

NIUM DIRECT SERVICES AGREEMENT

TERM SUMMARY			
Nium	NIUM PTE LTD a_Singapore company_____ (Company registration no: 201422465R) 16 Raffles Quay, #20-05 Hong Leong Building. Singapore 048581 Email: legalnotices@nium.com		
Client	You		
Services	<input checked="" type="checkbox"/> Pay Out Service <input checked="" type="checkbox"/> Pay In Service <input type="checkbox"/> Card Issuing (<i>Subject to the additional terms of a Card Issuing Agreement.</i>) <input type="checkbox"/> Nium Checkout (<i>Subject to the additional terms of a Checkout Agreement.</i>)		
Client Type	<input type="checkbox"/> Financial Institution Licence type / country:	<input checked="" type="checkbox"/> Non-Financial Institution	
Effective Date		Initial Term	

NIUM DIRECT SERVICES AGREEMENT (this “**Agreement**”), effective as of the Effective Date specified above, is between the Nium entity (“**Nium**”) and the Client entity (“**Client**”) described above.

Nium and Client agree as follows:

1. **Components. This Agreement consists of the following components:**
 - a. This **Cover Page** (including the **Term Summary** set forth above);
 - b. The **Fee Schedule** set forth in [Appendix A](#);
 - c. The **Agreement Terms** set forth in [Appendix B](#);
 - d. The **Pay Out Service Additional Terms and Conditions** set forth in [Appendix C](#);
 - e. The **Pay In Service Additional Terms and Conditions** set forth in [Appendix D](#);
 - f. The **Definitions** set forth in [Appendix E](#);
 - g. The **International Jurisdiction Additional Terms and Conditions** set out in [Appendix G](#); and
 - h. any other agreements or documents expressly referenced in this Agreement.

2. **Precedence of Terms.** If any terms in any components of this Agreement conflict, then unless terms of lower precedence expressly state to the contrary, the order of precedence is: (1) International Jurisdiction Additional Terms and Conditions ([Appendix G](#)); (2) the

Agreement Terms; (Appendix B); (3) all other components; and (4) any other agreements or documents expressly referenced in this Agreement.

The parties agree to the terms of this Agreement by signing below.

[NIUM]

[YOU]

By: _____
[Name]
[Title]

By: _____
[Name]
[Title]

**APPENDIX A
FEE SCHEDULE**

APPENDIX A – NIUM FEE SCHEDULE PART 1 - PAY OUT SERVICE FEES						
Fees and FX Margin Local Currency Pay Outs – Non-Tiered Pricing						
Funding Currency	Pay Out Location	Pay Out Currency	FX Margin	Transaction Fee (USD)		
Fees and FX Margin Local Currency Pay Outs – Tiered Pricing						
Funding Currency	Pay Out Location	Pay Out Currency	FX Margin	Transaction Fee (USD) <i>1 to 150,000 payments</i>	Transaction Fee (USD) <i>150,001 to 500,000 payments</i>	Transaction Fee (USD) <i>500,001 or more payments</i>

**APPENDIX A – NIUM FEE SCHEDULE
PART 1 - PAY OUT SERVICE FEES**

<p>General Fee Description</p>	<p><input type="checkbox"/> Annual Tier. The number of Pay Outs processed by Nium in each Contract Year (calculated on a Progressive Basis during such Contract Year) will determine the relevant tier and the applicable Transaction Fees. “Contract Year” means each successive twelve (12) month period commencing on the date of this Agreement. “Progressive Basis” means that for each Pay Out, the Transaction Fee applicable to that Pay Out will be determined based on the total number of Pay Outs previously processed by Nium during the Contract Year. For the avoidance of doubt, (i) if higher tier pricing is subsequently achieved during the applicable Contract Year, it will not be retroactively applied to previously processed Pay Outs. and (ii) the number of Pay Outs processed by Nium shall not be cumulative from Contract Year to Contract Year for the purpose of determining the relevant tier and applicable Transaction Fees. Nium’s determination of the relevant tier and applicable Transaction Fees shall be final and binding on the Client, unless there is an error in calculation and Client provides written notification to Nium of such error within fourteen (14) days from receipt of the applicable invoice.</p> <p><input type="checkbox"/> Monthly Tier. The number of Pay Outs processed by Nium in each calendar month (calculated on a Cumulative Basis) shall determine the relevant tier and the applicable Transaction Fees. “Cumulative Basis” means for each Pay Out, the Transaction Fee applicable to that Pay Out will be determined based on the total number of Pay Outs processed by Nium during the calendar month in which that Pay Out is processed. Nium’s determination of the relevant tier and applicable Transaction Fees shall be final and binding on the Client, unless there is an error in calculation and Client provides written notification to Nium of such error within fourteen (14) days from receipt of the applicable invoice.</p>
<p>USD Pay Out into Non-US Country Fees</p>	<p>USD \$10.00 per transaction (SWIFT SHA basis)</p>
<p>Foreign Currency Pay Out Fees <i>(availability subject to written notice by Nium)</i></p>	
<p>Pricing Expiration and Revised Fees</p>	<p>If the Client fails to submit any Pay Out to Nium for processing with respect to any Pay Out Location or Pay Out Currency within twelve (12) months from the Effective Date, then (i) the agreed Fees that apply to such Pay Out location or Pay Out currency will automatically expire, and (ii) if the Client subsequently submits a Pay Out to Nium for processing with respect to such Pay Out Location or</p>

APPENDIX A – NIUM FEE SCHEDULE PART 1 - PAY OUT SERVICE FEES	
	Pay Out Currency, Nium may apply any applicable transaction fees and foreign exchange rates to such Pay Out at its sole discretion.
Exceptions Fees	<p>*Payment Trace Requests: USD \$25.00 per transaction, plus any applicable bank charges.</p> <p>*Returns: USD \$10.00 per return, plus any applicable bank charges.</p> <p>*Cancellations: USD \$25.00 per request.</p> <p>*Recalls: USD \$50.00 per request, plus any applicable bank charges.</p> <p>*As defined in <u>Appendix E</u>.</p>
Pay Out Service Integration Fee	Integration Fee: USD \$_____ (payable upon execution of this Agreement).

APPENDIX A – NIUM FEE SCHEDULE PART 2 - PAY IN SERVICE FEES							
Pay In Fees							
Pay In Location	Payment Method (Type)	Payment Method (Name)	Currency	Merchant Discount Rate	Platform Fee	Total Fee	Tax
			USD/GBP/EUR				
Pay In Reversal Fee		<p>USD \$10.00 per Pay In Reversal, plus any applicable fees imposed by the Network.</p> <p>USD \$10.00 per Pay In Refund, plus any applicable fees imposed by the Network or bank charges, as applicable.</p>					
Pay In Service Integration Fee		Integration Fee: USD \$_____ (payable upon execution of this Agreement).					

APPENDIX A – NIUM FEE SCHEDULE							
PART 3 – MINIMUM MONTHLY COMMITMENT FEE AND EARLY TERMINATION FEE							
Minimum Monthly Commitment Fee (non-tiered)	<p><input type="checkbox"/> Minimum Monthly Commitment Fee of \$_____</p> <p>Commencing [from the Effective Date OR the date the Client submits the first Pay Out to Nium for processing], the Client shall pay the minimum monthly amount provided above (“Monthly Minimum Commitment”). If the total transaction fees incurred by the Client for any given month exceed the Minimum Monthly Commitment, the Client shall pay Nium the actual transaction fees incurred for that month. For the avoidance of doubt, only transaction fees paid with respect to local currency Pay Outs are included in the calculation of Minimum Monthly Commitment. All other Nium Fees (including FX margin) are excluded.</p>						
Minimum Monthly Commitment Fee (tiered)	<p><input type="checkbox"/> Tiered Minimum Monthly Commitment Fee (as set forth below).</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%; text-align: center;">Period (from the Effective Date OR the date the Client submits the first Pay Out to Nium for processing)</th> <th style="width: 40%; text-align: center;">Minimum Monthly Commitment Fee Amount (USD)</th> </tr> </thead> <tbody> <tr> <td style="height: 20px;"> </td> <td> </td> </tr> <tr> <td style="height: 20px;"> </td> <td> </td> </tr> </tbody> </table> <p>If the total transaction fees incurred by the Client for any given month exceed the Minimum Monthly Commitment, the Client shall pay Nium the actual transaction fees incurred for that month. For the avoidance of doubt, only transaction fees paid with respect to local currency Pay Outs are included in the calculation of Minimum Monthly Commitment. All other Nium Fees (including FX margin) are excluded.</p>	Period (from the Effective Date OR the date the Client submits the first Pay Out to Nium for processing)	Minimum Monthly Commitment Fee Amount (USD)				
Period (from the Effective Date OR the date the Client submits the first Pay Out to Nium for processing)	Minimum Monthly Commitment Fee Amount (USD)						
Early Termination Fee	<p>An amount which is equal to any Monthly Minimum Commitment Fees that would have applied during (i) the remainder of the Initial Term, or (i) if applicable, during the remainder of any Subsequent Term.</p>						

APPENDIX B AGREEMENT TERMS

1. General.

- a. **Definitions.** Capitalised terms in this Agreement not defined inline or in the table on page 1 are defined in Appendix E.
- b. **Interpretation.** In the interpretation of this Agreement, the following provisions apply unless the context requires otherwise:
 - (i) headings are inserted for convenience only and do not affect the interpretation of this Agreement.
 - (ii) a reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
 - (iii) a reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.
 - (iv) a word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
 - (v) unless the context indicates otherwise, a reference in this Agreement to “person” is deemed to include a natural person, corporation, company, firm, partnership, limited partnership, limited liability company or limited liability partnership or other similar organization.
 - (vi) references to the word ‘include’ or ‘including’ are to be construed without limitation.
 - (vii) in the event of any inconsistency between these terms and conditions and any Schedule or Appendix, the provisions of such Schedule or Appendix will prevail to the extent of such inconsistency.

2. Term of Agreement.

- a. **Initial Term.** Unless otherwise terminated under Clause 16, this Agreement comes into force on the Effective Date and shall continue for the Initial Term starting on the Effective Date.
- b. **Subsequent Term.** Upon expiration of the Initial Term, this Agreement shall automatically continue for successive one (1) year terms (each a “**Subsequent Term**”), until either Party exercises its termination right under this Agreement.

3. Provision of the Services.

- a. **Services General Terms.** Nium agrees to make available, and the Client agrees to accept, the Services in accordance with the terms of this Agreement.
- b. **Licensed Jurisdiction.** The Services are offered and made available by Nium from its jurisdiction of incorporation (“**Licensed Jurisdiction**”). Nium does not intend to solicit, target or market the Services to any third party (including the Client) outside of its Licensed Jurisdiction.

- c. **Other Costs.** Other than the Nium Platform, the Client shall be solely responsible, at its own cost, for the provision of all equipment, infrastructure, software, systems and facilities which are necessary to enable the Client to use the Services.

4. Integration.

- a. **Direct Integration.** The Client will comply with all Documentation, instructions, guidelines and requirements relating to its use of the Services and its integration to the Nium Platform. The Client will ensure that its integration to and use of the Nium Platform does not create material technical problems, damage, interruption, or degradation of the Nium Platform. Upon the occurrence, or Nium's reasonable belief of the occurrence, of such an event, Nium may immediately suspend the Client's use of the Nium Platform to the extent necessary to mitigate the consequences of the event, and the Client will take all necessary steps to remediate the event, including steps reasonably requested by Nium.
- b. **Approved Third Party Integration.** The Client shall not integrate any API into the Services, Nium Platform or Nium Technology, unless Client has received the prior written approval by Nium for (i) the API to be an Approved Third Party API and (ii) the party to be an Approved Third Party. Nium may revoke its approval of any Approved Third Party or Approved Third Party API at any time, in Nium's sole discretion. Unless otherwise agreed between the Parties in writing, this Agreement and the Services shall automatically terminate upon such revocation of approval by Nium.
 - (i) The Client will be responsible for its own development work and bear its own costs in relation to the integration of the Approved Third Party API.
 - (ii) The Client will comply, and will ensure that the Approved Third Party and the Approved Third Party API comply, with all Documentation, instructions, guidelines and requirements for use of the Services via the Approved Third Party API.
 - (iii) The Client acknowledges that Nium has no responsibility or liability for the Client's access to and use of the Approved Third Party API or any system or platform provided by an Approved Third Party. Nium makes no representations or warranties as to the adequacy, commercial value, completeness or reliability of any Approved Third Party API, or any system or platforms provided by the Approved Third Party.
 - (iv) The Client will ensure that its use of the Approved Third Party API and the Nium Platform does not create material technical problems, damage, interruption or degradation of the Nium Platform. Upon the occurrence, or Nium's reasonable belief of the occurrence, of such an event, Nium may immediately suspend the Client's use of the Nium Platform to the extent necessary to mitigate the consequences of the event and the Client will take all necessary steps to remediate the event and as otherwise reasonably requested by Nium.
 - (v) The Client consents and authorises the Approved Third Party to provide to and receive from Nium all information, communications, and Instructions in connection with the Services. The Client further consents and authorises Nium to accept, rely and act upon any information, communications and Instructions transmitted by the Approved Third Party to Nium. Where Nium receives any information, communication or Instruction from the Approved Third Party, Nium shall be entitled to treat such information, communication or Instruction as having been received from the Client. The Client shall be bound as though the Client itself had given or received the information, communication or Instruction. Nium is under no obligation

to check the authenticity or accuracy of any information, communication or Instruction received from the Approved Third Party and will not be liable for any Losses incurred or suffered by the Client, or any person, for complying with such information, communication or Instruction.

