

## **JUDOPAY TERMS OF SERVICE**

### **1. Introduction**

- 1.1. These Terms, along with the Order Form (together, the “**Agreement**”), is a legal agreement between Alternative Payments Limited d/b/a Judopay (“**Judopay**”, “**we**”, “**us**”) and the legal entity (“**you**”, “**your**”) listed in the Order Form. These Terms describe the terms and conditions that apply to your use of the Services as applicable to you. By signing the Order Form, you acknowledge and agree that you have read, understood, and accepted these Terms.
- 1.2. If you have any questions on the terms of the Agreement please contact us before you start using the Services.

### **2. Acquiring Services— opening an Account**

- 2.1. If you are engaging us (or a Partner, as applicable) to provide Acquiring Services, when you apply for a Judopay Account we will ask you to provide some information about your business as part of our KYC process. This is a compliance requirement imposed by the Card Schemes, Government Regulations, and our regulated Partners. The information you will be asked to provide includes, but is not limited to, your legal business name, your company trading name, your address, your website URL, the nature of your business activity and a description of the Purpose.
- 2.2. You will provide on the first request from Judopay and within five (5) Business Days any documentation or information related to the KYC process.
- 2.3. We may also request personal information from your ultimate beneficial owners (i.e. those holding 25% or more of the voting rights in your business), Authorised Signatories and directors including details like their full name, passport number, birth date, and residential address. You warrant and represent, unconditionally, that all information provided to us concerning your Application is correct, complete and up to date.
- 2.4. You will notify us in writing of any changes to the information supplied in accordance with the preceding clauses during the Term as soon as possible, and no later than ten (10) Business Days from the date of such change. We may suspend your Account if you fail to keep this information updated.
- 2.5. At any time during the Term, we may require additional information from you to verify the ownership of your business and validate the information you provided. Unless otherwise stated, you agree to provide this information within three Business Days of receipt of a request from us.
- 2.6. You acknowledge that, in some cases, such changes in information may lead to a rejection of your Account (by us or our Partners) and thus a suspension or termination of your Account with us.
- 2.7. Judopay’s acceptance of your Application will be subject to final approval from our Partners. For the avoidance of doubt, Judopay shall not be liable to you, under any circumstances, if your Application is rejected by us or any of our Partners.
- 2.8. Judopay will inform you about the acceptance of your Account at which point we will notify you of your Merchant Identification Number (MID) and we will be able to start providing you with the Services.
- 2.9. Judopay provides you with Payment Services through our Partners. You accept and acknowledge that the information

submitted to Judopay about you will be shared with our Partners for the purpose of providing you with the Services.

- 2.10. You accept and acknowledge that you will need to enter into separate agreements with our Partners. Your refusal to enter into these agreements or comply with our Partner’s terms will prevent you from benefiting from and/or using our Services.
- 2.11. From time to time, Judopay may decide to change which partners provide merchant acquiring services to you. In the event this is required, you allow Judopay to make this change on your behalf with 30 days written notice.
- 2.12. Judopay reserves the right to reassess the terms of your Order Form should you fail to provide all of the KYC documents required by us. For the avoidance of doubt, the terms set out in the Order Form are expressly conditional on provision of the correct KYC documentation. Failure to provide the same will permit Judopay to terminate the Order Form immediately for cause.

### **3. Services**

Details of the relevant Services selected in the Order Form are set out below:

#### **3.1. Set Up Services**

As consideration for the Set Up Fees, Judopay will provide you with general Set Up Services and access to the Development Tools. Using the Development Tools you will be able to take the necessary steps to gain access to the Payment Gateway.

#### **3.2. Payment Services**

- 3.2.1. On gaining access to the Payment Gateway, you will be provided with the Payment Services.
- 3.2.2. The Payment Services will be provided to you subject to the gateway usage payment structure as set out in the Order Form and your payment of the relevant Fees.

#### **3.3. Support Service**

- 3.3.1. Judopay will provide the Support Service in relation to the Payment Services.

#### **3.4. General**

- 3.4.1. Judopay will provide the Services to you during the periods set out below, subject to the performance of your obligations hereunder.
- 3.4.2. In relation to the:
  - 3.4.2.1. Set Up Service, we shall provide such Service from the Signature Date until the Go Live Date;
  - 3.4.2.2. Payment Services, we shall provide such Service from the Go Live Date and for the duration of the Term;
  - 3.4.2.3. Support Services, we shall provide such Service from the Go-Live Date and for the duration of the Term.
- 3.4.3. In relation to the Solution Description, Judopay reserves the right in its sole discretion to re-organise, remove and/or change the details of each feature with 30 days written notice to you and your use of the Services (or, if

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earlier, the end of this period) will represent your deemed agreement to the change. Furthermore, you acknowledge and accept that the descriptions of the Services in the Solution Description are current descriptions and may change from time to time to reflect upgrades, changes, improvements or other customary, commercial, regulatory or other changes to the Services.

- 3.4.4. Judopay does not provide any Regulated Services as it is not authorised or otherwise permitted by any Regulatory Authority to do so.

