

## **MERCHANT SERVICES AGREEMENT**

These General Terms including the Privacy Statement and Consent, the E-Com Terms, the Other Payment Method (OPM) Terms and the Operating Guide form part and parcel of the Merchant Processing Application Form ("Application"). You, the Merchant is expected to read these General Terms to understand the mutual rights and obligations of each party for the purposes of the Services. These General Terms including the Privacy Statement and Consent, the E-Com Terms, the Other Payment Method (OPM) Terms and the Operating Guide may be revised from time to time by Letzpay Solution Private Limited.

Letzpay and Merchant are hereinafter collectively referred to as the "Parties" and individually as a "Party", as the context may require.

### **WHEREAS:**

- A. Letzpay is, inter-alia, engaged in the business of providing payment processing services ("**Services**") enabling individuals and businesses to manage their payment activities. The Merchant desires to avail the Services from Letzpay and Letzpay has agreed to render, the Services, on the terms and conditions set out herein.
- B. Letzpay has received from the Merchant a duly filled in Application Form, which shall be deemed to be an integral part of this Agreement. This Agreement shall be binding immediately after Merchant activates and uses the Services for the first time by using a Merchant ID number and/or Terminal ID number. The details and commercial terms provided in the Application Form shall be read together with the terms of this Agreement and the Parties agree to be bound thereby.

## **1. DEFINITIONS AND INTERPRETATION**

1.1 **Definitions:** In this Agreement, unless otherwise defined elsewhere in the body of this Agreement, the following capitalized terms have the meaning ascribed to them hereunder:

- (a) "**Acquiring Bank**" means the bank designated by Letzpay as the 'Acquiring Bank' which is a member of a Card Brand and with whom Letzpay has entered into an agreement for the purposes of authorizing/processing the Transactions.
- (b) "**Agreement**" shall mean this Agreement together with the Application Form, the Schedules, and amendments as may be agreed between the Parties hereto from time to time.
- (c) "**App**" means the App provided by Letzpay for use through mobile, computer, tablet and through which the Services are availed by the Merchants and rendered by Letzpay.
- (d) "**Applicable Laws**" shall mean all statutes, enactments and acts of legislature, laws, ordinances, rules, bye-laws, regulations, notifications, guidelines, policies, directions, treaties and orders of the Government of India and/or any government, judicial or quasi-judicial body or any other authority, as amended or supplemented from time to time.
- (e) "**Application Form**" shall mean the Merchant application form prepared by Letzpay and which is duly filled in and handed over by the Merchant to Letzpay for applying for and availing of the Services and all other information, particulars, clarifications and declarations, if any, furnished by the Merchant or any other person from time to time on its behalf, in connection with this Agreement.
- (f) "**Authorization**" means the process by which Letzpay and/or its business associates approves a Transaction using the Acquiring Bank's infrastructure, as stipulated by Letzpay/its business associates from time to time and includes approval flashed on the Device or on the web page where the payment is being made.
- (g) "**Business**" means the business activity which the Merchant is normally engaged in as specified in the Application Form.
- (h) "**Card**" means a credit, debit or any other payment card issued by an Issuer.
- (i) "**Card Holder**" means person to whom a Valid Card is issued or who is authorized to use the Valid Card, and making payment using that Valid Card.
- (j) "**Card Brands**" includes National Payment Corporation of India ("**Rupay**"), MasterCard International, Inc. ("**MasterCard**"), Visa U.S.A., Inc. ("**VISA**"), American Express, Union Pay, Diners and Discover and any other card organization offering credit, debit, pre-paid or any other card programs to Issuers.
- (k) "**Chargeback**" means a Transaction that is returned to the Acquiring Bank by the Issuer through the Card Brands for any reason whatsoever.

- (l) **“Charge slip”** means the form used by the Merchant in a format provided by Letzpay to enable the Merchant to record charges and the details of the Transaction and to obtain the Card Holder’s signature, thereby obtaining the Card Holder’s consent to debit his card account with the Issuer.
- (m) **“Device”** includes the Mobile Point of Sale Device, other Point of Sale Terminals and any other equipment which Letzpay may provide to the Merchant for availing the Services.
- (n) **“Issuer”** means a member of a Card Brand issuing a Card.
- (o) **“Intellectual Property” or “Intellectual Property Right”** shall mean any and all rights and interests in trademark, services marks, patents, trade designs, trade, business and domain names, property marks, registered designs, utility marks, applications for any of the foregoing, copyrights (including future copyrights), unregistered designs, inventions, computers, software, technical know-how, database rights or other intellectual property (whether in written form, or generated by or maintained on a computer or similar system or otherwise) subsisting in or relating to all specifications, plans, drawings, graphs, sketches, models and other materials in each case whether registered or unregistered and including all applications for renewals or extensions of such rights and all similar or equivalent right of forms of protection in any part of the world.
- (p) **“Merchant Account”** shall mean the account of the Merchant created by Letzpay for the purposes of (i) recording all transactions between the Merchant and its customers; and (ii) recording all transactions between Merchant and Letzpay.
- (q) **“Nodal bank”** means a bank which is authorized by the Reserve Bank of India (“RBI”) and operates the Nodal Account under the guidelines stipulated by RBI for operating such accounts for third party settlements for Letzpay, to receive all the settlement proceeds and settles it to the Merchant.
- (r) **“Nodal Account”** shall mean the bank account designated as the ‘Nodal Account’ by Letzpay (as per the RBI guidelines) for the purpose of receiving and disbursing the proceeds of settlement of all Transactions processed through Letzpay.
- (s) **“Premises”** shall mean the place of business of the Merchant.
- (t) **“Reserve Account”** shall mean the account of the Merchant created by Letzpay for the purposes of claims, set off or any contingent liability.
- (u) **“Rules”** shall mean the rules and regulations of the Card Brand/Transaction Gateway Partners.
- (v) **“Software”** shall mean software provided by Letzpay in respect of Services and include all forms of code, such as source code and object code, any upgrades, modified versions, updates, and additions thereto, in any form and on any media including all fixes, updates, modifications, enhancements and new releases of the foregoing.
- (w) **“Suspicious Threshold Limit”** shall mean a limit set solely by Letzpay to ascertain whether a Transaction or an activity may be deemed to be unusual or suspicious.
- (x) **“Transaction”** means the successful transaction between a Card Holder and a Merchant for the payment by such Card Holder to the Merchant towards the Card Holder’s purchase of goods and/or services from the Merchant by using the Services which results in the release of appropriate funds from the Transaction Gateway Partners to the Nodal Account.
- (y) **“Transaction Amount”** means the consideration payable for purchase of goods or services, donation or otherwise by the Card Holder to the Merchant.
- (z) **“Transaction Gateway Partner/s”** shall mean the Card Brands, banks, pre-paid instrument providers (PPIs), Electronic Wallets and any other transaction partner’s which Letzpay may add from time to time for rendering the Services and/or the Additional Services.
- (aa) **“Valid Card”** shall mean a Card issued by a Card Brand or any card association as per the Rules of such card association, bearing signature of the Card Holder whose name is embossed on the same but shall not include (i) a Card listed on a current Warning Notice, or (ii) an expired Card or a Card not yet operational, or (iii) a Card that cannot be used in India, or (iv) a damaged or torn card.
- (bb) **“Valid Charges”** shall mean a charge which is charged to the Card Holder (i) on a Charge slip acceptable to Letzpay, bearing an imprint of a Valid Card and bearing the same signature as that on the Valid Card; and (ii) using the Device

