



## Payment Processing Agreement

Vitesse PSP Limited and

PPA Version 17 (with the unrelated payment services) – July 2021

## Contents

**This Payment Processing Agreement** is between:

- (1) **Vitesse PSP Ltd**, a company incorporated in England (Company Registration No. 8461258) whose registered office is at, 9th Floor 107 Cheapside, London, United Kingdom, EC2V 6DN which is authorised by the Financial Conduct Authority of the UK (the “**FCA**”) to issue electronic money (e-money) and to provide payment services and is entered into the FCA register with register number 900646 (“**Vitesse**”); and
- (2) [overtyp e company name] a Company incorporated in [overtyp e company country of establishment] (Company Registration No: [overtyp e relevant reference number] whose registered office is at [overtyp e client’s full address] (the “**Client**”)

### Background

**WHEREAS**, Vitesse is authorised by the FCA as an E-Money Institution, under the Electronic Money Regulations (as defined below) and is permitted to issue E-Money (as defined below), execute payment transactions and provide money remittance services in the manner and to the extent contemplated by its provision of the Services in accordance with this Agreement;

**WHEREAS**, the Client is in a business of [PLEASE DESCRIBE CLIENT BUSINESS AND ITS REQUIREMENT FOR PAYMENT SERVICES. ADD IN ANY REFERENCE TO CLIENT’S REGULATED STATUS, WHERE THE CLIENT IS REGULATED];

**WHEREAS**, the Client would like to receive Vitesse’s Services;

**NOW**, therefore, in consideration of mutual covenants herein contained, and other good and valuable consideration, the Parties hereto mutually agree as follows.

## Agreed Terms

### 1. DEFINITIONS

#### 1.1 In this Agreement:

“**Agreement**” means this agreement for the provision of the Services as defined herein, and includes for the avoidance of doubt any Schedules hereto;

“**Authorised Instruction**” means an electronic message, in the format, containing the information and meeting the other requirements specified by Vitesse, requesting Vitesse to execute an Outward Payment;

“**Authorised User**” means an employee, officer or representative of the Client who is entitled to use the Online Interface;

“**Bank**” means a bank with which Vitesse maintains a bank account;

“**Business Day**” means a day (other than a Saturday or Sunday) when banks are open for the transaction of normal banking business in London in the United Kingdom;

“**Cleared Funds**” is the balance shown on the Online Interface standing to the credit of the Client in the Client’s Payment Account. Any E-Money issued to the Client in respect of an Inward Receipt or Client Credit will be notified on the Online Interface immediately and will be deemed to have been credited no later than on the Business Day on which the amount of the payment transaction is credited to Vitesse’s Bank account and such E-Money will then be at the Client’s disposal in accordance with Regulation 89 of the Payment Services Regulation. In addition, where the Client has selected to receive the Payment Service without any E-Money being issued to the Client (i.e. the unrelated payment service), the Relevant Funds received by Vitesse with respect to the Client will, separately and independently from any E-Money issued, be notified on the Online Interface immediately, and will be deemed to have been credited to the Client’s Payment Account no later than on the Business Day on which the amount of the payment transaction is credited to Vitesse’s Bank account and will be at the Client’s disposal in accordance with Regulation 89 of the Payment Services Regulation;

“**Client Credit**” means funds remitted to Vitesse’s bank account originating from the Client and initiated by the Client in accordance with Vitesse’s written instructions with a reference identifying the Client as the intended recipient and beneficiary;

“**Client Customer**” means the recipient of a payment made by a Client as an Outward Payment or the originator of a payment made to a Client as an Inward Receipt;

“**Client Customer Data**” means data in relation to any Client Customer who is the intended recipient of or receives an Outward Payment or who initiates an Inward Receipt;

“**Confidential Information**” means information in whatever form (including, without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, pricing, cost, clients, customers, products, affairs and finances of a Party or any Group Company of that Party which is or may be reasonably considered to be confidential to that Party and/or any Group Company of that Party and trade secrets including, without limitation, technical data and know-how relating to the business of the relevant Party or of the relevant Group Company of that Party or any of its suppliers, clients, customers, agents, distributors, shareholders or management, including (but not limited to) any Client

Customer Data and/or any other details of any Outward Payments, Inward Receipts or Client Credits completed pursuant to this Agreement, whether or not such information (if in anything other than oral form) is marked confidential, provided always that, the definition of Confidential Information shall not include information or data which:

- (a) is within the public domain; or
- (b) after disclosure to the receiving Party, lawfully comes into the public domain otherwise than by reason of a breach of the undertaking contained at Clause 12 of this Agreement or any other obligation of confidentiality; or
- (c) was lawfully within the receiving Party's possession prior to its being provided to the receiving Party, provided that the source of such information was not itself subject to any agreement or other duties of confidentiality in respect thereof; or
- (d) lawfully comes into the receiving Party's possession on a non-confidential basis provided that the source of such information was not itself subject to any agreement or other duties of confidentiality in respect thereof; or
- (e) is required to be disclosed by law or regulation, provided that, subject to Clause 5.9, and where such notification is not unlawful, the receiving Party immediately notifies the disclosing Party of such requirement to enable representations to be made to the authority concerned.

**"Controller"** has the meaning given to it in the Data Protection Laws;

**"Country Coverage"** means the schedule of countries into which Vitesse shall remit Outward Payments on behalf of Clients and details of this coverage may be requested from Vitesse (the coverage may be updated from time to time) ;

**"Data Protection Laws"** means:

- (a) the General Data Protection Regulation (EU 2016/679) ("GDPR") and any implementing, derivative or related legislation, rule or regulation of the European Union or the United Kingdom;
- (b) the Electronic Communications (EC Directive) Regulations 2003, together with any legislation which replaces it; and
- (c) at all times, any other data protection laws and regulations applicable in the United Kingdom.

**"Data Subject"** means an individual who is the subject of Personal Data;

**"Data Processor"** means a processor as defined in the GDPR;

**"Effective Date"** means the date when the Agreement is signed by all parties;

**"E-Money"** means electronic money as defined in the Electronic Money Regulations;

**"Electronic Money Regulations"** means the Electronic Money Regulations 2011;

**“GDPR”** means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC;

**“Group Company”** means, in respect of a Party, any company which is from time to time a subsidiary or a holding company of that Party, and any company which is from time to time a subsidiary of any such holding company; and the terms “holding company” and “subsidiary” shall have the meaning given to them by Section 1159 of the Companies Act 2006;

**“Inward Payment Service”** means the receiving and processing of Inward Receipts made by Client Customers in accordance with the provisions of this Agreement This service can be with, or without, the issuance of E-Money by Vitesse to the Client, as selected by the Client and explicitly confirmed by Vitesse;

**“Inward Receipt”** means funds remitted to a Vitesse Bank account, either originating from a Client Customer or the Client, which remittance has been initiated by a Client or a Client Customer in accordance with Vitesse’s written instructions, with a reference identifying the Client as the intended recipient and beneficiary;