5. Nium Platform.

- a. **Client Access Codes.** Nium will provide the Client with a unique identification number and/or password to enable the Client to access and use the Nium Platform (“**Access Codes**”). The security and confidentiality of the Access Codes will at all times remain the sole responsibility of the Client. The Client will ensure that none of the Access Codes is disclosed to any person, except on a need to know basis to Client Authorised Representatives. The Client will ensure that each Client Authorised Representative is aware of the requirement to keep the Access Codes secure and confidential. Breach of this Clause constitutes a material breach incapable of being remedied and entitling Nium to terminate this Agreement immediately pursuant to Clause 16.
- b. **Authorised Representatives.** Nium is entitled to rely upon the Instructions provided by a Client Authorised Representative until such time as the Client notifies Nium in writing that the Client Authorised Representative is no longer authorised, and Nium has a reasonable opportunity to act upon the notification. Nium may at its sole discretion and without liability decline to accept or cancel the authority of any Representative nominated by the Client as a Client Authorised Representative.
- c. **Instruction Information.** Prior to submitting an Instruction to Nium, the Client must ensure that all information contained in the Instruction is complete and accurate. If the Client subsequently learns of any error in the Instruction, the Client must immediately notify Nium in writing. Where Nium receives an Instruction from a person using an Access Code, Nium may assume that the Instruction has been given by a Client Authorised Representative. Nium is under no obligation to check the authenticity or accuracy of any Instruction or data received, or assumed to be received, from a Client Authorised Representative, and will not be liable for any Losses incurred or suffered by the Client or any other person as a result of Nium acting on an Instruction received, or assumed to be received, from a Client Authorised Representative.
- d. **Processing Delay or Failure.** If the Client fails to provide a timely, accurate and complete Instruction, Nium may be unable to process, or may have to delay the processing of, such Instruction. Nium will not be liable for any Losses incurred or suffered by the Client or any person as a result of a delay or failure in processing an Instruction.
- e. **Refusal to Act.** Nium may refuse to act upon any Instruction received from the Client that Nium believes: (i) may violate this Agreement or other agreements the Client or its Affiliates may have with Nium; (ii) is unauthorised, fraudulent or illegal; or (iii) expose the Client, Nium or others to risks unacceptable to Nium.
- f. **Unauthorised Use.** The Client will notify Nium immediately in the event of any suspected or actual unauthorised use of the Access Codes or unauthorised access to the Nium Platform. Notwithstanding such notification, the Client is solely responsible for all acts or omissions of any person that accesses the Nium Platform through the Access Codes and agrees to be bound by the terms of all transactions or Instructions submitted through the Nium Platform using the Access Codes.

- g. **Records.** The Client is responsible for maintaining its own records relating to the Services and for reconciling such records against any entries made available on the Nium Platform. The Client must notify Nium promptly, and in any event, no later than two (2) business days after any unauthorised, incorrect or disputed transaction or entry is entered on the Nium Platform. Following the expiry of this period, any such entry in the Nium Platform will be deemed agreed.

6. Nium Account.

- a. **Generally.** The Client shall be granted one or more Nium Accounts for the purposes of the Services. Each Nium Account is denominated in a Supported Currency and facilitates the Client's use of the Services including viewing the Available Balance in the relevant Supported Currency. Where foreign currency conversion is required in respect of any Available Balance, Nium shall apply the prevailing exchange rate, which at the Effective Date, is based on the rates published on the Reuters platform on a Business Day plus a percentage (recognised as a markup), as set out in Appendix A for such conversion.
- b. **Client Responsibility.** The Client shall be solely responsible for keeping, and shall take all steps to keep, any Nium Account opened and maintained with Nium safe at all times. The Client undertakes to notify Nium immediately upon becoming aware of or reasonably suspecting that any Nium Account has been misappropriated, used without authorisation or otherwise compromised. Any delay in or failure to notify Nium shall result in the Client being liable for any Losses that arise in connection therewith.
- c. **Access and Use.** The Nium Account shall be operated and accessed solely by the Client or a Client Authorised Representative. The Client shall be fully liable for any acts and omissions of any Client Authorised Representative or persons acting or purported to act on its behalf. If the Client allows any other third party (other than a Client Authorised Representative) to have access to or to operate any Nium Account for whatever reason, the Client shall be deemed to have authorised such use and shall be liable for all Losses and fees incurred by such use.
- d. **Funding.** The Client or, if approved in writing by Nium, an authorised third party, may fund the Available Balance in any Supported Currency into a Settlement Account. In order to facilitate the provision of the Services, except to the extent prohibited by Applicable Laws, the Client authorises Nium to hold funds on behalf of the Client in one or more Settlement Accounts maintained by Nium and its Affiliates that are located outside of the Licensed Jurisdiction.
- e. **Acknowledgement of Risks.** The Client acknowledges and agrees that:
 - (i) maintaining an Available Balance in multiple currencies carries foreign exchange risks, for example it is possible that the exchange rate improves over time and the Client will not receive the benefit of such fluctuations. The Client agrees to assume the aforementioned foreign exchange risks and waive all claims against Nium with respect to such risks; and
 - (ii) it does not have any right or control over the Settlement Account and any interest earned on monies held in the Settlement Account is not payable to the Client.
- f. **Shortfall.** Nium shall not be liable to make up for any shortfall in any Available Balance received by Nium (including due to bank or payment network charges) unless such shortfall is due to the gross negligence or wilful default of Nium.

- g. **Reserves.** The Client agrees that Nium may, from time to time, establish and withhold from the Available Balance such reserve amounts (“**Reserves**”), to cover any obligations of the Client (including, but not limited to, outstanding Fees, Pay In Reversals, Pay In Refunds, or Assessments) under this Agreement or any other agreement that Client or its Affiliates may have with Nium or its Affiliates. Nium may additionally fund the Reserves through: (i) the funds provided by the Client at Nium’s request; (ii) any amount owed by Nium or an Affiliate of Nium to the client or an Affiliate of the Client; and/or (iii) debiting the bank account of the Client. Nium may, at its option, vary the rate or terms of the Reserves. Nium’s rights with respect to the Reserves shall survive the termination of this Agreement. Nium will notify the Client in the event that it establishes the Reserves.
- h. **Termination.** Upon the termination or expiry of this Agreement, the Client may request for the return of any unused Available Balance in a Nium Account (“**Remaining Available Balance**”) by way of a written notice to Nium. Within thirty (30) days of receipt of such written notice and subject to satisfactory due diligence checks and Applicable Laws, Nium will initiate a refund of the Remaining Available Balance (less all amounts owed to Nium under this Agreement, applicable bank charges, taxes and any third-party fees) to the Client (“**Available Balance Refund**”). Where foreign currency conversion is required, NIUM shall apply the prevailing exchange rate at the time such Available Balance Refund is made. In the event Nium is not able to return the funds to the Client, Nium shall to, the extent permissible by Applicable Laws and to the extent practicable for Nium, notify the Client of the reasons.

7. Representations and Warranties.

- a. **Mutual Representations and Warranties.** Each Party represents and warrants to the other Party that:
 - (i) it is duly organised, registered and validly existing under the Laws of its jurisdiction of organization;
 - (ii) it has all the requisite corporate power, approvals and authority to execute, deliver, receive and perform its obligations under this Agreement;
 - (iii) it has obtained and shall maintain all governmental, regulatory and other third party licences, authorisations, approvals, consents or permits required to perform its obligations under this Agreement and to use or provide the Services;
 - (iv) it is not identified on any of the OFAC Lists, and none of its directors, officers, employees, or holders of equity or debt securities, are identified on, or are 50% or more owned, directly or indirectly, by any person identified on any of the OFAC Lists; and
 - (v) neither Party has received or been offered any illegal or improper bribe, kickback, payment, gift or thing of value from an employee or agent of the other Party in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business that comply with Applicable Laws do not violate the above restriction.
- b. **Client Representations and Warranties.** The Client represents and warrants that it will:

- (i) use the Services only for lawful purposes and in compliance with all Applicable Laws;
- (ii) use the Nium Platform in accordance with the terms of this Agreement and the Documentation and in compliance with all Applicable Laws;
- (iii) and previously has, accurately identified itself, and it has not provided any inaccurate information about itself or its End Customers to or through the Services, and that it has the right to use and disclose such information to Nium;
- (iv) comply with all applicable sanctions and export control laws and will not provide the Services, End Customer Services or any other services provided to an End Customer to any parties that, at the time such Services or End Customer Services are provided, are (A) located or resident in any country or territory that is subject to a U.S. trade embargo or other applicable sanctions prohibiting such services, including but not limited to, the Crimea, Donetsk and Luhansk regions of Ukraine, Cuba, Iran, North Korea, and Syria; and (B) included on any U.S. lists of prohibited parties including, the OFAC Lists or any other applicable sanctions list prohibiting such services;
- (v) not (directly or indirectly) sell, export, reexport, transfer, divert or otherwise dispose of any Services received from Nium in contradiction with the laws and regulations described in subpart (iv) above;
- (vi) provide Nium with all information in relation to this Agreement, the Services, and/or where applicable, any End Customer promptly and in any event not more than seven (7) days following the receipt of a request from Nium or such other longer period as agreed between Nium and the Client, and that all such information provided to Nium by the Client, or any third party on behalf of the Client, is accurate in all material respects, and that such information does not, and the Client will not, omit or withhold any information which would make such information inaccurate in any material respect;
- (vii) notify Nium in writing immediately (A) when there are changes to any information (including but not limited to information pertaining to the Client, (where applicable) End Customers or in connection with any Services) which the Client has previously provided to Nium; and (B) if the Client becomes aware of any event, suspicious activity, investigation or occurrence relating to Anti-Money Laundering/Combating the Financing of Terrorism Laws, or sanctions that implicates Nium or any of Nium's officers, directors, employees or agents to investigations, enforcement actions or criminal actions and in the case where it relates to any Services, provide details of transactions processed in connection with such Services in the preceding twelve (12) month period;
- (viii) ensure that any payments or transactions made pursuant to any Services are not in any way associated with the activities, entities or industries listed in the prohibited list provided by Nium to the Client from time to time or as set out on www.nium.com (as amended from time to time) ("**Prohibited Business Categories**");
- (ix) comply with all Applicable Laws and Nium's anti-money laundering policies as provided to Client from time to time;
- (x) to the extent permitted by Applicable Laws, it shall immediately notify Nium if it detects any suspicious, fraudulent or other form of criminal activity relating to any

payments or transactions made pursuant to any Services and cooperate with Nium to investigate and/or prevent such further activity;

- (xi) establish, apply and maintain robust security systems and procedures to effectively monitor access to and use of the Access Codes and the Nium Platform; and
- (xii) ensure that any data that has been accessed, printed or otherwise downloaded from the Nium Platform is retained securely at all times.

c. **Nium Representations and Warranties.** Nium represents and warrants that it will:

- (i) comply with all Applicable Laws in fulfilling its obligations under this Agreement and the provision of the Services;
- (ii) implement, maintain and comply with policies and procedures that are designed to detect and prevent money laundering, terrorist financing, fraud and/or other crimes or sanctions and shall review and update such policies as necessary to reflect any changes in Applicable Laws; and
- (iii) have in place reasonable business continuity and disaster recovery policies and at all times, maintain, test and comply with such policies.

d. **Disclaimer of All Other Warranties for Services.** THE SERVICES ARE PROVIDED "AS IS". EXCEPT AS OTHERWISE EXPRESSLY PROVIDED UNDER THIS AGREEMENT, NIUM MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE REGARDING THE SERVICES, INCLUDING ANY WARRANTY THAT THE SERVICES OR NIUM PLATFORM WILL BE UNINTERRUPTED, ERROR FREE OR FREE OF HARMFUL COMPONENTS, OR THAT ANY DATA OR INFORMATION, INCLUDING CLIENT OR END CUSTOMER CONFIDENTIAL INFORMATION OR DATA, WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED. CLIENT ACKNOWLEDGES THAT NIUM DOES NOT CONTROL OR MONITOR THE TRANSFER OF DATA OVER THE INTERNET, AND THAT INTERNET ACCESSIBILITY CARRIES WITH IT THE RISK THAT CLIENT'S (OR END CUSTOMER'S) PRIVACY, CONFIDENTIAL INFORMATION AND PROPERTY MAY BE LOST OR COMPROMISED. EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAWS, NIUM DISCLAIMS ALL WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE.