with which Charge slip is generated after swiping the Valid Card, and bearing the same signature as that on the Valid Card.

(cc) **“Wallet or Mobile Wallet or Electronic Wallet”** shall mean a digital wallet and refers to an electronic system that allows an individual to make electronic transactions online using a computer or smartphone to purchase something at a physical or virtual store.

(dd) **“Warning Notice”** means a notice or any other communication issued by Letzpay or any Card Brand informing the Merchant of any lost, stolen, invalid and cancelled cards.

## 1.2 **Interpretation:**

- (a) The recitals and Annexures to this Agreement shall constitute an integral part of this Agreement.
- (b) In this Agreement, unless the context otherwise requires:
  - (i) headings are for convenience only and shall not affect the interpretation of this Agreement;
  - (ii) words denoting the singular number shall include the plural and vice versa;
  - (iii) words denoting any gender shall include all genders;
  - (iv) words denoting persons shall include bodies of persons and corporations and vice versa;
  - (v) references to any document shall be deemed to include references to it and to its appendices, annexures, exhibits, recitals, schedules, tables and any additional documents that may be executed from time to time;
  - (vi) documents executed pursuant to this Agreement or any part thereof shall form part of this Agreement.
- (c) If there is any conflict in interpreting two or more clauses of this Agreement, they shall be interpreted harmoniously. In case of any inconsistency between the base agreement and the schedules, the provisions of the schedules and the agreement shall be harmoniously construed.

## 2. **DEVICE AND SOFTWARE**

2.1 Merchant is required to lease a Device and/or license the Software(s) for availing the Services. The Services can be availed either by using the Software installed on Merchant’s computer/mobile and/or using the Device.

2.2 Letzpay hereby (a) grants to Merchant and Merchant hereby takes, a limited, non-exclusive, revocable, non-transferable license of the Software(s); and (b) leases to Merchant and Merchant hereby takes on lease, the Device, both of which are to enable Merchant to electronically access and use the Services.

2.3 If there is a latent manufacturing defect in the Device (which is brought to the notice of Letzpay by the Merchant within one year from the date the Device is leased to the Merchant), then Letzpay will arrange to repair/service the Device without any additional cost to the Merchant.

2.4 Merchant undertakes to:

- (a) use the Services, Software or Device only for the business as specified in the Application Form. Merchant shall inform Letzpay if there are any changes in the information provided in the Application Form;
- (b) notify Letzpay immediately of any damage, loss, malfunction of Device and/or Software;
- (c) not reverse engineer, disassemble, decompile or otherwise attempt to discover the source code or trade secrets for the Device and/or Software supplied by Letzpay;
- (d) provide unrestricted access to customer data as may be stored by the Merchant and agrees that Letzpay shall have the full right to use the said customer data for analysis and data mining purposes and for such other purposes as may be deemed so by Letzpay.

## 3. **SERVICES**

3.1 Letzpay shall provide, and the Merchant shall avail, the Services on the terms set out in this Agreement and **SCHEDULE I** hereto.

3.2 The details of the Installation & Activation, the Payment Processing, Settlements and Chargebacks in relation to the Services are set out in **SCHEDULE II** hereto.

## 4. **FEES AND PAYMENTS TERMS**

4.1 Merchant shall, in relation to the Services rendered by Letzpay to the Merchant, pay to Letzpay the fees and charges as per the amount and dates set out in **SCHEDULE III**.

- 4.2 Unless otherwise stated in this Agreement, Letzpay will accept all Valid Charges and the Merchant agrees to accept payment less (a) the Merchant Discount Rate (MDR), and (b) the applicable GST (State and Central), cess and other statutory levies that are payable in respect of the MDR) on the total amount listed on the Charge Slips signed by the Card Holder.
- 4.3 Subject to the terms of this Agreement, Letzpay shall pay to the Merchant an amount equivalent to the Valid Charges specified in the Charge Slips after deducting the MDR and Card Transaction reimbursement amount. Letzpay shall make such payment by crediting the amount to the Merchant's easy account (virtual account, if any, with Letzpay)/ specified bank account.
- 4.4 **Merchant Discount Rate (MDR):** In consideration of the Merchant Services being rendered by Letzpay and/or its business associates, the Merchant hereby authorizes Letzpay to deduct the MDR from the payments to be made to the Merchant. MDR herein shall mean the fees as specified and intimated by Letzpay, in writing, to the Merchant from time to time, subject to Reserve Bank of India (RBI) guidelines.
- 4.5 All payments to be made by the Merchant to Letzpay in respect of the Services shall be exclusive of applicable taxes which shall be payable extra by the Merchant.
- 4.6 All payments due to Letzpay under or pursuant to this Agreement shall be made by the Merchant without any deduction or withholding on account of any tax, duty, charge or penalty except as required by law in which case the sum payable by the Merchant in respect of which such deduction or withholding is to be made shall be increased to the extent necessary to ensure that, after making such deduction or withholding, Letzpay receives and retains (free from any liability in respect thereof) a net sum equal to the sum it would have received but for such deduction or withholding being required.
- 4.7 Set up fees, if any, will become payable on the applicable effective date for the applicable Letzpay Services. All sums due and payable that remain unpaid after due date will accrue interest as a late charge of 1.5% per month. Besides, Letzpay shall be entitled to set off any and all amounts of the Merchant which are accessible to Letzpay including from the Nodal Bank / Reserve Account, and/or the initiation of appropriate legal proceedings against the Merchant for recovery of its dues and/or blacklisting of the Merchant

## **5. TRAINING AND SUPPORT**

- 5.1 Letzpay shall provide the relevant and necessary trainings and support online and/or offline mode to the Merchant to do transactions efficiently whenever required.
- 5.2 Letzpsy will provide the necessary maintenance and servicing of the Device and/or Software updates, versions and releases, whenever deem fit and necessary by Letzpay.