**“Intellectual Property Rights”** means registered and unregistered trademarks and service marks (including any trade, brand, business names, titles or logos used to differentiate products and services), patents, registered and unregistered designs, design rights, rights in trade, business or domain names, copyright, databases rights, and all other intellectual property rights, including applications for the grant of any of the foregoing and the right to apply for the grant of any of the foregoing, now or in the future, in any part of the world and any similar rights situated in any country together with all rights of actions, remedies, benefits and powers relating to any of the foregoing;

**“Liquidity Payment Requirement”** means the Cleared Funds a Client is required to hold in its Payment Account in order for Vitesse to be able to execute an Outward Payment in accordance with an Authorised Instruction;

**“Online Interface”** means the online portal whereby Clients can view, execute and report on all the Inward Receipts and Outward Payments made via the Payment Service provided by Vitesse;

**“Outward Payment”** means a payment transaction whereby Vitesse transfers funds for a Client from the Client’s Payment Account to a Client Customer, further to an Authorised Instruction;

**“Outward Payment Service”** means the execution of Outward Payments in accordance with Authorised Instructions made by a Client in accordance with this Agreement This service can be with, or without, the issuance of E-Money by Vitesse to the Client, as selected by the Client and explicitly confirmed by Vitesse;

**“Party”** means either of the parties to this Agreement and “Parties” shall be construed accordingly;

**“Payment Account”** means an account opened with Vitesse in the name of the Client and to which the terms of this Agreement shall apply. Where the Client has selected to receive the issuance of E-Money together with the Payment Service, this account will hold a float of electronic money, as defined by the Electronic Money Regulations;

**“Payment Service”** means the Outward Payment Service and/or Inward Payment Service as agreed by the Client in Clause 2.2, including the provision of access to the Online Interface for usage of these services;

**“Payment Service Provider”** has the meaning given in Regulation 2(1) of the Payment Services Regulations 2017 (SI 2017 No 752);

**“Payment Services Regulations”** means the Payment Services Regulations 2017 (SI 2017 No 752);

**“Personal Data”** means any data relating to an identified or identifiable individual that are within the scope of protection as “personal data” under the applicable Data Protection Laws;

**“Personal Data Breach”**: means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed;

**“Relevant Funds”** means funds received by Vitesse for the provision of Payment Services and held by Vitesse in accordance with Clause 5.5 of this Agreement and which are credited to the Client’s Payment Account as shown on the Online Interface. Where the Client has selected to receive the issuance of E-Money together with the Payment Service, the relevant funds are the funds received in exchange for the E-Money issued to the Client. Where the Client has selected to receive the Payment Service without any E-Money being issued to the Client, the relevant funds are the funds received by Vitesse (i) from, or for the benefit of the Client, for the execution of a payment transaction or (ii) from a Payment Service Provider for the execution of a payment transaction on behalf of the Client;

**“Services”** means (i) the Payment Services which can be with or without the issuance of the E-Money by Vitesse to the Client as selected by the Client and (ii) closely related ancillary services such as foreign exchange services;

**“Sign-Up Process”** means the process by which Clients apply to become and are accepted as customers of Vitesse and are able to use products and services provided by Vitesse, as set out in Clause 4;

**“Sub Processor”, “Processing”, “Sensitive Personal Data” and “Special Categories of Personal Data”** have the meanings set out in the GDPR

**“Term”** means the period in which the Agreement is in full force and effect;

**“Transaction Fees”** means the fees and service level charges which the Client is required to pay to Vitesse for the Services provided under this Agreement; (such fees may be amended by Vitesse from time to time, in accordance with the terms of this Agreement);

**“Vitesse Payment System”** means the treasury and transactional management IT system used by Vitesse to provide the Services, which shall include the Online Interface and application programme interface further to which the Client accesses the Online Interface.

- 1.2 References to Clauses and Schedules are to the clauses of and schedules to this Agreement.
- 1.3 Words importing the singular include the plural and vice versa, and words importing one gender include the other.
- 1.4 References to **“company”** shall include any body corporate however and wherever established.
- 1.5 References to **“person”** shall include any individual, firm, company, government, state or agency of a state or any joint venture or association (whether or not having separate legal personality).
- 1.6 A reference to **“writing”** or **“written”** includes faxes and e-mail.
- 1.7 Any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.8 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time, including the replacement of any domestic legislation by EU legislation.

## **2. SCOPE OF SERVICES**

2.1 Subject to the Client's payment of the Transaction Fees in accordance with Clause 3 and conditional upon it completing the Sign-Up Process in accordance with Clause 4 hereof, Vitesse shall provide, apart from closely related ancillary services such as foreign exchange services, the following specific Services to the Client:

2.1.1 Outward Payment Service with the issuance of E-Money to the Client

2.1.2 Outward Payment Services without the issuance of E-Money to the Client; and

2.2 The Services will be provided:

2.2.1 using reasonable skill and care;

2.2.2 in accordance, in all material respects, with the description of the Services which the Client has agreed to purchase and Vitesse has agreed to provide.

2.3 Unless the Inward Payment Service is listed in Clause 2.1 of this Agreement confirming:

2.3.1 the Client's agreement to Vitesse's provision of, and the Client's receipt of, the Inward Payment Service; and

2.3.2 the Client's agreement to pay the Transaction Fees due in respect of Vitesse's provision of the Inward Payment Service,

Vitesse shall not be obliged to process Inward Receipts on the Client's behalf and any reference to Inward Receipts shall not be applicable to Vitesse. If the Client has selected to receive, and Vitesse has agreed to provide the Inward Payment Service, additional terms might apply.

2.4 The Client accepts that the payment of Inward Receipts by Client Customers shall extinguish the corresponding debt owed by the Client Customer to the Client, and that Vitesse at no time provides the Services to Client Customers.

2.5 Vitesse shall provide the Services in respect of Outward Payments and Inward Receipts made between the countries referred to in the Country Coverage Document which is made available to Clients. Notwithstanding the previous sentence, if the Client requests that Vitesse remit an Outward Payment to or an Inward Receipt is initiated from a country included within the Country Coverage Document and Vitesse considers (acting reasonably) that its provision of the Services in respect of such Outward Payment or Inward Receipt would adversely affect or otherwise endanger its status as a regulated and licensed provider of payment services, Vitesse shall be entitled to refuse to provide the Services in respect of the relevant Outward Payment or Inward Receipt.

## **3. PAYMENT OF TRANSACTION FEES**

3.1 In consideration of the supply of the Services by Vitesse, the Client shall pay Vitesse the Transaction Fees in accordance with the terms of the Agreement.