#### 4. Licence

- 4.1. From the Signature Date, in consideration of the Fees paid by you to Judopay in accordance with clause 7, Judopay grants to you a limited, non-exclusive, non-transferable, non-sub-licensable and revocable (on the terms of this Agreement) licence to use the Services for (i) your own business purposes; (ii) for the periods stated in clause 3.4.2; and (iii) subject to any restrictions and limitations set out herein.
- 4.2. At its sole discretion Judopay may, for technical, legal, or operational reasons (i) change the content, software, data, format, medium, or form of delivery of any part of the Services and/or (ii) suspend (permanently or temporarily) access to any part of the Services. Judopay will not suspend the Services for maintenance purposes during normal business hours, save in the event of an emergency. Before materially changing, or suspending any part of the Services, Judopay will give you as much notice as is reasonably possible in the circumstances. Judopay shall not be liable to you for any such change or suspension of the Service, or the impact that such change may have on your business but will endeavour to minimise the length of any suspension and keep you regularly updated.
- 4.3. Judopay may collect and use information and data about how you and your customers access and/or use any part of the Services (i) to provide, maintain, support, operate, improve, update, customise and/or administer the Services; (ii) for troubleshooting, product development analysis and improvement, data analysis, testing or statistical purposes; (iii) to provide information which Judopay is required to provide under any third party additional terms to third parties; (iv) to keep Judopay, the Services, and your data safe and secure; (v) where stated in Judopay's Privacy Policy; and (vi) to develop analytics and insights, new services and content.
- 4.4. Judopay may (i) use software tools to collect information and data (including personal data) relating but not limited to the way you and your customers use the Software including data concerning clickstreams, software downloaded, times of sessions and volumes of data accessed, and (ii) retain and process information and data (including personal data) for the purposes of detecting and preventing breaches of Judopay's network security, Applicable Laws, the Agreement, Judopay's Privacy Policy and/or any other agreements which Judopay has with third parties which are required for the provision of the Services.
- 4.5. You will not, and will not permit any third party to: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Services or any software, documentation or data (provided that reverse engineering is prohibited only to the extent such prohibition is not contrary to Applicable Law); (ii) modify, translate, or create derivative works based on the Services or Software; (iii) use the Services or Software for timesharing or service bureau purposes or for any purpose other than your own internal business purposes; (iv)

permit any third party to access the Services except as permitted herein or in an Order Form; or (v) use the Services or Software other than in accordance with the Agreement and in compliance with all Applicable Laws and regulations (including but not limited to any UK or European privacy laws).

- 4.6. The extraction or scraping of data from the Services using any method (whether manually or via use of automated systems or software) for any purposes (whether or not commercial), is expressly prohibited unless you have concluded a written licence agreement with Judopay permitting such extraction. Further, the use of automated systems or software to insert data onto the Services without the prior written consent of Judopay for any purposes is not permitted and shall be deemed a material breach of the Agreement.
- 4.7. You shall not disclose, copy, frame or mirror any content forming part of the Services, other than for its own internal business purposes and you shall not access the Services in order to (i) build a competitive product or service, or (ii) copy any ideas, features, functions or graphics of the Services or any underlying Intellectual Property Rights. You shall not remove, obscure, or alter any title, trademark, copyright and/or restricted rights notices or labels from the Services.
- 4.8. You shall not:
- 4.8.1. sub-license, assign or novate the benefit or burden of this licence in whole or in part;
- 4.8.2. allow any part of the Services to become the subject of any charge, lien, or encumbrance; or
- 4.8.3. deal in any other manner with any or all of its rights and obligations under the Agreement,
- without the prior written consent of Judopay.
- 4.9. Judopay may at any time sub-license, assign, novate, charge, or deal in any other manner with any or all of its rights and obligations under this licence, provided it gives written notice to you.
- 4.10. This Agreement and the relationship established hereunder is non-exclusive. Judopay is free to offer services that are the same or substantially similar to the Services to other organizations (including, without limitation, competitors of you). You acknowledge that the Services have not been developed to meet your individual requirements.

#### 5. Developer Tools

- 5.1. Certain parts of the Developer Tools provided from us to you have been (and will be in the future) released by Judopay under an Open Source licence and are or will be subject to the terms of the applicable Open Source licence.
- 5.2. It is your sole responsibility to comply with the terms of any Open Source licenses required to use the Service.

#### 6. Authorised Representative

- 6.1. You will name an authorised representative to serve as your business point of contact between the parties throughout the term of the Agreement ("Authorized Representative") and will promptly notify Judopay in writing in the event that you require a change to your nominated Authorised Representative.
- 6.2. Judopay shall be entitled to rely upon any instruction provided by the Authorised Representative as being binding on you.

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## 7. Fees

- 7.1. In consideration for the delivery of the Services under any Order Form, you shall pay Judopay the Fees.
- 7.2. You agree that from the date we confirm in writing your account onboarding is complete, you shall pay Judopay the Monthly Minimum Commitment unless the Fees (excluding the Monthly Minimum Commitment) for the relevant month exceed the Monthly Minimum Commitment. In such cases, the relevant Fees will be payable by you and the Monthly Minimum Commitment will not be payable.
- 7.3. All Fees shall be paid in the currency stated in the Order Form and are exclusive of VAT or any relevant local sales taxes, for which you shall be responsible in accordance with Applicable Law.
- 7.4. Payments may be made to Judopay via Direct Debit in accordance with our Direct Debit Service Agreement if Direct Debit is selected as the payment method in an Order Form.
- 7.5. If invoicing is the payment method chosen in the Order Form, Judopay will issue you a monthly invoice with the Fees due from the previous month's Transactions.
- 7.6. Invoices are payable within fourteen (14) calendar days. If any sum is due from you to us under the Agreement and is not paid as per the agreed payment terms, we shall be entitled (without prejudice to any other rights) to charge interest at the rate of two (2) per cent above the base rate of the Bank of England in force at that time, from the date the payment becomes past due until the date the payment is received.
- 7.7. If you have a genuine dispute concerning the whole or any part of any invoice, you must notify Judopay of the nature of such dispute in writing within fourteen (14) calendar days of the date of the invoice. The Parties shall cooperate in good faith to resolve the dispute as amicably and promptly as possible. On settlement of any dispute, you shall make any payment(s) due within five (5) calendar days, and in accordance with the Agreement.
- 7.8. The Fees shall automatically increase by the United Kingdom's Consumer Price Index (CPI) on each anniversary of the Signature Date.
- 7.9. Notwithstanding clause 7.7, Judopay may, by giving thirty (30) days' prior notice, vary the Fees and the basis on which they are calculated. The Fees may not be varied more than once in any 12 month period, save where such variation is agreed by the Parties or is due to (i) changes in the Service requested or required by you; (ii) changes imposed on Judopay in accordance with clauses 7.8 and 7.9 and/or (iii) the inaccuracy of any information provided by you or on your behalf.
- 7.10. You acknowledge and accept that Card Schemes, Financial Service Providers and our suppliers or other Partners may change their rates from time to time and that this may affect the terms of the Order Form (including the Fees). Accordingly, these changes (whether blended rates or not) may affect your agreed pricing and Judopay will be entitled to pass on to you these non-controllable costs. our use of the Services (or, if earlier, the end of this period) constitutes your deemed acceptance of the updated terms.
- 7.11. You acknowledge that you are responsible for any fees, fines, penalties or other charges that may be imposed by a Card Scheme, a Financial Service Provider, financial regulations, or

any other person as a result of a failure by you to comply with the provisions of the Agreement.