8. **End Customer Authorisation.** The Client authorises Nium to, and where applicable, shall procure the necessary authorisation from any End Customer for Nium to, directly or through third parties, make any inquiries Nium considers necessary for the purpose of this Agreement and/or any Services, including to validate the Client's or, where applicable, any End Customer's identity. This may include making periodic searches of, and providing information (including Confidential Information) about the Client, or where applicable, an End Customer to, a Network, credit reference, market research, customer feedback, fraud prevention agencies, Affiliate of Nium, Representatives or other third parties involved in the provision of services under any Services for any purpose in connection with this Agreement.

9. **Fees and Other Amounts Payable to Nium.**

- a. **Payment of Fees.** The Client will pay the Fees as set out in Appendix A and any other amounts due and payable to Nium under this Agreement to Nium in full within seven (7) days (“**Payment Date**”) from the date of invoice. Breach of any paragraph of this Clause 9 constitutes a material breach incapable of being remedied entitling Nium to terminate this Agreement immediately. If any amount due to Nium pursuant to this Agreement is not paid by the Client in full on or before the Payment Date for whatever reason, the Client shall pay Nium a finance charge equal two per cent (2%) per month (or the highest rate permitted by Applicable Laws, whichever is lower) on any unpaid amount from the date such payment was due until the date paid. Client will be responsible for all reasonable expenses (including attorneys’ fees) incurred by Nium in collecting past due amounts.
- b. **Setoff.** Nium may from time to time, without notice, set-off or deduct by whatever means the whole or any part of the liabilities of the Client or its Affiliates under this Agreement or any other agreement between Nium and/or its Affiliates and the Client and/or its Affiliates (whether such liabilities are present, future, actual or contingent or potential, liquidated or unliquidated and irrespective of the currency of their denomination) against any amounts (i) held by Nium on behalf of the Client or by an Affiliate of Nium on behalf of another Affiliate of the Client, or (ii) owed by Nium to the Client under this Agreement or by any Affiliate of Nium to any Affiliate of the Client under the relevant agreement.
- c. **Taxes.** All Fees, and any other amounts due under this Agreement shall be paid by the Client in full without any deductions (including deductions in respect of applicable Taxes, charges and/or duties). Any Tax payable in respect of any payments made under this Agreement (other than Tax payable on Nium’s net income, profits or gains) shall be borne by the Client.
- d. **Third Party Fees.** Nium may from time to time introduce or vary any third party fees which apply to any Services upon notice to the Client.

10. Right of Audit.

- a. **Audits.** Upon receipt of prior reasonable notice, the Client will permit, and will cause each Subcontractor to permit, as applicable, Nium and its authorised Representative or any Regulatory Body designated by Nium to:
 - (i) access during business hours such premise systems and personnel on which the Client’s or, where applicable, Subcontractor’s business takes place or where the Client’s or, where applicable, Subcontractor’s records are located;
 - (ii) take and retain copies of all such records, procedures, personnel and information to ascertain if the Client or, where applicable, Subcontractor are performing its obligations in accordance with this Agreement, Nium Policies and Applicable Laws; and
 - (iii) perform an assessment of the Client’s or, where applicable, Subcontractors’ policies, standards, systems and procedures to ascertain compliance with the terms of this Agreement.
- b. **Audit Costs.** Where an audit is undertaken pursuant to a request by any Regulatory Body related to the Client or pursuant to an event giving rise to a breach of this Agreement by the Client (including security breach), the Client shall pay any cost and expense incurred by Nium or its Representatives with respect to such audit.

- 11. Security.** Nium may at any time require that the Client procure, within thirty (30) days (or such longer period as Nium may determine is reasonable) after receiving Nium's written request, that a person (or persons) reasonably satisfactory to Nium provide Nium with a guarantee, indemnity, cash reserve or other security (including the replacement of any existing security) in such form and over such assets as Nium may reasonably require to secure to Nium's reasonable satisfaction the performance of the Client's obligations (including contingent or potential obligations) from time to time under this Agreement. Nium may charge the Client for any reasonable external costs incurred by Nium in exercising its rights under this Clause 11.
- 12. Confidential Information.**
- a. **Confidentiality Obligations.** Each Party will, and will cause its Representatives to, keep confidential and not use or disclose the other Party's Confidential Information except as permitted by this Agreement. Each Party agrees to limit access to the other Party's Confidential Information to such of its personnel, agents, subcontractors, suppliers and/or consultants, if any, who have a need to access such information in accordance with the terms of this Agreement. Both Parties agree that all Confidential Information is proprietary to the disclosing Party and shall remain the sole property of the disclosing Party. The receiving Party will be liable to the disclosing Party for any unauthorised disclosure by its Representatives, or by the Representatives of its Affiliates.
- b. **Exceptions.** This Clause is not breached by uses or disclosures of Confidential Information that are (i) authorised in writing by the disclosing Party prior to the receiving Party's use or disclosure; or (ii) required by Applicable Laws, or by a Regulatory Body ("**Compelled Disclosure**") provided that, such Party will use reasonable efforts to provide the other Party with prior notice (to the extent legally permitted) in order to afford the other Party an opportunity to seek a protective order or otherwise challenge the Compelled Disclosure. The non-disclosing Party is solely responsible for any expenses incurred in seeking to prevent a Compelled Disclosure. After provision of such legally permissible prior notice, the disclosing Party will not be liable if such Party complies with the disclosure after giving the other Party a reasonable amount of time to respond.
- c. **Expiration or Termination of Services Agreement.** Unless expressly permitted under this Agreement, on expiry or termination of this Agreement, at the written request of the disclosing Party, all Confidential Information must either be returned to the disclosing Party or destroyed by the receiving Party and its Representatives no later than fifteen (15) days after the written request; provided, however, that (i) the receiving Party and its Representatives, subject to the obligations of this Agreement, shall not be required to destroy electronic copies of any computer records or files containing the Confidential Information which have been created pursuant to automatic archiving or back-up procedures on secured central storage servers and which cannot reasonably be deleted, and (ii) the receiving Party may retain one (1) electronic copy of the Confidential Information (the "**Retained Copy**"), but the Retained Copy shall be accessed and used by the receiving Party solely for the purposes of (A) ensuring compliance with Applicable Laws and record retention policies, and (B) defending or maintaining any litigation with respect to the terms of this Agreement. At the request of the disclosing Party, the receiving Party will furnish a certificate, signed by the receiving Party, certifying that any Confidential Information not returned to the disclosing Party has been returned or destroyed by the Receiving Party in accordance with this Clause 12.
- d. **Survival.** The obligations set forth under this Clause 12 will survive termination of this Agreement.

13. Intellectual Property Rights.

- a. **Ownership and Retention.** Nium reserves all right, title, and interest in and to any materials produced by Nium including, without limitation, all of Nium's Intellectual Property Rights. Nium shall own and retain all right, title and interest in the Services, the Nium Technology, and all other Intellectual Property Rights of Nium, and shall own and retain all improvements thereon. Other than the licence granted during the Term of this Agreement, as set forth in Clause 13(b), Client shall not acquire any rights, title, or interest, express or implied, to the Services, Nium Technology, or other Intellectual Property Rights of Nium, nor to any derivative works, modifications, enhancements, improvements, translations or other alterations thereto ("Nium Derivative Works"). To the extent any assignment is necessary to evidence the intent of this clause, Client agrees to assign to Nium all of its right, title, and interest in and to such Nium Derivative Works, and any part thereof, and in and to all copyrights, patents and other proprietary rights they may have in such Nium Derivative Works.
- b. **Access and Use.** Nium grants the Client during the term of this Agreement a limited, non-exclusive, worldwide, royalty-free, non-transferable, non-sublicensable licence to electronically access and use the Nium Platform and the Services solely in compliance with this Agreement. Except as expressly permitted by Applicable Laws, the Client must not: (i) work around any of the technical limitations of the Nium Platform or the Services or enable functionality that is disabled or prohibited; (ii) reverse engineer or attempt to reverse engineer the Nium Platform or the Services; or (iii) perform or attempt to perform any actions that interfere with the normal operation of the Nium Platform or the Services or affect use of the Nium Platform or the Services by Nium's other customers.
- c. **Marketing Materials.** Client consents to Nium's use of Client's name and logos in marketing materials, and Nium may disclose the relationship with the Client (i) in customer reference lists and sales presentation, and (ii) via public disclosures (including but not limited to social media sites or on Nium's website). Nium and the Client may issue a mutually agreed press release on execution of this Agreement.

14. Indemnification.

- a. **Client Indemnification.** The Client will, to the fullest extent permitted by Applicable Laws, indemnify, defend and hold harmless Nium, its Affiliates, subcontractors and its and their Representatives (each a "**Nium Party**") from and against all Losses and Claims arising out of, related to or in connection with:
 - (i) any breach of this Agreement;
 - (ii) the Client's (or its End Customer's) access to and/or use of the Services, the Nium Technology, the Nium Platform and/or the Documentation, whether or not such access or use was authorised or whether it was due to any act or omission on its part, including any fees, penalties or fines imposed on Nium or its Affiliate by any payment network or any government entity;
 - (iii) the Client's (or its End Customer's) noncompliance with Applicable Laws, including with respect to the Client's (or its End Customer's) access to and/or use of the Services;
 - (iv) the Client's (or its End Customer's) gross negligence or intentional misconduct;

- (v) use of Client's Intellectual Property Rights or any information provided by the Client in connection with this Agreement or the Services;
- (vi) any request, Instruction or information given by the Client or where applicable, by an Approved Third Party or through an Approved Third Party API; or
- (vii) any transaction pursuant to the Services.

The above defence and indemnification obligations do not apply to the extent of a Claim arising from Nium's gross negligence or intentional misconduct.

- b. **Nium Indemnification.** Nium will, to the fullest extent permitted by Applicable Laws, indemnify, defend and hold harmless the Client, its Affiliates, and their Representatives (each a "**Client Party**") from and against all Losses and Claims arising out of, related to or in connection with:
 - (i) any breach of this Agreement;
 - (ii) Nium's noncompliance with Applicable Laws;
 - (iii) Nium's gross negligence or intentional misconduct; or
 - (iv) claims that Nium's Intellectual Property Rights infringe on the Intellectual Property Rights of any third party.

If Nium receives information about an infringement or misappropriation Claim related to the Services, Nium may in its discretion, and at no cost to Client, (A) modify the applicable Service so that it is no longer claimed to infringe or misappropriate the Intellectual Property Rights of a third party, (B) obtain a licence for Client's continued use of the applicable Service in accordance with this Agreement, or (C) terminate this Agreement, in whole or in part, with respect to the applicable Service upon thirty (30) days' written notice to the Client. The indemnification obligations set forth in this [Clause 14\(b\)](#) do not apply if (I) the allegation does not state with specificity that the Service is the basis of the Claim against the Client Party, (II) a Claim against a Client Party arises from the use or combination of the Service or any part thereof with software, hardware, data, or processes not provided by Nium, if the Service or use thereof would not infringe without such combination, (III) the alleged infringement arises from third-party materials or data, (IV) the alleged infringement arises from a modification of the materials other than by or on behalf of Nium, (V) the alleged infringement arises from a failure to timely implement modifications, upgrades, replacements, or enhancements made available to the Client by or on behalf of Nium, or (VI) the Claim ultimately arises from Client's breach of this Agreement or Client's gross negligence or intentional misconduct.

15. **Exclusion and Limitation of Liability.**

- a. **Damages Waiver.** IN NO EVENT WILL NIUM, ITS AFFILIATES OR ITS OR THEIR REPRESENTATIVES HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE SERVICES FOR ANY LOST PROFITS, REVENUES, GOODWILL, OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER, BUSINESS INTERRUPTION OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF THE CLIENT OR ANY CLIENT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF THE CLIENT'S OR ANY CLIENT PARTY'S REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING

DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAWS.

- b. **Liability Cap.** IN NO EVENT SHALL THE AGGREGATE LIABILITY OF NIUM, ITS AFFILIATES, AND ITS OR THEIR REPRESENTATIVES, ARISING OUT OF OR RELATED TO THIS AGREEMENT, EXCEED THE TOTAL FEES PAID BY THE CLIENT TO NIUM UNDER THIS AGREEMENT FOR THE PRECEDING TWELVE (12) MONTHS FROM THE DATE GIVING RISE TO SUCH CLAIM (OR, IF SUCH EVENT OCCURS WITHIN THE FIRST TWELVE (12) MONTHS AFTER THE EFFECTIVE DATE, THE AVERAGE MONTHLY FEES PAID BY THE CLIENT TO NIUM DURING THE TERM OF THE AGREEMENT MULTIPLIED BY TWELVE (12)). THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, BUT WILL NOT LIMIT CLIENT'S AND ITS AFFILIATES' OBLIGATIONS TO PAY FEES UNDER THE TERMS OF THIS AGREEMENT.
- c. **Acknowledgment.** The Parties acknowledge and agree that the exclusion and limitation of liability in this Clause 15 is reasonable having regard to all relevant factors, including the nature and cost of the Services provided and the allocation of risk and liability between the Parties.