3.2 Where applicable, an additional FX (foreign exchange) adjustment will apply to any payment transaction requiring a foreign exchange rate to be calculated and held over the weekends and bank holidays in the UK. This is required to cover the increased risk of foreign exchange rate movements when unable to access foreign exchange markets. If the Client requires the ability to execute the payment transactions with a foreign exchange requirement during this period, it shall duly inform Vitesse of this requirement.

3.3 The Transaction Fees shall be deducted from the Relevant Funds, before the Relevant Funds are paid out upon the Client's Authorised Instruction (i.e. net settlement). Vitesse shall make available to the Client in the Online

Interface the information in respect of the Transaction Fees which have been deducted for the Services provided by Vitesse under this Agreement. If for whatever reason the Transaction Fees were not deducted from the Relevant Funds, Vitesse shall at the end of the month raise an invoice payable immediately by the Client for the amount due to Vitesse. Without prejudice to any other remedy Vitesse may have, if any invoice remains unpaid in full or in part for more than thirty (30) days after its due date for payment, Vitesse shall be entitled to charge interest on the outstanding amount due at 2% above the prevailing Bank of England base interest rate as from the due date until payment in full is received by Vitesse and shall be entitled to withhold its provision of the Services until the relevant invoice is paid in full.

- 3.4 Unless specifically stated otherwise all Transaction Fees are exclusive of Value Added Tax.
- 3.5 Vitesse reserves its right to vary the Transaction Fees by giving the Client thirty (30) days written notice of its intention to do so, and in such circumstances Vitesse's variation of the Transaction Fees shall be effective on the expiry of such notice period unless the Client raises an objection before the proposed date of entry into force of the change. Notwithstanding the foregoing, Vitesse's Transaction Fees may be varied by Vitesse by written notice with immediate effect where a Bank used by Vitesse for the provision of the Services suddenly increases its fees charged to Vitesse. In the event of the non-payment or late payment of Transaction Fees by the Client, Vitesse shall be entitled to debit the sum of any unpaid Transaction Fees from any Payment Account held with Vitesse by the Client, and to apply such sum in settlement of the unpaid Transaction Fees and interest payable thereon. In the event of any deduction made under this Clause 3.5, the sum of the Cleared Funds will be adjusted accordingly.

#### 4. DUE DILLIGENCE PROCESS

- 4.1 Prior to the conclusion of the Agreement and the commencement of the Services, Vitesse shall undertake its due diligence exercises in respect of the Client (i) to establish whether the Client is a suitable recipient of the Services and (ii) to confirm that the provision of the Services by Vitesse to the Client will not adversely affect Vitesse's regulated status or any licences or consents held by Vitesse in relation to its provision of the Services to its customers (the "Initial Due Diligence").
- 4.2 Once the Agreement is concluded and/or the Services commence, as required by the applicable law Vitesse will perform the "Ongoing Due Diligence". If following the completion of an Ongoing Due Diligence exercise, Vitesse considers on reasonable grounds that the Client is not a suitable recipient of the Services, the Client shall not be entitled to the provision of the Services and Vitesse shall be entitled to terminate the Agreement with immediate effect by giving written notice to the Client in accordance with Clause 14.3.
- 4.3 The Client shall provide its reasonable co-operation to Vitesse in respect of its performance of the Ongoing Due Diligence required by the applicable law, and shall permit Vitesse reasonable access to its books, records, employees and premises for such purpose.
- 4.4 Without prejudice to any other term of the Agreement, the Client shall provide the necessary information and copies of any such necessary documents requested by Vitesse to comply with its legal and regulatory obligations and shall immediately inform Vitesse if any of the information provided to Vitesse changes substantially such as a change to the Client's shareholders. The Client shall co-operate and procure the co-operation of its employees, agents and subcontractors with Vitesse for the purposes of preventing fraud and other financial crimes.

## 5. OBLIGATIONS OF THE CLIENT AND VITESSE

5.1 Each Party undertakes to:

- 5.1.1 perform its obligations under this Agreement in accordance with all applicable laws, statutes, legislation and all other legally binding rules and regulations applicable from time to time in the jurisdiction where such Party is operating or which it is otherwise subject to; and,
- 5.1.2 obtain and maintain all government and regulatory consents and licences and make all filings necessary for its business activities and its use or provision of the Service or the rendering thereof (as applicable) and comply with all laws applicable to its business activities and use of the Services or the rendering thereof.

5.2 The Client undertakes to:

- 5.2.1 strictly comply with the practices, procedures and policies in respect of its receipt of the Services and shall provide Vitesse with such information, co-operation and reasonable assistance as may be necessary for Vitesse to be able to provide the Services in accordance with the terms hereof;
- 5.2.2 notify each Client Customer of its obligation to comply with all instructions, guidelines, rules and procedures published by Vitesse from time to time in relation to the authorisation of Inward Receipts, including those related to the detection of potentially fraudulent transactions; and shall be responsible for and represents that it will at all times ensure the proper and appropriate control of Client access rights to the Online Interface and any files that contain information relating to Inward Receipts or the execution of Outward Payments;
- 5.2.3 ensure that it does not introduce any virus or other harmful code into any part of the Vitesse Payment System via files submitted by or on behalf of the Client or a Client Customer or otherwise in connection with the Services, or permit or procure the introduction of any harmful code into the Vitesse Payment System by any third party;
- 5.2.4 procure that it and any Authorised User uses the Online Interface solely in accordance with any instructions provided by Vitesse in advance from time to time. Details of any Authorised Users shall be promptly provided to Vitesse on its request and the Client shall procure that it only permits its employees, agents and other authorised representatives to be Authorised Users; and
- 5.2.5 not instruct Vitesse to effect or process, or attempt to effect or process, Outward Payments or Inward Receipts:
  - i. in respect of transactions which are:
    - i. unlawful due to a failure of Client's anti-money laundering, counterterrorism financing or other legally required controls where the same constitutes a breach of Client's legal or regulatory obligations; or
    - ii. within a category not authorised by Vitesse during the Sign-Up Process (unless subsequently authorised by Vitesse in writing);
  - ii. in breach of this Agreement which places Vitesse in breach of its regulatory licence(s); and / or
  - iii. relate to content that is obscene, pornographic or relates in any way to the exploitation of children, irrespective of whether that content is lawful or unlawful under the law of any applicable jurisdiction.