## 8. Settlement

- 8.1. If you have engaged Judopay (or a Partner, as applicable) to provide Acquiring Services, the following provisions will apply:
  - 8.1.1. By using our Services, you agree and acknowledge that Judopay will appoint a Financial Service Provider that will be responsible for receiving and paying funds owed to you concerning your Transactions (i.e. acting as Acquirer). You will be informed about your Financial Service Provider with whom you will have a direct relationship.
  - 8.1.2. You acknowledge that any Settlement schedule is handled by the Financial Service Provider governing the provision of acquiring services to you. You accept that the Financial Service Providers shall be solely responsible for paying the remittance to you and for the authorisation and settlement of Transactions as per the terms and conditions of the applicable Financial Service Terms.
  - 8.1.3. For the purposes of settlement under this Agreement, further information on this (including, associated Fees) is detailed in the Fees section of the Order Form. In the event of any discrepancy between this Agreement and the terms and conditions of the applicable Financial Service Terms, insofar as they relate to Acquiring Services provided by Financial Service Provider to you, the latter will prevail.
- 8.2. If you have engaged Judopay to provide Gateway Services, the following provision will apply: if you have an existing MID and would like to use Judopay for Gateway Services, you will be solely accountable for managing the relationship with your Financial Service Provider of choice. For the avoidance of doubt, Judopay shall not be accountable or liable in any way for liaising on your behalf with your Financial Service Provider or for the services they provide to you.
- 8.3. For further information about your Financial Service Terms such as remittances and processing fees, please refer to the agreement with your Financial Service Provider.
- 8.4. Unless expressly provided in the Agreement, you acknowledge and agree that any Fees paid or payable by you in connection with the Agreement and/or any Transaction are non-refundable.

## 9. Relationship with customers

- 9.1. You hold the responsibility for the relationship with your customers and the quality of the services provided, including returns, refunds, deliveries, and overall quality. For the avoidance of doubt, Judopay will not be liable for the products or services that you sell to your customers, and you will ensure our liability is disclaimed in your contracts with such customers.
- 9.2. You warrant that at all times during the Term, you hold the required licenses, permissions, and clearances necessary to conduct your business in all jurisdictions in which you operate and that the provision of any services by you to your customers shall not be in breach of any applicable legislation.

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- 9.3. You must provide your services with reasonable care and skill as per the requirements set out in the Consumer Rights Act 2015.
- 9.4. Judopay is not responsible for providing any support to your customers unless otherwise agreed in writing between the Parties.
- 9.5. You are responsible for making sure your customers understand all charges related to your service and you will provide them with a receipt describing in detail the amounts charged.
- 9.6. You acknowledge and accept that it is your sole responsibility to ensure that the Cardholder has granted its consent to be billed in connection with your services.

## 10. Notices

- 10.1. Upon registering your Account, you authorise us to provide notices to you through our website, Judopay portal, or to the email and/or phone number provided by you.
- 10.2. You must send written notices to Judopay at the following email addresses: [Help@Judopay.com](mailto:Help@Judopay.com) and [Sales@Judopay.com](mailto:Sales@Judopay.com).
- 10.3. Any written notice to be given under the Agreement shall be deemed to have been received at the time that the email or notification is sent (if no bounce back has been received, in which case, the email will not be deemed to have been received).
- 10.4. For general queries (not notices), You may also contact our Customer Support team on +44 203 503 0600.
- 10.5. Unless agreed otherwise, all communications related to the Agreement must be in English.

## 11. Terms & termination

- 11.1. The Agreement shall come into effect on the date of signature of the Order Form by the Parties and, unless terminated earlier in accordance with this clause 11 or as otherwise permitted under the terms of the Agreement, shall continue for the Initial Term. Thereafter, the Agreement shall automatically renew for successive periods of twelve (12) months ("Renewal Term") unless either Party serves written notice on the other Party of its desire not to renew the Agreement at least ninety (90) calendar days prior to the expiry of the Initial Term or the then current Renewal Term.
- 11.2. Judopay is entitled, on providing you with ten (10) days prior written notice, to terminate your Account if, from the date of registering your Account with Judopay, you don't use our Service for a period of ninety (90) calendar days or more. For the avoidance of doubt, in the event of termination for inactivity, Judopay will be entitled to charge you the applicable fixed fees for the relevant period (to the extent remaining unpaid), including, the Monthly Minimum Fees, the Compliance Fee, the MID Registration Fee and the Setup Fee.
- 11.3. Either Party is entitled to terminate the Agreement at any time with immediate effect if one of the following occurs:
  - 11.3.1. If you fail to comply with or if you violate any Card Scheme Rules or Applicable Law, PCI-DSS and / or regulations;
  - 11.3.2. If you fail to pay any amount due under the Agreement within thirty (30) calendar days of us giving notice to you that payment is due;

11.3.3. If anything happens to your business or comes to our attention, or the attention of our Partners, concerning the conduct of your business or you engage in business activities or individual activities that we consider may detrimentally affect your ability to meet your obligations under the Agreement;

11.3.4. If you participate in any activity that gives rise to fraud or criminal activity or that may damage the reputation or be detrimental to the business of the Card Schemes, Financial Service Providers or us;

11.3.5. If we are required or requested by the Card Schemes, Financial Service Providers or any competent regulatory authority to suspend or close your Account or are required to do so because of any Applicable law that applies to us or you; or

11.3.6. If we discover that you provided misleading or false information to us under the Agreement at any time.

11.4. Either Party is entitled to terminate the Agreement at any time with immediate effect if one of the following occurs:

11.4.1. the other Party is in material or persistent breach of the Agreement and fails to remedy such breach within ten (10) calendar days of written notice from the terminating Party specifying the breach and remediation required;

11.4.2. If Judopay ceases to be a member of one of the Card Schemes or ceases its partnership with one of the Financial Service Providers. Judopay will endeavour to give you prior notice to such termination and present you with an alternative solution to keep providing you with the Services; or

11.4.3. If an event of Force Majeure occurs as per clause 28 of the Agreement and continues for a period of up to four (4) weeks.

