

## Bixzee ePayment Merchant Agreement

This Agreement is made together with the date of this application between:

**LIGHTFLEX INNOVATIONS SDN BHD** (Company No. 521817-M) a company incorporated in Malaysia and having its principal place of business at No 3332,2nd Floor, Jalan Perniagaan, Pusat Perniagaan Alma, 14000 Bukit Mertajam, Penang, Malaysia (hereafter called "**Lightflex**") of the one part;

**And**

A company incorporated in Malaysia with the company information stated in Section C of Bixzee ePayment Gateway Application Form, annexed hereto as **Appendix A** (hereinafter called "**Merchant**") of the other part;

WHEREAS:-

- A. **Lightflex** operate the online payment gateway (hereinafter called "**Bixzee ePayment**"). Bixzee ePayment is an online service that enable Merchant to receive online payment through electronic banking, credit card and e-Wallets.
- B. Bixzee ePayment focus to facilitate online payment processing (collectively referred to as "Service"). The provision of the Services is governed by the terms and conditions in the agreements executed or to be executed between Bixzee ePayment and the relevant financial institutions, including but not limited to the Standards (as hereinafter defined).
- C. Merchant is adopting Bixzee eCommerce market place as a platform to provide and make available products and/or services online (as hereinafter defined).
- D. Merchant is desirous of appointing Bixzee ePayment for the provision of the Service and other related products and services subject to and based on the terms and conditions as set out in this agreement.

NOW THIS AGREEMENT WITNESSETH as follows: -

### 1. Definitions and Interpretation

- 1.1 In this Agreement, unless the context otherwise requires the following terms shall have the following meanings: -

<b>Agreement</b>	means this Agreement and all the schedules hereto;
<b>Banned and High Risk Industries</b>	means any banned and high risk industries as determined by Card Association and/or the Bank from time to time. Please refer to <b>Appendix B</b> as attached for a non-exhaustive list of the banned and high risk industries;
<b>BRAM</b>	means the document containing the Business Risk Assessment and Mitigation compliance programme developed by MasterCard details thereof available at <a href="http://mastercardonline.com">mastercardonline.com</a> ;
<b>Business Day</b>	means any day (excluding Saturdays, Sundays and public holidays) on which banks in Kuala Lumpur and Selangor Darul Ehsan are open for business;
<b>Card Associations</b>	means VISA, MasterCard and/or any other card associations that the Bank may subscribe with from time to time;
<b>Commencement Date</b>	means the date of this Agreement;

<b>Company's Information</b>	means any information that Merchant provides to Bixzee ePayment or other users in the registration, payment process, stores or other features of Bixzee ePayment's Service or any other information provided by Merchant in connection with the Service;
<b>Customer</b>	means the natural person or legal entity(ies) who or which has/have purchased products and/or services from Merchant;
<b>Excessive Chargeback Program</b>	means a set of program provided by the Card Associations for the Bank to closely monitor, on an ongoing basis, its chargeback performance at Bixzee ePayment and Merchant's level and to determine promptly when Bixzee ePayment or Merchant has exceeded or is likely to exceed monthly chargeback thresholds;
<b>Fees</b>	means the fees payable by Merchant to Bixzee ePayment for the Service more particularly stated in <b>Annexure 1</b> of Bixzee ePayment Gateway Application Form hereto excluding the banking charges imposed on Bixzee ePayment and shall include any revised Fees which may be agreed by both parties in writing from time to time.
<b>Marks</b>	means the names, logos, trade names, logotypes, trademarks, service marks, trade designations, and other designations, symbols and marks, including but not limited to any one of the Card Associations' brand mark and name mark, that any one of the Card Associations and/or its affiliates or subsidiaries own, manage, license, or otherwise control and make available for use by the Bank and other authorized entities;
<b>MasterCard</b>	means MasterCard International Incorporated, a company organized under the State of Delaware having its office and principal place of business at 2000 Purchase Street, Purchase, NY10577-2509, United States of America of which the Bank is a member institution;
<b>Payment Card Industry-Data Security Standard (PCI-DSS)</b>	means a set of comprehensive requirements for enhancing payment account data security which was developed by the founding payment brands of the Payment Card Industry Security Standards Council to protect account data;
<b>Personal Data</b>	has the meaning ascribed to it in the Personal Data Protection Act 2010 which means any information in respect of commercial transactions, which:  (a) is being processed wholly or partly by means of equipment operating automatically in response to instructions given for that purpose;  (b) is recorded with the intention that it should wholly or partly be processed by means of such equipment; or  (c) is recorded as part of a relevant filing system or with the intention that it should form part of a relevant filing system,  that relates directly or indirectly to a data subject, who is identified or identifiable from that information or from that and other information in the possession of a data user, including any sensitive personal data and expression of opinion about the data subject; but does not include any information that is processed for the purpose of a credit reporting business carried on by a credit reporting agency under the Credit Reporting Agencies Act 2010;
<b>Standards</b>	means any laws, bylaws, rules, policies and the operating regulations and the procedures of the Card Associations and the Bank, including but not limited to any manuals, guides or bulletins, as may be amended from time to time;
<b>The Bank</b>	means any participating financial institutions where Bixzee ePayment maintains its transaction processing via the bank gateway;

