the Contract or other operational transactions, which comprises a risk for Wirecard, or
  - c) There is a considerable worsening of the Merchant’s financial situation or of the value of the security provided by the Merchant or there is a threat of such worsening which calls into question the repayment of sums or the performance of other obligations owed to Wirecard even if security provided for this is realized, or
  - d) The Merchant fails to comply with its obligation to provide or increase security in accordance with this Contract within a reasonable period set by Wirecard, or
  - e) A justified suspension pursuant to Clause 11 sub-clause (4) lasts for more than thirty (30) days, or
  - f) The Merchant breaches Material Contractual Obligations. This is particularly the case if:
    - (i) The Merchant fails to fulfil conditions imposed by Wirecard or fails to fulfil them in good time, or
    - (ii) The Merchant does not have or no longer has the permits statutorily prescribed for its business operations.

- (6) The Special Terms and Conditions may for individual POS Payments stipulate further circumstances on the basis of which Wirecard has the right to immediately terminate the Contract in whole or in relation to the service concerned.

- (7) Wirecard shall not be obliged to terminate the Contract if there is a ground for immediate termination. Any failure on the part of Wirecard to exercise an immediate right of termination shall not constitute a waiver by Wirecard of its right to immediate termination with reference to that or any other ground for immediate termination.
- (8) Wirecard shall have an immediate special right of termination if the proportion of chargebacks arising out of the Merchant’s transactions exceeds the limits regulated in the Special Terms and Conditions for the respective payment instrument.
- (9) Wirecard expressly reserves the right to partial termination, particularly with regard to individual services provided under this Contract, individual POS Payments or the acceptance of certain kinds of payment cards (e.g. Mastercard, Visa or Maestro).

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- (10) If the Cooperation Agreement between Wirecard and XXX is terminated or expires - regardless of the reason - the Merchant and Wirecard shall each have a special right of termination to terminate the Contract with six (6) weeks' notice as of the date upon which notice was taken of the termination or expiry of the Cooperation Agreement.

**The Setting of Deadlines, Form, Termination or Expiry of the Contract**

- (11) Where Wirecard has an immediate right of termination it may, in its sole and absolute discretion, allow the Merchant a period of time to remedy the breach. Judgement as to whether the breach has been satisfactorily remedied within the requisite timescale, and determination of and the right to terminate remains with Wirecard.
- (12) In derogation from Clause 3 sub-clause (1) every notice of termination shall require written form (fax and e-mail are not permitted).
- (13) In the event of any termination without notice Wirecard shall grant the Merchant a reasonable deadline for the winding up unless immediate completion is necessary.

**§ 12 Miscellaneous Provisions**

**Regulatory Obligations and Compliance with Statutory Provisions**

- (1) The Merchant acknowledges that the implementation and performance of this Contract and the availment of Wirecard's services may be subject to certain statutory and regulatory requirements and obligations in accordance with applicable laws or regulations (hereinafter referred to as "Regulatory Obligations") and that the Merchant has checked independently whether it is subject to Regulatory Obligations and whether it will conclude this Contract. The Merchant warrants that it will comply with all of the Regulatory Obligations at the time when this Contract is concluded and during its entire term.
- (2) Wirecard shall not assume the Regulatory Obligations of the Merchant and any of its affiliated undertakings and is in no way liable for the fulfilment of such Regulatory Obligations by the Merchant and any of its affiliated undertakings.
- (3) The Merchant acknowledges and expressly agrees that Wirecard may take all actions, which Wirecard is obliged to take to fulfil any Regulatory Obligations (which may apply to Wirecard and/or the Acquirer), even if this may affect the provision of the services under this Contract. Wirecard does not accept any liability for the losses, costs or damage incurred by the Merchant or any of its affiliated undertakings due to or in connection with such actions.

**Assignment of Contract**

- (4) Wirecard is entitled to transfer the entirety of all rights and duties under this Contract to a third party to be designated by it (hereinafter referred to as "Assignment of Contract") without notice to the Merchant. Wirecard shall notify the Merchant as soon as reasonably practicable following any such Assignment of Contract. If the Merchant does not raise an objection in writing or using the electronic method of communication agreed in this Contract within six (6) weeks following receipt of the notice of Assignment of Contract it shall be deemed to have been approved by the Merchant. Any objection to an Assignment of Contract shall constitute the Merchant's notice to terminate this Contract pursuant to Clause 11(3).
- (5) When Wirecard's assignment of all the rights and obligations becomes effective Wirecard shall withdraw from the Contract and the third party, to whom the rights and obligations have been assigned, shall enter the Contract as the contracting party in lieu of Wirecard.
- (6) The Merchant is not entitled to transfer any of its rights and duties under this Contract to a third party without the prior written consent of Wirecard.

**The Relationship between the Parties**

- (7) This Contract does not establish any company/partnership in any legal form whatsoever, any association or any joint venture between the parties.
- (8) Wirecard may name the Merchant as a reference customer in its online and offline, written or oral marketing documents, including

its website, brochures, presentations or offerings. Wirecard is entitled to use the Merchant's name, logos or trademarks and company description for said purposes and to incorporate references to the Merchant's websites in its websites.