## **6. MERCHANT'S OBLIGATIONS**

- 6.1 Merchant shall comply with all Applicable Laws and the Rules.
- 6.2 Merchant shall retain the bills, invoices and delivery challans (if any) pertaining to the Charge slip for a period of 24 months from the date of the Transaction and make the same available to Letzpay within 3 days of being notified.
- 6.3 The Merchant shall permit authorized representatives of Letzpay and Acquiring Bank to carry out physical inspections of the Merchant's premises during business hours, which may be with or without notice to the Merchant.
- 6.4 The Merchant should not require a Card Holder to provide any personal information as a condition for honouring a Card unless (a) such information is required for delivery of the goods or services; (b) the Merchant has reason to believe that the person presenting the Card may not be the actual Card Holder; and (c) such details are required for Authorization of a Transaction.
- 6.5 The Merchant shall be liable for the following:
- (a) any infringement of Letzpay's or a third party's Intellectual Property Rights by the Merchant; and/or
  - (b) the Merchant's wrongful or improper use of any Device or Service; and/or
  - (c) any loss or damage to the Device and/or the Software; and/or
  - (d) all Transactions submitted by the Merchant using the Service (including without limitation the accuracy of any product information that the Merchant provides or any claim or dispute arising out of products or services offered or sold by the Merchant); and/or
  - (e) any other party's access and/or use of the Services with Merchant ID, Terminal ID, password or any other appropriate security code; and/or
  - (f) merchant's violation of any Applicable Laws.

## **7. CHANGE OF OWNERSHIP/BUSINESS**

The Merchant shall immediately notify Letzpay of any sale, assignment, lease or transfer in any way of the Merchant's all or any significant or material part of its assets. The rights obtained under this Agreement by the Merchant are not assignable without

prior written approval of Letzpay. Where the Merchant proposes to change the nature of business or merchandise sold or services provided by the Merchant, which may result in the Merchant category to be changed in the books of the Card Brands, the Merchant shall use the Device and/or Software (as the case may be): (a) only after such change is informed to Letzpay; and (b) upon receipt of acceptance, in writing, thereof from Letzpay.

## **8. PROMOTIONAL MATERIAL**

The Merchant shall during the Term of this Agreement, display such symbols, names, promotional materials on its premises, place(s) of business, establishment(s) as may be required by Letzpay. Notwithstanding anything contained herein, the Merchant irrevocably authorizes Letzpay to include Merchant's name in any catalogue or any other promotional material as may be prepared or produced by Letzpay pertaining to acceptance of Services or the sales, marketing or promotion of any service offerings.

## **9. COMPLIANCE**

9.1 The Merchant hereby confirms and acknowledges that it has complied and shall continue to comply with the Applicable Laws and further acknowledges that Letzpay shall have no obligation to verify whether or not the Merchant has acted in accordance therewith.

9.2 The Merchant hereby also confirms and acknowledges that it is aware of and agrees to abide by the Rules and guidelines of the Card Brands / Transaction Gateway Partners.

9.3 The Merchant shall not deploy any other payment applications in the Device and/or Software which has the capacity to capture Card number or Card details.

9.4 In the interest of Card Holders and security of Card Transactions, the Merchant agrees to comply with Payment Card Industry (PCI) Data Security standards as specified in detail under **SCHEDULE IV** hereto.

9.5 The Merchant shall capture only the Transactions done through the Device and/or the Software and on no account, shall the Merchant capture any transactions done on other establishments or capture the card data including (Card Verification Value) CVV number for the purpose of skimming, duplicating and fabricating the cards.

## **10. TERMS AND CONDITIONS**

10.1 **Installation point of sale terminal:** The Merchant hereby expressly agrees and consents for installation of the Device at the Premises by Letzpay and undertakes that it has obtained all the necessary approvals, licenses and permissions in respect of such installation, if any, at the Premises to enable the processing of Transaction and/or Services, during the Term of this Agreement, at the Premises.

10.2 **Responsibility for damages:** The Merchant shall be responsible for all damages to the Device/ Software and/ or all losses or damages or claims arising out of negligence, misuse of the Device / Software and/ or default by the Merchant in fulfillment of its obligations under this Agreement or default in payment under or pursuant to this Agreement ("**Defaults**").

10.3 **Security deposit:** The Merchant shall, for availing any Service hereunder and for due performance of its obligations and other terms and conditions contained in this Agreement) deposit with Letzpay a sum of Rs. [•]/- (Rupees [•]) towards interest free refundable security deposit ("**Security Deposit**"). The Security Deposit shall be paid by the Merchant to Letzpay by way of demand draft (or any other mode acceptable to Letzpay) not later than 15 (fifteen) days of execution of this Agreement.

10.4 **Invocation of Security Deposit:** Upon the occurrence of any of the above stated Defaults, Letzpay may, in addition to its other rights and remedies, use all or any part of the Security Deposit to compensate Letzpay for any loss or damage which Letzpay may incur or suffer by reason of such Default. Further, the Merchant agrees that if any portion of the Security Deposit is utilized by Letzpay in terms of this Agreement, the Merchant shall within five (5) days restore such Security Deposit to its original amount. Provided however, in the event the Security Deposit is insufficient to compensate Letzpay for the losses or damages suffered, then, without prejudice to the other rights and remedies available to Letzpay in terms of this Agreement or under Applicable Laws, Letzpay shall be entitled to recover the same from the Merchant and the Merchant shall be liable to pay the shortfall amount to Letzpay.

