

**STRIPE 21 GROUP LIMITED**  
**TERMS AND CONDITIONS**

## 1. Definitions and Interpretation

1.1 In this Agreement, unless the context requires otherwise, the following expressions have the following meanings:

**“Acceptable Use Policy”** means the policy for acceptable use of the Stripe 21 Services, as set out in schedule 1 (Acceptable Use Policy) to the Particulars and as updated by Stripe 21 from time to time by notice to the Customer;

**“Acceptance”** is defined in clause 2.6 (Installation and Evaluation);

**“Agreement”** means this entire agreement comprising the parts (including these Terms and Conditions) as set out in the Sales Order;

**“Commission”** means complete the phase of processes to activate the service to the extent that it is accepted as delivered by both parties and in accordance with the Sales Order

**“Content”** means web site material placed on the Customer Web Site and content introduced by the Customer for carriage by the Stripe 21 Services;

**“Customer Brand Features”** means all trade marks, service marks, logos and other brand features of the Customer used in connection with the Content;

**“Customer Web Site”** means the web site of the Customer hosted in the internet;

**“Duration”** means the initial period of this agreement to commence on the Live Date, to its end 1, 3 or 5 years from the anniversary of such specified date pursuant to the attached Sales Order.

**“Equipment”** means:

- (a) if the Sales Order specifies Stripe 21 will be supplying it, the Equipment specified in the Sales Order; or
- (b) if the Sales Order specifies that the Customer will be supplying its own Equipment, the Equipment specified in the Sales Order and supplied by the Customer (including that made available to the Customer under leasing or hire purchase arrangement between the Customer and a separate supplier), for use by the Customer in obtaining access to the Stripe 21 Services;

**“Live Date”** means the date when Stripe 21 commissions services in the customer premises; for the avoidance of doubt this may be a different date to the date of signature of the Sales Order.

**“Intellectual Property Rights”** means copyright and other intellectual property rights, howsoever arising and in whatever media, whether or not registered, including (without limitation) patents, trade marks, database rights, service marks, trade marks and trade names and design rights, and any applications for the protection or registration of these rights (and all renewals and extensions thereof) throughout the world;

**“Particulars”** means the Sales Order and Network Services Agreement Particulars attached to the front of these Terms and Conditions;

**“Primary Site”** means the Customer’s site for use of the Stripe 21 Services that is closest to The client’s premises, as specified in the Particulars;

**“Secondary Site”** means any Customer site that is not the Primary Site, as specified in the Particulars;

“**Service Fees**” means the recurring service charges payable by the Customer to Stripe 21 for the Stripe 21 Services, as specified in the Sales Order;

“**Service Level Agreement**” means the description of services and service levels set out in schedule 2 (Service Level Agreement) to the Particulars;

“**Service Non-Compliance**” is defined in clause 3.2 (Supply of Stripe 21 Services);

“**Sites**” means, collectively, the Primary Site and the Secondary Sites;

“**Stripe 21 Brand Features**” means all trade marks, service marks, logos and other brand features of Stripe 21 used in connection with www.stripe21.com and the Services;

“**Stripe 21 Services**” means the services specified in the Sales Order;

“**Stripe 21 Web Site**” means the web site located at URL <http://www.stripe21.com> or such other URL as notified by Stripe 21 from time to time;

“**Stripe 21**” means Stripe 21 Group Limited Registered in England number 1182 4372

“**Suppliers**” means suppliers and subcontractors of Stripe 21, including providers of network capacity, connectivity and Equipment;

“**Technical Specification**” means the services delivered to the Sites as detailed in Schedule 2A

“**Terms and Conditions**” means these Services Agreement terms and conditions;

“**UK Territory**” Means England, Scotland, Northern Ireland and Wales only

1.2 Unless the context otherwise requires, any reference to:

1.2.1 a “**person**” shall be construed as a reference to any person, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) between two or more of such persons;

1.2.2 a clause or a schedule shall be construed as a clause or a schedule of this Agreement; and

1.2.3 the singular shall include the plural and vice versa and words denoting any gender shall include all genders.

1.3 Clause headings are for ease of reference only and shall not affect the interpretation of Agreement.

1.4 Each term with a capital letter and not defined in these Terms and Conditions is as defined in the Sales Order.

1.5 To the extent that there is a conflict between:

1.5.1 these Terms and Conditions; or

1.5.2 the Sales Order (excluding the schedules),

and any schedule to those documents or other agreement between the parties, then these terms and conditions prevail to the extent of the inconsistency. If there is a conflict between the Particulars and these Terms and Conditions, these Terms and Conditions prevail to the extent of the inconsistency.