**Severability, Entire Agreement, Savings Clause**

- (9) In the event that one of the provisions contained in this Contract now or in the future is or becomes void or unenforceable, this shall not affect the validity of the remaining provisions. This shall apply mutatis mutandis in the event of any lacuna in the Contract. The parties undertake to replace the void provision by a valid provision, which comes closest to the economic purpose of the Contract.
- (10) The Contract Form, further Special Terms and Conditions and any description of the services form an integral part of the Contract. They form the entire agreement between the parties concerning the subject matter of the Contract and replace all previous agreements or arrangements concerning the subject matter of the Contract.

**Limitation Period**

- (11) All of the parties' mutual claims arising out of this Contract shall be time-barred twelve (12) months after the respective creditor/obligee of the claim learned - or ought to have learned without gross negligence - of the circumstances giving rise to the claim and of who the debtor/obligor is. Sentence 1 does not apply to claims for damages resulting from an intentional or grossly negligent action and does not apply to personal injury (injuries to life, body and health).

**Notices**

- (12) Unless otherwise provided in this Contract, the Merchant must send all notices or declarations addressed to Wirecard to the following address or, in the case of electronic communication, to the corresponding contact details, in order for them to be effective:

Wirecard UK & Ireland Limited  
1st Floor Ulysses House  
Foley Street  
Dublin 1  
Ireland  
info@wirecard.com  
Telephone +35 318 765 800

If Wirecard's address, to which the Merchant must direct its notices, changes Wirecard shall notify the Merchant thereof in writing (including by e-mail). Such change shall become effective one (1) week after receipt of any such notice.

**Governing Law and Place of Jurisdiction**

- (13) This Contract shall be governed by Irish law and any disputes arising out of it shall be subject to the non-exclusive jurisdiction of the Irish courts.

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Part 2 Card Acceptance in "Card-Present Transactions"

**§ 1 Scope of Application**

The Terms and Conditions for the Acceptance of Cards in Card-Present Transactions set out below (hereinafter referred to as "Special Terms and Conditions for the Acceptance of Cards") shall apply to the provision of services by Wirecard on behalf of Merchants, who offer their customers the possibility of making payments in card-present transactions (purchasing goods and/or services face-to-face from the Merchant) by using the payment cards (hereinafter referred to as "Payment Cards") agreed in the Contract Form. The Special Terms and Conditions for the Acceptance of Cards apply in addition to Wirecard's General Terms and Conditions of Acceptance (cf. Part 1). The terms used in these Special Terms and Conditions for the Acceptance of Cards have the same meaning as in the General Terms and Conditions of Acceptance. References to Clauses refer to the provisions of these Special Terms and Conditions for the Acceptance of Cards, unless express reference is made to the provisions in the General Terms and Conditions of Acceptance / Part 1 or other Special Terms and Conditions.

**§ 2 Subject Matter of the Agreement, Types of Contract**

- (1) The Merchant instructs Wirecard to process the card transactions presented by the Merchant in accordance with the provisions of the Contract, to instruct the Acquirer to settle such card transactions and to instruct the Acquirer to pay the sums underlying such card transactions out to the Merchant.
- (2) The Merchant further instructs Wirecard to maintain its relationship with the Acquirer under which the Acquirer agrees to maintain a licence with each relevant Operator in order to enable Wirecard to perform the Contract to the extent that such requirements are open to influence by Wirecard and to the extent necessary in order to provide the goods/services agreed in the Special Terms and Conditions for the Acceptance of Cards.

**§ 3 Prerequisites for the Acceptance of Payment Cards**

- (1) The Merchant may allow goods/services to be paid for by Payment Cards in card-present sales by the holder of the Payment Cards (hereinafter referred to as "Cardholder") in general or in individual cases in accordance with the Contract.
- (2) If the Merchant accepts card payments it undertakes to offer to sell all goods and/or services offered by the Merchant to the respective Cardholders for cashless payment for the same prices and upon the same terms as are applicable to customers wishing to use another payment method. The Merchant shall in particular not charge any additional costs or require any security and shall not put the Cardholder in any worse position than other customers (principle of "no surcharge"). In the case of MasterCard Payment Cards, Maestro cards and other types of card admitted under the MasterCard Regulations (e.g. Commercial Cards, Debit Cards, hereinafter referred to as "MasterCard Cards" the Merchant is authorized to charge an additional fee (hereinafter referred to as "Surcharge") if the following conditions are met - collectively:
  - a) Prior to carrying out the payment process the Merchant makes it clear to the Cardholder in a prominent place that if payment is made with a MasterCard card the Cardholder must pay a Surcharge;
  - b) In the notice pursuant to a) above the Merchant must either expressly show the exact amount of the Surcharge to be paid by the Cardholder or the calculation method for determining the Surcharge and must do so in an easily understandable form;
  - c) The Surcharge must be reasonably proportional to the fees payable by the Merchant under the Contract. In no event may the Surcharge exceed the fees payable by the Merchant to the Wirecard in consideration of Wirecard processing that transaction.