5.3 The Client represents and warrants that:

- 5.3.1 it has and will have the full right, power, title and authority to perform the obligations in this Agreement and has obtained or will in a timely manner obtain all consents, rights and permissions necessary for the performance of these obligations;
- 5.3.2 there are no liens, claims, encumbrances, restrictions or arrangements of any kind with other persons that will or might adversely affect the performance of its obligations hereunder;
- 5.3.3 there are no existing or anticipated claims which would adversely affect the performance of its obligations under this Agreement;
- 5.3.4 its execution, delivery and performance of this Agreement has been duly authorised, and all other actions required to be taken by it under its organisational documents or by applicable law, and by all contracts and agreements binding upon it have been undertaken;
- 5.3.5 that it is neither a micro-enterprise nor a charity within the terms of the definitions below and agrees to indemnify Vitesse for any losses, liabilities, claims, costs and or expenses directly or indirectly incurred by Vitesse as a result of it being established that the Client is a micro-enterprise or a charity, in each case as defined in this Agreement. The definition of a “micro-enterprise” is an enterprise that (a) employs fewer than 10 persons; and (b) has a turnover or balance sheet total that does not exceed €2 million. When the enterprise of concern is a partner enterprise, an enterprise owned or owning 25% to 50% of capital or voting rights of another entity, then all partner enterprise resources (turnover, assets, employees) will be integrated into the calculations proportionate to their percentage ownership. When the enterprise is a linked enterprise, an entity that is owned or owning 50% or more of another entity, then the linked enterprise resources must be combined in full when calculating headcount, assets and turnover. The definition of a “charity” is a body whose annual income is less than £1 million and is: (a) in England and Wales, a charity as defined by section 1(1) of the Charities Act 2011; (b) in Scotland, a charity as defined by section 106 of the Charities and Trustee Investment (Scotland) Act 2005; or (c) in Northern Ireland, a charity as defined by section 1(1) of the Charities Act (Northern Ireland) 2008 or, until that section comes into force, a body which is recognised as a charity for tax purposes by Her Majesty's Revenue and Customs; and
- 5.3.6 it is aware that its Relevant Funds are protected through “safeguarding”, as further described in clause 5.5 below, and it understands this is different to the method of protection provided by banks, in particular, that the Financial Services Compensation Scheme (FSCS) protection does not apply to the Services provided by Vitesse.

5.4 Each Party:

- 5.4.1 shall use reasonable endeavours to ensure its own business continuity in the event of a major disruption, disaster or failure, including a failure in the Payment Service (and shall put appropriate measures in place to provide for such circumstances); and
- 5.4.2 warrants that entering into this Agreement shall not constitute or cause any breach of any other agreement to which it is a party.

5.5 Relevant Funds Obligations:

- 5.5.1 Vitesse shall deposit and hold all Relevant Funds in accounts held with Banks each of which is regulated in the jurisdiction in which it operates. Vitesse shall procure that the Relevant Funds shall at all times be held independently from its own funds and from any business account operated by Vitesse. This means that the Relevant Funds shall be safeguarded in Client Fund designated bank account(s) as required by the Electronic Money Regulations and the Payment Services Regulations, and, in the event of the insolvency of Vitesse, subject to the applicable law, no other creditor other than the Client shall have right of access to those designated funds.

- 5.5.2 Subject always to this Clause 5.5.2 and Vitesse's rights to Transaction Fees, the funds shall be held by Vitesse as trustee for the sole benefit of the Client, who might be holding it for Client Customers, and Vitesse shall not have any lien over the funds.
- 5.5.3 The Client accepts and understands that Vitesse may be prevented from performing part or all of the Services if Vitesse is issued with a lawful instruction by the applicable law enforcement authorities or financial regulators requiring it not to provide the Services in accordance with the terms hereof. In those circumstances, and if such notification is not unlawful under the applicable law (it is not resulting in a tipping-off offence), Vitesse will notify the Client in writing as soon as practicable of such instruction and it shall endeavour to perform the Services in accordance with the terms of this Agreement. Vitesse shall not be liable to the Client hereunder in the event that a Bank or other Payment Service Provider retains or seizes any funds comprised in the Relevant Funds, unless such seizure has arisen as a result of Vitesse's negligence or breach of a statutory or regulatory duty. In the event of a seizure or the retention of any funds forming part of the Relevant Funds by a Bank or other Payment Service Provider, Vitesse shall endeavour to assist the Client in recovering the relevant seized funds and, so far as Vitesse is permitted by law and any confidentiality undertakings to third parties, consult with the Client in so doing.
- 5.6 Where an Inward Receipt from a Client Customer is revoked or cancelled by a Bank or other Payment Service Provider acting on behalf of the Client due to fraudulent activity or another reason given by the Bank or Payment Service Provider, Vitesse will inform the Client without unreasonable delay following it receiving notice of such cancellation (subject to Clause 5.9, and if such notification is not unlawful) and Vitesse shall then procure that the funds which are the subject of the Inward Receipt are debited from the Client's Payment Account, and the Inward Receipt cancelled. If sufficient funds are not available in the Client's Payment Account, then the Client shall promptly reimburse Vitesse, on its demand.
- 5.7 Subject to Clause 8, the Client authorises Vitesse to provide such information as a Bank or other Payment Services Provider may reasonably request in relation to any Client Customer (without prejudice to obligations in Clause 8), including all information required by applicable Money Laundering regulations and/or statute and shall co-operate with Vitesse's reasonable requests in respect of the provision of such information.
- 5.8 The Client warrants, represents and undertakes to Vitesse that to its knowledge, having made reasonable enquiries to verify the source of the funds:
- 5.8.1 each Outward Payment and/or Inward Receipt that it asks Vitesse to process relates to a lawful transaction that is a genuine and bona fide transaction entered into in good faith; and
- 5.8.2 the payment instruction in relation to any Inward Receipt it requests Vitesse to process has been validly authorised by the Client Customer who purports to have authorised it and that the relevant Client Customer is over 18 years of age and otherwise of the requisite capacity to authorise such instruction.
- 5.9 Notwithstanding any other provisions of this Agreement, neither Party is restricted from making a confidential disclosure to the UK's National Crime Agency ("**NCA**") or any other government authority responsible for fraud, anti-money laundering enforcement or proceeds of crime offences, nor will either Party be required to first notify the other Party in such circumstances.
- 5.10 The following indemnities apply under this clause:
- 5.10.1 The Client shall indemnify Vitesse and keep Vitesse and any of its Group Companies indemnified against all claims, losses, damages, demands, actions, costs, expenses (including but not limited to reasonable legal costs and disbursements), arising from or incurred by reason of the Client's breach of Clause 5.2, Clause 5.3 or Clause 5.5.

5.10.2 Vitesse shall indemnify the Client and keep the Client and any of its Group Companies indemnified against all claims, losses, damages, demands, actions, costs, expenses (including but not limited to reasonable legal costs and disbursements), arising from or incurred by reason of Vitesse's breach of Clause 5.5.