11.5. Upon termination or expiration of the Agreement, you shall no longer be entitled to use the Service and the licence granted by us to you shall immediately expire.

11.6. Termination or expiry of the Agreement shall not affect the rights, remedies, obligations, and / or liabilities of the Parties that have accrued up to the termination date or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.

11.7. Upon termination of the Agreement, you shall immediately pay us any outstanding unpaid invoices and interest in full. In respect of the Services supplied but for which no invoice has yet been submitted, we may send an invoice, which shall be payable immediately on receipt.

## 12. Your obligations

12.1. You may only use the Services for the Purpose or otherwise as expressly authorised by Judopay. Any changes to the Purpose must be immediately communicated to Judopay in writing.

12.2. You hereby agree that all Transactions shall be submitted to Judopay for processing as per the Documentation.

12.3. In order for you to continue to use the Services, Judopay may require you, from time to time, to implement and/or install certain software updates. You hereby undertake to take such

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necessary steps to promptly implement and/or install such software update and acknowledge that any failure to do so may result in your inability to utilise the Services.

- 12.4. You are solely responsible for procuring, maintaining, and securing your network connections and telecommunications links from your systems to Judopay's data centres. Judopay is not responsible for any problems, conditions, delays, delivery failures or any other loss or damage arising from or relating to your network connections or caused by the internet.
- 12.5. It is your responsibility to keep your Account details, passwords and other login details provided by us to you secure and to prevent unauthorised disclosure to others.
- 12.6. You will be compliant at all times with the current PCI-DSS requirements. Judopay is entitled to request your Attestation of Compliance at any time during the provision of the Services to you. You further accept and acknowledge that failure to provide a valid Attestation of Compliance to our Partners may result in termination of your Account and the incurrence of non-compliance fees.
- 12.7. You hereby fully indemnify Judopay from any losses, damages and fines incurred, including charges applied by the Card Schemes, due to your breach of PCI-DSS compliance obligations.
- 12.8. You will, at all times, ensure that your customers are aware that Judopay provides you with Payment Services.

### 13. Our obligations

- 13.1. Judopay warrants that it has and will maintain all licences, consents, and permissions necessary for the performance of its obligations under the Agreement.
- 13.2. Judopay warrants that in performing the Services, it shall comply with the Applicable Laws concerning the performance of its obligations under the Agreement.
- 13.3. Judopay shall provide the Services materially in accordance with the Documentation.
- 13.4. If changes to our systems are required by regulations, laws, or Card Scheme Rules, we shall implement them as soon as reasonably possibly.
- 13.5. From time to time, Judopay may, at its sole discretion, decide to change its Partners and you acknowledge this right. In such cases, Judopay will provide you with 30 days' prior written notice of the Partner change and your use of the Services (or, if earlier, the end of this period) will represent your deemed agreement to the change. You agree to enter into such agreements (or undertake such other actions) as may be reasonably necessary to ensure that you are able to continue benefiting from and/or using our Services on any such change of Partner.

### 14. Compliance with the Card Schemes

- 14.1. You are and remain solely responsible for ensuring that your products and services are compliant with the Card Scheme Rules and Applicable Laws in the country where you operate and where you are based.
- 14.2. You shall not apply a price threshold for accepting a card or alternative payment method, in accordance with the Card Scheme Rules.

- 14.3. You acknowledge and agree that the Card Schemes are the sole and exclusive owners of their respective marks, and you shall not contest the ownership of such marks for any reason.

### 15. Prohibited activities

- 15.1. When using our Services you must adhere, at all times, to the rules, regulations, or directives applicable to you. This may include, but not be limited to, privacy laws, consumer rights, financial services regulations, Card Scheme Rules, and any other laws applicable to your business activity.
- 15.2. You may not use our Services (i) for the payment of your products where it is illegal to offer or provide these to or from a country stated in our Prohibited and Restricted List (as updated by us from time to time); or (ii) to trade with any individual or business or in any country mentioned in the sanctions lists of the United Kingdom.
- 15.3. You may not use our Services to trade in any Restricted Business activity. Judopay will update the Restricted Business list from time to time. You are responsible for ensuring that your business activity is compliant with our latest list.

### 16. Intellectual property rights

- 16.1. You acknowledge that all Intellectual Property Rights in the Services (including the Software, any maintenance releases or updates relating thereto, the Documentation, our systems and any rights connected to the integration of the same with your systems and any modifications, developments or new products made to, or associated with, the Services) shall belong to Judopay (or its third party licensors), and you shall have no rights in or to the Services other than the right to use it in accordance with the terms of the Agreement.
- 16.2. You acknowledge that the Services have been developed, compiled, prepared, revised, selected, and arranged by Judopay and its licensors through the application of methods and standards of judgment developed and applied through the expenditure of substantial time, effort and money and constitute valuable intellectual property of Judopay and its licensors. You agree, upon reasonable request by Judopay, and at Judopay's expense, to assist (as applicable) Judopay and/or its licensors as necessary to protect their proprietary rights in the Services.
- 16.3. Judopay undertakes at its own expense to defend you or, at its option, settle any claim or action brought against you alleging that the possession or use of the Services (or any part thereof) in accordance with the Agreement infringes the Intellectual Property Rights of a third party ("IP Claim") and shall be responsible for any reasonable losses, damages, costs (including legal fees) and expenses incurred by or awarded against you as a result of or in connection with any such IP Claim. For the avoidance of doubt, this clause 16.3 shall not apply where the IP Claim in question (i) is attributable to possession or use of the Services (or any part thereof) by you other than in accordance with the terms of the Agreement; (ii) use of the Services in combination with any hardware or software not supplied or specified by Judopay if the infringement would have been avoided by the use of the Services not so combined; (iii) use of the Services after noticed of alleged or actual infringement by Judopay or a relevant authority; or (iv) use of a non-current release of the Software.
- 16.4. If any third party makes an IP Claim, or notifies an intention to make an IP Claim against you, Judopay's obligations under clause 16.3 are conditional on you:

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- 16.4.1. as soon as reasonably practicable, giving written notice of the IP Claim to Judopay, specifying the nature of the IP Claim in reasonable detail;
- 16.4.2. not making any admission of liability, agreement or compromise in relation to the IP Claim without the prior written consent of Judopay (such consent not to be unreasonably conditioned, withheld or delayed);
- 16.4.3. giving Judopay and its professional advisers access at reasonable times (on reasonable prior notice) to its premises and its officers, directors, employees, agents, representatives, or advisers, and to any relevant assets, accounts, documents and records within your power or control, so as to enable Judopay and its professional advisers to examine them and to take copies (at Judopay's expense) for the purpose of assessing the IP Claim; and
- 16.4.4. taking such action as Judopay may reasonably request to avoid, dispute, compromise or defend the IP Claim, at Judopay's cost.

16.5. If any IP Claim is made, or in Judopay's reasonable opinion is likely to be made, against you, Judopay may at its sole option and expense:

- 16.5.1. procure for you the right to continue to use the Services (or any part thereof) in accordance with the terms of this licence;
- 16.5.2. modify the Services so that it ceases to be infringing;
- 16.5.3. replace any part of the Services; or
- 16.5.4. terminate the Agreement immediately by notice in writing to you and refund any of the Fees paid by you as at the date of termination (less a reasonable sum in respect of your use of the Services to the date of termination) f,

provided that if Judopay modifies or replaces the Services, the modified or replacement Service must comply with the warranties contained in these Terms.

16.6. This clause 16 constitutes your exclusive remedy and Judopay's only liability in respect of IP Claims and, for the avoidance of doubt, is subject to clause 24.5.

## 17. Anti-bribery and anti-corruption

- 17.1. Neither Party shall commit any prohibited act under the Bribery Act 2010, or under any other relevant laws, statutes, regulations, or codes in relation to bribery and anti-corruption.

## 18. Processing of personal data

- 18.1. Judopay commits to strictly retain and collect your data for the performance of the Service as detailed in our Privacy Policy. By accepting the terms of the Agreement, you agree to the terms of our Privacy Policy.
- 18.2. You shall ensure that all your customers are fully informed of how Judopay will process personal data as set out herein and will obtain all necessary consents from all such customers in respect thereof. Such processing is necessary for the performance of the Agreement and for the purposes of Judopay and its licensors legitimate interests.

## 19. Confidentiality

- 19.1. Both Parties undertake that they shall not at any time during the Agreement, and for a period of five (5) years after termination or expiry of the Agreement, disclose to any person any Confidential Information concerning the business affairs, customers, clients, or suppliers of the other Party.
- 19.2. Each Party may disclose the other Party's Confidential Information to its employees, officers, representatives, or advisers who need to know such information for the purposes of exercising the Party's rights or carrying out its obligations under or in connection with the Agreement.
- 19.3. Each Party shall ensure that its employees, officers, representatives, or advisers to whom it discloses the other Party's Confidential Information comply with this clause 19; and as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 19.4. No Party shall use any other Party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Agreement.
- 19.5. A Party's Confidential Information shall not be deemed to include information that is or becomes publicly known other than through any act or omission of the receiving Party; was in the other Party's lawful possession before the disclosure; is independently developed by the receiving Party, where independent development can be shown in written evidence.
- 19.6. The provisions of this clause 19 shall survive termination of the Agreement, however arising.

## 20. Fraud control system

- 20.1. The Parties acknowledge and agree that any fraud prevention tools, or solutions offered or provided by Judopay do not guarantee the prevention of fraudulent transactions, nor guarantee that there will be no resulting Chargebacks or fines. Regardless of the resulting fraud score, Transactions may be fraudulent or non-fraudulent.
- 20.2. For some payment methods, Transactions can be cancelled by you after they have been Authorised. The final responsibility for accepting or rejecting a Transaction will remain with you. Judopay reserves the right to cancel any Transaction that it has reasonable grounds to suspect to be fraudulent or that involves other criminal activities.

## 21. Publicity

- 21.1. During the Term, you hereby grant to Judopay a non-exclusive and royalty-free licence to use and display your trademarks on its public facing website and in its marketing material. Any goodwill derived from the use by Judopay of your trademarks shall accrue to you. No other rights or licences are conferred on Judopay pursuant to this Contract except those expressly set out herein.

## 22. Right to audit

- 22.1. You shall grant to Regulatory Authorities, regulatory examiners (acting pursuant to and in accordance with their supervisory powers under the Applicable Law and any required authorisation) or the Card Scheme such access to your premises, staff and documentary records as is necessary in order to comply with regulatory requirements and Card Scheme Rules, and you shall provide such assistance as may be reasonably necessary in relation thereto.

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- 22.2. Subject to the conditions set out in this section, you shall allow Judopay and its Authorised Auditors to access your premises, personnel, and relevant records as may be reasonably required: (i) to fulfil any request from any of the Regulatory Authorities or the Card Schemes or made by virtue of the Applicable Laws; and (ii) to verify that you are in full compliance with your obligations under the Agreement.
- 22.3. Audits shall be performed on no more than one occasion during any twelve (12) month period unless the Applicable Laws and/or the Card Scheme Rules require otherwise.
- 22.4. Judopay shall (on a best endeavours basis) provide at least one (1) months' notice of its intention to conduct an audit where reasonably practicable, such notice describing the Judopay staff that will be carrying out the audit and issue(s) that will be the subject of the audit.
- 22.5. The audits shall be carried out at the expense of Judopay, provided that if an audit demonstrates that you are in material breach of your obligations under the Agreement, Judopay shall be entitled to recover from you all costs and expenses that it has reasonably incurred in connection with such audit.