Wirecard hereby draws the Merchant's attention to the fact that, providing the Merchant complies with the above Terms and Conditions and complies with MasterCard's Card Regulations, the Merchant may charge Surcharges of differing amounts for MasterCard Cards. The terms and conditions of the MasterCard Regulations (showing the interchange fees etc.) as applicable from time to time

in this regard can be inspected on MasterCard's Internet page at [www.mastercard.com](http://www.mastercard.com). Wirecard shall provide further information on this upon request.

- (3) The Merchant is not authorized
  - to set a minimum amount below which it will not allow a Cardholder to make a payment using their Payment Card, or
  - to accept the Payment Cards for paying back a previously granted loan or a cash payment previously made by the Merchant.
- (4) When accepting Payment Cards the Merchant must require the Cardholder to present an official document as proof of his/her identity (personal identity card, passport etc.) if
  - a) "retain card" or a synonymous notice appears on the display of the Terminal or the Merchant has been requested via the Terminal to check the Cardholder's identity;
  - b) the Merchant suspects that the Payment Card presented has been forged or falsified or has not been authenticated by the legitimate Cardholder (e.g. because the signature on the Payment Card presented does not match the Cardholder's signature or the Payment Card has not been signed on the reverse or the signature line for the Payment Card has evidently been damaged);
  - c) the card number or the expiry date of the Payment Card on the electronically produced payment voucher does not match the corresponding details on the Payment Card presented;
  - d) the four digit number under the card number on the face of the Payment Card is missing or does not match the first four numbers of the card number;
  - e) the signature provided by the Cardholder does not match the signature on the Payment Card presented; or
  - f) the Cardholder does not match any photo there may be on the Payment Card.

If the name on the Payment Card does not match the name in the Cardholder's ID, payment using the Payment Card must be denied; the same applies if the Cardholder's identity cannot be ascertained beyond doubt. In such cases the Merchant must notify Wirecard by telephone without undue delay and, if possible, before returning the Payment Card to the Cardholder. If Wirecard so instructs or if one of the above-described cases is given or it would appear that there is an attempt at fraud, the Merchant must, if possible, retain the Payment Card.

- (5) If the Merchant has undertaken in the Contract to enable customers to make payments using MasterCard Cards the Merchant must accept all MasterCard Cards for payment in card-present transactions (hereinafter referred to as "Honor-All-Cards Rule"). The same applies mutatis mutandis for the acceptance of VISA cards with regard to the categories "Consumer Immediate Debit Cards", "Consumer Deferred Debit and Credit Cards" and "Commercial Cards". The Honor-All-Cards Rule does not oblige the Merchant to accept Maestro or V-Pay cards.
- (6) Irrespective of the provision to make changes under Clause 2 sub-clause (5) of the General Terms and Conditions for the Acceptance of Cards (Part 1) Wirecard shall be entitled to amend or supplement the above Terms and Conditions for the acceptance of payment (Clause 3 sub-clauses (1) to (5)) with two (2) weeks' written notice to the Merchant if Wirecard considers such amendments to be necessary due to fraudulent practices or such amendments have become necessary because of requirements of any Operator.

**§ 4 Duties when Accepting Card Payments, Merchant Categories, Credit Entries to the Credit of the Cardholder**

- (1) The Merchant is entitled to conclude card acceptance agreements with other payment processors and/or acquirers unless the Merchant has expressly undertaken in the Contract to cooperate with Wirecard exclusively.
- (2) All transactions shall be processed using a Terminal approved by Wirecard and by indicating the merchant category allocated by Wirecard to the Merchant (so-called Merchant Category Code). Terminals, which have not been approved, may be used for accepting Payment Cards only with Wirecard's prior written consent. Wirecard shall grant such consent only if the Merchant and Wirecard

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agree a binding migration plan to migrate to approved Terminals. The processing of transactions shall be effected either by means of an authorization at Wirecard initiated online through the Terminal or – provided the Payment Card issuer has embedded a corresponding function in the Payment Card's EMC chip – can be effected off-line in the chip. Wirecard does not accept any liability under the Contract for the proper functioning of the Terminal used, even if the Terminal is an approved Terminal.

- (3) The Merchant may only present transactions for settlement where the prerequisites in Clause 3 are met.
- (4) The Merchant may give refunds arising out of card transactions (hereinafter referred to as "Credits") only if the original card transaction is cancelled. If the card transaction has not yet been presented to Wirecard the Merchant must cancel the authorization request using the method of communication approved by Wirecard. The Merchant must process any Credits arising out of underlying transactions, which have been cancelled and which relate to card transactions, which have already been presented for settlement, exclusively via the Payment Card, i.e. the Merchant must initiate the Credit on the card account via Wirecard. Wirecard shall reverse the transaction, i.e. charge back the amount. The Merchant must create an electronic data set for the Credit via the Terminal in accordance with the operating instructions. In addition the Merchant must electronically draw up a credit note with the card details and the amount of the Credit, which credit note must be handed over to the Cardholder in the way desired by the Cardholder. The Merchant must present the Credit to Wirecard within two (2) Business Days of having cancelled the card transaction. If it is technically not possible to create an electronic data set for the Credit the Credit must be paid by issuing and presenting a credit slip. The credit slip must be completed in full and signed by the Merchant. The Merchant must present the slip to Wirecard within five (5) Business Days following its issue.
- (5) Irrespective of the provision to make changes under Clause 2 sub-clause 3 of the General Terms and Conditions for the Acceptance of Cards, Wirecard shall be entitled to amend or supplement the above processing principles (Clause 4 sub-clauses (1) to (5)) in writing with two (2) weeks' notice to the Merchant if Wirecard considers said amendments to be necessary or expedient due to fraudulent practices or said amendments have become necessary because of requirements of any Operator.