## 2. Installation and Evaluation

2.1 Stripe 21 shall, within a reasonable period after the signing of this Agreement (or on such date as agreed between the parties in writing):

2.1.1 configure and deliver the Equipment to the Sites;

- 2.1.2 where indicated in the Particulars, install that part of the Primary Equipment which relates to the Primary Site at the Primary Site, and connect or organise the connection of the systems to the Stripe 21 Services using that Equipment; and
- 2.1.3 where Stripe 21 is not installing the Equipment (this will include Equipment at the Secondary Sites), provide:
  - 2.1.3.1 instructions to the Customer; and
  - 2.1.3.2 reasonable call centre support to the Customer,
    - to assist the Customer to complete installation of such Equipment and to connect the Customer's telephone and computer systems to the Stripe 21 Services using that Equipment.
- 2.2 The Customer shall supply sufficient information to Stripe 21 about the Customer's telephone and computer systems to allow Stripe 21 to formulate a methodology for such configuration, installation and connection.
- 2.3 Where the Customer is installing Equipment, the Customer shall install the Equipment delivered by The client:
  - 2.2.1 as soon as possible after delivery (and in any case within forty-eight (48) hours); and
  - 2.2.2 only in accordance with instructions from The client.
- 2.4 The Customer shall test and evaluate the Stripe 21 Services against the Service Level Agreement for a period of forty eight (48) hours commencing at the time installation is complete ("**Evaluation Period**").
- 2.5 The Customer shall promptly notify Stripe 21 of any failure of the Stripe 21 Services to meet the Service Level Agreement during the Evaluation Period. Stripe 21 will use all reasonable endeavours to remedy such failure upon being notified. Once the failure has been remedied by The client, Stripe 21 shall notify the Customer of the correction and a further Evaluation Period of forty-eight (48) hours shall then commence.
- 2.6 Upon completion of the Evaluation Period (where there is no notification to Stripe 21 of a non-compliance with the Service Level Agreement), the Customer shall be deemed to have accepted the Stripe 21 Services with effect from the time installation occurred and shall record such acceptance by signing a certificate of acceptance of the Stripe 21 Services supplied by Stripe 21 ("**Acceptance**").
- 2.7 Because provision of the Stripe 21 Services includes use of local loop network providers (and other connectivity arrangement over which Stripe 21 has no control), time shall not be of the essence in relation to The client's configuration, delivery or installation of the Equipment or installation of the Stripe 21 Services.

### **3. Supply of Stripe 21 Services**

- 3.1 Stripe 21 shall use all reasonable endeavours to supply the Stripe 21 Services in accordance with the Service Level Agreement.
- 3.2 After Acceptance, if a defect, fault or impairment in the provision of the Stripe 21 Services at any time results in the Stripe 21 Services not complying with the Service Level Agreement ("**Service Non-Compliance**") and the Customer gives notification to Stripe 21 of such Service Non-Compliance, then Stripe 21 shall use all reasonable endeavours to resolve the Service Non-Compliance within the timeframes specified in the Service Level Agreement.
- 3.3 If Stripe 21 determines in its reasonable opinion that such Service Non-Compliance results from:
  - 3.3.1 the negligence, act, omission or default of the Customer;
  - 3.3.2 the Customer's breach of this Agreement;
  - 3.3.3 the operation, failure or malfunction of any network, equipment or software owned or controlled by the Customer (other than the Equipment);

- 3.3.4 circumstances referred to in clause 19.1 (Liability);
- 3.3.5 the exigencies of transmissions over the internet (as referred to in clause 8.4 (Security)); or
- 3.3.6 any third party action in response to an act or omission of the Customer or any person given access to the Stripe 21 Services or Equipment by the Customer,

(together “**Exempted Failures**”), Stripe 21 may, with written agreement from the customer, invoice the Customer for all reasonable costs incurred by Stripe 21 in connection with the investigation and resolution of such Service Non-Compliance. The Customer shall pay such invoices in accordance with clause 6 (Payment).

## 4. Changes and Alterations to Services

- 4.1 Stripe 21 may from time to time change the configuration and the technical functionality of the Stripe 21 Services. Where practicable, Stripe 21 will use reasonable efforts to give at least thirty (30) days prior notice to the Customer of any such change or alteration.
- 4.2 Stripe 21 may from time to time without notice change or alter the networks to which Stripe 21 connects (or the networks to which Stripe 21 connects the Customer), provided that no such changes or alterations shall result in any increase in Service Fees or in any material change in the performance of the Stripe 21 Services.