10.5 **Merchant's Responsibilities:** The Merchant hereby agrees, undertakes and covenants to do following:

- (a) be responsible for the cost of any electricity consumed by the Device and data line charges, if any, payable in connection with it;
- (b) retain in its possession and for its exclusive use only the Device provided in terms of this Agreement and keep the same in good and safe condition. Merchant shall control the use of the Device such that any Transaction using the Device shall be deemed to be authorized and sanctioned by the Merchant;
- (c) not alter or otherwise tamper with the program or the components in the Device;

- (d) ensure that at least two (2) members/staff/employees of the Merchant, who have been trained by Letzpay to operate the Device, are present and available at the Premises at all times during the business hours;
- (e) report to Letzpay any default in the operation of the Device or misuse of the equipment within 24 hours of such default or misuse coming to knowledge of the Merchant;
- (f) the Merchant shall not: (i) sell, assign, transfer, lease or otherwise dispose of any Device deployed or provided by Letzpay (ii) remove, conceal or alter any markings, tags or date attached to the Device or any part thereof indicating Letzpay ownership of such Device; (iii) remove or relocate the Device without obtaining the prior written confirmation of Letzpay; (iv) cause or allow Letzpay's right to access, repossess or dispose of the Device deployed or provided by Letzpay pursuant to this Agreement or otherwise to be encumbered in any way or otherwise jeopardized by any act or omission of the Merchant or its servants, representatives or agents or because of any other factor within the Merchant's control; (v) permit any third party to perform any kind of maintenance services on the Device deployed or provided by Letzpay (including but not limited to services for any modifications, enhancement or software/engineering changes to the Device deployed or provided by Letzpay, without the prior written consent of Letzpay;
- (g) permit the authorized representatives of Letzpay to carryout physical inspections or audits of the Device deployed or provided by Letzpay any anytime during business hours, with or without notice;
- (h) make good Letzpay any loss or damage arising out of (i) negligence, (ii) misuse of the Device deployed or provided by Letzpay, and /or (iii) breach of the aforesaid obligations, undertakings or covenants with regard to the Device.

10.6 **Ownership of Device:** The Merchant hereby acknowledges, agrees and confirms that the Device deployed or provided by Letzpay are the exclusive property(s) of Letzpay or its business associate, as the case may be, and shall be surrendered to Letzpay / its business associate, as the case may be, on demand of Letzpay, during the Term of this Agreement and/or immediately upon any termination or expiry of this Agreement. Under no circumstances shall the Merchant claim any right, title or interest in or to the Device provided or deployed by Letzpay, for any reason whatsoever. The Merchant shall be responsible for the maintenance of the Device deployed or provided by Letzpay and for the secrecy of any software and keys (embedded into the Device) and shall neither allow or facilitate any piracy, nor violate any copyright/trademark relating to any software or other intellectual property rights.

10.7 **Reservation of Rights:** Letzpay reserve the right to withdraw at any time, and from time to time, the Device or any part thereof, deployed or provided by Letzpay at anytime from the Premises, in its sole discretion, for any or no reason and without assigning any reason whatsoever, and its decision shall be final and binding upon the Merchant, without any demur, protest or objection from the Merchant.

## 11. REPRESENTATION AND WARRANTIES OF MERCHANT

The Merchant hereby represents and warrants to Letzpay as under:

- (a) It is an entity duly incorporated and validly existing under Applicable Laws.
- (b) It is carrying on its business in accordance with its Memorandum and Articles of Association and/or other charter documents and Applicable Law.
- (c) It has all requisite corporate, government and other approvals required to carry on its business and perform its obligations under this Agreement and the same are valid and in force.
- (d) It has the power and authority to execute and deliver this Agreement and the same does not violate any law, rule, regulation or order applicable to it.
- (e) There is no claim, proceeding or governmental investigation of any nature pending, nor has it received any notice in respect of any of the foregoing matters, nor does it have any knowledge in respect of any such matters, which may impair a Party from undertaking its obligations or a Party from enforcing its rights under this Agreement.

## 12. TERM AND TERMINATION

12.1 This Agreement shall commence from the date of its acceptance / execution hereof and shall continue until terminated in accordance with the provisions of this Agreement ("**Term**").

12.2 Either Party may terminate this Agreement or one or more Services at any time by giving 90 (ninety) days prior written notice to the other Party.

- 12.3 Letzpay shall be entitled to forthwith terminate this Agreement and/or one or more Services, in the event of:
- (a) a breach by the Merchant of any terms and conditions of this Agreement; or
  - (b) where the Merchant is disentitled to honor a Valid Card; or
  - (c) where any of the statements or given by the Merchant are found to be untrue or false or in the event of any fraud or misrepresentation by the Merchant; or
  - (d) where a petition of winding up/insolvency is admitted against the Merchant; or
  - (e) if any representation or warranty by the Merchant under this Agreement is untrue, false or misleading; or
  - (f) if the Merchant ceases or substantially ceases to operate its Business; or
  - (g) if any approval/license/permission issued to the Merchant by any concerned authority to operate its Business expires or revoked or ceases to be valid for any reason; or
  - (h) if at any time there is a change in the ownership, management or control of the Merchant, which change is considered by Letzpay to be detrimental to the interest of Letzpay; or
  - (i) if the Merchant undergoes liquidation, dissolution, insolvency, voluntary or involuntary winding up (except winding up in the course of an amalgamation or merger), or makes an assignment for the benefit of creditors; or
  - (j) if any action is taken by any governmental authority which renders the Agreement unenforceable or makes it impossible for any of the Parties hereto to perform its obligations hereunder; or
  - (k) if Letzpay is of the view that the risks involved in continuing with the Agreement outweigh the benefits; or
  - (l) if Letzpay receives any customer complaints; or
  - (m) if Letzpay believes that fraudulent Card Transactions, suspicious transactions and/or any activity prohibited by this Agreement or under law are occurring; or
  - (n) if Merchant appears on any Card Brands' or other Transaction Gateway Partners' security reporting; or
  - (o) if any dispute between Merchant and a customer of Merchant arises due to deficiency in service by Merchant and remains unresolved for 7 days after dispute is raised; or
  - (p) if there is negligence or misconduct by the Merchant or its employees or agents; or
  - (q) if the Merchant damages or potentially exposes Letzpay to risk of damage of its brand/tradename/trademark or any other intellectual property rights, or infringes any third party rights or introduces any software virus or program in the Device or Software(s) designed to disrupt, interrupt, disable, damage, destroy or limit the functionality of the Device/Software(s).
- 12.4 Letzpay shall be entitled to terminate this Agreement and/or one or more Services without any further notice to the Merchant, if the Merchant does not agree with any variation or amendment suggested by Letzpay to this Agreement or fails to respond to the same within ten (10) days of Letzpay notifying the said variation or amendment to the Merchant.
- 12.5 Termination of Agreement and/or one or more Services (as the case may be) shall not affect any liabilities incurred prior to it nor any provision expressed to survive or be effective on termination and the same shall continue to remain in full force and effect notwithstanding termination
- 12.6 The Merchant confirms that Letzpay shall not be liable for any consequences arising out of termination of the Agreement and/or one or more Services (as the case may be).