### §5 Authorizing and Processing the Card Transactions

- (1) Each card transaction always requires online authorization from Wirecard regardless of its amount (hereinafter also referred to as "Authorization"). The Merchant is therefore obliged to have each card transaction authorized before carrying out the transaction.
- (2) When the Merchant makes its Authorization request the Merchant must transmit all of the data requested by Wirecard. If Authorization for the transaction is granted, Wirecard shall notify the Merchant of an authorization number. The Merchant has no claim against Wirecard that an authorization number be granted. Rather, Wirecard is at liberty, exercising its own discretion, to refuse the Authorization on the basis of a - possibly standardised - risk assessment or, as the case may be, to make the Authorization dependent on a measure by the Merchant to limit the risk.
- (3) If the Merchant, through its Terminal, is requested by Wirecard to obtain an authorization number by telephone, the Merchant must promptly comply with this request. If Wirecard or any Operator make the issue of an authorization number conditional on prior security conditions, particularly ascertaining the identity of the customer, the Merchant must implement such measure and, as the case may be, prove it to Wirecard. The Authorization is given subject to the condition precedent that the security measure is implemented by the Merchant. If an authorization number is issued by telephone the Merchant must enter this number in its Terminal so that an electronic voucher can be issued.
- (4) By issuing the authorization number, Wirecard confirms that, according to the information from the institution that issued the Payment Card, at the time of Authorization, use of the Payment Card is not restricted under the scope of this Contract, the Payment Card

has not been declared invalid on any blacklist of any Operator or similar lists or other notices and that the transaction amount is within the transaction limit. The authorization number does not include an undertaking to pay. In particular Wirecard remains entitled to charge back a card transaction if the conditions for this under this Contract are met.

- (5) The Merchant may not divide the total invoice amount of a transaction into several amounts and have them separately authorized.
- (6) If there is a disruption in the online transmission via the Terminal and thereby with an online Authorization within the meaning of sub-clause (1) above, Payment Card transactions can be settled only in exceptional cases. In the event that online transmission is disrupted or if the card limit is exceeded, the Merchant can ask Wirecard for an authorization number by telephone and enter this number into the Terminal immediately after it has been issued in order to create a proper payment voucher.
- (7) The Merchant must issue a payment voucher for all card transactions by means of the Payment Card presented and the Terminal, which payment voucher may not be subsequently changed. The card number, the period of validity of the Payment Card and, as the case may be the name of the Cardholder must be transferred in full and legibly to such payment voucher and the total invoice amount as well as the date of the transaction and voucher, company name, address and Merchant number, authorization number as well as the transaction currency symbol must be noted. The debit voucher intended for the Cardholder and on which the first 12 numbers of the card number are to be rendered unrecognisable by means of the character "\*" or "x", must be handed to the Cardholder in the way desired by the Cardholder.
- (8) If an EMC card is presented and the Terminal is EMC-enabled, a chip transaction must first be instigated. The magnetic strip is to be used only in the event of a defect in the chip. The card details may be entered into the Terminal manually only for subsequently registering transactions in accordance with the provisions of the Contract.
- (9) Payments by means of Maestro and V-Pay Payment Cards must only be accepted through requiring the Cardholder to enter the PIN number on the Terminal.

### § 6 Presentment of the Card Transactions

- (1) The Merchant shall electronically transmit the complete data to Wirecard, particularly the card number, expiry date, authorization number, total invoice amount and Merchant number of all transactions for which it has received Authorization and shall do so in a processable data set within a maximum of two (2) Business Days as of the date of the card transaction. The Merchant shall transmit only transactions which do not breach the stipulations of this Contract to Wirecard for settlement.
- (2) In the event of any disruption under Clause 5 sub-clause (6) the Merchant shall present the card transaction to Wirecard electronically via the Terminal stating the authorization number as soon as the technical disruption has been rectified. If this is not possible within two (2) working days the Merchant shall agree an alternative form of submission with Wirecard.
- (3) The Merchant undertakes not to present any card transactions for settlement under any Merchant ID numbers other than those allocated to the Merchant by Wirecard. The Merchant must settle transactions within a particular distribution channel using the respective Merchant ID number allocated by Wirecard for this distribution channel.
- (4) The Merchant shall present a card sale or a transaction effected by the Cardholder to Wirecard only once for settlement. In the event that the Merchant has concluded other card acceptance agreements with other payment processors and/or acquirers in addition to this Agreement, the Merchant shall furthermore without exception only ever present one same card transaction to one payment processor/acquirer in each case for settlement (hereinafter referred to as "Prohibition of Multiple Presentments"). Upon request the Merchant shall provide Wirecard with proof that each card transaction presented was based on a legal transaction with the Cardholder

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that was permitted under the Contract and in an amount that corresponds to the presented card transaction.