<b>VISA</b>	means Visa International Service Association; a company organized under the State of Delaware with its principal office at 3125 Clearview Way, San Mateo, CA94402, United States of America of which the Bank is a member institution;
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- 1.2 Words bearing the singular in this Agreement shall include the plural and vice versa.
- 1.3 Titles and headings in this Agreement are used for convenience and ease of reference only, and in no way define, limit, extend or describe the scope and intent of this Agreement or of its provision.
- 1.4 All Recitals and Appendices hereto in this Agreement shall be read and construed as an essential part of this Agreement.
- 1.5 “Parties” shall mean Bixzee ePayment and Merchant and “Party” shall mean any of them.

## 2. Appointment

Merchant hereby appoints Bixzee ePayment for the provision of the Service in accordance with the terms of this Agreement for the duration of the term as defined in Clause 17.1 below and Bixzee ePayment hereby agrees to accept the appointment for the provision of the Service to Merchant.

## 3. Relationship

- 3.1 In providing the Service, the parties agree that
  - a. Bixzee ePayment shall act as a facilitator to help Merchant accept payments from the Customer;
  - b. Bixzee ePayment will act in accordance with written instructions of Merchant’s authorized representatives provided that such instructions are within the scope of the Service to be provided by Bixzee ePayment; and
  - c. Bixzee ePayment acts solely as an online payment switching service provider by creating, hosting, maintaining and providing its Service to Merchant via the Internet. Bixzee ePayment does not have any control over the products or services that are transacted by Merchant. Accordingly, Bixzee ePayment does not have any onus or liability whatsoever to ensure that the buyers or sellers that transacts with Merchant will actually complete the transaction.
- 3.2 Notwithstanding the provision of the Service by Bixzee ePayment and any of the terms of this Agreement to the contrary, Merchant acknowledges that: -
  - a. Bixzee ePayment is not a bank and the Service as provided by Bixzee ePayment is an online payment switching service rather than a banking service, and
  - b. Bixzee ePayment does not act in the capacity of a trustee, fiduciary party or escrow agent in respect of Merchant’s funds, but it acts as a custodian only. Merchant agrees that it shall not receive interest or other earnings on the funds handled or processed by Bixzee ePayment on behalf of Merchant and that Bixzee ePayment shall be entitled to the interest accrued on such funds (if any)
- 3.3 Merchant shall at its own cost and expense register with the Bank and/or Card Associations and to obtain a merchant account prior to the provision of the Service by Bixzee ePayment to Merchant.

- 3.4 Merchant hereby agrees that: -
- a. The Card Associations may at any time, immediately and without advance notice, prohibit Merchant from using any of the Card Associations' Marks for any reason whatsoever;
  - b. The Card Associations shall be entitled to enforce any provision of the Standards and to prohibit Merchant from engaging in any conduct that the Card Associations deem that the said conduct will damage or create a risk of damage to the Card Associations, including but not limited to any damage to its reputation, or conduct that could adversely affect the integrity of the Card Associations' systems;
  - c. Merchant will not take any action against Bixzee ePayment or the Card Associations or the Bank to injunct and interfere with the Card Associations' right as mentioned in Clause 3.4 (a) and (b) hereof.