## 6. SECURITY

6.1 The Client warrants and represents that it shall:

6.1.1 keep the access details, including password(s), to the Online Interface and any other details relating to the Payment Account which permits it to provide Authorised Instructions to Vitesse safe and must not disclose such details to third parties other than Authorised Users. The Client represents and warrants that it will not permit any party other than Authorised Users to use the Services and issue Authorised Instructions to access the Online Interface. The Client shall on Vitesse's request provide to Vitesse details of all current Authorised Users of the Online Interface which have so been authorised by the Client;

6.1.2 not allow anyone else to have or use the Client's password details and shall comply with all reasonable instructions that Vitesse may issue from time to time, regarding how to keep the Services secure;

6.1.3 keep the Client's personal details up to date. Vitesse may be unable to respond if a Client makes contact from an address, telephone number or email account that is not registered with Vitesse. Outdated personal details may also delay Vitesse's ability to contact the Client in the event of an issue with an instructed action;

6.1.4 take all reasonable steps to protect the security of the electronic device through which the Services is accessed including, without limitation, using a PIN and/or password protected personally configured device functionality, to access the Services and not sharing such devices with other people who are not Authorised Users; and

6.1.5 be solely responsible for obtaining accurate payment information and authorisation from the Client Customer in respect to Outward Payment.

6.2 If the Client's access details to the Online Interface have been lost, stolen or misappropriated, or the Client suspects that unauthorised use of the Payment Account has taken place or may take place, the Client must inform Vitesse immediately and shall make such notification by telephone or email to the email address and / or phone number set out below.

Email: [support@vitesseseps.com](mailto:support@vitesseseps.com)

Phone: +44 (0)20 3051 5612.

## 7. INTELLECTUAL PROPERTY RIGHTS

7.1 Any Intellectual Property Rights owned by a Party prior to the date of this Agreement ("**Pre-existing IP**") shall remain the sole property of that Party and nothing in this Agreement, nor the performance of either Party of their obligations under it shall provide either Party with any right, title or interest in the Pre-existing IP of the other Party.

7.2 All Intellectual Property Rights which are created pursuant to the provision of the Services by Vitesse (other than those which subsist in the Client Customer Data or Client's Pre-existing IP or Client Confidential Information) ) shall vest on creation in Vitesse and shall remain its sole property (including any Intellectual Property Rights that may subsist in any transaction report, summary or other data produced pursuant to the use by the Client of the Online Interface, or which is otherwise provided to the Client by Vitesse).

7.3 Vitesse grants to the Client a worldwide, limited, non-exclusive, non-transferable, non-assignable, revocable (subject to the terms hereof), royalty free licence to use the Payment System solely for the purposes of its receipt of the Services for the duration of the Term. The licence granted by this Clause 7.3 shall terminate automatically on termination of this Agreement.

7.4 Each party grants to each other a worldwide, limited, non-exclusive, non-transferable, assignable by a Party to its Group Company under the same conditions stipulated in this Clause 7.4, revocable (subject to terms hereof), royalty free, licence to use its name or logo in marketing materials, websites and publications in respect of the Services only subject to the following conditions:

- (i) The licence granted by this Clause 7.4 is granted for the marketing purposes only, and for avoidance of doubt it does not create any marketing obligations on any of the Parties;
- (ii) Subject to the requirements under the applicable law, the licence granted by this Clause 7.4 cannot be used (a) to publicly disparage the Party whose name and logo are being used under the licence or (b) in some other way injure the reputation or the goodwill associated with the name and the logo of the licensor;
- (iii) Any goodwill derived from the use by the licensee of the other Party's name and/or logo shall accrue to the licensor;
- (iv) The license shall not apply for, or obtain, registration of any trade or service mark in any country which consists of, or comprises, or is confusingly similar with the name and/or logo of the other Party;
- (v) The licence shall terminate automatically on termination of the Agreement except that any materials, websites and publications published before the termination of the Agreement shall not be affected by the expiry of the licence;
- (vi) Subject to point (v) of this Clause 7.4, should a Party decide after the termination of the Agreement to use the other Party's name and/or logo for marketing purposes it needs to obtain a written consent from the Party whose name and logo are to be used; and
- (vii) Should a Party decide to revoke the licence granted under this Clause 7.4 such revocation shall not affect any materials, websites and publications published before the revocation of the licence.

7.5 Subject only to Clause 7.6, the Client shall own all right, title and interest in and to all of the Client Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Client Customer Data.

7.6 The Client agrees that Vitesse shall be entitled to retain all Client Customer Data and other transaction data arising from the performance of the Services for the duration of the Term and following its expiry and shall be entitled to use the same solely to the extent required under applicable law and pursuant to its regulatory obligations.

7.7 Both Parties grant permission to use the other's name or logo in marketing materials, websites and publications in respect of the engagement with the other subject to the other party's prior written consent. Nothing herein obligates either Party to use the other's name, logo and/or trademark.

## 8. DATA PROTECTION

8.1 Both the Client and the Vitesse shall be separate Data Controllers in respect of any Personal Data shared by the Client with Vitesse for the purposes of the Services.

8.2 Vitesse shall only process the Personal Data shared with Vitesse, pursuant to Clause 8.1 for the purposes of:

8.2.1 Providing the Services to the Client;

8.2.2 Complying with its obligations under the Data Protection Laws; and

- 8.2.3 Complying with its obligations as a regulated body.
- 8.3 Both parties agree that the details of processing set out in this Clause 8 are an accurate statement of each Party's responsibilities as Data Controllers of the Personal Data for the purposes of the Services:
- 8.3.1 **Purpose and Duration** - The Personal Data is processed by Vitesse for the provision of the Services pursuant to this Agreement. Personal Data shall be processed by Vitesse for the duration of the particular transaction and will not be retained by Vitesse for a period of time beyond that which is strictly necessary to do so. Upon completion of the Services, or on termination or expiry of the Agreement between the Parties, Vitesse will return all copies of Personal Data in its possession, excluding any Personal Data which it is required to retain to comply with regulations, and shall ensure that any duplicate or backup copies are destroyed;
- 8.3.2 **Types of Personal Data** - first name, last name, postal address where applicable of prospective service users, along with bank account details required for the completion of transactions in relation to the Services; and
- 8.3.3 **Categories of Data Subjects** – Authorised Users and Client Customers.
- 8.4 Vitesse is not involved in the collection of any Personal Data initially collected by the Client and provided to Vitesse. The Client shall ensure that any such Personal Data is collected and processed by the Client in accordance with the Data Protection Laws.
- 8.5 The Client shall ensure that the Client is entitled to share the Personal Data with Vitesse for the purposes of providing the Services, and that the Client has complied with its responsibilities under the Data Protection Laws to enable Vitesse to process such data in providing the Services to the Client in accordance with this Agreement.
- 8.6 Each Party shall be separately responsible for compliance with its obligations under the Data Protection Laws, in its capacity as Data Controller of the Personal Data processed for the Purposes of the Services, and each Party shall ensure in respect of any Personal Data shared by the other Party:
- 8.6.1 that it has in place appropriate technical and organisational security arrangements to ensure a level of security appropriate to the data security risks presented by the processing of Personal Data when such Personal Data is under its control;
- 8.6.2 any transfers of Personal Data outside the United Kingdom and/or the European Union for which that Party is responsible is in accordance with Data Protection Laws;
- 8.6.3 that it has in place measures and procedures to deal with a data breach in respect of any Personal Data including processes compliant with the requirements of the Data Protection Laws; and
- 8.6.4 that it has in place measures and procedures to respond to any requests received from individuals in respect of their rights under the Data Protection Laws exercised in respect of the Personal Data in that Party's possession and/or control, and the Parties agree to provide to each other such reasonable assistance as is necessary to enable them to comply with their obligations under the Data Protection Laws including in relation to any Data Subject rights exercised in relation to any Personal Data shared with the other Party.
- 8.7 Neither Party shall, by its acts or omissions, cause the other Party to breach its respective obligations under the Data Protection Laws or this Clause 8. In the event of a breach by either Party of their respective obligations under the Data Protection Laws, the Party in breach shall indemnify the other Party against all claims and proceedings and all liability, losses, costs and expenses arising directly out of such breach.