- (5) The Merchant shall not present a card transaction until the goods or services underlying the card transaction have been delivered or provided to the Cardholder or recipient of the goods/services, or the Cardholder has agreed to an advanced debit or a recurring debit on the Payment Card. Upon request by Wirecard the Merchant must prove that the above conditions are met.

## § 7 Payout Claims, Assignment of Claims

If all of the conditions mentioned in the following Clauses 7 sub-clauses (1) to (19) are met, Wirecard undertakes - subject to the provisos in Clause 7 sub-clause (1) - to instruct the Acquirer to pay out to the Merchant the amounts resulting from the card transactions presented. There shall be a right to payment out only if all of the conditions precedent set out under Clauses 7 sub-clause (1) to sub-clause (19) are met:

- (1) The acceptance of the Payment Card as the means of payment was permitted under Clause 3 and at the time when the transaction was presented the Merchant had no knowledge that the Payment Card had been declared invalid by means of blacklists or other notices;
- (2) The requirements under Clauses 3 to 6 have been met;
- (3) The Merchant requested and received an authorization number for the card transaction from Wirecard and recorded it on the debit voucher electronically before presenting the card transaction and the transaction data was presented in accordance with the provisions of the Contract, particularly Clause 6, in particular the Merchant has not yet presented the card transaction concerned to Wirecard or to another payment processor and/or acquirer, with whom the Merchant has concluded a contract regarding the acceptance of cards (cf. the Prohibition of Multiple Presentments, Clause 6 sub-clause (3));
- (4) The Payment Card was physically presented and was signed by the Cardholder;
- (5) The Cardholder is identical to any photograph that may be on the Payment Card;
- (6) The card number was not entered into the Terminal manually; the card number can be entered manually in the event of a disruption in the online transmission and in exceptional cases after consulting Wirecard by telephone, providing manual entry is technically possible. If manual entry is technically possible, in so doing it must be ensured that additional manual payment vouchers are created with an impression of the Payment Card and with all of the above details as well as the Cardholder's signature; after the disruption has ended the details must be entered into the Terminal from the manually created payment vouchers and transmitted to Wirecard;
- (7) The transaction date (date when the voucher is signed) falls within the Payment Card's period of validity;
- (8) The period between the date of requesting Authorization (day on which the authorization code is allocated) and the date of performance (day on which the goods are sold or on which the service is rendered) (hereinafter referred to as the "Date of Performance") does not exceed seven (7) calendar days at the most;
- (9) No manipulation or fraudulent use of the Payment Card was discernible, in particular the Payment Card has not discernibly been altered and/or made illegible;
- (10) The Merchant has ascertained that the card details recorded through the Terminal on the debit voucher tally with the details on the Payment Card.
- (11) The total amount of goods/services sold and/or provided, which in the case of a cash transaction would have been settled in one amount, has not been divided into several transactions;
- (12) All sale details have been forwarded to Wirecard correctly, completely and within two (2) days of the Date of Performance;
- (13) The sale is made out in a contractually agreed transaction currency;
- (14) The Merchant has made its general terms and conditions of business easily accessible to the Cardholder so that it is possible for the Cardholder to become aware of all of the essential terms and condi-

tions (particularly his rights such as e.g. the right of cancellation or right of return and any restrictions of use) which are required in order to be able to make a proper decision on the purchase of the goods/services concerned;

- (15) A debit voucher has been issued by a Terminal and handed to the Cardholder in the way desired by the Cardholder. The voucher contains the card details in full and legibly, in particular the card number and period of validity, as well as the total invoice amount, transaction date, company name, address and telephone number of the Merchant.
- (16) The card transaction has been settled via an EMV-enabled Terminal and, if required, the Cardholder has entered the correct PIN. Only if the Cardholder does not use an EMV-capable Payment Card do the above conditions not need to be met;
- (17) The Cardholder has by his/her signature confirmed the total invoice amount in the presence of a representative of the Merchant and the signature on the voucher or on the respective signature strip in the Terminal corresponds to the signature on the Payment Card presented. The Cardholder's signature is not necessary if the card transaction was effected by EMC process and the Cardholder entered a PIN;
- (18) The last four (4) digits of the card number stated on the debit voucher and the expiry date of the Payment Card correspond to the card number and the expiry date indicated on the front of the Payment Card; and
- (19) The Cardholder was handed a copy of the debit voucher or a copy of the voucher of the successful confirmation of the PIN entered in the case of an EMC card transaction, in the way desired by the Cardholder;
- (20) Notwithstanding the proviso to make changes under Clause 2 sub-clause (3) of the General Terms and Conditions of Acceptance Wirecard shall be entitled to amend or supplement the conditions for disbursement stipulated in Clauses 7 sub-clause (1) to sub-clause (19) with two (2) weeks' written notice to the Merchant if Wirecard considers such amendments to be necessary due to practices of misuse or such amendments have become necessary because of requirements of any Operator.
- (21) If one of the conditions mentioned in Clause 7 sub-clauses (1) to (19) is not met, Wirecard shall be released from its obligation to instruct the Acquirer to make payment to the Merchant. Any payments which are nevertheless made to the Merchant are made subject to any Chargeback or offset in accordance with Clause 9.
- (22) The Merchant hereby assigns all of its claims against the Cardholder arising out of goods/services and which have been created by use of the Payment Card (claims arising out of the underlying transaction) as well as any claims against the Payment Card issuer, which are in connection with use of the Payment Card, to Wirecard. Wirecard accepts such assignment. The assignment shall in each case become effective when Wirecard receives presentation of the transaction (cf. Clause 6 sub-clause (1)). Clause 9 sub-clause (2) remains unaffected.
- (23) The Merchant's claims within the meaning of sentence 1 of the introduction to Clause 7 must be asserted in writing to Wirecard within a preclusion period of six (6) months of expiry of the six-week deadline under Clause 9 sub-clause (6) of the General Terms and Conditions of Acceptance / Part 1. Any later assertion is precluded. This Clause 7 sub-clause (23) does not apply to claims, about the existence of which the parties began negotiating before expiry of the six-month deadline.