#### 4. Remittance of payments by Bixzee ePayment

- 4.1 Merchant hereby irrevocably authorizes Bixzee ePayment to cause all funds received on behalf of Merchant by Bixzee ePayment in connection with the Service to be deposited on its behalf in the Bixzee ePayment's banking accounts. Bixzee ePayment shall thereafter remit all such funds received by Bixzee ePayment free of interest less any Fees payable to Bixzee ePayment to Merchant either via cheque to Merchant or Internet online fund transfer (if applicable) or telegraphic transfer to the bank account(s) maintained by Merchant on the 5th day of each and every succeeding week.
- 4.2 The frequency of payment and date of payment as set out in Clause 4.1 above may be varied in writing by the parties.
- 4.3 Merchant hereby agrees that Bixzee ePayment and/or the Bank has absolute discretion not to remit all such funds received by Bixzee ePayment and/or the Bank to Merchant if Bixzee ePayment and/or The Bank reasonably believe that any of the following events has or might have occurred: -
- a. Product is returned by the Customer or service is not rendered by Merchant for any reason whatsoever;
  - b. Dispute, chargeback, fraud, forgery and/or suspicious transactions;
  - c. Merchant is unable to furnish any document or record related to the transaction upon request of the Bank and/or Bixzee ePayment;
  - d. There has been a breach of this Agreement by Merchant or Merchant is suspected, expected, assumed or believed to be in breach of any of its obligations under this Agreement, or of any security measures or guidelines issued by the Bank;
  - e. Non-compliance by Merchant with regards to the transaction that may damage the goodwill of the Card Associations or reflect negatively on the Cards Associations' Marks;
  - f. If this Agreement is terminated by Bixzee ePayment for any reason whatsoever.

## 5. Identity Authentication

- 5.1 Merchant acknowledges that Bixzee ePayment uses various techniques to identify its Customer/users when they register on its site. Verification of the Customer/users is one of the various techniques to verify the authenticity of the Customer's/user's identity. Merchant authorizes Bixzee ePayment, either directly or through third parties, to make any such inquiries as Bixzee ePayment considers necessary to validate the identity of Customer/users. This may include ordering a credit report and performing other credit checks or verifying the information provided by Merchant.
- 5.2 Merchant agrees and acknowledges that Bixzee ePayment does not guarantee any of the The authentication of any of the Customer's/user's identity nor shall Bixzee ePayment be held liable in any way whatsoever to Merchant or any third party for any fraud in connection with any of the user's identity.

## 6. Release

The parties hereby agree that Bixzee ePayment shall not be held liable in any manner whatsoever in the event there is a dispute between Merchant and any of the Customer, unless it can be reasonably proven by Merchant that such dispute arose, directly or indirectly, from the negligence, fraudulent act, default, breach and/or omissions committed by Bixzee ePayment in the provision of the Service under this Agreement.

## 7. No Warranty

Bixzee ePayment shall use its best efforts to ensure that requests for electronic debits and credits involving bank accounts, credit cards, and check issuances are processed in a timely manner. Notwithstanding the foregoing, Bixzee ePayment makes no representations or warranties, whether expressed or implied, regarding the length of time required to complete the process of such transactions because the Service is largely dependent upon many factors beyond its control including but not limited to delays in the banking system or the local or international mail service.

## 8. Disclaimer and Limitation of Liability

- 8.1 Merchant shall not hold Bixzee ePayment and its holding company, affiliates, subsidiaries, employees and its suppliers liable in any way for any losses or liabilities and shall indemnify Bixzee ePayment against any claims brought by Card Associations, Bank, any regulatory body, any governmental or non-governmental authorities or any third party for matters caused by, directly or indirectly, by Merchant or any third parties relate to Merchant in connection with the use of or access to the Service. Merchant shall forthwith reimburse Bixzee ePayment for any fine imposed and all costs (legal or otherwise) and/or damages incurred by Bixzee ePayment.
- 8.2 Bixzee ePayment and Merchant shall under no circumstances be liable to the other, its holding company, subsidiaries, employees and its suppliers for:
- a. any online services offered by third parties and accessible from the Bixzee ePayment;
  - b. any exposure of users of the Service to third parties online services providing prohibited material or other undesired experiences through the use of the Bixzee ePayment ; or
  - c. any act or omission on the part of any third parties not within the control of the either Party.

## 9. Indemnification

Subject to Clauses 6 and 8 herein, the defaulting party hereto agrees to indemnify and hold the non-defaulting party, its holding company, subsidiaries, affiliates, officers, directors and employees harmless from any claim or demand made or incurred by any third party due to or arising out of the defaulting party's breach of any of the terms of this Agreement or the violation of any provisions of law in connection with the transactions contemplated under this Agreement.