- 8.8 Vitesse may transfer Personal Data to its service providers, payment partners and any agents used for the provision of the Services, provided that Vitesse shall be responsible for ensuring that such transfers are in accordance with the Data Protection Laws.
- 8.9 The Parties will agree to any reasonable amendment to this Agreement when necessary to remain in compliance and in line with any amendment to or re-enactment of any Data Protection Laws, in particular as required to ensuring the processing remains lawful following the United Kingdom's exit from the European Union, or to allow each of the Parties to comply with any requirement or recommendation of the Information Commissioner or any other data protection or supervisory authority in relation to the Processing of Personal Data.
- 8.10 The provisions of this Clause 8 will survive the termination of any agreement relating to the Services.

## **9. LIABILITY AND INDEMNITY**

- 9.1 Neither Party excludes or limits its liability under this Agreement to the other Party in respect of:
- 9.1.1 death or personal injury caused by its negligence or the negligence of its employees acting in the course of their employment;
  - 9.1.2 any fraudulent misrepresentations made by it on which the other Party have relied; or
  - 9.1.3 the indemnity given in Clause 5.10 or Clause 5.11; or
  - 9.1.4 any other liability which, by applicable law, is not permitted to exclude or limit.
- 9.2 Subject to Clause 9.1, neither Party shall be liable to the other under this Agreement for any of the following loss and damage whatsoever (including, but not limited to, costs and expenses relating to or arising out of such loss and damage) whether arising from contract, tort (including negligence or breach of statutory duty) or otherwise and even if the other Party has been informed of the possibility of such loss and damage:
- 9.2.1 loss of revenue, profits, interest, reputation, anticipated savings or goodwill;
  - 9.2.2 loss or restitution of data; or
  - 9.2.3 any indirect, special or consequential damage or loss.
- 9.3 Subject to Clauses 9.1, 9.2, and 9.7, Vitesse's total liability to the Client, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this Agreement shall be limited, in respect of all claims (connected or unconnected) in any consecutive 12 (twelve) month period, to the equivalent of the total Transaction Fees actually paid by the Client in that period. Notwithstanding the foregoing, Relevant Funds are excluded from this clause 9.3, and reimbursable.
- 9.4 The Client shall notify Vitesse promptly upon it becoming aware of any incorrectly executed or unauthorised Outward Payment. Except where the Client has acted fraudulently, negligently or in breach of this Agreement, Vitesse will refund to the Client's Payment Account the amount of any Outward Payments executed by Vitesse which is established as not having been properly authorised by the Client or incorrectly executed by Vitesse, including any applicable Transaction Fees. The Client shall only be entitled to redress under this Clause 9.4 if it notifies Vitesse without undue delay, and in any event within 90 days of the debit date, that it considers Vitesse has made an unauthorised or incorrectly executed Outward Payment.
- 9.5 If the Client fails to complete an Authorised Instruction in accordance with Vitesse's instructions and this Agreement and/or fails to provide accurate details of the intended recipient in respect of an Outward Payment, Vitesse shall be entitled to rely on the instructions provided by the Client in respect in particular of the destination and/or the amounts of the relevant funds and shall have no liability to the Client for funds which

are misdirected as a result of the Client's acts or omissions in this manner, although Vitesse shall use its reasonable endeavours to assist the Client in respect of its efforts to locate such funds. Vitesse shall not be obliged to act on or take notice of information submitted with an Authorised Instruction which is additional to that required for the Authorised Instruction to be correctly completed and shall be entitled to disregard the same.

9.6 The terms of this Clause 9 as to limitations of liability shall remain in full force and effect notwithstanding the expiration or termination, for whatever reason, of this Agreement.

9.7 Nothing in this Clause 9 will limit or exclude the Client's obligation to pay the Transaction Fees as they fall due for payment in accordance with the terms hereof, or its liability to Vitesse in the event of its failure to pay the Transaction Fees in accordance with this Agreement.

## **10. ASSIGNMENT**

10.1 This Agreement may not be assigned or otherwise transferred in whole or part by the Client without the prior written agreement of Vitesse.

## **11. OBLIGATION TO EXECUTE AUTHORISED INSTRUCTIONS**

11.1 If Vitesse considers on reasonable grounds that an Outward Payment contravenes Clause 5.2.5, or where the Client has breached any other term of this Agreement or supplied incorrect or incomplete information in the Authorised Instruction, Vitesse may refuse to execute such Outward Payment, provided however that Vitesse shall, subject to Clause 5.9 and except where it is not permitted to do so by law, notify the Client and provide the Client with reasonable information to support its refusal and to enable the Client to provide any information or evidence which contradicts Vitesse's information.

11.2 Clauses 11.1 and 14.4 are without prejudice to Vitesse's obligations under legislation that aims to combat money laundering and terrorist financing, and which may result in the refusal to execute Outward Payments, the suspension of the Client's access to the Online Interface and/or Payment Account and in delay to Outward Payments or the application of Inward Receipts immediately and without notice.

11.3 The Client acknowledges that the provision of the Services under this Agreement by Vitesse is dependent on the provision of normal banking services by the Banks. Except to the extent agreed in this Agreement, subject to any mandatory requirements imposed by law, Vitesse shall not be responsible or liable to the Client for any failure to provide the Services (for whatever reason or in whatever circumstances) other than Vitesse's breach of the terms of any agreement it has with a Bank or Payment Service Provider if such failure occurs as a direct result of the termination, suspension or other failure of services from a Bank or any other Payment Services Provider. Notwithstanding the generality of the foregoing, Vitesse will in the event of failure of services by a Bank employ its reasonable endeavours to re-establish the Services within a reasonable period of time.

## **12. CONFIDENTIAL INFORMATION AND PUBLICITY**

12.1 Subject to Clauses 12.2 to 12.3, each Party agrees and undertakes to hold in complete confidence any Confidential Information disclosed to it, and not to disclose it in whole or in part at any time to any third party (other than on a need to know basis with the prior written consent of the Party whose Confidential Information is to be disclosed to the third party), nor use or disclose Confidential Information for any purpose other than the performance of its obligations under this Agreement, or as otherwise permitted hereunder. This provision shall survive the termination, for whatever reason, of this Agreement for a period of five (5) years.