## § 8 Fees and Charges, Reimbursement of Expenses

- (1) The agreed discount (as part of the Service Charges, cf. Clause 8 sub-clause (1) of the General Terms and Conditions of Acceptance / Part 1) has been calculated on the basis of the following as stated by the Merchant at conclusion of the Contract:
  - the stated average transaction amount per month (total value of all transactions in relation to the number of transactions in a month divided by the number of transactions), and/or
  - the stated average number of transactions in a month, and/or

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- the stated total transaction volume per month.

The circumstances underlying the calculation are an essential basis for the Contract.

- (2) Expenses for the purposes of Clause 8 sub-clause (6) of the General Terms and Conditions of Acceptance shall in particular but without limitation be all penalties, chargebacks/reverse debits (cf. Clause 9) or other charges by the Operators, which the Operators impose on the Acquirer (who in turn levies them on Wirecard pursuant to the agreement in place between Wirecard and the Acquirer) either directly or indirectly - as the Operators' licensee - on the basis of the Card Regulations (cf. Clause 1), to the extent that said penalties or other charges were caused by the Merchant's transaction or any act and/or omission of the Merchant and were charged on the basis of the Card Regulations. Wirecard shall particularly be entitled to charge special charges by the Operators, e.g. for registration in special vendor programmes, on to the Merchant. If, due to breaches of contract by the Merchant, it has to be assumed that such breaches will lead to penalty charges by the Operators, for which the Merchant has to reimburse Wirecard the expenses and/or, from and against which it must indemnify Wirecard, Wirecard may demand a payment in advance in the amount of the prospective penalty charge.
- (3) Wirecard shall, if so requested by the Merchant and on payment of the applicable fee by the Merchant, set out the charges payable by the Merchant separately for the individual types of card of the Operators VISA and MasterCard and shall issue the Merchant with a separate statement of account in which the charges for the transactions presented by the Merchant are separately broken down according to Operator and type of Payment Card used (e.g. VISA Commercial Card, VISA Consumer deferred debit and credit cards, MasterCard Debit Card transactions etc.) (hereinafter referred to as "Detailed Breakdown of Charges"). If the Merchant, at its request, receives a Detailed Breakdown of Charges from Wirecard, Wirecard shall be entitled to charge an additional Service Charge in accordance with the price list for preparing the Detailed Breakdown of Charges in view of the associated extra cost.

## § 9 Chargebacks

- (1) Any obligation on the part of Wirecard to instruct the Acquirer to make payments to the Merchant pursuant to Clause 7 shall lapse in the event that one of the conditions set out in Clause 7 is not met or is not met in full (even if this was not apparent at the time of the payout instruction by Wirecard) and if the corresponding amount of the card transaction (card transaction amount) has been charged back to Wirecard by the Card Issuer (so-called "Chargebacks").
- (2) If in the cases of Clause 9 sub-clause (1) Wirecard nevertheless instructs the Acquirer to make payments, Wirecard can, within eighteen (18) months of the payment date, require that said payments be refunded or that said payments be offset against its own obligations to give payment instructions owed towards the Merchant (hereinafter also referred to as "Chargeback"). The Chargeback is affected plus the service charges that accrue for a Chargeback. In the event of any Chargeback Wirecard shall be entitled to charge back the card transaction amount already paid to the Merchant plus the service charge incurred for the Chargeback Fee to the Merchant in accordance with the stipulation of this Contract and to offset them against other due claims of the Merchant.
- (3) In the event of any Chargeback under this Clause 9 Wirecard reassigns the Merchant's claim against the Cardholder which underlies the Chargeback back to the Merchant (cf. Clause 7 sub-clause (22)) upon complete satisfaction of the corresponding Chargeback claim by the Merchant. The Merchant hereby accepts said reassignment. The Merchant does not have any right to reassignment of the service charge which accrued for the transaction concerned because Wirecard has rendered the service paid for.
- (4) Wirecard can make a Chargeback under Clause 9 sub-clause (2) if the Cardholder does not recognize a debit and demands cancellation of the debit on his/her Payment Card account held at the bank that issued the Payment Card or refuses to make payment and within six (6) months after his/her Payment Card account has been debited or after the goods/services have been rendered to the