## 5. Invoicing

- 5.1 Charges for Stripe 21 Services are to be invoiced as follows:
  - 5.1.1 The Setup Payment is payable in advance, on signing of this Agreement as set out in the Sales Order forming part of this Agreement.
  - 5.1.2 The client may instruct a reputable leasing company to pay the Setup Payment, such Fixed Term Rental (or similar) to be signed and delivered as a deed accompanying this Agreement. Payment from the leasing company becomes due on the Live Date.
  - 5.1.3 Service Fees shall thereafter be invoiced monthly, quarterly or annually in advance as set out in the Sales Order forming part of this Agreement.
  - 5.1.4 Stripe 21 and the client agree to fix the price for the term of the contract pursuant to the Sales Order forming part of this Agreement, with the following exceptions: increases equal in percentage terms to the annual rate rise in the Retail Price Index (RPI) as reported by the Exchequer on each anniversary of this Agreement; increases in the wholesale cost of services required to deliver the Stripe 21 services.
  - 5.1.5 Within 90 days of the end of this Agreement, Service Fees are subject to review by both parties.

## 6. Payment

- 6 The Customer shall pay invoices for the Service fees in advance monthly, quarterly or annually in accordance with the Sales Order forming part of this Agreement and by direct debit. Late payments will accrue interest at a rate of 8% per annum above the base rate of HSBC Bank PLC calculated from the due date until the date of actual payment.
- 6.1 All amounts stated in this Agreement are exclusive of value added tax. Any value added tax arising in respect of any supply made under this Agreement shall, on the issue of a valid tax invoice in respect of the same, be paid to the party making the taxable supply by the party to whom it is made (in addition to any other sum payable for that supply).
- 6.2 The Service Fees and Setup Payment are exclusive of withholding tax. Payments shall be made gross of any withholding taxes due to any authority so that after any withholdings, the amount received by Stripe 21 is the full amount which would have been received had there been no withholding tax.

## 7. Acceptable Use

7.1 The Customer acknowledges that Stripe 21 does not assume responsibility for monitoring the Content of the Customer Web Site (such monitoring is not part of the Stripe 21 Services). The client's rights under this Agreement in relation to such Content (for example, the right to have such Content removed) are reserved solely for the purpose of enabling Stripe 21 to comply with legal requirements applicable to it and to the Stripe 21 Services.

7.2 The Customer shall:

7.2.1 use the Stripe 21 Services in a manner that is:

7.2.1.1 consistent with the Agreement;

7.2.1.2 in accordance with all applicable laws and regulations and standards applicable to the use of the internet; and

7.2.1.3 not in breach of the Acceptable Use Policy (and the Customer shall ensure that any Content is also not in breach of such policy);

7.2.2 ensure that any community, discussion or chat area of the Customer Web Site (and its Content) is made available and accessible on terms that users shall not post any defamatory, obscene or other unlawful Content to such areas. The Customer shall have in place suitable and effective policies to remove any such offending Content so that it is no longer accessible through the Customer Web Site or otherwise over the internet.

7.3 The Customer shall:

7.3.1 use its best endeavours to as soon as possible (and in any event within 24 hours):

7.3.1.1 prevent any access of, and cease the use of, the Stripe 21 Services; and

7.3.1.2 remove any Content from the Customer's Web Site,

which is in breach of the Acceptable Use Policy or the requirements of clause 7.2 following notification of such an occurrence by Stripe 21 or by any appropriate government, judicial or regulatory body;

7.3.2 allow Stripe 21 (or other third parties under the direction of The client) to, and assist Stripe 21 (or such other third parties) in, the removal or prevention of access to any Content which cause (or is likely to cause) the Customer to be in breach of the Acceptable Use Policy or the requirements of clause 7.2, irrespective of whether or not such removal or prevention of access involves impairment of the Stripe 21 Services. Stripe 21 also has the right to enforce the Acceptable Use Policy or the requirements of clause 7.2 by requesting that the Customer temporarily cease using the Stripe 21 Services or temporarily suspending the Stripe 21 Services; and

7.3.3 indemnify Stripe 21 (and its Suppliers) against all costs, losses, claims damages, expenses or proceedings incurred or suffered by them in connection with:

7.3.3.1 a breach of the Acceptable Use Policy or the requirements of clause 7.2;

7.3.3.2 Any use of the Stripe 21 Services by the Customer.

7.4 If the Customer's use of the Stripe 21 Services interferes with The client's ability to provide:

7.4.1 Stripe 21 Services to the Customer; or

7.4.2 any services to The client's other customers,

(each a "**Prohibited Use**"), Stripe 21 may suspend provision of the affected Stripe 21 Services until the Prohibited Use has ended. Stripe 21 shall then as soon as reasonably practicable resume provision of the affected Stripe 21 Services.

