



**B4B Payments (USA) Inc.**  
40 Washington Street  
Suite 150  
Wellesley  
MA, 02481  
Tel: +19177679445

## DECLARATIONS & SIGNATURE

<b>Total Agreement Fees and Terms:</b>	
Initial period of Agreement ( <b>Initial Term</b> ):	36 months
Subsequent periods of Agreement ( <b>Renewal Term</b> )	36 months

### Declarations:

1. The Agreement shall commence on the date of signature by an authorized representative of the Company and shall continue for the Initial Term (as set out above) and may only be terminated in accordance with the terms set out in the Terms and Conditions of Business.
2. This Agreement shall continue automatically after the Initial Term for the Renewal Term unless terminated by either party giving a minimum of six months written notice to the other; not to expire before the end of the Initial Term or any subsequent Renewal Term.
3. I declare that the information contained in this Application Form is true and accurate and that I have authority to act on behalf of the Company.
4. By signing this Application Form, I confirm that I have read and understood the contents of the *Terms and Conditions of Business* which, together with this Application Form, forms the agreement between us.
5. I agree that B4B Payments (USA) Inc may use the data of the individuals named above to carry out identification verification.
6. This Agreement is governed by the laws of the State of Delaware, whose courts shall have exclusive jurisdiction.
7. I understand that Float refunds to the originating Company bank account can be made for a fee of \$45.
8. I confirm that the above-named Company does not engage in any activity related to the trading of Cryptocurrency and that in no way will I use the proceeds of cryptocurrency to fund the Payment Account.
9. I confirm that the above-named Company does not use the proceeds of Cannabis Related Business (CRB) to fund the Payment Account.

### Signature:

<b>Name:</b>		<b>Position:</b>	
<b>Signature:</b>		<b>Date:</b>	



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**B4B Payments USA**  
**Terms and Conditions of Business**  
**V1.9 August 2025**

**1. Definitions and Interpretation**

**1.1** The following expressions have the following meanings:

<b>“Account”</b>	means a Payment Account provided by the Supplier and Sponsor Bank pursuant to this Agreement;
<b>“Agreement”</b>	means (i) Application Form; (ii) these Terms and Conditions; and (iii) all other documents referred to in these Terms and Conditions, which together form a binding agreement between the parties;
<b>“AML Requirements”</b>	means the following, as applicable to Company, the Bank Secrecy Act and related regulations (e.g., Foreign Assets Control Regulations); and any other applicable anti-money laundering laws and regulations;
<b>“Application Form”</b>	means the signed Application form for the Company completed for Services provided by the Supplier;
<b>“Bank”</b>	means a principal member of one or more Systems and is in the business of issuing Cards and establishing Accounts and Settlement Accounts for the settlement of Card transactions who sponsor supplier Card Services in the United States of America;
<b>“Business Day”</b>	means a day (other than Saturday, Sunday or bank or public holidays) on which banks are open for their full range of normal business in the United States of America;
<b>“Card”</b>	means a valid and unexpired virtual or physical prepaid card issued pursuant to this Agreement;
<b>“Card Services”</b>	means the provision of one or more prepaid Cards issued on the Visa or Mastercard networks (as indicated in the Application Form) by the Supplier’s Sponsor Bank partner;
<b>“Cardholder Terms and Conditions”</b>	means the terms and conditions of use between the Sponsor Bank and the Cardholder that govern the use of the Card as indicated on the Application Form and is provided to cardholders;
<b>“Cardholder”</b>	means an individual who is issued with a Card;
<b>“Cardholder Data”</b>	means the data, including account or card information, which relates to a Cardholder;
<b>“Commencement Date”</b>	means the date of signature by the Company of the Application Form;
<b>“Company”</b>	means the business (be it a person, firm, company or other type of organization) named on the Application Form;
<b>“Confidential Information”</b>	means, in relation to either party, information which is disclosed to that party by the other party pursuant to or in connection with this Agreement (whether orally or in writing or any other medium, and which is either marked confidential or ought reasonably to be considered as confidential) and shall include but not be limited to information relating to Cardholders, information relating to business, statistical and financial matters which is disclosed or made available