## 10. Violations by Merchant

If Merchant engages in any of the following, Bixzee ePayment shall be entitled, at its sole discretion, to limit the Service provided to Merchant or immediately terminate the Service and this Agreement by notice in writing to Merchant:

- 10.1 Using the Service to receive payments for any sexually oriented or obscene materials or services in violation of Bixzee ePayment's policy;
- 10.2 Using the Service to receive payments for any narcotics, other controlled or illegal substances, steroids or prescription drugs in violation of any laws;
- 10.3 Using the Service to receive payments for wagers, gambling debts or gambling winnings, regardless of the location or type of gambling activity;
- 10.4 Using the Service to receive payments for any replica Products;
- 10.5 Using the Service to receive payments for any firearms, ammunition, high capacity magazines, tasers, air guns;
- 10.6 Using the Service to receive payments for any fireworks or pyrotechnic devices or supplies;
- 10.7 Attempts to tamper, hack, modify or otherwise corrupt the security or functionality of Service;
- 10.8 Using the Service for money laundering activities;
- 10.9 Using the Service for pyramid scheme program;
- 10.10 Using the Service for any illegal or immoral activities, including but not limited to violate the Countries laws, Bank Negara Malaysia, Bank and Card Associations rules;
- 10.11 Damage the goodwill or reflect negatively on the Card Associations brand, including but not limited to violate the BRAM compliance program;
- 10.12 Deal in the currency of Israel;
- 10.13 Deal with Specified Persons which comprised of the residents, authorities, agencies & instrumentalities & any entities owned or controlled, directly or indirectly, by Israel;
- 10.14 Deal with the persons belonging to or associated with the Taliban, Osama bin Laden and Al-Qaeda organization pursuant to the United Nations Security Council Resolutions relating to Taliban, Osama bin Laden and Al-Qaeda organization; and/or
- 10.15 Involve in any of the Banned and High Risk Industries, which shall be updated from time to time as stated in **Appendix B**.

Merchant and Bixzee ePayment agree that the damages that Bixzee ePayment will sustain as a result of the above behaviour by Merchant will be substantial, including (without limitation) fines and other related expenses from its payment processors and service providers and damage to its reputation, but may be extremely difficult and impracticable to ascertain and that damages may not be an adequate remedy for such breach by Merchant. Merchant further acknowledges that Bixzee ePayment shall be entitled to all equitable relief, including but not limited to injunctions and specific performance, in the event of any such breach or threatened breach by Merchant.

## 11. Fees

- 11.1 Merchant shall pay Bixzee ePayment the Fees as set forth in the Fee Structure (**Annexure 1**) Bixzee ePayment Gateway Application Form. Bixzee ePayment shall be entitled to deduct all Fees payable to it from the funds received by Bixzee ePayment on behalf of Merchant as set out in Clause 4.1 above.
- 11.2 All Fees will be assessed in the currency of the payment. Merchant's account and all transactions are made and displayed in Ringgit Malaysia unless otherwise specified and may be subject to exchange rates.

## 12. Receiving Payments

### 12.1 Credit Card Funded Payments

By accepting a credit card payment, Merchant agrees that if there is reversal occurs on a credit card funded payment made to its account, Bixzee ePayment will reverse the payment and debit Merchant's account balance that is maintained with Bixzee ePayment to pay for the reversal. Merchant shall not take any legal action against Bixzee ePayment due to non-payment as caused by this reversal. If there are insufficient funds in Merchant's account balance, Merchant agrees to reimburse Bixzee ePayment through other means within fourteen (14) days from the date of receipt of the notification in writing.

### 12.2 Refused Payments

Any payments sent through Bixzee ePayment that are denied or unclaimed by a recipient will be returned to Merchant (a) on the date of such denial in respect of denied payments, or (b) thirty (30) days after the date the payment is sent in respect of unclaimed payments.

## 13. Representations, Undertakings and Covenants of Merchant

### 13.1 Merchant hereby undertakes and covenants as follow:

- a. To obtain at its own cost and expense necessary license or permit and own proper facility, equipment, inventory, agreement, personnel and other capabilities to conduct business;
- b. Shall have legal or legitimate rights to sell and market such products or perform such services as offered and posted;
- c. Shall not impose or require Customer to pay any surcharge, commission, transaction cost, or any other contemporaneous finance charge in connection with the credit card transaction whether through any increase in price or otherwise, or any other term and condition imposed on any of the Customer desirous of using the credit card as opposed to any other method of payment in making payment to Merchant;