16. Termination and Consequence of Termination.

- a. **Termination Without Cause by Either Party.**
 - (i) In addition to the other rights set forth in this Clause 16, either Party may terminate this Agreement at any time by giving the other Party at least thirty (30) days' written notice of termination.
 - (ii) Notwithstanding the foregoing, the Client may not exercise its rights under Clause 16(a)(i) unless, where applicable, the Client has paid Nium any early termination fee as set out in Appendix A ("**Early Termination Fee**"). The Parties agree that the Early Termination Fee constitutes a fair and reasonable determination of the amount of actual damages which would be suffered by Nium in such event, and that the Early Termination Fee does not constitute a penalty, but is liquidated damages, compensatory in nature.
- b. **Termination for Cause by Client.** Without prejudice to any other rights and remedies under this Agreement, the Client may at any time immediately terminate this Agreement, in whole or in part, by written notice to Nium if:
 - (i) Nium commits a material breach of this Agreement, which is not capable of remedy, or if capable of remedy, is not remedied to the Client's reasonable satisfaction within thirty (30) days of service of a notice requiring such remedy; or
 - (ii) Nium becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors ("**Insolvency Proceeding**").
- c. **Termination for Cause by Nium.** Without prejudice to any other rights or remedies under this Agreement, Nium may at any time immediately suspend or terminate this Agreement or the Client's access to the Services, in whole or in part, if:

- (i) the Client commits a material breach of this Agreement, which is not capable of remedy, or if capable of remedy, is not remedied to Nium's reasonable satisfaction within thirty (30) days of service of a notice requiring such remedy;
- (ii) the Client files, or has filed against it, an Insolvency Proceeding;
- (iii) the Client is not paying its debts as they become due and payable;
- (iv) an Affiliate of Nium becomes entitled to terminate any agreement it has with an Affiliate of the Client;
- (v) Nium (A) is required to terminate this Agreement pursuant to an order from any Regulatory Body or the Network or otherwise pursuant to Applicable Laws; (B) reasonably believes that any Service is being used for a purpose contrary to Applicable Laws or for an unauthorised or fraudulent use; or (C) the security of any Service, the Nium Technology or the Nium Platform has been compromised due to the actions or omissions of the Client;
- (vi) the results of any "know your customer" or other similar checks or screenings under Applicable Laws or regulations conducted on the Client are unsatisfactory to Nium in its sole discretion or continuing any Service could cause reputational, regulatory, financial or operational harm to Nium;
- (vii) there is a withdrawal or termination, in whole or in part, of any licence, permission or authorisation required to operate the Client's business;
- (viii) the Client undergoes a change of Control, or a sale or other disposal of any substantial division or part of the Client's business without the prior written consent of Nium; or
- (ix) Nium has provided Client with a written revocation of its approval of an Approved Third Party or Approved Third Party API.

d. Effect of Termination.

- (i) Upon termination or expiration of this Agreement, Client will (i) immediately discontinue or disable the integration of any Approved Third Party API developed hereunder; (ii) remove any reference to Nium from any websites, software applications, marketing or advertising materials; and (iii) return and/or destroy any Nium property (including intellectual property) or Nium Confidential Information in accordance with the terms of this Agreement. Upon termination of this Agreement, all rights and obligations of any Party will cease to have effect immediately, save that the clauses which expressly or by implication have effect after termination will continue to be enforceable notwithstanding such termination (including Clauses 1, 6(h), 10, 12 to 26, and any applicable Clause set forth in Appendix G) and termination will not affect accrued rights, obligations and liabilities of any Party under this Agreement as at the date of termination.
- (ii) If this Agreement is terminated by Nium in accordance with the terms of Clause 16(c), Client will pay Nium the Minimum Monthly Fees for the remainder of the applicable Initial Term or Subsequent Term. In no event will termination relieve Client of its obligation to pay any fees payable to Nium for the period prior to the effective date of termination.

17. **Notice.** All notices, requests, demands, or other communications under this Agreement (“**Notices**”) must be in writing and will be deemed to have been duly given when: (i) if personally delivered to the recipient, on the date in which it is delivered, (ii) if sent by reputable overnight or international delivery service (delivery charges prepaid), on the date in which it is delivered, (iii) if mailed by certified mail, return receipt requested (postage prepaid), on the date in which it is delivered, or (iv) if delivered by email, on the date in which it has been sent by the sender (provided that the sender does not receive a notification that the email was not received by the recipient). All Notices must be sent to the Party’s address or email address that is set forth in the cover page of this Agreement (or to such new address or email address that has been provided, by written Notice, from one Party to the other Party).
18. **Force Majeure.** Nium will not be liable for any delay or failure to perform under this Agreement due to circumstances beyond Nium’s reasonable control, including acts of God, acts of government, flood, fire, earthquakes, civil unrest, pandemics, epidemics, quarantines, acts of terror, strikes or other labor problems, regional shortage of adequate power or telecommunications or transportation, internet or other service disruptions involving hardware, software or power systems not within Nium’s possession or reasonable control, and denial of service attacks.
19. **Services Variation and Amendments to Agreement.**
- a. **Changes in Services and Applicable Laws.** Nium may from time to time, make changes to the Services. If such changes lead to a material change in the Nium Technology affecting the Client, Nium will notify the Client as soon as reasonably practicable. In addition, Nium may vary the terms of this Agreement to the extent required to comply with any change in Applicable Laws, upon written notice to the Client.
- b. **No Other Amendments.** Except as permitted under this Agreement, this Agreement may not be varied unless it is in writing and signed by an authorised representative of each Party.
20. **Assignment and Subcontracting.**
- a. **Assignment by Client.** The Client may not subcontract, assign, novate, charge, declare a trust over or transfer the benefit of all or any part of this Agreement without the prior written consent of Nium.
- b. **Assignment by Nium.** Nium may, without prior consent or notice, novate or assign any or all of its rights and obligations under this Agreement to any:
- (i) of its Affiliates; or
- (ii) or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets.
- c. **Subcontracting by Nium.** Nium may subcontract its obligations under this Agreement to third parties.
21. **Multiple Entities.**
- a. **Multiple Nium Entities.** Where there is one or more Affiliates of Nium providing one or more Services under an Affiliate Agreement, each Affiliate of Nium:

- (i) makes available its own Services as an independent contractor and not as a partner or jointly with Nium or the other Affiliates of Nium, and shall not be liable in connection with the Services provided by Nium or any other Affiliate of Nium, whether jointly or severally; and
 - (ii) shall not require the consent, agreement or participation of any other Affiliate of Nium or Client (save for the relevant Affiliate of the Client that is receiving the Services made available by that Affiliate of Nium) to (A) vary the terms or its rights or obligations under the applicable Affiliate Agreement or its own Services, or (B) exercise or enforce its rights under the applicable Affiliate Agreement or the relevant Services.
- b. **Multiple Client Entities.** Where there is one or more Affiliates of the Client receiving or utilising one or more Services under an Affiliate Agreement and unless otherwise indicated in this Agreement, each Affiliate of Client shall not require the consent, agreement or participation of any other Affiliate of such Client or Nium (save for the relevant Affiliate of Nium that is making available the Services to that Affiliate of Client) to (A) vary the terms or its rights or obligations under the applicable Affiliate Agreement or its own Services, or (B) exercise or enforce its rights under that Affiliate Agreement or the relevant Services.
- c. **Joint and Several Liability of Client.** Where Nium makes available the same Services to more than one Client or Affiliates of Client, each Client will be jointly and severally liable to Nium under this Agreement.
- d. **Effect of Suspension or Termination.** Any Affiliate of Nium or Affiliate of the Client may suspend or terminate any Service, in whole or in part, in accordance with the terms of the applicable Affiliate Agreement. Any suspension or termination shall affect only such portion of that Affiliate Agreement which relates to the Service under suspension or termination, and shall not suspend, terminate, affect, impair, invalidate or render unenforceable any provisions of this Agreement in connection with any other Services.

22. **Affiliate Agreement With Affiliate of Client.**

- a. **Affiliate Agreement.** An Affiliate of the Client may obtain the applicable Services from any relevant Affiliate of Nium upon satisfactory due diligence checks and execution of an Affiliate Agreement with such Affiliate of Nium, in the form substantially set out in Appendix F ("**Affiliate Agreement**"). Each Affiliate Agreement shall (i) incorporate the terms and conditions of this Agreement, and (ii) be a separate agreement apart from this Agreement and from each other. For purposes of the Affiliate Agreement, in the event of any inconsistency between the terms of this Agreement and an Affiliate Agreement, the terms of such Affiliate Agreement shall prevail to the extent of the inconsistency.
- b. **Effect of Termination of this Agreement.** Termination or expiry of this Agreement shall not automatically terminate an Affiliate Agreement unless such termination is due to Nium exercising its rights under Clause 16(c), in which case all Affiliate Agreements shall also be terminated automatically.
- c. **Effect of Termination of an Affiliate Agreement.** Termination of an Affiliate Agreement will not terminate this Agreement. Where an Affiliate Agreement is terminated, at a time when more than one Affiliate Agreement is in force, all other Affiliate Agreements shall remain in full force and effect in accordance with their respective terms.

23. Dispute Resolution.

- a. **Notice.** Without prejudice to either party's rights or remedies under this Agreement, if any party (each a "**Disputing Party**") brings a dispute against the other party arising out of or in connection with this Agreement ("**Dispute**"), such Disputing Party shall give to the other party a written notice of the Dispute, setting out the nature and full particulars of such Dispute ("**Dispute Notice**"). Following service of the Dispute Notice, the parties shall attempt to resolve the Dispute in good faith.
- b. **Resolution Period.** If the parties are unable to resolve the Dispute within twenty (21) days of service of the Dispute Notice or such other period as mutually agreed between the parties ("**Period**"), either party shall be entitled to commence proceedings in court, subject to Clause 24.
- c. **Settlement.** If the Dispute is resolved within the Period, any settlement shall be recorded in writing and signed by the authorised representative of each party.

24. Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the jurisdiction where Nium is incorporated ("**Governing Jurisdiction**") and the parties submit to the exclusive jurisdiction of the courts of the Governing Jurisdiction for any dispute which may arise out of or in connection with this Agreement or the Services.

25. Miscellaneous.

- a. **Entire Agreement.** This Agreement, and all of its Appendices and Schedules, contain the entire understanding of the parties hereto with respect to activities contemplated by this Agreement and supersede all prior agreements and understandings, whether written or oral. Failure to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. The parties intend this Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.
- b. **Equitable Remedies.** Each party acknowledges and agrees that, notwithstanding any other provisions of this Agreement, breach of this Agreement by a party may cause the other party irreparable damage for which recovery of money damages would be inadequate, and that the party that has suffered the breach shall, therefore, be entitled to institute a suit and without posting bond, obtain an injunction against such party, whether interlocutory or preliminary, and to any other equitable relief, before any court, restraining any such breach.
- c. **Further Assurances.** The Client shall, at Nium's request, execute or procure the execution of such documents and do or procure the doing of such acts or things as Nium may reasonably require for the purpose of this Agreement.
- d. **Severability.** Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions of this Agreement or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.
- e. **Independent Contractors.** Unless expressly indicated otherwise in this Agreement, the relationship between the parties to this Agreement shall be that of independent contractors. Nothing in this Agreement shall be construed to create

the relationship of employer and employee, a joint venture, a partnership or joint association between the parties to this Agreement and or any of their respective Affiliates.

- f. **Counterparts.** This Agreement may be executed electronically and in any number of counterparts, which shall together constitute one Agreement. Any Party may enter into this Agreement by signing any such counterpart.
- g. **No Third Party Beneficiaries.** Except for the Nium Party or Client Party, no other person will have any right whatsoever to enforce this Agreement or have the benefit of any of its terms.
- h. **Specific Jurisdiction.** To the extent that Services are provided from Australia, EEA, Hong Kong, Japan, Malaysia, Singapore, the United Kingdom, or the United States, refer to [Appendix G](#) for certain jurisdiction-specific terms and conditions.

- 26. Data Protection Agreement.** The Parties acknowledge and agree that each Party shall act as an independent controller with respect to any Personal Data collected or processed in connection with the Services. The Parties understand and agree that they (a) are acting, and shall act, independently of one another in their respective processing of such Personal Data, and are not and shall not be 'joint controllers' of such Personal Data within the meaning of Article 26(1) of the GDPR; (b) shall provide reasonable cooperation and assistance to the other Party as necessary for the other Party's compliance with Applicable Laws (at the other Party's reasonable expense) with respect to such Personal Data; and (c) shall be bound by the terms of the Data Protection Agreement entered into between the Parties, which is incorporated herein by reference. Each Party will be responsible for its compliance with Applicable Laws.

**APPENDIX C
PAY OUT SERVICE
ADDITIONAL TERMS AND CONDITIONS**

1. Provision of the Pay Out Service.

- a. **Services.** In consideration of the Client paying Fees, Nium shall provide the Pay Out Service to the Client in accordance with the terms of this Agreement and the Client agrees to use the Pay Out Service for its own purpose or to facilitate the provision of End Customer Services to End Customers in accordance with the terms of this Agreement.
- b. **Conditions.** Nium shall process a Pay Out to the Beneficiary named in an Instruction only if (i) the Available Balance sufficiently covers the relevant Instruction, any Fees and any other monies owing to Nium, (ii) satisfactory background and other checks on the End Customer and Beneficiary have been performed, and (iii) the Pay Out does not exceed the limit notified by Nium to the Client from time to time.
- c. **Pay Out Shortfall.** Notwithstanding Clause 1(b) above, if a Pay Out has been processed despite there being insufficient Available Balance, the Client shall be liable to Nium to make up for the shortfall ("**Pay Out Shortfall**") plus any applicable fees, along with any costs incurred by Nium and any other third party on recovering or attempting to recover such Pay Out Shortfall from the Client and shall immediately transfer such amount which equals the Pay Out Shortfall to the Settlement Account upon demand.