## 8. Security

- 8.1 Stripe 21 shall supply the Customer with usernames and passwords to be used as a security mechanism during login. The usernames and passwords are The client's property and Stripe 21 may alter or replace them at any time.
- 8.2 The Customer shall use its best endeavours to ensure that the usernames and passwords supplied by Stripe 21 do not become known by any third party. The Customer shall immediately advise Stripe 21 if it becomes aware that unauthorised users are in possession of such usernames or passwords.
- 8.3 Stripe 21 shall establish and maintain reasonable security routines to hinder unauthorised access to The client's systems (including those that may contain or route the Customer's voice and data transmissions).
- 8.4 The Customer acknowledges and accepts that the Stripe 21 Services involve transmissions over the internet and that such transmissions are therefore subject to the internet's inherent risks. Whilst Stripe 21 acknowledges its responsibility to take reasonable security precautions, the Customer also acknowledges and accepts that, as with any network, it may also be exposed to:
- 8.4.1 unauthorised invasions of privacy during, or as a result of, using the Stripe 21 Services;
  - 8.4.2 system-threatening viruses and other unauthorised and invasive programs designed and transmitted by third parties;
  - 8.4.3 unauthorised dissemination and publication to others of information and material originally sent only to selected recipients on or through the Stripe 21 Services;
  - 8.4.4 eavesdropping and electronic trespassing;
  - 8.4.5 fraud and forgery; or
  - 8.4.6 the failure of information and data to reach their intended destinations and/or erroneous receipt or misdirection of such information.

Although The client's and its Suppliers' privacy and security features are designed to reduce these risks, Stripe 21 cannot guarantee their elimination. The Customer acknowledges therefore that no transmission via the Stripe 21 Services shall be deemed confidential and that Stripe 21 shall not be liable for any breach of confidence arising as a result of such eventualities (other than in accordance with clause 17 (Confidentiality)).

## 9. Customer data

- 9.1 Each party warrants to the other that, in relation to this Agreement, it shall comply with the requirements of the Data Protection Act 1998 (United Kingdom) and all European Directives (including Directive 97/66/EC concerning the processing of personal data and the protection of privacy in the telecommunications sector) and regulations (including the Telecommunications (Data Protection and Privacy) Regulations 1999 (SI 1999 no. 2093), Privacy & Electronic Communication (EC Directive) Regulation 2003 in relation to the protection and transfer of personal data.
- 9.2 If Stripe 21 is requested by the police or a regulatory or governmental authority in investigating illegal activities to provide information concerning the Customer's activities whilst using the Stripe 21 Services, the Stripe 21 Web Site or the Customer Web Site, Stripe 21 shall be obliged and entitled to do so.
- 9.3 Stripe 21 will disclose the Customer's personal data if Stripe 21 is compelled to do so by law or if requested to do so by the police or a regulatory or governmental authority.
- 9.4 Stripe 21 may also forward the Customer's contact details to third parties where a complaint arises concerning the Customer's use of the Stripe 21 Services and where that use is deemed by Stripe 21 to be inconsistent with the Agreement. Stripe 21 reserves the right to notify or provide such information to the police or a regulatory or governmental authority if, in The client's reasonable opinion, Stripe 21 believes an illegal activity has taken place or some other reasonable basis exists for Stripe 21 doing so.

## 10. Equipment

10.1 In order to use the Stripe 21 Services, the Equipment used by the Customer must either be:

10.1.1 that supplied direct from Stripe 21 (or its Suppliers); or

10.1.2 that supplied by the Customer through separate leasing or hire purchase arrangement with a separate lessor or finance company (such Equipment having been supplied to the lessor or finance company by The client).

10.2 The Equipment shall be used by the Customer only in connection with the Stripe 21 Services for the term of this Agreement and the Customer shall not remove any Equipment from a Site without obtaining The client's prior written consent.

10.3 Where the Particulars specify that the Equipment is to be owned by the Customer, title and risk in the Equipment shall pass on delivery to the Customer under clause 2.1 (Installation and Evaluation).

10.4 The Customer shall house the Equipment in accordance with The client's reasonable instructions (as may be notified from time to time).

10.5 The Customer acknowledges that Stripe 21 and its Suppliers may substitute, change, rearrange or reconfigure the Equipment at any time, provided that any such change does not alter the technical functionality of the Stripe 21 Services (except where such alteration has been requested in writing by the Customer and agreed by The client). Where necessary, the Customer shall provide all reasonable assistance necessary to Stripe 21 to obtain any necessary consent from a third party lessor or finance company to substitute, change, rearrange or reconfigure the Equipment under this clause.