### 23. No warranties

- 23.1. You accept responsibility for the selection of the Services to achieve your intended results and acknowledge that the Services have not been developed to meet your individual requirements and are provided "*as is*".
- 23.2. You acknowledge that any Open-Source software provided by Judopay is provided "*as is*" and is excluded from any warranties and representations hereunder.
- 23.3. Neither Judopay nor any third party give any warranty, express or implied that (i) the Services or any output from the Services will be correct, accurate, complete or fit for any purpose; (ii) the availability of any part of the Services will be uninterrupted, timely, secure or error-free; (iii) defects or any errors in any part of the Services will be corrected; (iv) any part of the Services will meet any particular criteria of performance or quality; or (v) the results obtained from use of any part of the Service will be accurate or reliable or that the quality of any part of the Service will meet your expectations.
- 23.4. Except as set out herein, all conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into this Agreement, whether by statute, common law or otherwise, are hereby excluded, including the implied conditions, warranties, or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.

### 24. Limitations of liability

- 24.1. Under no circumstance will Judopay be liable or responsible for (i) indirect, incidental, punitive exemplary or consequential damages from your inability to use the Services or for any unavailability of the Services; or (ii) loss of profit or business, depletion of goodwill or any similar losses arising in relation to the Agreement even if such damages are foreseeable and even if Judopay has been advised of such possibility.
- 24.2. Judopay is not liable, and will not take any responsibility for, any harm, losses or damages that arise related to unauthorised access to the Services, hacking, your failure to use security controls, anti-fraud measures or data protection security measures.

- 24.3. Judopay does not accept any responsibility for any Losses suffered by you or any third-parties related to you, with respect to (i) your access or use of the Services where such use is not in accordance with Judopay's instructions or the Documentation; (ii) any access to systems and services that are not authorised under the Agreement; (iii), any interruptions to or downtime of the Services; (iv) any viruses or bugs that may be transmitted to or through the Services; and (v) any inaccuracies, omissions, errors or losses in the data provided by you to us.
- 24.4. Nothing in the Agreement excludes or limits either Party's liability for death or personal injury caused by negligence; fraud or fraudulent misrepresentation; or any liability which cannot legally be excluded or limited.
- 24.5. The total liability of Judopay to you in respect of all other loss or damage arising under or in connection with the Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the amount paid by you to Judopay over the course of the twelve (12) months immediately preceding the cause of action.

### 25. Third-parties liability

- 25.1. In addition to any obligation that you may have under the Agreement, you are at all times responsible for the acts and omissions of your employees, contractors, and agents, to the extent such persons are acting within the scope of their relationship with you.
- 25.2. You agree to defend Judopay, our respective employees, agents, and service providers against any claim, suit, demand, loss, liability, damage, action, or proceeding (each, a "**Claim**") brought by a third party against us.
- 25.3. You agree to fully reimburse Judopay for any Claims that result from your breach of the Agreement; for all fees, fines, disputes, refunds, reversals, returns, or any other liability we might incur as a result of your use of the Services; for negligent or willful misconduct by you, your employees, your suppliers, or contractors; for contractual or other relationships between you and your customers.

### 26. Indemnity

- 26.1. You will indemnify, defend, and hold Judopay and its Affiliates harmless (and its and their respective employees, directors, agents, Affiliates and representatives) from and against any and all Losses arising out of any claim that arises out of or relates to: (i) any breach of your representations, warranties, or obligations in the Agreement; (ii) your wrongful, fraudulent, negligent or improper use of the Service; (iii) any Transaction submitted by you through the Service (including without limitation any claim or dispute arising out of the products or services offered purchased from you via payments processed by Judopay); or (iv) your violation of any third-party right, including without limitation any right of privacy or intellectual property rights; your violation of any Applicable Law, including without limitation the Card Scheme Rules; and any third party's access and/or use of your Account.

### 27. Assignment

- 27.1. You shall not assign, transfer, create any encumbrance in or over, or deal in any other manner with the Agreement or a right or obligation under the Agreement without having first obtained our written consent.

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- 27.2. Judopay shall be entitled to assign its rights under the Agreement to any other entity and will provide reasonable notice to you of any assignment.

## 28. Force Majeure

- 28.1. Subject to clause 28.2, neither Party will be in breach of the Agreement, nor liable for any failure or delay in performance of any obligations under the Agreement arising from or attributable to acts, events, omissions or accidents beyond its reasonable control, or where relevant, the reasonable control of Judopay and suppliers ("Force Majeure Event").
- 28.2. If a Party of the Agreement is subject to a Force Majeure Event, it shall not be in breach provided that it promptly provides notice in writing to the other Party of the nature and extent of the Force Majeure Event and it has used all reasonable endeavours to mitigate the effect of the Force Majeure Event.
- 28.3. Nothing under this section will affect or excuse your liabilities or your obligation to pay fees, fines or disputes.

## 29. Entire agreement

- 29.1. The Agreement constitutes the entire agreement between the Parties concerning its subject matter.
- 29.2. It replaces and extinguishes all prior agreements, draft agreements, arrangements, collateral warranties, collateral contracts, statements, assurances, representations, and undertakings of any nature made by or on behalf of the Parties, whether oral or written, concerning subject matter.
- 29.3. Each Party acknowledges that in entering into the Agreement it has not relied upon any oral or written statements, collateral or other warranties, assurances, representations, or undertakings which were made by or on behalf of the other Party in relation to the subject matter of the Agreement at any time before its signature (together "Pre-Contractual Statements"), other than those which are set out in the Agreement.
- 29.4. Each Party hereby waives all rights and remedies which might otherwise be available to it concerning such Pre-Contractual Statements.