2. Description of the Pay Out Service.

- a. **Provision of Services.** Nium shall provide the Pay Out Service to the Client in accordance with the following process:
 - (i) Client shall ensure that Nium receives the Available Balance (which sufficiently covers the Pay Out, any Fees and other monies owing to Nium) prior to the intended pay out time specified in the Instruction. Where the Client has to prefund the Settlement Account, it shall do so in accordance with such guidelines and instructions issued by Nium from time to time. Funds deposited by the Client (A) may not be made via over the counter checks or cash deposit, and (B) must originate from the Client Bank Account;
 - (ii) Client sends Instruction on a Business Day to Nium (including all necessary details of the Pay Out and relevant Beneficiary) through the Nium Platform and Nium shall process such Instruction in the following manner:
 - A. (where an Instruction is transmitted to Nium before the cut-off time applicable to the relevant Pay Out location) make the Pay Out on the same Business Day;
 - B. (where an Instruction is transmitted to Nium after the cut-off time applicable to the relevant Pay Out location) make the Pay Out on the following Business Day;
 - C. all Instructions shall be processed according to the sequence in which the Instructions were received (first in, first out);

provided, in each case, that if such day is not also a day when banks are open for the transaction of business in the Beneficiary's country ("**Beneficiary Country Business Day**"), then the Pay Out shall be made on the following Beneficiary Country Business Day;

- (iii) if the Client is a Financial Institution, prior to sending any Instruction to Nium, it shall perform anti-money laundering, sanctions and politically-exposed persons checks on each Beneficiary in accordance with Applicable Laws and shall supply Nium with satisfactory documentary evidence or such other assistance as may be required to comply with such checks;
- (iv) Nium shall process a Pay Out in the full amount as stipulated in the Instruction through the relevant Financial Partner. The relevant Financial Partner shall process the Pay Out directly to the relevant Beneficiary via its local bank and report the status of such Pay Out to Nium. Nium shall provide transaction status to Client via the Nium Platform on a daily basis;
- (v) A Pay Out may be Cancelled by the Client only if such Pay Out has not been processed by Nium. A Pay Out may be Recalled only after the Pay Out has a "PAID BY BANK" status as specified in the Nium Platform. The Client agrees that Nium cannot guarantee a successful Cancellation or Recall and any request for Cancellation or Recall shall be processed by Nium on commercially reasonable effort basis. Client shall bear all bank charges and administrative costs relating to such Cancelled or Recalled Pay Outs; and
- (vi) for all Payment Trace Requests, the Client shall send such requests to Nium by email.

b. **Taxes; Shortfalls.** The Client acknowledges and agrees that the tax authorities of certain countries and/or jurisdictions may deduct certain tax, fee and/or tariff ("**Remittance Taxes**") from the Pay Outs. If any Pay Out is subject to Remittance Tax, the amount the Beneficiary actually receives may be different from the amount stated in the Instruction ("**Shortfall**"). Nium shall not be required to make up for such Shortfall under any circumstances. The Client acknowledges and agrees that Remittances Taxes are subject to changes from time to time and Nium is under no obligation to notify the Client of any such changes.

c. **Termination.** Nium may, terminate, suspend, reject, cancel, or refuse to process any Instruction or Pay Out at any time without notice. To the extent permissible by Applicable Laws and to the extent practicable for Nium, Nium shall notify the Client of the reason and provide details why such Instruction or Pay Out could not be processed.

3. **Obligations of Nium.** Nium undertakes that the Client's Available Balance will not be used for Nium's internal business requirements or operations. Nium shall repay to Client its Net Available Balance in accordance with this Agreement.

4. **Obligations of The Client.** The Client agrees and undertakes that: (a) it shall comply with all guidelines and directions issued by Nium from time to time to ensure that the Available Balance (including any amount payable to Nium) is deposited in the Settlement Account in the agreed currency in advance and with sufficient time to enable Nium to execute any Instruction, and (b) it shall not submit any Pay Out to Nium for processing unless the funding currency and payout currency are set out in Appendix A. If the Client submits any Pay Out to Nium for processing where the funding currency and payout currency are not set out in Appendix A, Nium may apply any applicable transaction fees and foreign exchange rates at its sole discretion. The Client agrees that it shall not submit any Pay

Out to Nium for processing, if this would cause the Client to breach any condition or transaction limit imposed on the Client by Applicable Laws or by any Regulatory Body.

5. Additional Obligations of Financial Institution Clients Where End Customer Services are Provided.

- a. **Additional Representations.** Where the Client is a Financial Institution and provides End Customer Services, the Client represents and warrants for the duration of the Term that:
- (i) it is solely responsible for providing End Customer Services to the End Customers;
 - (ii) the provision of End Customer Services to the End Customers does not contravene any Applicable Laws and it has obtained and shall maintain all governmental, regulatory and other third party licences, authorisations, approvals, consents or permits ("**Client Licence**") required to provide the End Customer Services to the End Customers, and the provision of End Customer Services to the End Customers does not contravene any Applicable Laws;
 - (iii) it shall maintain a valid Client Licence for the Term and shall notify Nium of (A) any change in its Client Licence that may affect its ability to perform the End Customer Services or the obligations under this Agreement, and (B) revocation of its Client Licence; and
 - (iv) it has implemented and maintained such policies (including anti-money laundering and counter-terrorism financing compliance program ("**AML Policy**") in accordance with Applicable Laws) and its Representatives involved in the performance of the due diligence checks are knowledgeable and have been appropriately trained in compliance with the prevention of money laundering, terrorist financing, fraud or any other financial crimes.
- b. **Suspension or Termination.** Without prejudice to any termination rights of Nium under this Agreement, Nium may at any time immediately suspend or terminate this Agreement or the Client's access to the Client Services, in whole or in part, by written notice to the Client if there is a withdrawal or termination, in whole or in part, of Client, the Client's Licence or the Client's ability to provide the End Customer Services.
- c. **End Customer Support Services.** The Client shall be responsible for and shall be the first point of contact for any End Customer in respect of any complaints, issues or disputes arising in respect of any Services associated with any End Customer Services ("**End Customer Support Services**") at its own cost and expense. The Client will perform the End Customer Support Services in accordance with Applicable Laws. In the event Nium receives any request to provide End Customer Support Services (either directly from any End Customer or such other channels), Nium shall be entitled to refer such request to the Client.
- d. **Services Complaints.** Unless agreed to otherwise between Nium and the Client, upon the Client becoming aware of any complaint in relation to any Services or Nium by an End Customer or a Regulatory Body ("**Services Complaint**"), it will notify Nium immediately and will forward Nium copies of any Services Complaint within three (3) days of the Client's receipt of such Services Complaint, and unless otherwise instructed or permitted by Nium, the Client may not respond to any Regulatory Body or any third party (including any End Customer) on Nium's behalf with respect to such Services Complaint. Any Services Complaint will be managed,

recorded and reported by the Client in accordance with the procedure prescribed by Nium to the Client. All Services Complaints are Confidential Information of Nium and the Client may not disclose, discuss or publicise any Services Complaint except as permitted under this Agreement.

- e. **Anti-Money Laundering Due Diligence.** The Client shall be responsible for:
- (i) conducting due diligence checks on each End Customer in accordance with Applicable Laws including verifying the identity of each End Customer and screening such End Customer for Sanctions and shall develop and implement appropriate customer due diligence policies, procedures and processes;
 - (ii) having adequate resources to monitor compliance with this Agreement and Applicable Laws;
 - (iii) developing and implementing appropriate anti-fraud measures designed to detect, prevent, and mitigate identity theft, fraud and fraudulent activities in connection with any End Customer Services in accordance with Applicable Laws, in respect of identity theft, and Client fraud including transaction fraud, cloning and phishing. Upon request by Nium, the Client shall submit details of the fraud measures and any other information related thereto to Nium and shall implement Nium's recommendations in this regard;
 - (iv) ensuring that its Representatives involved in the performance of this Agreement are knowledgeable and have been appropriately trained in customer due diligence, compliance with Applicable Laws and the prevention of money laundering, terrorist financing, fraud or any other financial crime; and
 - (v) performing sanctions screening on each End Customer against published lists of persons and geographies subject to Sanctions ("**Sanctions Lists**"). If the screening indicates that an End Customer and/or its owner(s) are on any of the Sanctions Lists, the Client will investigate such End Customer and/or its owner(s) and provide additional information, as may be requested by Nium, and will provide the results of such investigation to Nium within three (3) days of receipt of such request from Nium. The Client shall ensure that an End Customer listed on any of the Sanctions Lists shall not be allowed to access any services provided by Nium in connection with the Services or submit any transaction to Nium. In addition, if an existing End Customer is found on a Sanctions List, the Client shall notify Nium, and Nium reserves the right, in its sole discretion, to terminate such existing End Customer's ability to access any services provided by Nium in connection with the Services immediately.

**APPENDIX D
PAY IN SERVICE
ADDITIONAL TERMS AND CONDITIONS**

1. Provision of Pay In Service.

- a. **Services.** In consideration of the Client paying Fees, Nium shall provide the Pay In Service to the Client in accordance with the terms of this Agreement and the Client agrees to use the Pay In Service solely for itself in accordance with the terms of this Agreement. The Client hereby irrevocably instructs and authorises Nium to receive and maintain all of the Available Balance, including any Pay In, in a Settlement Account prior to paying out the Net Available Balance to the Client Bank Account or a Beneficiary in accordance with the terms of Appendix C (Pay Out Service).
- b. **No Representations.** Nium makes no representation or warranty with respect to, nor does Nium have any control of or liability for, any Underlying Transaction or any goods, products or services provided by the Client to any Payer pursuant to any Underlying Transaction. Nium does not guarantee or ensure that any Payer will complete an Underlying Transaction made with the Client. The Client understands and agrees that Nium is not liable for any underpayment or overpayment by a Payer in respect of any Underlying Transaction and that Nium is not required to take any actions to correct such underpayment or overpayment (and that the Client will be responsible for taking any such actions directly with the Payer).
- c. **Conditions to Service.** Nium shall only provide the Pay In Service if:
- (i) the Payer is located in an Approved Jurisdiction and such Pay In is (A) not made via over the counter checks or cash deposit, and (B) originated from the Payer Bank Account;
 - (ii) (where notified by Nium as being a requirement for the Pay In Service) the Client has submitted a Pay In Request to Nium and the results of any due diligence checks on such Pay In Request and/or Pay In are satisfactory;
 - (iii) (where the Pay In originates from India) the Client is a merchant offering (A) digital content or services, or (B) online travel services, as applicable; and
 - (iv) (where the Pay In originates from the United States and is paid to a VBAN issued by a Financial Partner in the United States), the following limits have been complied with:
 - A. the amount of funds has not exceeded the single limit of USD\$250,000;
 - B. the total amount of funds received by the Client in a month has not exceeded the monthly limit of USD\$250,000; and
 - C. the total amount of funds received by the Client for a year has not exceeded the annual limit of USD\$2.5 million.
- d. **Additional Representations and Warranties.** The Client represents and warrants that:

- (i) it owns all right, title and interest in and to the Available Balance including all Pay Ins. No person or entity other than the Client has any rights in relation to any Available Balance;
 - (ii) all information provided in connection with a Pay In Request is accurate in all material respects, and the Client shall not omit or withhold any information which would make such information inaccurate in any material respect, and each Pay In received by Nium relates to the Client or an Underlying Transaction;
 - (iii) it shall not assign, charge, declare trust over or transfer the benefit of all or any part of any Available Balance; and
 - (iv) all Underlying Transactions related to Pay Ins submitted to Nium for processing are in compliance with Applicable Laws.
- e. **Special Provisions.** Where the Pay In originates from Japan, the Client:
- (i) irrevocably authorises and consents to Nium receiving the Pay In on its behalf via an Affiliate of Nium, Nium Japan Kabushiki Kaisha (“**Nium Japan**”) as part of the collection agency services (**Shūnō Daikō**);
 - (ii) irrevocably agrees and accepts that upon Nium Japan’s receipt of such Pay In from a Payer, such Payer’s obligation to pay the Client shall be satisfied in full and any claim the Client has against such Payer will be extinguished;
 - (iii) will make it clear in the agreement between the Client and the Payer that (A) Nium Japan acts as a collection agent, and (B) a Payer’s obligation to pay the Client with respect to an Underlying Transaction shall be satisfied in full and any claim the Client has against such Payer will be extinguished upon Nium Japan’s receipt of the relevant Pay In from such Payer;
 - (iv) shall deliver the applicable goods and/or services to such Payer;
 - (v) shall not use the Pay In Service for receiving funds unrelated to Underlying Transactions;
 - (vi) shall, upon the request of Nium, provide Nium with relevant documents which establish the Underlying Transaction between the Client and an End Customer, and the Pay In relates to goods or services supplied by the Client itself; and
 - (vii) acknowledges and agrees that:
 - A. NIUM Japan shall not be deemed to be providing Pay In Service to the Client by virtue of it receiving a Pay In on behalf of Nium and owes no obligation or liability to the Client under this Agreement. The Client does not have any right to enforce the terms of this Agreement against Nium Japan. In the event that Nium Japan suffers any Losses due to the acts or omissions of the Client or any End Customer, such Losses shall be treated as if suffered by Nium and Nium shall be entitled to seek remedy directly from the Client; and
 - B. neither Nium nor Nium Japan engages in any service that is considered to be “funds transfer transaction” (*kawase torihiki*) as defined in the Banking Act of Japan (Law No. 59 of 1981, as amended) and the Payment Services Act of Japan (Law No. 59 of 2009, as amended).