- d. To be responsible and financially liable for all transactions and liable for all acts, omissions, Customer's disputes and/or chargebacks, fraud or suspicious transactions, and other customer service-related issues caused by Merchant;
- e. Not to transfer and/or attempt to transfer any of Merchant's financial liability by way of asking or requiring Customers to waive their dispute rights;
- f. To provide the Bank, Card Associations and/or Bixzee ePayment with the necessary information, documents and records of the transaction and Customer;
- g. To comply with the Standards and all relevant laws and regulations;
- h. To participate and give full co-operation in an audit with regards to the program / Standards in relation to fraud control upon request by the Bank, Card Associations and/or Bixzee ePayment;
- i. Shall not deal directly with the Bank and/or Card Associations;
- j. In the event that the products and/or services are categorized as "high risk business" such as Digital item (IDD card, mobile reload card, digital music, video, information, software, instant downloadable item and eBook), Event (one-time seminar, conference, expo and online ticket) and Fast Moving Consumer Goods (pharmaceuticals, consumer electronics, packaged food products and drinks), Merchant shall perform credit card verification with the Customer and to submit the relevant verification documents to Bixzee ePayment within three (3) business days after the card transaction date, failing which, Merchant shall reverse the card transaction and perform secret key verification in Merchant's online shopping cart for all instant downloadable items or activation of services;
- k. Shall forthwith resolve any claims or complaints made by the Customer in respect of any purchase of the products and/or services from Merchant directly with the Customer;
- l. Shall not export or re-export any of the products and/or services stated in the Bixzee eCommerce Market Place without the appropriate approval from the relevant authorities and foreign government licenses;
- m. Shall comply with all applicable export or import laws of whatever jurisdictions, including without limitation, restrictions on the export of encryption software and the export or import of products and/or services to and from embargoed countries.

#### **14. Inspection at Merchant's Premises**

The Bank, Card Associations and/or Bixzee ePayment shall be entitled to enter any of Merchant's premises with or without prior notice to audit and inspect the software, hardware, system records, procedures and/or any part of its system with a view to ascertaining whether the setting-up, operation, maintenance, security and integrity thereof or any other matter related thereto may adversely affect the Bank's, Card Associations' and/or Bixzee ePayment's interests or Bixzee ePayment's rights under this Agreement. All costs and expenses incurred thereon shall be borne by Merchant and shall be debited into Merchant's account.

#### **15. Confidentiality and Intellectual Property Rights**

- 15.1 All information that Merchant may obtain from or through the Bixzee ePayment Website in connection with or in the course of its use of the Service, whether intended or by accident, shall be kept confidential and Merchant shall not disclose such information or use the same other than



disclosure to authorized third parties or as obviously contemplated under this Agreement or with Bixzee ePayment's express written consent.

- 15.2 Merchant acknowledges that the copyright, designs, trademarks and other intellectual property rights comprised in the information, text, graphics, scripts, software, technology, music, sound, photograph or any other materials or works used on, comprised or contained in the Bixzee ePayment System, Bixzee eCommerce software and the Bixzee logo and trademarks (collectively "the Materials") are the sole and exclusive property of Bixzee ePayment and/or its licensors.
- 15.3 Merchant further agrees and undertakes that save as expressly permitted in this Agreement it shall not without Bixzee ePayment's prior written consent:
- a. reproduce, copy, reverse compile, adapt, modify, distribute, commercially exploit, display, broadcast, hyperlink or transmit in any manner or by any means or store in an information retrieval system any part of the Bixzee ePayment Website or the Materials; or
  - b. create or use derivative works from the Materials or create any hyperlink of any sort or manner to or from the Bixzee ePayment Website from or to any other website or use any part of the Materials contained at the Bixzee ePayment Website or any other server.

## 16. Privacy and Security

Bixzee ePayment shall not sell or rent Merchant's information to third parties for marketing purposes without Merchant's expressed written consent and Bixzee ePayment shall only use Merchant's Information in the manner as described in the Privacy Policy which may be viewed at <https://www.Bixzee.com/privacy.html>. Bixzee ePayment views protection of users' privacy as a very important principle. Bixzee ePayment understands clearly that Merchant and Merchant's Information are one of Bixzee ePayment most important assets. Bixzee ePayment shall store and process Merchant's Information on computers located in Malaysia that are protected by physical as well as technological security devices. Merchant shall only log in to their Bixzee ePayment account on a page which begins with <https://app.bixzee.com/>. All of Bixzee ePayment pages begin with <https://www.bixzee.com/> and therefore Merchant should not use any other site that does not begin as such.

## 17. Term & Termination

- 17.1 The term of this Agreement shall commence on the Commencement Date and, unless earlier terminated or extended as provided below, shall end twenty-four (24) months later ("Term") provided that this Agreement shall be automatically renewed on a yearly basis upon expiry thereof unless either party provides written notice of termination to the other party at least thirty (30) days prior to the end of the then current Term.
- 17.2 This Agreement may be terminated as follows:
- a. If a Party (hereinafter referred to as "the Defaulting Party"):
    - i. shall hereto commit or permit any material breach of any of the obligations herein contained and on its part to be performed or observed and shall not have remedied such breach (if capable of remedy) within fourteen (14) days after written notice shall have been given to it by any other Party requiring such remedy;
    - ii. shall go into voluntary liquidation otherwise than for the purpose of reconstruction or amalgamation or an Order of Court is made for its compulsory liquidation or being an individual shall become bankrupt or have a receiving order made against any of his assets;