## 30. Severance

- 30.1. If any provision or part-provision of these Terms are or become invalid, illegal, or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these Terms.
- 30.2. If any provision or part-provision of this Agreement is deemed deleted under clause 30.1, the Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

## 31. Agreement updates

- 31.1. We reserve the right to change or add to the terms of the Agreement at any time and, where appropriate, we will notify you when we make any substantial updates.
- 31.2. Your continued use of the Services constitutes your acceptance of the updated terms of the Agreement.
- 31.3. In the case you wish not to accept our updated terms, you must contact us to proceed with your Account termination, as per clauses 10 and 11 of the Agreement.

## 32. Third-party rights

- 32.1. Save as otherwise expressly provided, a person who is not a Party to the Agreement shall not have any rights under or in connection with the Agreement under the Agreements (Rights of Third Parties) Act 1999.
- 32.2. Our suppliers are intended third-party beneficiaries of the Agreement. To the extent that of any terms herein pertaining to such suppliers' ownership rights such suppliers have the right to rely on and directly enforce such terms against you.

## 33. No partnership or agency

- 33.1. Nothing in these Terms is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another party, or authorise any Party to make or enter into any commitments for or on behalf of any other Party.
- 33.2. Each Party confirms it is acting on its own behalf and not for the benefit of any other person.

## 34. Governing law and jurisdiction

- 34.1. This Agreement and any disputes or claims arising out of or in connection to its subject matter (including non-contractual disputes or claims) are governed by and construed in accordance with the laws of England and Wales.
- 34.2. The Parties irrevocably agree that the courts of England and Wales have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Agreement.

## 35. Interpretation and Definitions

- 35.1. Words (including the definitions in this clause importing the singular shall include the plural and vice versa.
- 35.2. Any reference to any gender shall include the other genders.
- 35.3. Any reference to a person shall be construed as including any person, firm, company, corporation, society, trust, foundation, government, state or agency of a state or any association or partnership (in each case whether or not having separate legal personality) or any two or more of these.
- 35.4. Any reference to the Agreement or any other agreement or document shall be construed as a reference to that agreement or document as it may have been, or may from time to time be amended, varied, novated, replaced or supplemented.
- 35.5. Any phrase introduced by the words "include", "including" or "in particular" or any similar words or expressions shall be construed as illustrative and shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words.
- 35.6. Any references to in writing shall include any modes of reproducing words in a legible and non-transitory form.
- 35.7. All headings in the Agreement are for ease of reference only and shall not affect the interpretation of the Agreement.
- 35.8. All obligations given or entered into by more than one person are given to or entered into jointly and severally unless otherwise specified.

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35.9. The following words shall have the meanings assigned to them below:

**"3DS"** means a 3-domain structure, also known as a payer authentication which is a security protocol that helps to prevent fraud in online credit and debit card transactions;

**"Acquiring"** means the capture of Transactions and the routing of Transactions for Authorisation, Clearing and Settlement of funds in accordance with the Card Scheme Rules (and **"Acquirer"** shall be construed accordingly);

**"Account"** means your online account maintained by Judopay and where Transaction information is held;

**"Affiliate"** means, in relation to a company which is, on or after the Signature Date of the Agreement, a subsidiary or holding company;

**"Applicable Laws"** means, in respect of a Party, all applicable laws and regulations and, if applicable, the prevailing rules and regulations of any Regulatory Authority in any jurisdiction to which that Party is subject in respect of the performance of its obligations under the Agreement in each case for the time being in force (but not including, for the avoidance of doubt, the Card Scheme Rules);

**"Application"** means your application to us for the provision of any of the Services and Application Form shall be construed accordingly;

**"Attestation of Compliance"** means the form used by Merchants to attest the result of a PCI-DSS assessment;

**"Authorisation"** means, in respect of any Transaction, confirmation that a Card has not been reported as stolen and that there are sufficient funds on the account for such Transaction to be processed (and **"Authorised"** shall be construed accordingly);

**"Authorised Auditor"** means a member of the Chartered Institute of Accountants which has been appointed by Judopay to conduct an audit;

**"Authorised Signatories"** means the officer or representative of the business that is vested with powers to commit the authorising organisation to a binding agreement;

**"AVS"** means Address Verification System which is a system used to verify the address of a Cardholder. The system will check the billing address of the card provided by the Cardholder with the address on file at the Card Issuer;

**"Business Day"** means a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;

**"Card"** means a valid credit, debit card or similar instrument (including a virtual or electronic instrument) that is issued pursuant to a licence from one of the Card Schemes;

**"Cardholder"** means an individual or an entity for whose use one or more Cards have been issued from time to time;

**"Card Issuer"** means a financial institution that is a member of the Card Schemes and that issues Cards to Cardholders pursuant to the Card Scheme Rules;

**"Card Scheme"** means the payment network linked to payment cards namely: Visa, MasterCard, American Express, Diners Cards and others as agreed in writing by the parties from time to time;

**"Card Scheme Rules"** means the by-laws, rules, regulations, releases, interpretations, operating guidelines, and other requirements promulgated by any Card Scheme (as amended from time to time by such Card Scheme) including the rules and operating instructions applicable to the PCI-DSS, and which are available from Card Scheme websites from time to time;

**"Change of Control"** occurs if the person (or persons) who ultimately controls a Party cease to do so, or if another person (or persons) acquires ultimate control of the Party; provided always that a Change of Control shall not be deemed to occur in the event of a solvent reorganisation of a group of companies of which the relevant Party is a member;

**"Chargeback"** means a dispute that is raised against a Merchant when a customer does not recognise a Transaction on their bank statement or if they believe that they did not receive the service that they paid for;

**"Compliance Fee"** has the meaning given to it in the Order Form;

**"Confidential Information"** means all information disclosed by one Party to the other which is marked as or has been otherwise indicated to be confidential or which would be regarded as confidential by a reasonable business person;

**"CV2 Checks"** means CVV, or Card Verification Value which is a check that is carried out on the card used for the Transaction. The check uses the 3-digit security code – commonly found on the reverse of cards;

**"Developer Tools"** means the application programming interface, sandbox, software development kits and other developer tools that help developers to quickly add the Services to their mobile application;