2. VBANs.

- a. **Generally.** Nium may generate one or more VBANs to the Client upon request from the Client. Notwithstanding the foregoing, Nium may, at its sole discretion, refuse to comply with such request without any liability to the Client. Nium shall, to the extent permitted by Applicable Laws and to the extent practicable for Nium, inform the Client the reason of such refusal.
- b. **Acknowledgments.** The Client acknowledges and agrees, and shall ensure that a Payer is aware and understands, that:
 - (i) a VBAN (A) is a notional representation of the associated Settlement Account created for record keeping, reporting and administrative purposes, (B) it does not hold funds or generate any actual credits and debits independently from the associated Settlement Account, and (c) is not a separate payment account or bank account owned and operated by the Client. It is associated with a Settlement Account. Funds transferred by the Client or a Payer would be credited into the Settlement Account; and
 - (ii) the Financial Partner that maintains the Settlement Account has no contractual duty or relationship with the Client under any circumstances.

3. Transfer of Available Balance.

- a. **Transfer Instructions.** The Client may provide an Instruction to Nium to send any Net Available Balance (“**Transfer Instruction**”) to (i) the Client Bank Account in accordance with the terms in this [Appendix D](#), or (ii) a Beneficiary in accordance with the terms in [Appendix C](#) (Pay Out Service) and any other applicable terms of this Agreement provided that such Transfer Instruction would not result in a negative Available Balance after deducting all Fees and any other amounts due and owing to Nium. Notwithstanding the foregoing, Nium may elect to send the Net Available Balance to the Client Bank Account or a Beneficiary at the Instruction of the Client before Nium has received cleared and unconditional funds from a Payer. If Nium has sent such Net Available Balance to the Client Bank Account or a Beneficiary, but Nium does not receive cleared and unconditional funds in full from a Payer for whatever reason, the Client shall reimburse Nium immediately upon demand. Any overpaid Available Balance represents a debt due and payable to Nium immediately on demand. The Client acknowledges and agrees that Nium’s execution of a Transfer Instruction will fully satisfy Nium’s obligation and/or liability to pay out the Net Available Balance to the Client and shall constitute good receipt by the Client of such Net Available Balance.
- b. **Client Bank Accounts.** The Client shall ensure that the details of any Client Bank Account are correct and complete and shall provide at least thirty (30) days prior written notice to Nium of any change to the Client Bank Account. Until Nium has been notified of such change and has had a reasonable opportunity to act on it, Nium shall be entitled to continue to process any Transfer Instruction to the existing Client Bank Account. Nium shall not be liable for any Losses arising from any Transfer Instruction due to incorrect or incomplete details provided by the Client or the Client’s failure to inform Nium in advance of any change to the Client Bank Account.
- c. **Negative Available Balance.** If the Client’s Available Balance becomes negative for any reason (including (1) Nium paying out funds to, or on behalf of, the Client exceeding the Client’s then available Net Available Balance, (2) Nium not receiving

cleared and unconditional funds in full from a Payer, (3) any unpaid Fees, or (4) any other reason whatsoever):

- (i) Nium may deduct such amount from any funds subsequently received on behalf of the Client or any Available Balance or any other amount held by (A) Nium on behalf of the Client or an Affiliate of the Client or owed by Nium to the Client or an Affiliate of the Client, or (B) held by an Affiliate of Nium on behalf of the Client or an Affiliate of the Client or owed by an Affiliate of Nium to the Client or an Affiliate of the Client under this Agreement, any Affiliate Agreement or any other agreement, or (C) any Reserves or Security; or
 - (ii) the Client shall on demand transfer an amount equal to the Client's negative Available Balance to a bank account notified by Nium.
- d. **Nium's Rights.** Nium may defer or withhold the payment of the Net Available Balance if the Net Available Balance is lower than the applicable minimum threshold (as may be notified to the Client from time to time). Nium may also cancel, reverse, demand refund or cause any Available Balance to be unavailable for pay out to the Client and/or make corresponding adjustments to any entry on the Nium Platform if:
- (i) Nium needs to correct any error or omission;
 - (ii) In the event of a Pay In Reversal, Pay In Refund, or if Nium was otherwise required to return the funds received to the relevant Payment Method Provider for any reason;
 - (iii) Nium reasonable believes that the Available Balance is associated with activities that violated this Agreement, Nium internal policy, Applicable Laws or Network Rules;
 - (iv) Nium has not received the cleared and unconditional funds in full or in time; or
 - (v) Nium has reasonable grounds to do so for any other legitimate reasons.

4. **Suspension and Closure of the VBAN.**

- a. **Inactive VBAN.** If for a period of twelve (12) consecutive months no Pay In or Pay Out has taken place via a VBAN or a zero balance has been associated with such VBAN for such period, Nium may designate such VBAN to be "Inactive". Once the VBAN has been designated as Inactive, Nium may close such VBAN by giving seven (7) days' notice to the Client ("**Inactive Termination Notice**").
- b. **Client Termination.** Subject to the Client providing Nium seven (7) days' prior written notice, the Client may request that any VBAN be closed or suspended at any time.
- c. **Nium Termination.** Nium may close or suspend any VBAN, or limit the Client's access to the Available Balance associated with such VBAN, without prior notice to the Client (i) if the Client breaches this Agreement, (ii) pursuant to any proprietary fraud and risk modeling used by Nium when assessing the risk associated with the Client's use of the Pay In or Pay Out Service, (iii) pursuant to Applicable Laws, Sanctions or the instructions of any Regulatory Body, or (iv) pursuant to an Inactive Termination Notice.

5. Taxes.

- a. **Client Responsibility.** The Client is solely responsible for determining, assessing, collecting, payment, remittance and/or reporting the correct Tax to the applicable tax authority ("**Tax Authority**") in respect of any Pay In as well as any other applicable reporting requirements, including, but not limited to, customs or foreign currency controls, in compliance with all Applicable Laws. Nium is not obligated to, and will not determine whether Taxes apply, and unless required to do so by any Tax Authority, Nium will not calculate, collect, pay or remit any Taxes to any Tax Authority arising from any Pay In, which is strictly the Client's sole responsibility.
- b. **Client Cooperation.** If a Tax Authority and/or Applicable Laws require Nium to make any form of deduction or payment in respect of Tax for which the Client is liable, Nium may make such deduction from the Available Balance and/or payment to the Tax Authority and Client shall provide Nium with such information needed.
- c. **Pay In Indemnity.** The Client shall indemnify, defend and hold Nium harmless for all Taxes imposed in connection with any Pay In and any action, cost, damage, disbursement, expense, liability, loss, deficiency, diminution in value, obligation, penalty or settlement of any kind or nature, including, but not limited to, interest or other carrying costs, penalties, legal, accounting and other professional fees and expenses reasonably incurred in the investigation, collection, prosecution and defence of claims and amounts paid in settlement, that may be imposed on or otherwise incurred or suffered by Nium.

**APPENDIX E
DEFINITIONS**

The following capitalised terms in the Agreement shall have the following definitions:

APPENDIX E – DEFINITIONS	
“Affiliate”	means any entity which Controls or is Controlled by or under common Control with or by a Party.
“API”	means a software application program interface.
“Applicable Laws”	means (a) any law or regulation in the relevant jurisdictions applicable to a Party and/or the Services from time to time; (b) the operating rules, regulations and guidelines and technical standards promulgated from time to time by any organisation which apply in respect of the Services (including the Network Rules); and (c) any conditions placed on a licence issued to Nium by a Regulatory Body.
“Approved Third Party”	means a party that (i) is <u>not</u> the Client, Nium, or an Affiliate of Nium, and (ii) has received the prior written approval by Nium to provide APIs or services that are to be integrated by Client into the Services, Nium Technology or Nium Platform.
“Approved Third Party API”	means an API, created by an Approved Third Party, that has received the prior written approval by Nium to be integrated into the Services, Nium Technology or Nium Platform.
“Approved Jurisdictions”	means those countries as notified by Nium to the Client from time to time being where Nium has the ability to facilitate the provision of the Services.
“Assessments”	means any assessment, fine, or similar charge of any nature which a Network, Payment Method Provider or Regulatory Body levies on the Client or Nium at any time, directly or indirectly, in respect of the Services or any Transaction.
“Authorisation”	means a confirmation from the Payment Method Provider that at the time of the Transaction there are sufficient funds available to pay for the relevant Transaction.
“Available Balance”	means the total balance of cleared funds held by Nium on behalf of the Client in the Settlement Account.
“Beneficiary”	means an individual or entity (which shall include the Client) holding a bank account or other form of stored value account located in an Approved Jurisdiction and identified by the Client in an Instruction as the recipient of a Pay Out.
“Business Day”	means a day, other than a Saturday or Sunday or public or bank holiday, when banks are open for the transaction of business in the country where Nium is located.
“Cancellation”	means an instruction given by the Client to Nium to cancel a Pay Out before such Pay Out has been processed by Nium.

APPENDIX E – DEFINITIONS	
“Claim”	means any claim, demand, lawsuit, sanction, judgement, all foreseeable or unforeseeable and alleged or actual action, causes of action or other similar proceeding.
“Client”	means the client whose details are described in the Cover Page as approved by Nium to obtain the Services as set out in this Agreement (a) for its own purposes, or (b) to facilitate provision of End Customer Services to its End Customers.
“Client Authorised Representative”	Means Representatives authorised by the Client to access and use the Nium Platform.
“Client Bank Account”	means an account held in the name of the Client with a duly licenced financial institution in an Approved Jurisdiction used to receive a Pay Out pursuant to the Pay Out Service.
“Confidential Information”	means all information, data, practices and techniques relating to a Party’s or its Affiliates’ clients, competitors, business, operations, strategies, computer systems, marketing systems and Intellectual Property Rights or other property, of which the other Party becomes aware in negotiating or performing this Agreement, but does not include information which is publicly available or was lawfully known at the time of disclosure or later becomes part of the public domain through no breach of this Agreement. This Agreement and the Fees are Nium’s Confidential Information.
“Control”	means direct or indirect ownership of more than 50% of the voting power or equity in an entity.
“Deductions”	means all amounts which Nium is entitled to deduct from the Available Balance under Applicable Laws, and/or this Agreement including: (a) Fees, (b) Pay In Reversals, (c) Pay In Refunds, (d) Assessments, (e) Pay Outs, (f) Reserves and (g) Taxes.
“Documentation”	means Nium’s product support documentation, API documentation and applicable pages on its website, as updated by Nium from time to time.
“EEA”	means the European Economic Area.
“End Customer”	means, in the case that the Client is a Financial Institution, a person or entity that is a customer of the Client and to whom the Client provides payment services or any other services to. For the avoidance of doubt, Nium is not providing, and shall not be construed as providing, Services to any End Customer.
“End Customer Services”	means services independently provided by the Client to an End Customer under a separate agreement entered into between the Client and the End Customer.
“Fees”	means the amounts payable by the Client as set out in <u>Appendix A</u> .

APPENDIX E – DEFINITIONS	
“Financial Institution”	means a bank, major payment institution, money services business, electronic money institution, or other type of financial services institution that is duly licenced under Applicable Laws by a government financial institution authority.
“Financial Partner”	means a Financial Institution that has entered into an agreement with Nium to facilitate the provision of Services to the Client.
“Initial Term”	means the “Initial Term” stated on the Cover Page.
“Instruction”	means an instruction from the Client directly or via an Approved Third Party to Nium including any instruction made by telephone, letter, email or via the Nium Platform. All Instructions are binding upon the Client once submitted to Nium directly or via the Approved Third Party.
“Intellectual Property Rights”	means any patent, right to invention, copyright, trademark, service mark, trade secret, trade dress, mask work, moral right, right of attribution or integrity, business names and domain names, goodwill and the right to sue for passing off or unfair competition, rights in computer software, database rights, right to use and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property or proprietary right arising under the laws of any jurisdiction (including, without limitation, all claims and causes of action for infringement, misappropriation or violation thereof and all rights in any registrations and renewals), which subsist or will subsist in the future in any part of the world, and whether registered or unregistered (including any applications and rights to be granted, renewals or extensions of, and right to claim priority from, such rights.
“Loss”	means any damages, awards, settlement amounts, fines, penalties, costs, fees and expenses (including, but not limited to, reasonable attorney’s fees and expenses) or other liabilities or losses of any kind whatsoever that are incurred in connection with a Claim.
“Net Available Balance ”	means the Available Balance, net of applicable Deductions.
“Network”	means Visa, MasterCard or any other association, payment network or similar entity.
“Network Rules”	means the operating rules, regulations and guidelines and technical standards promulgated from time to time by any Network which apply in respect of the Services.
“Nium Account”	means an account assigned to the Client by Nium and denominated in a Supported Currency.
“Nium Platform”	means the online dashboard, APIs and other Nium systems made available to the Client.
“Nium Technology”	means all hardware, software, APIs, user interfaces (including the Nium Platform), Documentation and other technology that Nium owns or licences and that Nium uses to provide the Services.