- iii. shall enter into any composition or arrangement with its creditors;
- iv. shall have a receiver appointed over the whole or any part of its undertaking or assets;
- v. shall suffer any encumbrances taking possession of or a receiver or trustee being appointed over the whole or any part of its undertaking, property or assets; or
- vi. shall have an order made against it or have a resolution passed for its winding-up, otherwise than for the purpose of a reconstruction or amalgamation previously approved by the other Party.

then and in any such event (hereinafter referred to as an “Event of Default”) the Party not in default (the “Non-Defaulting Party”) shall be entitled (but shall not be obliged) to give notice in writing to terminate this Agreement to the Defaulting Party within fourteen (14) days from the date of which the Non-Defaulting Party becomes aware of the occurrence of the Event of Default.

- 17.3 This Agreement shall be terminated automatically and immediately without any prior notice if any of the following events shall occur:
- a. When Merchant or any of its directors and/or business owners of Merchant has been blacklisted by the Bank and/or Card Associations;
  - b. The Card Associations de-register Bixzee ePayment or the Bank ceases to be a member of the Card Associations for any reason whatsoever;
  - c. Merchant involves in fraudulent, counterfeit, suspicious and/or wrongful activity;
  - d. Merchant enters into another agreement under a new name with the intention to circumvent the provisions of the Standards;
  - e. Merchant carries out activity that causes the Bank and/or Bixzee ePayment to violate the Standards; or
  - f. Merchant performs any other activity that may result in undue economic hardship or damage to the goodwill of the system of the Card Associations;
  - g. Irregular transactions by Merchant, excessive chargebacks, which listed under Excessive Chargeback Program, non-compliance with any applicable data security standards, as determined by Bixzee ePayment, Card Associations, the Bank, or an actual or suspected data security standards, or any other circumstances which, in the discretion of Bixzee ePayment, the Bank and/or Card Associations, may increase the risk exposure of such parties or otherwise present a direct or indirect financial or security risk to such parties;
  - h. A violation by Merchant of any laws and/or Standards; or
  - i. Merchant processes more than United State Dollars One Hundred Thousand (USD100,000.00) only annually (based upon the date its account is approved) for any cards and does not enter into a merchant agreement directly with the Bank.

17.4 Upon the termination of this Agreement, the following provisions shall apply:

- a. Any pending transactions to be performed under the Service will be cancelled.

- b. Merchant may not use closure of its account as a means of evading investigation - if an investigation is pending at the time Merchant closes its account, Bixzee ePayment may continue to hold its funds for up to 180 days as appropriate to protect Bixzee ePayment against the risk of reversals. If Merchant is later determined to be entitled to some or all of the funds in dispute, Bixzee ePayment will release those funds to Merchant within 30 days. Merchant will remain liable for all obligations related to its account even after such account is closed.

If Merchant does not access its account for a period of three years, it will be terminated by Bixzee ePayment without further notice. After the date of termination, Bixzee ePayment will use the accounts and/or address information Merchant provided to try to send Merchant any funds that Bixzee ePayment is holding in custody for Merchant. If that information is not correct, and Bixzee ePayment is unable to complete the payment to Merchant, its funds will be subject to the laws applicable to unclaimed property and monies.

## 18. Remedies and Bixzee ePayment's Right to Collect from Merchant

18.1 If any of the following events occur:

- a. Merchant commits a breach of any of the terms of this Agreement as provided herein;
- b. Bixzee ePayment is unable to verify or authenticate any information provided by Merchant to Bixzee ePayment and Merchant refuses to co-operate or assist Bixzee ePayment to verify and authenticate such information;
- c. Bixzee ePayment believes with reasonable cause that Merchant's account or activities pose a significant credit or fraud risk to Bixzee ePayment;
- d. Bixzee ePayment believes with reasonable cause that Merchant's actions may cause financial loss or legal liability for Bixzee ePayment or its users; or
- e. Merchant's use of Merchant's Bixzee ePayment account is deemed by Bixzee ePayment, Visa, MasterCard, or Discover to constitute abuse of the credit card system or a violation of credit card rules. For the avoidance of doubt, even if they have been recorded as completed in the Recent Activity or History Transaction Log of Merchant's account, transactions are not considered completed until the funds have been charged to the customer's funding source (for payments) or posted to the customer's bank account (for withdrawals), then, without limiting other remedies,

Bixzee ePayment shall be entitled at its discretion to take any of the following actions and remedies:

- i. to hold on the funds in Merchant's account,
- ii. to limit the funding sources and payments,
- iii. to limit access to an account and any or all of the account's functions (including but not limited to the ability to send money or making withdrawals from the account),
- iv. to limit withdrawals,
- v. to indefinitely suspend or close its account and
- vi. refuse to provide the Service to Merchant.