### **13. CONSEQUENCES OF TERMINATION**

- 13.1 Upon termination or expiry of this Agreement: the Merchant shall forthwith, but no later than seven (7) days, present all due Charge Slips (softcopy) to Letzpay which relates to the Card Transactions prior to expiration of the Term or termination of the Agreement and subject to the terms of this Agreement, Letzpay shall make the payments in respect of such due Charge Slips, provided however, where any refund claimed by Letzpay exceeds the amount due to the Merchant, the difference thereof shall be a debt due from the Merchant to Letzpay and be forthwith recoverable by action.
- 13.2 Upon expiry / termination of this Agreement Merchant shall, at its own expense and within 7 days of such expiry / termination, return to Letzpay the Device in good working condition and all related document as required by Letzpay.
- 13.3 Subject to clause 10.4 above, the Security Deposit will be refunded to the Merchant within 30 days of the expiry or termination of the Agreement. However, in case the Services involve the leasing of Device to the Merchant, then the Security Deposit will be refunded within 30 days of return of Device by the Merchant to Letzpay. If the Device is not in working condition, then the Security Deposit shall be forfeited and Merchant shall pay the balance of the Device damage fee.

### **14. CONFIDENTIALITY**

- 14.1 The Merchant shall maintain confidentiality of all matters in connection with this Agreement (including existence thereof), the Services, the commercial terms agreed between Parties, and all data of its customers and the Card Holders ("**Confidential Information**") and shall not, without the prior written consent of Letzpay, and/or the Card Holder (as the case may be), divulge

such Confidential Information to any other person or use such Confidential Information other than for the purposes as mentioned in this Agreement.

14.2 The Merchant shall:

- (a) take all steps as may be reasonably necessary to protect the integrity of the Confidential Information and to protect against any unauthorised disclosure thereof;
- (b) promptly inform Letzpay of any potential or accidental disclosure of the Confidential Information and take all steps, together with Letzpay, to retrieve and protect the said Confidential Information;
- (c) ensure that the employees and/or representatives of the Merchant who are given access to the Confidential Information shall at all times be bound by and comply with legally valid and written non-disclosure obligations under their employment contracts;
- (d) use the Confidential Information only for the purpose for which it was provided and not profit from the same in an unauthorised manner to the exclusion of Letzpay.

14.3 In the event that the Merchant is required to disclose any Confidential Information pursuant to applicable law, it shall intimate Letzpay, in writing, within 24 hours of receipt of such requirement, so that Letzpay may take appropriate action to protect the Confidential Information. The Merchant shall co-operate with Letzpay in this regard.

## **15. INTELLECTUAL PROPERTY**

The Merchant shall not have acquired or acquire by the execution of this Agreement or by performance of its obligations hereunder, any vested, proprietary or other rights with respect to the Letzpay Intellectual Property or any Device provided by Letzpay including, in particular, any right or claim to any Intellectual Property of Letzpay. Further, nothing contained in this Agreement, nor the use of Letzpay Intellectual Property for any purpose under this Agreement shall be construed as assigning to the Merchant any right, title or interest of any nature whatsoever to Letzpay Intellectual Property.

## **16. INDEMNITY**

16.1 The Merchant hereby agrees to indemnify and hold Letzpay indemnified against all actions, claims, demands, proceedings, losses, damages, costs, charges and expenses whatsoever which Letzpay may at any time incur, sustain, suffer or be put to as a consequence of or by reason of or arising out of providing the Services or due to any negligence/mistake/misconduct on by the Merchant or by reason of Letzpay in good faith taking or refusing to take action on any instruction given by the Merchant or breach or non-compliance by the Merchant of any of the terms and conditions under this Agreement or relating to the Services including but not limited to the following :-

- (a) any Transaction or any other matter relating to these terms and conditions; or
- (b) failure by the Merchant (or any of Merchant's officers, employee or agent) to comply with the provision of this Agreement including any act, commission or omission, negligence, fraud, forgery, dishonesty, money laundering, misconduct or violation of any of the terms and conditions of this Agreement; or
- (c) the breach of contract or duty by the Merchant (or any of the Merchant officers, employee or agent) to a Card Holder or any third party; or
- (d) the misuse of the Device and/or Software including unauthorized access, shifting, hacking, cracking etc.;
- (e) any of the Merchant's statements, representations or warranties being or becoming false or untrue; or
- (f) any claim from any statutory authority or Card Holder; or
- (g) any claim, penalties, fines, assessments, levies etc. from any Card Brands / organisations.

16.2 The Merchant agrees and confirms that in no event shall Letzpay be liable to the Merchant for loss of profits or revenues, in direct, consequential or similar damages arising out of or in connection with the Transaction, materials, information technology services or assistance provided.

16.3 Letzpay's maximum liability relating to Service rendered (regardless of form of action, whether in contract, negligence or otherwise) shall in no event exceed the fees payable by the Merchant to Letzpay for the Service with respect to any particular payment collected from the Merchant's customer that give rise to such liability. Letzpay shall not be liable for any other losses or claims of any nature whatsoever suffered by the Merchant.

16.4 Letzpay shall not be liable for any direct or indirect, known or unknown, consequential or other losses or liabilities incurred by the Merchant due to delayed or interrupted Service.

16.5 Any other liability of Letzpay with respect to delivery, non-delivery, defective delivery of Service, whether under any statute or otherwise, is excluded to the extent permitted by the Applicable Law.

16.6 The Merchant further agrees and confirms that this indemnity clause shall remain valid and subsisting and binding upon the Merchant notwithstanding withdrawal of services or expiry/ termination of the Agreement.