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	by or on behalf of one Party (" <b>Disclosing Party</b> ") to the other Party (" <b>Recipient</b> ");
<b>"Data Protection Law"</b>	means all applicable laws and regulations relating to processing of personal data and privacy, including Title V of the Gramm Leach Bliley Act and its implementing regulations at 12 CFR Part 363, App. B (Interagency Guidelines Establishing Information Security Standards), as updated from time to time ("GLBA");
<b>"Funding Payment"</b>	means payments into the Payment Account to fund Cards or send outbound payments
<b>"Intellectual Property"</b>	means patents, trademarks, service marks, trade names, domain names, business names, copyrights, design rights, data base rights, know how, trade secrets, rights to or in confidential information and all other intellectual property rights or rights of a similar nature whether or not registered or capable of registration, together with all applications for registration of, and any licence to use, any of the foregoing and "Intellectual Property" shall be construed accordingly;
<b>"Marks"</b>	means in relation to a party, all trademarks, service marks, trade names, logos, signs and devices whether registered created or used under licence by that party and in existence at the Commencement Date;
<b>"Material"</b>	means in relation to a party, all works, copy, designs and all other material in any medium whatsoever, created or used under licence by that party and in existence at the Commencement Date;
<b>"Payment Account"</b>	means the provision of a Payment Account to place funds in it, also referred to as a float account;
<b>"Payment Account Terms and Conditions"</b>	means these terms and conditions of use between the Supplier and the Company that govern the use of the Payment;
<b>"Services"</b>	means the services including the (i) Payment Services and (ii) Card Services from the Sponsor Bank requested by the Company in the Application Form;
<b>"Sponsor Bank"</b>	means US Financial Institution sponsoring the Supplier;
<b>"Supplier"</b>	means "B4B Payments" which is the trading name of B4B Payments (USA) Inc., a Delaware corporation;
<b>"Term"</b>	means the Initial Term and any Renewal Term, both as described in the Application Form.

**1.2** Unless the context otherwise requires, each reference in this Agreement to:

- 1.2.1 "writing", and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;
- 1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
- 1.2.3 "this Agreement" is a reference to this Agreement and each of the Schedules as amended or supplemented at the relevant time;
- 1.2.4 a Schedule is a schedule to this Agreement; and
- 1.2.5 a Clause or paragraph is a reference to a Clause of this Agreement (other than the Schedules) or a paragraph of the relevant Schedule.



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1.2.6 a "Party" or the "Parties" refer to the parties to this Agreement.

- 1.3 The headings used in this Agreement are for convenience only and shall have no effect upon the interpretation of this Agreement.
- 1.4 Words imparting the singular number shall include the plural and vice versa.
- 1.5 References to any gender shall include the other gender.

## 2. **Provision of the Services**

- 2.1 The Supplier will, throughout the Term of this Agreement, provide the Services to the Company.
- 2.2 The Supplier will continue to operate these Services and hold all appropriate rights and permissions to do so for the duration of this Agreement;
- 2.3 The Payment Account shall be provided in accordance with these Terms and Conditions. The Card Services shall be provided in accordance with these Terms and Conditions and the Cardholder Terms and Conditions relevant to the Card Services indicated in the Application Form.
- 2.4 Company acknowledges neither the Payment Account nor the Card Services shall be provided until Supplier and the Card Services Provider has completed (each to its satisfaction) its due diligence procedures on Company and, where required by applicable law, Company to verify Cardholder's identity in accordance with IRS tax requirements and the Supplier's Anti-Money Laundering Policy ("**AML Policy**"). Company agrees to provide such further information as is necessary for Supplier and Sponsor Bank to meet its obligations.
- 2.5 In the event that any act or omission of the Company or any third party (other than a subcontractor of the Supplier) prevents or delays the Supplier from undertaking or complying with any of its obligations under this Agreement, then the Supplier shall notify the Company as soon as possible and the Supplier will have no liability in respect to any delay in the provision of the Services.
- 2.6 The Supplier reserves the right to make modifications to any part of the Services from time to time as required by a change in applicable law or by a change in the AML policy of the Supplier or the Services Provider or Sponsor Bank. Where possible these will be communicated to the Company as soon as practicable.
- 2.7 In the event that the Supplier commits any breach of a term of this Agreement which adversely affects the provision of the Services, the Supplier has the right to remedy such breach within 30 Business Days of notice from the Company.
- 2.8 The Services may be used only by the Company and only in accordance with this Agreement and the Cardholder Terms and Conditions.
- 2.9 You acknowledge that in providing the Services hereunder, Supplier does not sell or issue Cards or transmit funds on behalf of Company. Only the Services Provider or Sponsor Bank (where applicable) is authorized to issue Cards, maintain Accounts, and hold Card funds for purposes of the Services and Supplier does not exercise control over such accounts either constructively or directly.