12.2 Neither Party will at any time without the prior written consent of the other, which may be given on such terms and conditions as such other Party may consider appropriate or which may, in its absolute discretion, be

refused, make any public announcement, statement, press release, communication or circular about, or disclose or reveal to any person or party other than:

- i. either Party's or its Group Company's representatives, including in cases of Vitesse, the payment partners, on a need to know basis who are directly concerned with the implementation of business between Vitesse and the Client and whose knowledge of such Confidential Information is essential or desirable for such purposes and who shall be informed of the confidential nature of the information and shall be required to treat it as such; or
- ii. as required by law or regulation and then, except where notice would be unlawful, only after prior written notice to the other Party.

12.2.2 the Confidential Information; or

12.2.3 the fact that discussions or negotiations are taking place or any of the terms, conditions or other facts with respect to the implementation of business between Vitesse and the Client contemplated herein involving either Party including the status thereof.

12.3 The Parties shall agree in good faith the content and timing of any marketing/promotional campaigns and press releases by the Client or Vitesse. Vitesse may include references to the Client to be agreed in advance by the Client (such agreement not to be unreasonably withheld, conditioned or delayed) in Vitesse's promotional material.

### 13. NOTICES

13.1 The addresses for service of a notice are as follows:

13.1.1 Vitesse  
Address: 20 Midtown, 2-28 Procter Street, Holborn, London WC1V 6NX, UK

For the attention of: Legal Counsel  
Email: [Legal@vitessepsp.com](mailto:Legal@vitessepsp.com)

13.1.2 Client

Address [Please overtype with required details]  
For the attention of: [Please overtype with required details]  
Email Address [Please overtype with required details]

13.2 The following table sets out methods by which a notice may be sent and, if sent by that method, the corresponding deemed delivery date and time:

Delivery method	Deemed delivery date and time
Delivery by hand.	On signature of a delivery receipt or at the time the notice is left at the address.
Pre-paid first class recorded delivery post or other next working day delivery service providing proof of postage.	9.00 am on the second Business Day after posting or at the time recorded by the delivery service.
Pre-paid airmail providing proof of postage.	9.00 am on the fifth Business Day after posting or at the time recorded by the delivery service.
Email.	At the time of receipt.

- 13.3 For the purpose of Clause 13.2 and calculating deemed receipt:
- 13.3.1 all references to time are to local time in the place of deemed receipt; and
  - 13.3.2 if deemed receipt would occur in the place of deemed receipt on a Saturday or Sunday or a public holiday when banks are not open for business, deemed receipt is deemed to take place at 9.00 am on the day when business next starts in the place of receipt.

#### **14. TERM, TERMINATION AND SUSPENSION**

- 14.1 This Agreement shall commence on the Effective Date and continue thereafter unless it is terminated in accordance with this Clause 14.
- 14.2 Either Party may terminate the Agreement at any time without cause by giving to the other Party ninety (90) days' written notice of their intention to do so.
- 14.3 Without affecting any other right or remedy available to it, either Party may terminate this Agreement with immediate effect by giving written notice to the other Party if:
- 14.3.1 the other Party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than thirty (30) days after being notified to make such payment;
  - 14.3.2 the other Party commits a material breach of any other term of this Agreement which breach is irremediable or, if such breach is remediable, fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so. For the avoidance of doubt, listing of a Party on an official Sanctions List (such as OFAC, UN, EU and HMT) shall be considered to be an irremediable material breach of the Agreement;
  - 14.3.3 the other Party repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;
  - 14.3.4 the other Party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
  - 14.3.5 the other Party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party;
  - 14.3.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other Party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party;
  - 14.3.7 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other Party (being a company);

- 14.3.8 the holder of a qualifying floating charge over the assets of that other Party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- 14.3.9 a person becomes entitled to appoint a receiver over the assets of the other Party or a receiver is appointed over the assets of the other Party;
- 14.3.10 a creditor or encumbrancer of the other Party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other Party's assets and such attachment or process is not discharged within fourteen (14) days;
- 14.3.11 any event occurs, or proceeding is taken, with respect to the other Party in any jurisdiction, to which it is subject, that has an effect equivalent or similar to any of the events mentioned in Clauses 14.3.4 to 14.3.10 (inclusive); or
- 14.3.12 the other Party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- 14.4 Vitesse may suspend the Client's access to the Online Interface or the Payment Account on reasonable grounds relating to potentially unauthorised or fraudulent use of the Client's access details or Payment Account or the security of the Payment System, but such suspension should only be for the duration of an investigation and resolution of such unauthorised or fraudulent use. Vitesse may also suspend the Client's access to the Online Interface or the Payment Account following a negative internal Ongoing Due Diligence report on the Client relating to the regulatory, including anti-money laundering requirements of Vitesse.
- 14.5 Vitesse will endeavour to inform the Client of such suspension either before or immediately after the suspension, giving the reasons for doing so, unless such notification would reasonably compromise security measures or would be otherwise unlawful.
- 14.6 In the event of any termination:
- 14.6.1 subject to Clause 3.5, Vitesse shall without unreasonable delay remit to such bank account as the Client may have nominated in writing to it for such purposes the remaining sum of any Relevant Funds held by it;
- 14.6.2 all Transaction Fees payable under this Agreement, which refer to the period prior to the date of termination, shall become due for payment and Vitesse shall have the right to deduct any outstanding Transaction Fees or any other amounts due to Vitesse under this Agreement from the Relevant Funds before these are returned to the Client;
- 14.6.3 any licence, permission or consent granted to the Client hereunder shall immediately terminate; and,
- 14.6.4 subject to Clause 8, and any obligation that each Party has to retain Confidential Information for record keeping purposes or legal or regulatory requirements, each Party shall, at the request of the other Party, return to the other Party or destroy all Confidential Information and any other matters that are the property of the other Party or have otherwise been provided to it by the other Party in the context of Vitesse's provision of the Services. The provision of Clause 12 shall continue to apply to any Confidential Information retained by a Party for record keeping purposes or legal or regulatory requirements and for any information retained by either Party pursuant to Clause 8.
- 14.7 Without prejudice to any other remedy a Party may have, the Client acknowledges and agrees that in the event of a material breach of the obligations set out in Clause 12, damages alone, will not be an adequate remedy and the non-breaching Party shall also be entitled to equitable remedies (including, without limitation, an injunction and/or specific performance). A material breach of the other provisions of this Agreement (other than Clause 12) which prove to be incapable of a monetary remedy may be subject to relief by injunction and/or specific performance, under the given circumstances and as applicable law may allow.

14.8 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect, including, but not limited to Sections 1, 3, 7, 8, 9, 10, 12, 13, 14.6, 14.7, 14.8, 14.9 and 15.