18.2 In addition thereto, Bixzee ePayment reserves the right to hold the funds beyond the normal distribution periods for transactions it reasonably deems suspicious or for accounts conducting high transaction volumes to ensure integrity of the funds.

18.3 If Bixzee ePayment closes Merchant's account pursuant to this Clause 18, Bixzee ePayment will notify Merchant by giving a written notice and pay to Merchant all of the unrestricted funds held in

its Bixzee ePayment's account. In addition thereto, Bixzee ePayment shall have a lien over Merchant's account and Bixzee ePayment shall set-off against the monies in such accounts held with Bixzee ePayment in respect of all sums due and owing to Bixzee ePayment pursuant to the terms of this Agreement.

## 19. Assignability

The parties may not transfer any rights or obligations it may have under this Agreement without the prior written consent of the other party. This agreement shall be binding upon and inure to the benefit of the parties, their legal representatives, successors, and permitted assignees.

## 20. Credit Report

Merchant agrees that Bixzee ePayment may order and review Merchant's credit report with the sole purpose of assessing its fitness to hold a Bixzee ePayment account and/or its ability to use the Service or features thereof.

## 21. Representations

Each Party represents to the other that:

- a. it has all requisite power and authority to enter into this Agreement and to carry out the transactions contemplated hereby;
- b. it has the rights, licenses, permits and power to perform all obligations incurred by it under this Agreement;
- c. the execution, delivery and performance of this Agreement are duly authorized;
- d. this Agreement has been duly executed and delivered by it and is a valid and binding obligation of it; and
- e. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby do not conflict with or violate its constituent documents, any other contract or agreement to which it is a party, any applicable laws or any order or judgment of any court or governmental authority.

## 22. Information, Data Security and Protection

- 22.1 Where either Party receives any personal data from the Customer, it shall ensure that it fully complies with the provisions of the Personal Data Protection Act, 2010 ("the Act") and only deals with the data to fulfil its obligations under this Agreement.
- 22.2 Each Party shall indemnify to the other for any breach of the Act which renders the latter liable for any costs, fines, claims or expenses howsoever rising.
- 22.3 Each Party shall take all reasonable steps to ensure that all its partners, contractors, employees or agents comply with this clause and the provisions of the Act where they are processing any of the personal data of the Customer.

22.4 Merchant must ensure the security and confidentiality of the Customer’s information at all time and protect from any unauthorized access or the use of such confidential information that could result in substantial harm to the Customer and violation of the Standards, including without limitation, the PCI-DSS. Merchant shall also ensure that it complies with PCI-DSS and the Payment Application Data Security Standard (PA-DSS).

**23. Taxes**

23.1 All taxes and other charges imposed or to be imposed by the governments or such other competent authorities in respect of the provision of Service or in connection with this Agreement shall be borne by Merchant and Merchant shall reimburse and indemnify Bixzee ePayment for the payment of the same in respect of the provision of Service or in connection with this Agreement.

23.2 If as a result of the introduction of new laws, by-laws rules or regulations or the amendment of the existing laws, by-laws rules or regulations which may be levied by the Government of Malaysia, the parties hereto shall comply with the new laws and pay at such rate as may be determined by the Government of Malaysia.

**24. Notices**

24.1 All notices, statements, demands, requirements or other communications and documents required or permitted to be given, served or delivered to any Party under this Agreement (hereinafter referred to as a “Communication”) shall be in writing in the English language and shall be either delivered by hand or sent by pre-paid certified or registered mail (airmail in the case of all international Communication), with return receipt requested, to that Party at its address stated below or sent by facsimile machine to its facsimile number stated below or to such other address or facsimile number as that Party may from time to time have notified the other Party as being its address or facsimile numbers or electronic mail (e-mail) for purposes of this Agreement to the exclusion of all previously applicable addresses and facsimile numbers or electronic mail (e-mail). A Communication once given, served or delivered shall be irrevocable without the consent of the recipient, which may be given or withheld, in its absolute discretion.