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**2.10** Supplier or Services Provider or Sponsoring Bank may establish parameters for the Services, including, without limitation, restrictions on the amounts and velocity of transactions, customer verification requirements, controls to address excessive chargebacks and other returns, and other parameters (collectively, the “Parameters”), which Parameters may be modified from time to time by Supplier, a Services Provider, or Sponsor Bank upon notice to Company. Company agrees to adhere to the Parameters.

### **3. Company’s Obligations**

**3.1** The Company shall provide the Supplier with all information as reasonably requested by the Supplier to enable the Supplier to provide the Services. Information supplied by Company will be accurate and complete. Supplier may rely on such information without additional inquiry and Company shall be solely responsible for the accuracy and completeness of all information it provides to Supplier in connection with the Services. Company will regularly review information provided to Supplier in connection with the Services for accuracy and completeness and will promptly notify Supplier of any changes or errors in such information.

**3.2** The Company shall use reasonable endeavors to keep the Supplier informed of any particular requirements including but not limited to laws and codes of practice that may apply to the provision of the Services in the specific context of its own industry. To the extent necessary and appropriate, the Supplier shall take steps to comply with such particular requirements. These steps shall not give rise to any increase in the fees payable pursuant to Clause 4 below, but if they give rise to a reduction in the actual cost to the Supplier in providing the Services then the fees payable pursuant to Clause 4 below shall be reduced accordingly.

**3.3** If required by the Supplier, the Company shall obtain, keep and retain documents pertaining to the identification of those individuals to whom it wishes to receive Card Services including a valid photographic ID and proof of address selected from a list of permitted documents provided by the Supplier. Company will make copies of such documents available to the Supplier upon request within 24 hours of the request and upload these at the frequency requested by the Supplier, to the Supplier’s website.

**3.4** The Supplier may from time to time request the Company to evidence the sources of funds used to fund the Services and the Company shall make such evidence available to the Supplier within 24 hours of request.

**3.5** The Company acknowledges and agrees that the Supplier and its providers are required to comply with the rules of the Card network schemes (Visa and Mastercard), Federal and state rules and regulations, and the laws applicable to the operations of a Payment Account and Card Services and Sponsor Bank and by, including, amongst others, the AML Policy. The Company agrees to cooperate with Supplier with respect to the provision of any information requirements relating to the Services to the extent the Supplier cannot provide such information itself.

**3.6** For Card Services provided to the Company and where the funds remain owned by the Company, Company agrees it shall ensure there are sufficient funds to meet all transactions made using a Card together with any fees that apply. In the unusual situation that there is a shortfall of funds, the Company agrees to make good the shortfall immediately upon request. The Supplier reserves the right to set off any shortfall arising from the Payment Account or Company funds received by Supplier or funds on other Cards provided to the Company.