## 15. GENERAL

15.1 Save for any non-disclosure agreement made between the Parties on or before the Effective Date, which is deemed to remain in full force and effect, provided that any Confidential Information disclosed in relation to this Agreement shall be governed solely by the terms of this Agreement, this Agreement constitutes the entire agreement of the Parties in relation to its subject matter and supersedes and cancels any previous agreement, understandings, commitments, arrangements or representations whatsoever, whether oral or written, expressed or implied in relation to the subject matter of this Agreement.

15.2 Subject to Clauses 15.3 to 15.5 inclusive, this Agreement shall not be varied unless done so by way of a written agreement signed by a duly authorised representative of each Party.

15.3 Excepting any amendments to the Transaction Fees, which shall be made in accordance with Clause 3.4 hereof, nothing in Clause 15.2 shall limit Vitesse's right to update and revise the Country Coverage Documents, or to add new features to the Services, from time to time on providing notice of its intention to do so to the Client, and to the extent permitted by law. Notification of such changes may take place using a method chosen at Vitesse's discretion, including email or publication on Vitesse's website, provided that the Client will be notified of such publication on Vitesse's website, and the Client will be deemed to have accepted such changes by using the Services after they have come into effect. If the changes are not acceptable to the Client, the Client is entitled to terminate the Agreement in accordance with Clause 14.2.

15.4 Vitesse reserves the right to apply inconsequential changes to the Agreement such as the correction of spelling errors and such changes will have immediate effect on the Client obtaining notice of these changes.

15.5 Vitesse reserves the right to apply changes to exchange rates based on the reference rates detailed in the Online Interface.

15.6 If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed from the Agreement and the remainder of the provisions hereof shall continue in full force and effect as if this Agreement had originally been executed without the invalid, illegal or unenforceable provision. In the event of any such severance, the Parties shall endeavour to negotiate, in good faith, with a view to replacing the provisions so severed, with legal and enforceable provisions that have similar economic and commercial effect to the provisions so severed.

15.7 Notwithstanding any other provisions of this Agreement, where there is any new or change in law or regulation or where any government authority begins to enforce laws which had previously not been enforced for whatever reason (in each case "**New Law**") and such New Law impacts upon this Agreement and/or either Party's rights or obligations hereunder, then both Parties shall co-operate in good faith to amend this Agreement to ensure that it complies with all such New Law (to the extent legally permitted and commercially viable in Vitesse's reasonable opinion).

15.8 This Agreement may be signed in any number of counterparts, each of which when executed and delivered to the other Party, shall constitute a duplicate original, but all the counterparts shall together constitute the Agreement.

15.9 Neither Party will be held liable for any loss or failure to perform its obligations under this Agreement due to circumstances beyond its reasonable control and which such Party could not anticipate by means of contingency planning or any other prudent business means (a "**Force Majeure Event**"). The relevant Party shall notify in writing the occurrence of the Force Majeure Event within 24 hours from the commencement of the Force Majeure Event, and shall include details of the Force Majeure Event, expected duration and remedial

actions being taken to minimise the impact. Each Party shall use all reasonable endeavours to continue to perform, or resume performance of, such obligations. If the said circumstances prevail for a continuous period of ninety (90) days or more, then either Party shall be entitled to terminate this Agreement immediately upon giving a written notice to the other Party but without prejudice to either Party's rights in respect of all its prior obligations hereunder not affected by the Force Majeure Event. Transaction Fees for only those Services actually performed during the Force Majeure Event, if any, will be invoiced.

- 15.10 Any waiver by either Party of a breach of any provision of this Agreement shall not be considered to be a waiver of any subsequent breach of the same, or any other, provision.
- 15.11 No one other than a Party to this Agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.
- 15.12 No failure to exercise and no delay in exercising, on the part of either of the Parties, any right or remedy in respect of any provision of this Agreement shall operate as a waiver of that right or remedy and any single or partial exercise of any right or remedy shall not preclude any other or further exercise of that right or remedy.
- 15.13 Notwithstanding any headings or defined terms used in this Agreement, nothing in this Agreement shall be construed as creating a partnership or a joint venture of any kind between the Parties or as constituting either Party as the agent of the other Party for any purpose whatsoever and neither Party shall have the authority or power to bind the other Party or to contract in the name of or create a liability against the other Party in any way or for any purpose.
- 15.14 The Parties agree that pursuant to regulations 40(7) and 63(5) of the Payment Services Regulations 2017:
- 15.14.1 the information requirements set out in the provisions of Part 6 of the Payment Services Regulations 2017 do not apply and Vitesse will provide to the Client only such information regarding any payment transactions under the Services as required under this Agreement;
- 15.14.2 the obligations set out in regulations 66(1), 67(3), 67(4), 75, 77, 79, 80, 83, 91, 92 and 94 of Part 7 of the Payment Services Regulations 2017 do not apply and Vitesse's obligations to the Client related to any payment transactions under the Services will only be the obligations set out in this Agreement; and
- 15.14.3 the maximum time period for reporting unauthorised or incorrectly executed payment transactions set out in regulation 74(1) of the Payment Services Regulations 2017 is varied by Clause 9.4 to the maximum notification set out in that clause.
- 15.15 The Client may at any time during the Term request a copy of this Agreement.
- 15.16 The contact details for Vitesse for enquires and support are:
- 15.16.1 email – [support@vitessepsp.com](mailto:support@vitessepsp.com);
- 15.16.2 phone – +44 (0)20 3051 5612;
- 15.16.3 post – 20 Midtown, 2-28 Procter Street, Holborn, London WC1V 6NX, UK; and (iv) web form – <http://www.vitessepsp.com/contact/>.

## **16. ENFORCEABLE AGREEMENT AND CHOICE OF LAW**

- 16.1 This Agreement constitutes a legal, valid and binding agreement of the Parties hereto, enforceable against each other in accordance with its terms.
- 16.2 This Agreement shall be governed by, and construed in accordance with the laws of England and Wales and both Parties agree that any dispute in relation to the terms of this Agreement shall be subject to the exclusive jurisdiction of the Courts of England and Wales.

**17. LANGUAGE**

17.1 This Agreement is concluded in the English language and all communications (including any notices or information being transmitted) shall be in the English language. In the event that this Agreement is translated into any other language, the English language text of this Agreement shall prevail.

This Agreement shall enter into force and become effective when signed by all parties on the date of the last signature below (Effective Date).

**EXECUTED** by )  
**VITESSE PSP** )  
**LIMITED** )  
acting by: **(Director)** )

Signature: .....  
Date of signing: .....

**EXECUTED** by )  
**[CLIENT]** )  
acting by: **(Director)** )

Signature.....  
Date of signing.....

**EXECUTED** by )  
**[CLIENT]** )  
acting by: **(Director)** )

Signature.....  
Date of signing.....