APPENDIX E – DEFINITIONS	
“OFAC”	means the Office of Foreign Asset Control of the United States Department of the Treasury.
“OFAC Lists”	means the sanctions lists maintained by OFAC, including the Specially Designated Nationals and Blocked Persons List, Foreign Sanctions Evaders List, and the Sectoral Sanctions Identifications List.
“Pay In”	means any funds received by Nium on behalf of the Client, in each case, which relate to the Client or an Underlying Transaction.
“Pay in Refund”	means an Instruction initiated by the Client to return funds to the Payer in respect of a Pay In.
“Pay In Reversal”	means an instruction initiated by a Payer, the Payer’s financial institution or a Payment Method Provider to return funds to the Payer, the Payer’s financial institution or the Payment Method Provider in respect of a Pay In, including a dispute, chargeback, payment reversal, authorization reversal, error reversal, or any other type of reversal.
“Pay In Request”	means an Instruction submitted by the Client to Nium to accept a Pay In into a VBAN.
“Pay In Service”	means the services provided by Nium that enable the Client to (a) receive Client funds or a Pay In in a Supported Currency from a Payer to a VBAN, and (b) exchange the Client funds or Pay Ins from one Supported Currency to another Supported Currency.
“Pay Out”	means a transaction where Nium transfers funds from the Client’s Nium Account to a Beneficiary, in accordance with an Instruction.
“Pay Out Service”	means the services provided by Nium that enable the Client to make a Pay Out.
“Payer”	means any person located in an Approved Jurisdiction that transfers funds to the Client via a Pay In. For the avoidance of doubt, Nium is not providing and, shall not be construed as providing, Services to any Payer.
“Payer Bank Account”	means where applicable, a bank account or other form of stored value account held in the name of a Payer in an Approved Jurisdiction, which is used to send funds to a VBAN of the Client.
“Payment Method Providers”	means providers of payment methods which can be used by a Payer as a means of payment for Underlying Transaction including payment cards, bank transfers, direct debits, vouchers, post-pay solutions and wallets.
“Payment Trace Request”	means an Instruction given by the Client to Nium to ascertain the status of a Pay Out processed by Nium through either a trace request or a request for receipt of a proof of payment.

APPENDIX E – DEFINITIONS	
“Personal Data”	means the Personal Data to be shared by Client to Nium under this Agreement. Personal Data shall be confined to the information necessary for the provision and the receipt (as applicable) of the Services under this Agreement.
“Recall”	means an Instruction given by the Client to Nium to recall a Pay Out after such Pay Out has been processed by Nium.
“Regulatory Body”	means any governmental, regulatory, or administrative authority, department, agency, commission, board, tribunal, crown corporation, or other law, rule or regulation making entity (including an applicable Network and any stock exchange) that any of the Parties and/or their Affiliate submit to, are regulated or governed by, or are subject to the jurisdiction of, in respect of this Agreement, and any successor or replacement of any of the foregoing.
“Representatives”	means with respect to a Party, the officers, directors, employees, agents, subcontractors and advisors of such Party.
“Return”	means the Beneficiary bank has returned the funds received from Nium or a Financial Partner in connection with a Pay Out to Nium or such Financial Partner.
“Sanctions”	means any economic sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by: (a) Singapore, (b) the European Union, (c) the United States, (d) the United Kingdom, (e) the United Nations, or (f) any other relevant sanctions authorities.
“Services”	means, collectively, the Pay Out Service, the Pay In Service, and any other services provided by Nium to the Client under this Agreement.
“Settlement Account”	means a pooled bank account maintained by Nium with a Financial Partner in which Nium holds funds on behalf of its customers, including the Client, for the purpose of providing the Services.
“Subcontractor”	means any third party which performs any obligations on behalf of or provides services to the Client to enable the Client to perform any of its obligations under this Agreement.
“Supported Currency”	means each type of currency that is permitted by Nium, in its sole discretion, to fund a Nium Account.

APPENDIX E – DEFINITIONS

"Tax"	means and includes, in relation to any jurisdiction, whether levied during or after the expiry of the term, any applicable national, state, local or foreign income, gross receipts, licence, payroll, employment, excise, business, corporate income, severance, occupation, premium, windfall profits, capital gains tax, entertainment tax, registration fees or stamp duties, works contract tax, advertising/sponsorship-related taxes, luxury tax, environmental, customs duties, tariffs, octroi, capital stock, wealth, land, franchise, profits, withholding taxes, fringe benefits, payroll, unemployment, disability, real property, personal property, sale, use, consumption, lease, research and development, service, transfer, recording, documenting, registration, sales tax, alternative or add-on minimum, estimated or other tax or duty of any kind whatsoever and includes any surcharge, excess, charge, levy, interest, fee, penalty, related to or in addition thereto (whether direct or indirect and wherever and whenever imposed or could potentially be imposed or any deposit of tax with the authorities by way of a guarantee or security pursuant to or without any tax claim (whether disputed or not, whether by way of withholding or deduction for or on account of tax or otherwise, on a normative or deemed basis or by applying any other method, and includes for the purpose of clarity, any tax levied pursuant to audit by the tax authorities under any of the processes prescribed under the relevant law) by any authorities).
"Underlying Transaction"	means any legitimate business transaction between the Client and a Payer.
"VBAN"	means a virtual bank account number that is a unique identification number associated with a Settlement Account, which enables Nium to accept a Pay In from the Client or a Payer, on behalf of the Client.

**APPENDIX G
INTERNATIONAL JURISDICTIONS
ADDITIONAL TERMS AND CONDITIONS**

The following sections of this Appendix G are jurisdiction specific, and the additional terms and conditions apply to the extent that Services are provided from any of the following countries:

1. Australia
2. Canada
3. EEA
4. Hong Kong
5. Japan
6. Malaysia
7. Singapore
8. United Kingdom
9. United States



APPENDIX G 1 - AUSTRALIA

1. Client Services Provider.

- a. **Parties. Nium Pty. Ltd**, a private limited company organised in Australia (ACN 601 384 025) (“**Nium AU**”), provides Services in Australia (“**AU Services**”). Nium AU has its principal office at Level 4, 152 Elizabeth Street, Melbourne VIC 3000. Nium AU is registered as a remittance service provider with the Australian Transaction Reports and Analysis Centre (“**AUSTRAC**”).
- b. **Interpretation.** In the context of the AU Services:
 - (i) the Parties agree that the Agreement is supplemented and/or amended (as applicable) as set out in this Appendix G; and
 - (ii) in the event of any inconsistency or conflict between the provisions in this Appendix G and the Agreement, the provisions in this Appendix shall prevail to the extent of the inconsistency.

2. Amendments to the Agreement.

- a. **Governing Law.** Clause 24 of Appendix B to the Agreement is deleted in its entirety and replaced with the following new Clause 24:

“24. GOVERNING LAW AND JURISDICTION. *This Agreement shall be governed by and construed in accordance with the laws of Victoria, Australia and the Parties submit to the exclusive jurisdiction of the courts of Victoria, Australia for any dispute which may arise out of or in connection with this Agreement.*“



APPENDIX G 2 - CANADA

1. Client Services Provider.

- a. **Parties. Nium Canada Corporation**, a corporation incorporated under the laws of British Columbia (BC1041324) (“**Nium CA**”), provides Services in Canada (“**CA Services**”). Nium CA has its principal office at 552A Clarke Road, Suite 299 Coquitlam, BC, V3J0A3. Nium CA is registered as a money services business with the Financial Transactions and Reports Analysis Centre (“**FINTRAC**”).
- b. **Interpretation.** In the context of the CA Services:
 - (i) the Parties agree that the Agreement is supplemented and/or amended (as applicable) as set out in this Appendix G; and
 - (ii) in the event of any inconsistency or conflict between the provisions in this Appendix G and the Agreement, the provisions in this Appendix shall prevail to the extent of the inconsistency.

2. Amendments to the Agreement.

- a. **Governing Law.** Clause 24 of Appendix B to the Agreement is deleted in its entirety and replaced with the following new Clause 24:

“24. GOVERNING LAW AND JURISDICTION. *This Agreement shall be governed by and construed in accordance with the laws of British Columbia, Canada, and the Parties submit to the exclusive jurisdiction of the courts of British Columbia, Canada, for any dispute which may arise out of or in connection with this Agreement.*“



APPENDIX G 3 - EUROPEAN ECONOMIC AREA

1. Client Services Provider.

- a. **Parties. UAB “Nium EU”**, a limited liability company organised in Lithuania (legal entity code 304548794) (“**Nium EU**”), provides Services in the EEA (“**EEA Client Services**”). Nium EU has its principal office at Konstitucijos pr. 21B, Vilnius, Lithuania. Nium EU holds an electronic money institution licence No. 14, issued by the Bank of Lithuania and is also authorised to issue the payment cards in the Territory as a member of the Network.
- b. **Interpretation.** In the context of the EEA Client Services:
- (i) the Parties agree that the Agreement is supplemented and/or amended (as applicable) as set out in this Appendix G; and
 - (ii) in the event of any inconsistency or conflict between the provisions in this Appendix G and the Agreement, the provisions in this Appendix G shall prevail to the extent of the inconsistency.

2. Amendments to the Agreement.

- a. **Governing Law.** Clause 24 of Appendix B to the Agreement is deleted in its entirety and replaced with the following new Clause 24:

“24. GOVERNING LAW AND JURISDICTION. *This Agreement shall be governed by and construed in accordance with the laws of Lithuania and the Parties submit to the exclusive jurisdiction of the courts of Lithuania for any dispute which may arise out of or in connection with this Agreement.*”

- b. **Definitions.** Appendix E is amended by inserting the following new definitions:

“ PSD 2 ”	means the Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, including any subsidiary legislation, codes, notices and guidelines;
“ Strong Customer Authentication ”	has the meaning given to it in PSD 2;

- c. **Anti-Money Laundering; Client Due Diligence.** Clause 5(e) of Appendix C (Pay Out Service) to the Agreement shall be amended by inserting the following new paragraph (vi) immediately after the existing paragraph (v):

“(vi) implementing Strong Customer Authentication procedures compliant with Applicable Laws in particular with the Commission Delegated Regulation (EU) 2018/389 of 27 November 2017 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council Laws, with regard to regulatory technical standards for strong customer authentication and common and secure open standards of communication. A copy of the

Strong Customer Authentication procedures and the confidentiality and integrity measures relating to the personalised security credentials implemented shall be submitted by the Client to Nium upon request.”



APPENDIX G 4 - HONG KONG

1. Client Services Provider.

- a. **Parties.** **Nium Limited**, a limited company incorporated in Hong Kong (Company No 2298943 (“**Nium HK**”), provides Services in Hong Kong (“**HK Client Services**”). Nium HK has its principal office at Room 517 5F, Inno Centre, 72 Tat Chee Avenue, Kowloon Tong, Hong Kong. Nium HK is registered as a money service operator regulated by the Customs and Excise Department of Hong Kong and is also licenced to provide certain Services in Hong Kong as a member of the Network.
- b. **Interpretation.** In the context of the HK Client Services:
- (i) the Parties agree that the Agreement is supplemented and/or amended (as applicable) as set out in this Appendix G; and
 - (ii) in the event of any inconsistency or conflict between the provisions in this Appendix G and the Agreement, the provisions in this Appendix G shall prevail to the extent of the inconsistency.

2. Amendments to the Agreement.

- a. **Governing Law.** Clause 24 of Appendix B to the Agreement is deleted in its entirety and replaced with the following new Clause 24:

“24. GOVERNING LAW AND JURISDICTION. *This Agreement shall be governed by and construed in accordance with the laws of Hong Kong and the Parties submit to the exclusive jurisdiction of the courts of Hong Kong for any dispute which may arise out of or in connection with this Agreement.*”



APPENDIX G 5 - JAPAN

1. Client Services Provider.

- a. **Parties.** Nium Japan Kabushiki Kaisha, a stock company incorporated in Japan (Company No 2010001190192) (“Nium Japan”), provides Services in Japan (“Japan Client Services”). Nium Japan has its principal office at R8-1 Nihonbashi-kabuto-cho, Chuo-ku, Tokyo, Japan. Nium Japan is licenced by the Kanto Finance Bureau of Japan as a Funds Transfer Service Provider.
- b. **Interpretation.** In the context of the Japan Client Services:
 - (i) the Parties agree that the Agreement is supplemented and/or amended (as applicable) as set out in this Appendix G; and
 - (ii) in the event of any inconsistency or conflict between the provisions in this Appendix G and the Agreement, the provisions in this Appendix G shall prevail to the extent of the inconsistency.