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- 3.7** The Company shall comply, at all times, with the Cardholder Terms and Conditions. The Cardholder Terms and Conditions can be found at [www.b4bpayments.com](http://www.b4bpayments.com). Cardholder fees incurred are charged to the Card.
- 3.8** The Company must advise the Supplier immediately upon discovering any Cards or Card details that have been lost or stolen.
- 3.9** The Company shall comply, at all times, with Supplier's security and compliance policy and checklist which shall include without limitation:
- Proper receipt, storage and management of Cards, if applicable; and
  - Information technology security requirements.
- 3.10** The Company shall bear the liability for any consequences as a result of not complying with Clauses 3.7 and 3.8 above including without limitation lost, stolen or damaged Cards which are stored by the Company.
- 3.11** The Company will only use materials associated with the Services, which includes promotional material, advertising and website content that have been approved by the Supplier and the Services provider or Sponsor Bank (as appropriate). The Company agrees to pay any valid fines incurred by the Supplier as a result of the Company not obtaining the prior approval from the Supplier of any promotional material used in the public domain.
- 3.12** The Company agrees that during the term of this Agreement that it shall procure the Service or similar Service only from the Supplier on an exclusive basis and will not enter into or attempt to enter into agreements with any other Supplier.
- 3.13** The Company shall indemnify and hold the Supplier harmless for any fraudulent act of its employees or third party operatives and will maintain processes and controls to enable it to detect any such fraud and cooperate fully with any request for information as part of an internal investigation being carried out by the Company.
- 3.14** The Company shall promptly report to Supplier any written complaint received directly by the Company relating to the Services. To the extent that such information is available, such report shall include the name and address of the complaining party, a brief summary of the complaint, and if resolved, a brief summary of how the complaint was resolved within 5 days. The Company may not provide customer support service with respect to the Services including attempting to investigate and resolve complaints.
- 3.15** The Company acknowledges that Supplier's initial and ongoing approval of the Company's access and use of the Services, and Supplier's willingness to make the Services available to the Company, is dependent on the Company's compliance with Supplier's and any Services Provider or Sponsor Bank's due diligence requirements.
- 3.16** The Company will not export or re-export, or knowingly permit the export or re-export of, the Services or any other technical information about the Services to any country outside of the United States, unless the Company has obtained Supplier's prior written consent and the applicable export license(s).
- 3.17** The Company agrees that Supplier and any regulatory authorities which have jurisdiction over Supplier, a Services Provider, or Sponsoring Bank, as applicable, shall have the right, as necessary to comply with applicable law or safe and sound banking practices and upon reasonable prior written notice from Supplier, to audit and inspect the Company's books and records related solely to the Services and the Company's performance of its obligations with respect thereto. Any such audit shall be conducted during the Company's normal business hours and in a manner reasonably intended to minimize any disruption to the





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Company's business and shall not include inspection of any information which the Company is contractually obligated to maintain as confidential on behalf of a third party. Any Supplier audit will be limited to one (1) time per twelve (12) month period; provided that Supplier may conduct more frequent audits as required by the Services Provider, the Sponsor Bank, or any regulatory authority having jurisdiction over Supplier, a Services Provider, or Sponsor Bank, as applicable.

#### **4. Payments and Records**

- 4.1** The Company shall pay the Supplier in accordance with the provisions of this Agreement.
- 4.2** All sums payable by either party pursuant to this Agreement are exclusive of any value added, sales, or other tax (except corporation tax) or other taxes on profit, for which that party shall be additionally liable, as applicable (except, for the avoidance of doubt, for any Company in the United States of America, this does not mean or imply income taxes).
- 4.3** All payments required to be made pursuant to this Agreement by Company shall be made within 15 days of the date of the relevant invoice or according to the terms of the invoice. All payments shall be made in the invoice currency and in cleared funds to such bank as Supplier may nominate from time to time. The Company shall not set-off, withhold or deduct any amount due under a valid undisputed invoice except if in the circumstance outlined in Clause 4.4 below.
- 4.4** If either party is required by law to make any tax deduction or withholding in relation to any payment which it is required to make pursuant to this Agreement, it shall do all things in its power which may be necessary to enable or assist the party to whom the payment is due to claim exemption from or (if that is not possible) a credit for that deduction or withholding under any applicable double taxation or similar agreement from time to time in force, and shall from time to time give the party to whom the payment is due proper evidence as to the deduction or withholding and payment over the tax deducted or withheld.
- 4.5** Where any payment under this Agreement is required to be made on a day on which is not a Business Day, it may be made on the next following Business Day.
- 4.6** Each party shall:
  - 4.6.1** keep, or ensure that there are kept, such records and books of account as are necessary to enable the amount of any sums payable by it pursuant to this Agreement to be accurately calculated;
  - 4.6.2** at the reasonable request of the other party, allow the other party or its agent to inspect those records and books of account and, to the extent that they relate to the calculation of those sums, to take copies of them; and
- 4.7** If Company fails to pay on the due date any amount which is payable to the other pursuant to this Agreement then, without prejudice to sub-clause 6.4, that amount shall bear interest from the due date until payment is made in full, both before and after any judgment, at the lesser of 1.5% per month or the maximum rate allowed under applicable law.
- 4.8** The Supplier reserves the right to pass on to the Company any third-party cost increases which have an impact on the cost of providing the Services. Written notice of any such price change will be provided. In the event that any changes are made, the Supplier shall provide at least 90 days' prior written notice to the Company of such change (or in the event that the Supplier is unable to give such notice, as soon as it becomes aware of the change) and provide evidence of such change from the relevant third party and the resulting impact on



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the fees due to the Supplier. In the event that such third-party cost increases by more than 10% in any calendar year, the Company may at its option terminate the Agreement on 90 days' written notice to the Supplier.