## 17. GOVERNING LAW, JURISDICTION & DISPUTE RESOLUTION

- 17.1 The Agreement shall, in all respects, be governed by and construed and enforced in accordance with the laws of India. All proceedings in respect of any dispute or difference arising under this Agreement among the Parties shall be subject to the exclusive jurisdiction of the competent courts in New Delhi.
- 17.2 Any dispute, disagreements or claims arising out of, or relating to, this Agreement or any of the provisions thereof ("**Dispute**") shall be attempted to be amicably resolved through consultation, discussions and negotiations between the Parties within 30 (thirty) days from the receipt of the written notice from the Party raising the Dispute and requesting amicable resolution under this provision.
- 17.3 If the Dispute remains failed to be resolved within 30 days of the receipt of the notice as stated above, the Dispute may be referred to the sole arbitrator appointed, jointly and mutually by the Parties. If the Parties fail to jointly and mutually appoint a sole arbitrator, then either Party in Dispute may approach the Hon'ble High Court of Delhi for the appointment of an arbitrator. The Arbitration proceedings shall be governed by the provisions of the Arbitration and Conciliation Act, 1996 and the rules made thereunder, as amended, modified and substituted from time to time. The venue and seat of the arbitration shall be in New Delhi and the language used in the arbitral proceedings shall be English. The award of the arbitration shall be final and binding on the Parties.

## 18. FORCE MAJEURE

If at any time the performance in whole or in part of either Party's obligation under this Agreement is prevented or delayed by any reason beyond the control of the Parties hereto, including but not limited to fire, storm, flood, earthquake, explosion, accident, military operation, war rebellion, riot wreck, epidemic- embargo any virus in the system, any other electronic malfunctioning, or any laws, regulations or other Governmental actions, neither Party shall be entitled to terminate this Agreement nor shall either Party have any claim for damages against the other in respect of such non-performance or delay in performance, and shall be entitled to resume as soon as practicable after any such event has come to an end or ceased to exist, provided that if the performance in whole or part of any obligations under this Agreement are prevented or delayed by reason of any such event for a period exceeding sixty (60) days, the Parties shall jointly discuss the feasibility of a rescheduling of performance. If either of the Parties cannot with reasonable diligence be expected to continue performance, either Party may at its option elect to terminate this Agreement or such part thereof as can be severed therefore without affecting the performance of the remaining portion.

## 19. MISCELLANEOUS

- 19.1 **Entirety:** This Agreement constitutes the entire agreement among the Parties hereto with respect to the subject matter hereof and supersedes any and all other prior agreements, understanding and arrangement between the Parties covering the subject matter contained in this Agreement.
- 19.2 **Relationship:** The Parties intend to create an independent contractor relationship and nothing contained in this Agreement will be construed to make either Party partners, joint venturers, principals, agents or employees of the other. This Agreement is executed amongst the Parties on principal to principal basis.
- 19.3 **Severability:** If any provisions of this Agreement or its application shall be held invalid, illegal, or unenforceable, in any respect, by a court of competent jurisdiction, the validity, the legality and enforceability of all other provisions and applications hereof shall not in any way be effected or impaired and be in full force and effect.
- 19.4 **Assignment:** The Merchant shall not delegate or assign this Agreement or of any its rights, interest and liabilities to any third party without obtaining prior consent of Letzpay.
- 19.5 **Modification:** The Merchant hereby agrees and confirm that Letzpay reserves the right to amend / modify the terms and conditions (or any procedures thereunder) in writing from time to time at its sole discretion. Any such variation or amendment or introduction will become effective and binding on the Merchant upon notification by way of Notice and if the Merchant is unwilling to accept any such variation or amendment or introduction, the Merchant shall notify Letzpay in writing within seven days from the receipt of the notification by Letzpay. Failure to receive notice within seven days from the date on which the aforesaid letter was sent by Letzpay, it shall be deemed to be as an acceptance of such modified/ varied terms and conditions.
- 19.6 **Notice:** Any notice or other communication under this Agreement shall be given in writing and shall be deemed to be given by (a) registered mail/ recognized courier service, or (b) email, to the respective addresses of the Parties as set out above (or such other different address as informed by the Parties from time to time by way of Notice).
- 19.7 **Waiver:** Failure by any of the Parties to enforce any provision of the Agreement shall constitute a waiver of future enforcement of that or any other provision of this Agreement.
- 19.8 **Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall constitute an original, but all of which shall constitute one and the same instruments.

## SCHEDULE I

### SERVICES

Letzpay may provide one or more of the following payment solutions:

- (i) **'Card present' solutions**, where the customer uses a physical Card to (a) make payments for goods purchased / services availed through the Device; and (b) withdraw cash from Merchant by using debit cards of customer (i.e. Cash@POS); (c) avail of EMI facilities for payments made to the Merchant, if the same are approved by the customers bank/Issuer.
- (ii) **'Card not present' solutions**, where the customer does not use a physical Card but can (a) make payments for goods purchased / services availed; and (b) avail of EMI facilities for payments made to the Merchant through Merchant's website, App or payment link by using the internet payment gateway services of Letzpay.
- (iii) **Internet banking**, where the customer can make payments for goods purchased / services availed through Merchant's website, App or payment link by using a valid user name and password provided by the customer's bank.
- (iv) **Pre-paid Payment Instruments (i.e. Mobile Wallets)**, where the customer can make payments for goods purchased / services availed at Merchant establishment and/or through Merchant's website, App or payment link by using the valid user name and password provided by the bank through the App of the PPI / Mobile Wallet provider.
- (v) **Unified Payment Interface (UPI)**, where the customer can make payment for goods purchased / services availed at Merchant establishment and/or through Merchant's website, App or payment link, by using Apps of banks / governments (such as Bhim) / third party service providers.
- (vi) **Bharat QR**, where the customer can make payment for goods purchased / services availed at Merchant establishment and/or through Merchant's website, App or payment link, by using Apps of banks / governments (such as Bhim) / third party service providers.
- (vii) **Aadhar Enabled Payment System (AEPS) and AadharPay**, where the customer can (a) make payments for goods purchased / services availed; and (b) transfer money from his bank account to any person from Merchant establishment; (c) withdraw money from his bank account from Merchant establishment, all of which are done by using Aadhar data for authenticating the transaction.
- (viii) **Value Added Services**, where the customer can (a) make payment to various third parties including recharges, billers, mobile network operators, DTH service providers and internet service provider; (b) transfer money to any person from Merchant establishment after paying cash or reimbursing / paying a fee to the Merchant. For availing these Value Added Services, the Merchant may be required to comply with some additional requirements of Letzpay. The schedule of charges for all Value Added Services will be provided by Letzpay.
- (ix) **Additional Services**: Any other services as may be offered by Letzpay from time to time. The commercial terms for such services shall be decided by Letzpay and if Merchant uses the same, the same shall be binding.