Notice to Bixzee ePayment	<ul style="list-style-type: none"> <li>• Address</li> <li>• Tel. No</li> <li>• Fax No.</li> <li>• E-mail Address</li> <li>• For the Attention of</li> </ul>	As per details in Section C and D of Bixzee ePayment Gateway Application Form
Notice to Company	<ul style="list-style-type: none"> <li>• Address</li> <li>• Tel. No</li> <li>• Fax No.</li> <li>• E-mail Address</li> <li>• For the Attention of</li> </ul>	

24.2 A Communication shall be deemed to have been given, served or delivered:-

- a. if delivered by hand, upon delivery;
- b. if sent by mail, after three (3) Business Days of postage;

- c. if sent by facsimile machine, one (1) hour after its transmission if such time is during business hours in the place of its receipt or, if it is not, on the opening of business on the next succeeding day in the place of its receipt, subject to its having in fact been received in legible form and with a copy thereof being sent by post;
- d. If sent by electronic mail, twenty four (24) hours after e-mail is sent

## 25. Notices

- 25.1 Neither parties shall be liable for any cost or otherwise, for any delay and/or failure in the execution of their respective obligations hereunder if such cost, delay or failure is due to Force Majeure, which for the purposes of this Agreement shall mean any unforeseeable event or cause not within the control of the party affected which that party is unable to prevent, avoid or remove.
- 25.2 The events falling within Force Majeure include but are not limited to:-
  - a. war (whether declared or not), hostilities, invasion, armed conflict act of foreign enemy, riot, insurrection, strike, revolution or usurped power; and
  - b. acts of terrorism, sabotage or criminal damage; and
  - c. nuclear explosion, radioactive or chemical contamination or ionizing radiation; and
  - d. natural catastrophes including but not limited to earthquakes, floods and exceptionally inclement weather and subterranean spontaneous combustion; and
  - e. Pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds.

Provided that an event of Force Majeure shall not include economic downturn, non- availability or insufficient funds, or lack of financing on the part of the affected party to carry out its obligations under this Agreement.

- 25.3 If either party is prevented or delayed in the performance of any obligation under this Agreement by events of Force Majeure, the affected party shall give written notice thereof to the other Party within seven (7) days of the happening of such event, specifying the details constituting Force Majeure and the anticipated period during which such prevention, interruption or delay may continue.
- 25.4 Where possible the parties shall diligently mitigate or remove the effects of Force Majeure. Either party upon receipt of the notice of Force Majeure shall confer promptly with the other and agree upon a course of action to remove or alleviate such effect and shall seek reasonable methods of resuming full performance of its obligations and achieving the objectives under this Agreement.

## 26. Waiver

- 26.1 Any waiver of any rights under this Agreement shall not be valid unless in writing and signed by a duly authorized representative of each Party.
- 26.2 Waiver by either party of any breach of the terms and conditions of this Agreement to be performed by the other party shall not be construed as waiver of any other breach of the same or any other terms or conditions.

**27. Governing Law**

This Agreement is governed by, and shall be construed in accordance with, the laws of Malaysia, and the parties hereby agree to submit to the non-exclusive jurisdiction of the Court of Malaysia.

**28. Time**

Time is of the essence of this Agreement.

**29. Costs**

Each party shall bear their own solicitors' costs in respect of this Agreement and the stamp duty incidental to this Agreement shall be borne by Merchant.

**30. Entirety**

This Agreement sets forth and shall constitute the entire agreement between the parties hereto with respect to the subject matter hereof and shall supersede any and all promises, representations, warranties or other statements whether written or oral made by or on behalf of one party to the other of any nature whatsoever or contained in any leaflet, brochure or other document given by one party to the other concerning such subject matter. The terms in this Agreement may be amended from time to time and any amendments or changes made shall be posted and published in the agreement link of the Bixzee ePayment Gateway Application Form.

**31. Severance**

Any of the terms, conditions, stipulations, provisions, covenants or undertakings contained herein which are illegal void prohibited or unenforceable in any respect under the law governing this Agreement or its performance, such illegality, invalidity or unenforceability shall be ineffective to the extent of such illegality voidness prohibitions or unenforceability without invalidating the remaining provisions hereof and any such illegality, voidness, prohibition or unenforceability shall not invalidate or render illegal void or unenforceable any other terms conditions stipulations provisions covenants or undertakings contained herein.

**32. Inconsistency**

Unless expressly provided otherwise, in the event of any inconsistency between any provisions in this Agreement and the Standards, the Standards shall prevail unless such other agreement provides explicitly to the contrary.

**33. Survival**

The following clauses of this Agreement will survive any expiration or termination of this Agreement: 8 (Disclaimer and Limitation of Liability), 9 (Indemnification), 12 (Receiving Payments), 14 (Inspection at Merchant's Premises), 15 (Confidentiality and Intellectual of Property Right), 18 (Remedies and Bixzee ePayment's Right to Collect from Company), 22 (Information, Data Security and Protection) and 27 (Governing Law).

**End of Merchant Agreement**