10.6 Where practicable, Stripe 21 shall give the Customer thirty (30) days prior notification of any substitution, change, rearrangement or reconfiguration of the Equipment under clause 10.5.

10.7 The Customer shall make available a twenty-four (24) hour power supply from an uninterruptible source (with surge protection) for the Equipment.

## 11. Sites

11.1 If the Customer wishes to change any of the Sites to which Stripe 21 Services are connected, such request must be made in writing. Any setup cost related to such changes will be charged in accordance with our prevailing charging structure.

11.2 The Customer shall provide Stripe 21 with sufficient access to the Customer's premises as is appropriate for the installation, provision and maintenance of the Stripe 21 Services and the Equipment and for the performance of The client's rights and obligations under this Agreement.

11.3 The Customer shall provide The client, at no charge, with such space and electrical power as is reasonably required by Stripe 21 to enable it to maintain the Stripe 21 Services and the Equipment.

11.4 The Customer shall advise Stripe 21 of all health and safety at work rules and regulations and any other reasonable security requirements operated at the Customer's premises and Stripe 21 shall observe such regulations while at the Customer's premises. Stripe 21 shall not be liable under this Agreement if as a result of conforming with such regulations Stripe 21 is in breach of its obligations under this Agreement.

## 12. Compliance with Standards

12.1 The Customer shall:

12.1.1 ensure at all times that any equipment supplied by the Customer in connection with the Stripe 21 Services (including any equipment the Customer connects to the Equipment or to the Stripe 21 network) conforms to all relevant legal and regulatory standards or requirements for approval and connection; and

12.1.2 comply with the conditions of such standards, requirements or approvals.

12.2 Stripe 21 reserves the right to disconnect any equipment not complying with the requirements of clause 12.1.

## 13. Licences and Consents

- 13.1 The Customer warrants to Stripe 21 and its Suppliers that it has all necessary licences, waivers, consents or registrations necessary to:
- 13.1.1 connect its telecommunications systems, computers and networks to the Stripe 21 Services and network;
  - 13.1.2 keep the Equipment at the Sites;
  - 13.1.3 entitle Stripe 21 or its Suppliers to host the Customer Web Site;
  - 13.1.4 transmit the Content electronically; and
  - 13.1.5 perform its other obligations under this Agreement,
- and the Customer shall indemnify Stripe 21 and its Suppliers for all costs, losses, claims, damages, expenses or proceedings incurred or suffered by them as a result of a breach of this warranty.
- 13.2 Stripe 21 warrants that it has all licences, waivers, consents or registrations necessary to:
- 13.2.1 enable it to supply and install the Equipment; and
  - 13.2.2 supply the Stripe 21 Services,
- and Stripe 21 shall indemnify the Customer for all costs, losses, claims, damages, expenses or proceedings incurred or suffered by it as a result of a breach of this warranty.
- 13.3 Because licences issued by regulatory authorities or granted by law to operate telecommunications networks are periodically altered or replaced (for example, when licence conditions change), the warranty and indemnity in clause 13.2 does not apply to any such licence. Instead:
- 13.3.1 where Stripe 21 is required by law to obtain or maintain such licence in order to provide the Stripe 21 Services, Stripe 21 shall comply with such requirement; and
  - 13.3.2 if such licence is revoked for any reason (and a replacement licence on similar terms cannot be obtained by Stripe 21 within 60 days of the revocation on terms that enable Stripe 21 to continue to provide the Stripe 21 Services), either party may by notice to the other terminate this Agreement.

## 14. Reselling

- 14.1 The Customer shall not resell the Stripe 21 Services or allow any third party to use the Stripe 21 Services without the prior written consent of Stripe 21.
- 14.2 The Customer agrees that:
- 14.2.1 Stripe 21 may in its absolute discretion refuse to grant consent under clause 14.1; and
  - 14.2.2 Stripe 21 may, as a condition of granting consent under clause 14.1, require the Customer to agree to terms and conditions in relation to the resale of the Stripe 21 Services (including such terms and conditions which may be required by Stripe 21's own Suppliers).

## 15. Backups and Data Storage

- 15.1 The Customer shall keep its own regular back-ups of all Content and data transmitted by or to it using the Stripe 21 Services.
- 15.2 Where the Stripe 21 Services fail to comply with the Service Level Agreement because of an inability to restore such Content or data due to the Customer's own failure to provide a back-up in accordance with this clause 15, such failure shall not constitute Service Non-Compliance.