## SCHEDULE II

### PROCESS FOR UNDERTAKING TRANSACTIONS

The following terms and conditions shall govern the Services:

#### **1. Activation & Installation:**

- 1.1 Letzpay shall provide Merchant a Merchant ID number and/or Terminal ID number through which the Merchant can activate and use the Services.
- 1.2 Letzpay shall assist Merchant in installing the Software and activating the Device for availing the Services.

#### **2. Processing of Transactions:**

When accepting a payment, the Merchant shall follow the steps provided below:

- 2.1 The Merchant shall determine that the Card is valid.
- 2.2 The Merchant shall obtain the Authorization before completing any Transaction. Where Authorization is obtained, Merchant shall be deemed to warrant the true identity of the customer as the valid Card Holder.
- 2.3 The Merchant shall not attempt to obtain an Authorization on an expired Card. Transactions shall be deemed invalid on Cards that are expired, whether or not Authorization has been obtained.

- 2.4 The Merchant shall obtain the Card Holder's signature on the Charge slip, wherever prompted by the POS machine/Device, and compare that signature with the signature on the Card.
- 2.5 The Merchant shall deliver a true and complete copy of the Charge slip to the Card Holder, physically or digitally, after the Transaction is completed. Non-completion of above requirements will result in the charge being rendered invalid and Merchant will require to refund the entire amount irrespective whether goods were supplied or services were delivered, without any demur or delay, as may be required by Letzpay.
- 2.6 The Merchant undertakes to Letzpay as under:
- (a) Each Charge slip presented to Letzpay for collection shall be genuine and shall not be the result of any fraudulent transaction and shall not be deposited on behalf of any business other than that of the Merchant.
  - (b) Each Charge slip shall be the result of a Transaction for the bona fide purchase of goods or services by the Card Holder for the total amount stated on the Charge slip.
  - (c) The Merchant shall perform all its obligations to the Card Holder in connection with the underlying Transaction.
  - (d) The Merchant shall ensure that the Transaction itself shall not involve any element of credit for any other purposes other than as set forth in this Agreement and shall not be subject to any defense, dispute, offset or counter claim which may be raised by any Card Holder.
  - (e) The Merchant shall ensure that any credit voucher, which it issues, represents a bona fide refund or adjustment on a Card sale by Merchant with respect to which a Charge slip has been accepted.
  - (f) Letzpay shall be entitled to monitor the Merchant's daily deposit activity. Merchant's deposit activity should remain consistent with the "approved" monthly volume and average ticket amount as set out in the Application Form. Letzpay may, in its sole discretion, elect not to process volumes over the approved monthly volume or over limit transactions.
  - (g) The Merchant shall promptly provide additional documentation as Letzpsy may require including on account of the Merchant exceeding the "approved" monthly volume or average ticket.
  - (h) Letzpay may, in its sole discretion suspend the Merchant Account and/or suspend disbursement of Merchant's funds for any reasonable period of time required to investigate suspicious or unusual deposit activity and that such suspension may subject Merchant to suspension fees (as determined by Letzpay in its sole discretion). Letzpay shall make good faith efforts to notify Merchant as promptly as is commercially reasonable about such suspension. Letzpay shall have no liability for any losses, either direct or indirect, which Merchant may incur or suffer on account of any such suspension.
  - (i) If the suspension arises from a suspicious or unusual Transaction, the Merchant shall be charged a security processing fee (as determined by Letzpay) per suspended Transaction, and, if the suspended Transaction or unusual or suspicious activity involves an amount exceeding the Suspicious Threshold Limit an investigation fee (as determined by Letzpay) shall be charged for each such event.
  - (j) The Merchant shall include all goods and services purchased in a single Transaction at one time on a single Charge slip, except: (i) for purchases in separate departments of a multiple department store; (ii) for payment which is being taken in installments by the Merchant; or (iii) for delayed, amended charges or balance payments to the Merchant which are governed by the Rules imposed by Card Brands for travel and entertainment transactions.
  - (k) The Merchant shall not present any Transaction representing the refinancing of an existing obligation of a Card Holder including, but not limited to obligations (i) previously owed to Merchant, (ii) arising from the dishonour of a Card Holder's personal check, and/or (iii) representing the collection of any other pre-existing indebtedness, including collection of delinquent accounts on behalf of third parties.
  - (l) The Merchant shall not receive any payments from a Card Holder to prepare and present a Transaction for the purpose of affecting a deposit to Card Holder's Card account.
  - (m) The Merchant shall not process any Transaction for obtaining or providing a cash advance either on Merchant credit card or the credit card of any other party.
  - (n) The Merchant shall not process duplicate Transactions. The Merchant shall be debited for any duplicate Transactions and shall be liable for any Chargebacks that may result therefrom.

- (o) The Merchant shall not accept or process any fraudulent Transactions and shall not present for processing or credit, directly or indirectly, a Transaction, which originated with any other Merchant or any other source.
- (p) If the Merchant processes any transactions which are prohibited by law or by this Agreement, Letzpay shall be entitled to such steps as it may deem necessary to protect the interests of Letzpay, the Card Holders and the Transaction Gateway Partners including, but not limited to, suspension of the account/processing privileges or withhold funds of Merchant without interest and/or require Merchant to maintain sufficient funds in the Reserve Account.
- (q) The Merchant should desist from exploiting Cash@POS benefits on a sole terminal by swiping a single customer's card multiple times whereby breaking the invoice value in multiple parts to enjoy revenue on every transaction. The Merchant at all times ensure that threshold and/or hard limits to be strictly abided by the Merchant and should not attempt to breach such limits prescribed from time to time