Cardholder the Cardholder declares in writing:

- a) THAT he/she has not given any instruction to pay using his/her Payment Card or has not done so in the amount debited from him/her,
- b) THAT the goods/services were not rendered at all or not to the agreed delivery address or at the agreed time,
- c) THAT the goods/services did not correspond to a description which existed at the time of purchase or that the Cardholder has returned the goods to the Merchant or has cancelled the agreement or the goods/services; or
- d) THAT the delivery received by the Cardholder was defective or damaged,

unless in the cases of (b) to (d) the Merchant proves proper performance within fourteen (14) days of the corresponding Chargeback. The above-mentioned proof for the avoidance of a Chargeback is not possible if the transaction amount is less than EUR 10.00.

- (5) The Merchant is under a duty to pay back if the underlying transaction between the Merchant and the Cardholder is void or has been cancelled by revocation, avoidance or termination by the Cardholder.
- (6) If the proportion of Chargebacks arising out of card transactions at the Merchant exceeds 1 % of the number of such transactions (only debits; no credits) or 2 % of the total transaction volume (hereinafter referred to as "Limits") over a period of one (1) month, Wirecard shall immediately notify the Merchant thereof.
- (7) In the event that the Limits mentioned in sub-clause (5) are exceeded and any Operator therefore imposes penalty charges on Wirecard for excessive chargeback rates (so-called Excessive Chargebacks) the Merchant shall, upon first demand, fully indemnify Wirecard against such penalty charges and pay such penalty charges. Wirecard shall, at any time upon request, provide the Merchant with a list of the offences incurring penalty charges and the amount of the penalty charges. Wirecard is thereby not obliged to allow the Merchant the possibility of negotiating, or suchlike, with the Operator prior to payment of the penalty charges by the Merchant. This shall be without prejudice to the Merchant's obligation to reimburse Wirecard for any other expenses, which Wirecard incurs whether directly or indirectly under this sub-clause or otherwise in connection with the performance of this Contract, in accordance with the provisions of this Contract or to indemnify Wirecard from and against such liabilities.
- (8) When calculating the proportion of the Chargebacks, account shall also be taken of those transactions/transaction amounts where the Merchant issues credits to the Cardholder before a Chargeback is made so as to avoid such Chargeback and thereby not to exceed the Limits mentioned in sub-clause (6). This is always to be presumed if the Credit is issued after Wirecard has received a query from the Card Issuer regarding a transaction and has forwarded such query to the Merchant for clarification.
- (9) The provisions of this Clause 9 shall continue to apply for a further period of eighteen (18) months following the termination of the Contract. Wirecard's rights to impose Chargebacks on the Merchant are not limited by the issue of the authorization number by Wirecard.

## § 10 Preclusion of the Right to Object, Objections resulting from the Transaction with the Cardholder

If a Chargeback has been lawfully made under Clause 9, any further claims and any objections by the Merchant against Wirecard – for example arising out of the law governing unjust enrichment – shall be excluded. The Merchant shall remain at liberty to turn directly to the Cardholder in order to assert its payment claim arising out of the underlying transaction which it concluded with the Cardholder.

## § 11 Merchant Category Codes

Based on the details provided by the Merchant about his businesses, Wirecard shall allocate the Merchant one or more Merchant Category Codes (hereinafter referred to as "MCC"). The allocation of the respective MCC shall be effected at Wirecard's equitable discretion having due regard for the regulations of the Operators,

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particularly the requirements contained therein to be met by merchants. Wirecard shall have the right to change the classification at any time if and to the extent that Wirecard considers this to be necessary due to a renewed examination of the Merchant and having due regard for the legitimate interests of the Merchant. Irrespective of this possibility and this right the Merchant must advise of any change in its business activity. The Merchant vouches for the correctness of the details provided at the beginning and during the term of the Contract. The Merchant is under an obligation to present transactions only within the MCC allocated by Wirecard.

## § 12 Payment Card Industry Data Security Standards

- (1) The Merchant undertakes to comply with the provisions of the Card Regulations as applicable from time to time and the general procedural requirements, particularly to comply with all of the technical, procedural, security and other requirements. In this connection the Merchant undertakes to comply with the requirements of the Payment Card Industry Data Security Standard (PCI DSS) and to prove compliance therewith in an appropriate manner to Wirecard upon request. Further information on this will be provided to the Merchant by Wirecard in writing and can be found e.g. at [www.pcisecuritystandards.org](http://www.pcisecuritystandards.org). If necessary, the Merchant shall register with the Operators and, as the case may be, become certified. If certified, the Merchant shall regularly, but at least annually, send Wirecard a copy of the certificate without being asked to do so. The cost of certification shall be borne by the Merchant.
- (2) In the event of any unauthorized access or attempt to access its computer systems pertaining to cards or in the event of any possible unauthorized use of card data the Merchant shall be obliged to notify Wirecard without undue delay and at its cost to introduce the necessary steps by agreement with Wirecard. Wirecard shall be entitled to terminate the Contract with immediate effect if Wirecard considers such measures to be inadequate.
- (3) On request the Merchant shall permit Wirecard, any Operator or a third party instructed by Wirecard or by the Operators to inspect its business premises and to carry out security audits (e.g. a PCI audit) in order to enable Wirecard to check that the provisions of this Contract as well as the requirements of the Operators to be complied with by the Merchant are being complied with. In doing so, checks may be made as to whether, and the extent to which, the Merchant's organizational measures are appropriate in accordance with the standards customary in the trade for excluding the possibility of any fraudulent use and/or other manipulation of any kind of the Merchant's systems. The Merchant undertakes that it will - at its own cost - fully cooperate with and enable such inspections/audits.
- (4) The Merchant must ensure that all inspections/audits can be carried out directly in relation to and at the business premises of the technical service providers and other subcontractors commissioned by the Merchant and vicarious agents of the Merchant, whom the Merchant has commissioned in connection with the submission and processing of card transactions.