## 16. Intellectual Property

- 16.1 Stripe 21 acknowledges and agrees that the Customer owns all right, title and interest in the Content and in the Customer Brand Features. Nothing in this Agreement shall confer on Stripe 21 any right of ownership in the Content or the Customer Brand Features.
- 16.2 The Customer acknowledges and agrees that Stripe 21 owns all right, title and interest in the Stripe 21 Web Site and the Stripe 21 Brand Features. Nothing in this Agreement shall confer on the Customer any right of ownership in the Stripe 21 Web Site or the Stripe 21 Brand Features.
- 16.3 If any claim is made that any part of the Content is in breach of any applicable law or regulation or that it infringes the Intellectual Property Rights or other rights of any third party ( "**Claim**" ) the Customer shall:
- 16.3.1 remove the offending part of the Content where it is capable of doing so (for example, where the Content resides on the Customer Web Site);
  - 16.3.2 indemnify Stripe 21 and its Suppliers for all costs, losses, claims, damages, expenses or proceedings incurred or suffered by them arising in connection with such Claim.

## 17. Confidentiality

- 17.1 Both parties agree with each other to keep all information that they obtain about the other concerning the business, finances, technology and affairs of the other ("**Confidential Information**") strictly confidential.
- 17.2 The provisions of this clause 17 shall not apply to:
- 17.2.1 information that has come into the public domain other than by breach of this clause or any other duty of confidence;
  - 17.2.2 information that is obtained from a third party without breach of this clause or any other duty of confidence;
  - 17.2.3 information that is known by either party, in connection with the other party, and which has been disclosed to either party by a third party, other than Stripe 21 or the Customer or a contractor of either of them and not in breach of any duty of confidence;
  - 17.2.4 information that is trivial or obvious;
  - 17.2.5 information that is required to be disclosed by a government body or court of competent jurisdiction.
- 17.3 The party receiving such Confidential Information ("**Receiving Party**") shall only disclose any Confidential Information to any Supplier, employee or contractor who needs to know the Confidential Information in order to perform his duties in relation to Agreement. Prior to disclosing any Confidential Information to any employees or contractor or Supplier, the Receiving Party shall:
- 17.3.1 inform that Supplier, employee or contractor of the restrictions as to use and disclosure of the Confidential Information; and
  - 17.3.2 ensure that the Supplier, employee or contractor agrees to be bound by the provisions of this Agreement relating to the Confidential Information.

## 18. Warranties

- 18.1 Stripe 21 warrants that it shall use all reasonable skill and care in providing the Stripe 21 Services.
- 18.2 To the extent permitted by law, Stripe 21 excludes all conditions, terms, representations and warranties, whether implied by statute or by operation of law or otherwise, that are not expressly set out in this Agreement.

## 19. Liability

- 19.1 The Stripe 21 Services (including the provision of a local loop connection) may become unavailable for a number of reasons unconnected to Stripe 21 (including but not limited to):
- 19.1.1 the use and availability of the internet;
  - 19.1.2 capacity constraints, transmission limitations, equipment modifications, upgrades, relocations and repairs relating to networks and systems not operated by Stripe 21; and
  - 19.1.3 the availability of connectivity and networks provided by third party carriers,
- and therefore:
- 19.1.4 Stripe 21 is unable to guarantee availability of the Stripe 21 Services at all times;
- 19.2 The Stripe 21 Services may be used by the Customer to link to the Internet and beyond the boundaries of the Stripe 21 network. The Customer acknowledges and agrees that:
- 19.2.1 Stripe 21 has no effective control over the materials accessible on, nor the quality of service obtainable through, such networks and services; and
- 19.2.2 Stripe 21 is not responsible in any way for any other part of such networks, services and material beyond The client's network,
- and that Stripe 21 is not liable for any costs, losses, claims damages, expenses or proceedings incurred or suffered by the Customer as a result of the Customer accessing the materials, services and networks referred in clauses 19.2.1 and 19.2.2.
- 19.3 Stripe 21 excludes all liability to the Customer, whether in contract, tort (including negligence and breach of statutory duty) or otherwise, for any loss of business, contracts, profits or anticipated savings or for any indirect or consequential or economic loss whatsoever, whether or not Stripe 21 was aware of their possibility.
- 19.4 Stripe 21's liability under or in connection with this Agreement, whether in contract, tort (including negligence and breach of statutory duty) or otherwise, for any claim or series of related claims ("**Claim**"), of this Agreement to the greater of:
- 19.4.1 £10,000 (ten thousand pounds) in any calendar year;
  - 19.4.2 the total Service Fees, excluding Setup Payment, paid by the Customer under this Agreement in the previous three calendar months in which the Claim arises.
- 19.5 Stripe 21's total liability under or in connection with this Agreement, whether in contract, tort (including negligence and breach of statutory duty) or otherwise, shall be limited to the total sums paid by the Customer under this Agreement.
- 19.6 Stripe 21 excludes all liability in respect of usage charges (and other similar fees) that the Customer may incur in accessing the networks or services of a third party in using the Stripe 21 Services. For example, the Customer (and not Stripe 21) shall be responsible for the payment of call charges incurred by the Customer calling from a Primary Site to a Secondary Site when connecting to the local network on exit of the call from the Secondary Site to that local network.
- 19.7 Nothing in this clause 19 or this Agreement shall limit Stripe 21's liability for death or personal injury caused by the negligence of Stripe 21 or limit or exclude liability beyond that permitted by law.