**"Documentation"** means the documentation made available by Judopay to you via our Website, including the Solution Description, operating instructions and general user instructions for the Payment Services;

**"FCA"** means the UK Financial Conduct Authority (and its successor regulatory authorities), 25 The North Colonnade, Canary Wharf, London E14 5HS;

**"Fee(s)"** means the fee(s) as listed in the Order Form and in these Terms (as amended from time to time);

**"Force Majeure"** means any event beyond the reasonable control of either Party and shall include (but not by way of limitation) national strikes, riots, sabotage, terrorism, acts of war, hostilities or piracy, fire, explosion, storm, flood or earthquake, and delay caused by failure of communications or power supplies or transport or shortages of materials or labour or supplies of any kind;

**"Financial Service Provider"** means the Acquiring bank which provides you with Acquiring services;

**"Financial Service Terms"** means the agreement between you and the Financial Service Provider in relation to the provision of Acquiring services;

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**“Go Live Date”** means the date notified to you by Judopay on which the Set Up Services are complete and on which the Payment Services are made available to you;

**“Government Regulations”** means, in respect of a Party, all applicable laws and regulations and, if applicable, the prevailing rules and regulations of any Regulatory Authority in any jurisdiction to which that Party is subject in respect of the performance of its obligations under the Agreement in each case for the time being in force (but not including, for the avoidance of doubt, the Card Scheme Rules);

**“Intellectual Property Rights”** means patents, petty patents, utility models, trademarks, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, moral rights, database rights, know-how, secret processes, inventions, trade or business names, domain names, website addresses and any similar rights in any country whether currently existing or created in the future, together with the right to sue for and recover damages or other relief in respect of infringements of any of them;

**“Initial Term”** the initial term of the Agreement, as stated in the Order Form;

**“Interchange Fee”** means a fee charged by the Card Issuer to an Acquirer (or in the case of a Chargeback or ATM transaction charged by an Acquirer to the Card Issuer) for the clearing and Settlement of a Transaction;

**“KYC”** means “know your customer”, which is the process of verifying the identity and suitability of a company to enter a business relationship;

**“Losses”** means actions, proceedings, damages, liabilities, claims, costs, and expenses including fines, penalties, legal and other professional fees and expenses;

**“Merchant”** means a merchant (as defined in the Card Scheme Rules of Visa, MasterCard and Discover) which is domiciled in the Territory;

**“Merchant Identification Number”** or **“MID”** means the unique identification number of your account with the Financial Service Provider for the purpose of accepting card payments;

**“MID Registration Fee”** has the meaning given to it in the Order Form;

**“Monthly Minimum Commitment”** has the meaning given to it in the Order Form;

**“Order Form”** means the order form attached to the front of these Terms (as amended or superseded or replaced from time to time);

**“Parties”** means Judopay and you, for the context of the Agreement, and **“Party”** shall mean either party as the context may require;

**“Partners”** means the Financial Service Provider or other third-party service provider involved in the process of providing you with the Services;

**“Payment”** means the authorisation with an associated real time action by the Merchant for the collection/capture of payment;

**“Payment Services”** means the technology service provided by Judopay to you that facilitates payment services involving either, as applicable to you:

1. Judopay’s Payment Gateway and Acquiring Services (the **“Acquiring and Gateway Services”**); or
2. Judopay’s Payment Gateway only (the **“Gateway Services”**);

**“Payment Gateway”** means the software system devised and used for collecting Transaction data from a Merchant for forwarding to an Acquirer;

**“PCI-DSS”** means the Payment Card Industry Data Security Standards, as released from time to time by the PCI Security Standards Council;

**“Privacy Policy”** means the privacy policy found at <https://www.iudopay.com/privacy-notice/privacy-policy>, as amended by Judopay from time to time;

**“Prohibited and Restricted List”** means a list of merchant industries and sectors for which Judopay does not accept to process payments as detailed in our “Prohibited Business List” policy available here <https://www.iudopay.com/legal/hub> (as amended or replaced from time to time);

**“Purpose”** the payment of products and services provided by you to your customers as stated by you when entering into a contractual relationship with Judopay, or as otherwise agreed to by the Parties in writing from time to time;

**“Regulated Service”** means a service or activity of any kind which may only be legally performed or carried out following receipt of authorisation or permission of any kind from a Regulatory Authority;

**“Regulatory Authorities”** means the FCA, Card Schemes and any governmental or regulatory body having jurisdiction over a Party to the Agreement;

**“Scheme Fees”** means the fee charged by the Card Scheme to the Acquiring bank for utilizing their systems;

**“Settlement”** means payment of funds or transaction settlement;

**“Set Up Fees”** has the meaning given to it in the Order Form;

**“Set Up Services”** means the set up services required to configure the Software to be used by you, as requested by you in an Order Form;

**“Service”** means any and all services that Judopay shall provide to you as stated in the Order Form and as described in the Solution Description, which services may include (i) the Payment Services; (ii) the Support Services; (iii) the provision of the Documentation and the Developer Tools; and (iv) the provision of the Software and our systems;

**“Signature Date”** the date on which you sign the Order Form;

**“Software”** means Judopay (or other third party, as applicable) software utilised or maintained in connection with the Services;

**“Solution Description”** means, as applicable, the information and documentation available here <https://docs.iudopay.com/Content/Home.htm> and the support procedures available here <https://www.iudopay.com/legal/support-procedures>, in each case, as amended from time to time;

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**“Support Services”** the standard support provided by Judopay by means of phone and email on a commercially reasonable endeavours basis, be available during business hours and as detailed in the Order Form;

**“Term”** means the Initial Term and any Renewal Term;

**“Terms”** means these terms and conditions;

**“Territory”** means such Card Scheme regions in which Judopay is licensed to offer the Services;

**“Transaction(s)”** means, in relation to a Card, any payment or refund made by the use of a Card, the Card number or otherwise to debit or credit the Account (and, includes, without limitation, any sale, pre-authorisation, Card check, refund, void, save Card or remove Card); and

**“Website”** means [www.judopay.com](http://www.judopay.com).

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