## § 13 Special Rights of Termination for Wirecard

- (1) In addition to all other rights of termination Wirecard shall be entitled to terminate the Contract with respect to the goods/services covered by these Special Terms and Conditions without complying with any notice period if:
  - a) The proportion of Chargebacks from card transactions over a period of two (2) months (hereinafter referred to as "Assessment Period") exceeds 2 % of the total turnover volume or 1 % of the number of transactions (Clause 9 sub-clause (7) applies mutatis mutandis to the calculation); during the first six (6) months after the Agreement has entered into force the Assessment Period is reduced to one (1) month and/or
  - b) The Merchant breaches any Material Contractual Obligations (including but not limited to non-compliance with the obligations stipulated in Clauses 3 to 6 and in Clause 12 as well as the operating regulations of the Operators). Such breaches are in particular:
    - i) The Merchant does not point out his general terms and conditions of business to Cardholders in a clearly visible manner;

- ii) If the Merchant does not present any transactions to Wirecard for card settlement within a period of six (6) months of the Contract having entered into force;
  - iii) If the Merchant does not present any card transactions to Wirecard for a period of six (6) months
  - iv) If despite request by Wirecard, the Merchant does not implement the technical and security requirements of the card organizations, in particular the PCI DSS or does not do so in due time;
- c) One of the Card Regulations of the Operators requires termination of the Contract between Wirecard and the Merchant or an Operator demands the termination of the Contract; or
  - d) The Merchant offers its customers the possibility of making payment by Payment Card, which payments are settled in accordance with this Contract, through distribution channels of the Merchant other than those listed in the Contract or otherwise approved by Wirecard.
- (2) Wirecard can terminate the Contract - also in part in relation to individual types of Payment Card - with one (1) month's notice to the end of a calendar month ("Special Right of Termination") if Wirecard (i) ceases the settlement of card transactions for certain types of Payment Card (e.g. MasterCard, VISA or Maestro) or (ii) loses any licences and/or permits that are necessary to render the performances under this Contract (e.g. software licences, licences from the Operators). Wirecard expressly reserves the right to partial termination only in relation to settlement with only one Operator / certain Operators (i.e. for example only MasterCard, Maestro, VISA, Discover/Diners Club).

## §14 Processing Contactless Payments by means of PayPass, VPay and PayWave Payment Cards

- (1) The provisions of Clause 14 shall apply in addition to all other provisions of the Contract solely for the processing of contactless payments by means of Payment Cards equipped with a PayPass function (MasterCard and Maestro) or a VPay or PayWave function (VISA) (hereinafter both types of Payment Card are referred to as "Contactless Cards"). In the event of any discrepancy between the provisions of this Clause 14 and the other provisions of the Contract the provisions of this Clause 14 shall take precedence. In all other respects the provisions of the Contract and all of the rights and obligations agreed therein remain unaffected.
- (2) The Merchant shall then only be entitled to present transaction data from the contactless payment transactions if this has been expressly agreed between the parties.
- (3) When a Contactless Card is produced, the Merchant must read out the card details contactlessly by means of a Terminal approved by Wirecard in accordance with the instructions for use for the respective Terminal.
- (4) Providing the respective transaction amount is not more than EUR 25 the Merchant shall - in derogation from the conflicting provisions of the Contract - be entitled to dispense with obtaining the Cardholder's signature and the entering of a PIN by the Cardholder. If the respective transaction amount is more than EUR 25 the Merchant's obligation to obtain a signature or to require that a PIN be entered shall remain unaffected.
- (5) If it is not possible to read out card details from Contactless Cards - for whatever reason - the Merchant must process the corresponding payment transaction as with Payment Cards, which are not Contactless Cards.
- (6) The Merchant must display the acceptance logos for Contactless Cards provided by Wirecard in a clearly visible place in the till area in addition to all other acceptance logos.
- (7) The Merchant grants the Operators MasterCard and VISA the right to name the Merchant's business as an acceptance point of Contactless Cards for advertising purposes and in connection with press releases.
- (8) The Merchant is obliged to accept Contactless Cards for payment purposes for a period of at least 12 months following conclusion of the Contract but for no longer than the term of the Agreement.

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