## 20. Term and Termination

- 20.1 This Agreement shall continue for a minimum period of one, three or five years, the Duration, from the Live Date of this Agreement (unless otherwise terminated in accordance with the terms of this Agreement), such period to be determined in the Sales Order which forms a part of this Agreement. To ensure continuity of service at the end of this minimum period, this Agreement shall renew annually and automatically on it's anniversary date.
- 20.1.1 Notice of Termination by either party must be served on the other not less than 90 days before it's anniversary date. Notice served less than 90 days prior to the anniversary date of the current year shall refer to the following anniversary date, The client will remain liable for any charges incurred up until the following anniversary date.
- 20.1.2 The client will remain liable for any charges from third party suppliers incurred by Stripe 21 as a result of either party terminating this Agreement;
- 20.1.3 Stripe 21 may provide Exit Management services on request. These services may be subject to additional costs to be agreed between Stripe 21 and the client at the prevailing rate for network, application, project management and professional services.
- 20.2 Stripe 21 may terminate the Agreement for any of the following reasons:
- 20.2.1 forthwith by notice to the Customer if the Customer fails to pay the any sum due to Stripe 21 under this Agreement within 30 days of the date of the invoice;
- 20.2.2 forthwith by notice to the Customer if the Customer assigns, transfers, charges or deals in any other manner with this Agreement or purports to do any of the same.
- 20.3 Either party may terminate the Agreement for any of the following reasons:
- 20.3.1 forthwith by notice to the other party in the event of a material breach by that party of any of the terms of this Agreement where such breach, if capable of remedy, is not remedied within 30 days of that party being notified of such breach;
- 20.3.2 forthwith by notice if the other party shall have a receiver or an administrative receiver appointed to its undertaking or any of its assets or shall become subject to an administration order or shall enter into liquidation whether compulsory or voluntary or pass a resolution for its winding-up (other than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction where the resulting entity assumes all of the obligations of that party), or shall, if an individual, be made or declared bankrupt or commit any act of bankruptcy.
- 20.4 Termination of this Agreement shall be without prejudice to any rights or obligations which shall have accrued prior to such termination.
- 20.5 Clauses 7.3.3 (Acceptable Use), 9 (Customer Data), 13.1 and 13.2 (Licences and Consents), 16.3 (Intellectual Property), 17 (Confidentiality), 18.2 (Warranties), 19 (liability), 22 (Third Party Rights), 28 (Entire Agreement) and 29 (Governing Law) shall survive termination of this Agreement for any reason.

## 21. Service Suspension

- 21.1 In addition to the rights of suspension under clause 7 (Acceptable Use), Stripe 21 shall be entitled in its sole discretion to suspend forthwith provision of the Stripe 21 Services until further notice if it:
- 21.1.1 is entitled to terminate this Agreement (without prejudice to The client's right subsequently to terminate the Agreement);
- 21.1.2 requires to carry out scheduled maintenance to the Equipment or any other equipment or configurations of equipment which are used to provide the Stripe 21 Services. Where reasonably practical Stripe 21 will give 30 days prior notice to the Customer of such suspension.

- 21.1.3 is obliged to comply with an order, instruction or request of government, an emergency service organisation or other competent authority;
- 21.1.4 does not receive any amounts due for payment in accordance with clause 6 (Payment); or
- 21.1.5 requires to carry out unscheduled maintenance, subject to agreement by the customer, such agreement not to be unreasonably withheld. Where reasonably practical Stripe 21 will give 30 days prior notice to the Customer of such suspension.
- 21.2 If Stripe 21 exercises its right to suspend the Stripe 21 Services under clauses 7 (Acceptable Use), 21.1.2, 21.1.3 or 21.1.5 (Service Suspension), it shall where reasonably practicable give 30 days prior notice to the Customer of such suspension.
- 21.3 A suspension of services in accordance with clause 7 (Acceptable Use) or 21.1 (Service Suspension) shall not be construed as or deemed to be a Service Non-Compliance in accordance with clause 3 (Supply of Stripe 21 Services).