**3. Settlement:**

- 3.1 All settlements shall be in accordance with the RBI rules, regulations and guidelines as applicable.
- 3.2 Letzpay shall settle Transactions carried out by Merchant through Nodal/Acquiring Bank.
- 3.3 Letzpay shall process all valid Transactions of the Merchant through the Transaction Gateway Partners.
- 3.4 Letzpay may provisionally credit the value of the processed Transactions to the Merchant Account.
- 3.5 Letzpay may refuse to accept any Charge slip or revoke its prior acceptance of a Charge slip in the following circumstances: (a) the transaction giving rise to the Charge slip was not made in compliance with all the terms and conditions of this Agreement, or; (b) the Card Holder disputes his liability to Letzpay for any reason, including but not limited to those Chargeback rights enumerated in the Rules, or; (c) the transaction giving rise to the Charge slip was not directly between Merchant and Card Holder, or; (d) the transaction is outside the parameters indicated on the Merchant Application Form. The Merchant shall pay Letzpay any amount previously credited to the Merchant for a Charge slip not accepted or later revoked by them.
- 3.6 Letzpay shall not be liable for any liability whatsoever including on account of delay in receipt of funds or errors in debit and credit entries caused by third parties including without limitation, any Card Brand, Acquiring Bank, Nodal Bank, Merchant's bank, couriers, communication carriers, servers and internet service providers, data processors, clearing houses or payment gateways, or any failure in electronic fund transfers, server/system/network failure or any other glitches which are beyond the control of Letzpay.
- 3.7 Monthly statements shall be available for viewing through the Merchant's online account with Letzpay. All statements may be accessed from the Account Login on the website of Letzpay. Merchant shall promptly examine the statements and notify Letzpay by email of all errors by providing Merchant's name and Account number within 7 days for the occurrence of the error. Letzpay shall investigate the same within 30 days of receiving the email.
- 3.8 Merchant authorizes Letzpay to initiate reversal or adjustment entries and initiate or suspend such entries necessary to grant Merchant conditional credit/debit. Merchant shall pay to Letzpay any charges and costs demanded by others or incurred by Letzpay on the Transactions.
- 3.9 If Letzpay is of the opinion that a particular transaction is fraudulent or suspicious or incorrect data has been inserted by Merchant, Merchant alone shall be liable for the same.
- 3.10 Merchant's policy for the warranty/guarantee, exchange, return or replacement of goods sold and adjustment for services rendered shall be clearly specified on the invoice raised by Merchant. If Merchant fails to do so, a full refund in the form of a credit to the Card Holder's Card account must be given by the Merchant. The Merchant shall not refund cash to a Card Holder who paid for the goods / service by Card. Credits in cases of refund must be made to the same Card account number on which the original Transaction was processed. To enable such refund, Merchant shall at all times maintain sufficient funds in the Merchant Account.
- 3.11 Letzpay shall be entitled to establish and maintain for the Merchant a Reserve Account at any time prior to or after termination of this Agreement (with or without notice to Merchant), to ensure recovery of any liabilities owed by Merchant or reasonably anticipated by Letzpay to be owed by Merchant pursuant to this Agreement. Letzpay shall be entitled to do the following in relation to the Reserve Account:
  - (a) set-off /deduct amounts arising out of actual and/or potential post termination Chargebacks, as well as any and all post-termination fees, charges and expenses due or anticipated to be due to Letzpay from Merchant;
  - (b) fund and/or replenish the Reserve Account by withholding or withdrawing from, or freezing all or any part of, the Merchant Account. The Reserve Account shall not bear interest;
  - (c) maintain the Letzpay's Reserve Account and enforce its rights as regards the same event after termination of this Agreement till such time as all the payments due by Merchant to Letzpay remain outstanding.

**4. Chargebacks:**

- 4.1 All liabilities arising from any Chargebacks shall be to the account of Merchant and shall be paid by Merchant immediately (i.e. on the same day) upon being intimated of the same. Failure to pay a Chargeback within the same day shall attract the late payment charge. In addition, Merchant shall pay the Chargeback retrieval fee per Chargeback (as determined by Letzpay in its sole discretion).
- 4.2 Merchant agrees that all Transactions may be subject to a Chargeback.
- 4.3 Merchant agrees that a Chargeback which occur for a variety of reasons, including without limitation, the following:
  - (a) The Transaction is a duplicate of a prior Transaction or is the result of two or more Transactions generated for a single sale/service.
  - (b) The Card Holder alleges that he or she did not participate in the sale, authorize the use of the Card, receive goods or services purchased, or receive a required credit adjustment, or disputes the quality of the goods or services purchased.
  - (c) The price of goods or services on the Transaction differs from the amount that Merchant presents for payment.
  - (d) The Transaction results from an internet, mail, phone or preauthorized order and the Card Holder disputes entering into or authorizing the Transaction or the Transaction has been made on an expired or non-existing account number.
- 4.4 Letzpay shall take all steps for representing Merchant in relation to a Chargeback before the relevant Transaction Gateway Partners. However, Letzpay shall not be responsible nor does it provide any guarantee for the recovery of any Chargeback amount.
- 4.5 Merchant agrees that fraudulent and incorrect transactions and consequent Chargebacks shall not be considered to fall within the purview of the Services and Letzpay shall not be liable or obligated under any circumstances whatsoever for rendering its Services in relation to the same.
- 4.6 Merchant shall be liable to pay the difference in currency exchange if the Chargeback amount is greater than the original sale, issuer claims, and items for which Letzpay did not receive the final payment for any reason.

**SCHEDULE III**

S. No.	Fee	Amount (in INR)	Payable on
1.	<b>Software License Fee</b>	As per MPA/Agreement	
2.	<b>Software Maintenance Charges</b>	As per MPA/Agreement per month/quarter/year	
3.	<b>Device Charges</b>	As per MPA/Agreement per month/quarter/year	

As per Annexure

**SCHEDULE IV**

**Payment Card Industry (PCI) Data Security Standards**

- 1. The Merchant shall comply with provisions contained in Payment Card Industry - Data Security Standards ("PCI -DSS") as published on [www.paymentcardindustry.com](http://www.paymentcardindustry.com).
- 2. As part of PCI DSS obligations among other things, the Merchant shall not store card authentication information (CVV, PIN and PIN Block) and shall also eliminate/minimize storage of Valid Card information (Name, Expiry date) in electronic or paper form and if absolutely necessary store the same in encrypted form, after notifying to Letzpay.
- 3. In addition, the Merchant shall carry out quarterly vulnerability scans as prescribed by PCI Security Standards Council ("PCI SSC") in Approved Scan Vendor scan procedures and send scan reports to Letzpay.
- 4. Letzpay may issue periodic notifications to the Merchant informing the Merchant about PCI DSS requirements. The PCI DSS requirements are subject to change, updation, revision, verification and amendment without any notice. The Merchant shall be under an obligation to update and to comply with the revised/ updated/ changed/ amended/ verified PCI DSS requirements.