2. Amendments to the Agreement.

- a. **Governing Law.** Clause 24 of Appendix B to the Agreement is deleted in its entirety and replaced with the following new Clause 24:

“24. GOVERNING LAW AND JURISDICTION. *This Agreement shall be governed by and construed in accordance with the laws of Japan and the Parties submit to the exclusive jurisdiction of the courts of Japan for any dispute which may arise out of or in connection with this Agreement.*”



APPENDIX G 6 - MALAYSIA

1. Client Services Provider.

- a. **Parties.** Nium SDN BHD, a private limited company incorporated in Malaysia (Company No. 201701000367 (1214517-X)) (“Nium MY”), provides Services in Malaysia (“MY Client Services”). Nium MY has its principal office at Komune, Level 6-2, UOA Corporate Tower, Lobby B, Avenue 10, The Vertical Bangsar South City, No. 8, Jalan Kerinchi, 59200 Kuala Lumpur, Malaysia. Nium MY is licenced by the Central Bank of Malaysia as a Money Service Business.
- b. **Interpretation.** In the context of the MY Client Services:
 - (i) the Parties agree that the Agreement is supplemented and/or amended (as applicable) as set out in this Appendix G; and
 - (ii) in the event of any inconsistency or conflict between the provisions in this Appendix G and the Agreement, the provisions in this Appendix G shall prevail to the extent of the inconsistency.

2. Amendments to the Agreement.

- a. **Governing Law.** Clause 24 of Appendix B to the Agreement is deleted in its entirety and replaced with the following new Clause 24:

“24. GOVERNING LAW AND JURISDICTION. *This Agreement shall be governed by and construed in accordance with the laws of Malaysia and the Parties submit to the exclusive jurisdiction of the courts of Malaysia for any dispute which may arise out of or in connection with this Agreement.”*

- b. **Provision of End Customer Services.** Clause 5(a)(ii) of Appendix C (Pay Out Service) to the Agreement shall be amended by deleting paragraph (ii) entirely and replacing paragraph (ii) as follows:

“(ii) it has obtained and shall maintain at all times during the term of this Agreement a licence to conduct remittance business as a money service business or financial institution from the Bank Negara Malaysia; and any other governmental, regulatory and other third party licences, authorizations, approvals, consents or permits (“Client Licence”) required to provide the End Customer Services to the End Customers, and the provision of End Customer Services to the End Customers does not contravene any Applicable Laws;”



APPENDIX G 7 - SINGAPORE

1. Client Services Provider.

- a. **Parties.** **Nium Pte. Ltd.**, a private limited company organised in Singapore with Company No 201422465R (“**Nium SG**”), provides Services in Singapore (“**SG Client Services**”). Nium SG has its principal office at 16 Raffles Quay, #20-05 Hong Leong Building, Singapore. 048581, Nium SG holds a major payment institution Licence no PS 20200276 issued by the Monetary Authority of Singapore and is also authorised to issue the payment cards in Singapore as a member of the Network.
- b. **Interpretation.** In the context of the SG Client Services:
 - (i) the Parties agree that the Agreement is supplemented and/or amended (as applicable) as set out in this Appendix G; and
 - (ii) in the event of any inconsistency or conflict between the provisions in this Appendix G and the Agreement, the provisions in this Appendix G shall prevail to the extent of the inconsistency.

2. Amendments to the Agreement.

- a. **Governing Law.** Clause 24 of Appendix B to the Agreement is deleted in its entirety and replaced with the following new Clause 24:

“24. GOVERNING LAW AND JURISDICTION. *This Agreement shall be governed by and construed in accordance with the laws of the Singapore and the Parties submit to the exclusive jurisdiction of the courts of Singapore for any dispute which may arise out of or in connection with this Agreement.*”



**APPENDIX G
8 - UNITED KINGDOM**

1. Client Services Provider.

- a. **Parties. Nium Fintech Limited**, a limited company incorporated in England and Wales (number 09039850) (“**Nium UK**”), provides Services in the United Kingdom (“**UK Client Services**”). Nium UK its principal office at 05-132,1 Poultry, London EC2R 8EJ. Nium UK is an electronic money institution, with firm reference number 901024, with its licence issued by the Financial Conduct Authority on 18 August 2020 and is also authorised to issue the payment cards in the United Kingdom as a member of the Network.
- b. **Interpretation.** In the context of the UK Client Services:
- (i) the Parties agree that the Agreement is supplemented and/or amended (as applicable) as set out in this Appendix G; and
 - (ii) in the event of any inconsistency or conflict between the provisions in this Appendix G and the Agreement, the provisions in this Appendix G shall prevail to the extent of the inconsistency.

2. Amendments to the Agreement.

- a. **Governing Law.** Clause 24 of Appendix B to the Agreement is deleted in its entirety and replaced with the following new Clause 24:

“24. GOVERNING LAW AND JURISDICTION. *This Agreement shall be governed by and construed in accordance with the laws of England and Wales and the Parties submit to the exclusive jurisdiction of the courts of England for any dispute which may arise out of or in connection with this Agreement.*”

- b. **Definitions.** Appendix E to the Agreement is amended by inserting the following new definitions:

“PSR 2017”	means the Payment Services Regulations 2017 of the United Kingdom and shall include any subsidiary legislation, codes, notices and guidelines promulgated in relation thereto and as amended from time to time;
“Strong Customer Authentication”	has the meaning given to it in PSR 2017;

- c. **Anti-Money Laundering; Client Due Diligence.** Clause 5(e) of Appendix C (Pay Out Service) to the Agreement shall be amended by inserting the following new paragraph (vi) immediately after the existing paragraph (v):

“(vi) implement Strong Customer Authentication procedures compliant with the Applicable Laws in particular with PSR 2017 with regard to regulatory technical standards for strong customer authentication and common and secure open standards of communication. A copy of the Strong Customer Authentication procedures and the

confidentiality and integrity measures relating to the personalised security credentials implemented shall be submitted by the Client to Nium upon request.”



**APPENDIX G
9 - UNITED STATES**

1. Client Services Provider.

- a. **Parties. Community Federal Savings Bank**, a federal savings bank chartered in the United States (“**Payment Service Bank**”), provides Services in the United States (“**US Client Services**”). **NIUM, Inc.**, a Delaware corporation (file number 5702837) (“**Nium US**”), operates a software and services platform that permits the Client to receive the Services through the Payment Service Bank. Nium US has its principal office address at 95 Federal Street, Fl. 2, San Francisco, California, 94107.
- b. **Interpretation.** In the context of the US Client Services:
 - (i) the Parties agree that the Agreement is supplemented and/or amended (as applicable) as set out in this Appendix G; and
 - (ii) in the event of any inconsistency or conflict between the provisions in this Appendix G and the Agreement, the provisions in this Appendix G shall prevail to the extent of the inconsistency.

2. Amendments to the Agreement.

- a. **Governing Law.** Clause 24 of Appendix B to the Agreement is deleted in its entirety and replaced with the following new Clause 24:

“24. GOVERNING LAW AND JURISDICTION. *This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York without reference to the conflicts of laws principles thereof. Each party hereby waives trial by jury in any court action or proceeding to which they may be parties, arising out of, in connection with or in any way pertaining to, this Agreement.*

- b. **Definitions.** Appendix E to the Agreement is amended by inserting the following new definitions:

“Nium US”	means Nium, Inc., a Delaware corporation.
“Payment Service Bank”	means Community Federal Savings Bank, a federal savings bank chartered in the United States.
“US Payment Services”	means any Services provided by the Payment Service Bank in connection with its provision of the Settlement Accounts, Nium Accounts, Pay In Services and Pay Out Services.

with or in any way pertaining to, this Agreement.

- c. **New Clause 27.** A new Clause 27 is inserted at the end of the Appendix B to the Agreement, which is as follows:

27. Services Offered by Nium US.

- a. **Payment Service Bank.** *The Client understands and agrees as follows with respect to Settlement Accounts that are located in the United States and any Nium Accounts, Pay In Services and Pay Out Services that are offered by Nium US to the Client:*
- (i) *Nium US does not offer Nium Accounts, Pay In Services or Pay Out Services in the United States as a licensed money transmitter. Instead, Nium US operates under a program sponsored by the Payment Services Bank, to which Nium US is a service provider.*
 - (ii) *Nium US operates a software and services platform that permits the Client and its End Customers to utilize Nium Accounts, Pay In Services and Pay Out Services provided by the Payment Service Bank.*
 - (iii) *The Payment Service Bank will have sole custody over the funds in the Settlement Account, and will perform all US Payment Services. The Payment Service Bank, with respect to its performance of US Payment Services, will have the same rights of Nium that are set forth in Appendix B, Appendix C, and Appendix D to this Agreement, with respect to (A) funds held in the Settlement Account and (B) the provision of the Nium Accounts, Pay In Services or Pay Out Services.*
 - (iv) *The Client's use of the US Payment Services is subject the additional terms and conditions of the Payment Services Bank located at the website, <https://www.instarem.com/policy/US-terms-and-conditions.pdf> or as otherwise provided by Nium to the Client in writing from time to time (the "**US Payment Services Terms**"). The US Payment Services Terms may be amended by the Payment Services Bank at any time and in its sole discretion.*
 - (v) *Client shall permit, and cooperate with, any audit of Client required by the Payment Service Bank, under the terms set forth in Clause 10.*
 - (vi) *Payment Service Bank may, at any time and for any reason, terminate the Client's use of the US Payment Services.*
- b. **Additional Termination Right of Nium US.** *In addition to the rights of termination set forth in Clause 16, Nium US may immediately terminate this Agreement (or its Affiliate Agreement) at any time, in the event that the Payment Service Bank has, in its sole discretion, terminated Client's use of any of the US Payment Services.*
- c. **Binding Arbitration.** *Solely with respect to any dispute between the Client and Nium US, the following arbitration provisions shall apply:*
- (i) *Any Dispute (except for a Dispute related to either Party's Intellectual Property Rights), which cannot otherwise be resolved as provided in Clause 23, shall be resolved by arbitration conducted in accordance with the rules of the American Arbitration Association ("**AAA**") in accordance with its Commercial Arbitration Rules, currently available at https://www.adr.org/sites/default/files/CommercialRules_Web-Final.pdf, as such rules may be revised by the AAA, and judgment upon the award rendered by the arbitral tribunal may be entered in any court having jurisdiction thereof. The*

arbitral tribunal shall consist of a single arbitrator. The Party initiating the arbitration proceeding shall, in the notice of arbitration, nominate an arbitrator duly qualified to preside, and if the other Party does not object to the nominated arbitrator, such arbitrator shall preside. If the other Party objects by giving written notice to the other Party, and if the Parties do not agree on an arbitrator within ten (10) calendar days of such notice of objection, then a qualified arbitrator shall be appointed by the AAA. “**Qualified**” for purposes of this clause means a person licensed to practice law in a U.S. jurisdiction, with experience advising financial institutions or arbitrating disputes involving financial institutions, and with expertise in financial services laws and regulations. The place of arbitration shall be in New York, New York, unless the Parties agree to another location, and all proceedings and written submissions shall be in English. The arbitration award shall be final and binding. The Parties waive any right to appeal the arbitration award, to the extent a right to appeal may be lawfully waived.

- (ii) Each Party retains the right to seek judicial assistance: (A) to compel arbitration, (B) to seek temporary injunctive relief in any court with jurisdiction over the Party against which the relief is sought (with such relief to extend only until the propriety of permanent relief can be decided by the arbitrator), (C) to obtain other interim measures of protection prior to or pending arbitration, and (D) to enforce any decision of the arbitrator, including the final award. Judicial assistance pursuant to this Clause 27(c)(ii) may be sought in and of the state or federal courts located in New York, New York (and for purposes of subclauses (B) and (C), exclusively in such courts), and the Parties submit to the jurisdiction thereof. Injunctive relief shall be granted without the requirement of posting a bond.
- (iii) The Parties acknowledge and agree that this Agreement evidences a transaction involving interstate commerce and will be governed by the Federal Arbitration Act (9 U.S.C.1-16). No demand for arbitration may be made after the date when the institution of legal or equitable proceedings based on such claim or dispute would be barred by the applicable statute of limitation.
- (iv) Subject to the exclusions, disclaimers and limitations of liability set forth in this Agreement (including those set forth in Clause 15), the arbitrator may award damages and any other remedies allowed by the laws of the State of New York. In making a determination, the arbitrator will not have the authority to modify any term of this Agreement. The arbitrator shall issue to the Parties a reasoned and written decision with respect to the Dispute. Judgment upon the arbitrator's award may be entered in any court having jurisdiction.
- (v) The parties will keep confidential the existence of the arbitration, the arbitration proceeding, the hearing and the arbitrator's decision, except (A) as necessary to prepare for and conduct the arbitration hearing on the merits; (B) in connection with a court application for a preliminary remedy, or confirmation of an arbitrator's decision or its enforcement; (C) as disclosed in confidence to their respective attorneys, accountants and other professional advisors that are subject to a duty of confidentiality; or (D) as otherwise required by Applicable Laws or court order.