## **22. Third Party Rights**

- 22.1 This Agreement does not create any right or benefit enforceable by any person not a party to it (within the meaning of the Contracts (Rights of Third Parties) Act 1999) except that any warranty or indemnity given to Stripe 21 under this Agreement is also given for the benefit of the Suppliers.
- 22.2 The parties agree that no consent from the Suppliers is required for the parties to vary or rescind this Agreement (whether or not in a way that varies or extinguishes rights or benefits in favour of such Suppliers).

## **23. Force Majeure**

- 23.1 The obligations of each party under this Agreement shall be suspended during the period that such party is prevented or hindered from complying therewith by any cause beyond its reasonable control including but not limited to acts of god, war, civil commotion, industrial dispute, inability to secure materials, act or omission of carriers or suppliers, or regulatory intervention ("**force majeure**").
- 23.2 If such delay or failure continues for at least thirty days the party not subject to the force majeure may terminate this Agreement by notice to the other forthwith.

## **24. Assignment and Sub-contracting**

- 24.1 The Customer shall not, without the prior written consent of Stripe 21, which will not be unreasonably withheld or delayed, assign, transfer, charge or deal in any other manner with this Agreement or its rights under this Agreement, or purport to do any of the same.
- 24.2 Stripe 21 shall be entitled to assign the benefit and/or burden of this Agreement to any party and to subcontract the provision of parts of the Stripe 21 Services.

## 25. Waiver

The failure of a party to exercise or enforce any right under this Agreement shall not be deemed to be a waiver thereof nor operate so as to bar the exercise or enforcement thereof at any time or times thereafter.

## 26. Severance

26.1 Part or all of any provision of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining provisions of this Agreement continue in force.

26.2 Where permitted by law, the severed provision shall be replaced with a provision of similar effect but which is not illegal or unenforceable.

## 27. Notices

27.1 Any notices required to be given under this Agreement shall be in writing and shall be deemed to have been duly served if hand delivered or sent by facsimile (with the original to be forwarded by first class post) or by first class registered post or recorded delivery post within the United Kingdom and outside the United Kingdom by registered airmail post correctly addressed to the address as notified by the receiving party from time to time.

27.2 Any notice pursuant to clause 27.1 shall be deemed to have been served:

27.2.1 if hand delivered at the time of delivery by posting through the letter box of the correct addressee in accordance with clause 27.1 above;

27.2.2 if sent by facsimile within one hour of transmission during business hours at its destination or within 24 hours if not within business hours but subject to proof by the sender that it holds an acknowledgement confirming receipt of the transmitted notice in readable form; and

27.2.3 if sent by post within 48 hours of posting (exclusive of the hours of Sunday) if posted to an address within the country of posting and seven days of posting if posted to an address outside the country of posting.

## 28. Entire Agreement

28.1 This Agreement constitutes the entire agreement, and supersedes all prior agreements, between the parties, whether oral or in writing, relating to the subject matter of this Agreement.

28.2 This Agreement shall prevail over any inconsistent terms and conditions in any other agreement between the parties (or referred to in correspondence or elsewhere) relating to the subject-matter of this Agreement and any conditions or stipulations to the contrary are excluded and extinguished.

28.3 No quotation, confirmation, shipment or delivery docket, invoice or other document issued by or on behalf of either party in relation to this Agreement shall vary this Agreement without the express agreement in writing of both parties.

28.4 The parties agree that neither party will have liability for any statement or representation made by that party (whether innocently or negligently) upon which the other party relied upon in entering into this Agreement, unless such statement or representation was made fraudulently

## 29. Governing Law

This Agreement shall be governed by and construed in accordance with English law and the Customer hereby irrevocably submits to the exclusive jurisdiction of the English Courts. Nothing in this clause shall limit The client's right to take proceedings against the Customer in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction or jurisdictions, whether concurrently or not, to the extent permitted by law of such other jurisdiction or jurisdictions.

Name:  
.....

Name:  
.....

Signature:  
.....

Signature:  
.....

Title:  
.....

Title:  
.....

Date:.....

Date:.....

**Stripe 21 Group Limited**

**Client Limited**