## 5. **Funding the Float Account**

- 5.1** On any Business Day during the Term, the Company may initiate a payment transaction to transfer to the Company's Payment Account an amount equal to the aggregate amount to be loaded on all Cards ("**Funding Payment**") which when received will be acknowledged by the Supplier.
- 5.2** The Company is responsible for loading each Card ("**Card Loads**") using the facilities provided by the Supplier. Supplier may only load funds on to a Card once each Funding Payment is received and cleared in the Payment Account.
- 5.3** On any Business Day during the Term, the Company may initiate a payment transaction to transfer to the Company's Payment Account an amount equal to the aggregate amount to be sent as outbound payments ("**Funding Payment**") which when received will be acknowledged by the Supplier.
- 5.4** The Company is responsible for sending each outbound payment ("**Payment Services**") using the facilities provided by the Supplier. Supplier may only send funds once each Funding Payment is received and cleared in the Payment Account.

## 6. **Term and Termination**

- 6.1** Unless otherwise terminated in accordance with the provisions of this Agreement, this Agreement shall come into force on the Commencement Date and shall remain in force for the Initial Term and thereafter shall automatically continue for subsequent Renewal Terms.
- 6.2** Either party may give notice in writing to the other party providing at least 6 months before the expiry of the Initial Term or any Renewal Term to terminate this Agreement at the end of the Initial Term or the relevant Renewal Term.
- 6.3** Either party may terminate this Agreement immediately by giving written notice to the other party if:
  - 6.3.1** any sum owing to that party by the other party (excluding the Initial Float or any Funding Payment) under any of the provisions of this Agreement is not paid within 30 days of the due date for payment;
  - 6.3.2** that other party commits any other breach of any of the provisions of this Agreement and, if the breach is capable of remedy, fails to remedy it within 30 days after being given written notice setting out full particulars of the breach and the steps necessary to remedy it. A breach shall be considered capable of remedy if time is not of the essence in performance of the obligation and if the defaulting party can comply with the obligation within the 30-day period;
  - 6.3.3** a decree or order by a court is entered against the other party adjudging that party bankrupt or insolvent or ordering the winding up or liquidation of its affairs; or a petition is filed seeking reorganization, administration, arrangement, adjustment, composition or liquidation of or in respect of the other party under any applicable law and is not dismissed within 10 days of being filed; or a receiver, administrator, liquidator, assignee, trustee, sequestrator, secured creditor or other similar official is appointed over or in respect of the other party or any substantial part of the





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property or assets of the other party; or the other party institutes proceedings to be adjudicated bankrupt or insolvent, or consents to the institution of bankruptcy or insolvency proceedings against it, or files a petition or answer or consent seeking reorganization, administration, relief or liquidation under any applicable law, or consents to the filing of any such petition or to the appointment of a receiver, administrator, liquidator, assignee, trustee, sequestrator, secured creditor or other similar official of the other party or of any substantial part of its property, or makes an assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they become due; or any other event occurs which under any applicable law would have an effect analogous to any of the events listed in this Clause 6.3.3.

- 6.4** Without prejudice to Clauses 6.2 or 6.3, the Supplier may terminate or suspend this Agreement in whole or in part immediately by giving written notice to the Company if:
- 6.4.1 the Company fails to provide identification documents in accordance with Clause 3.3;
  - 6.4.2 the Company fails to provide evidence of source of funds in accordance with Clause 3.4;
  - 6.4.3 the Supplier is required to do so under applicable law, by Federal or State authorities, by the Services provider or Sponsor Bank;
  - 6.4.4 the Supplier reasonably believes that the Payment Account and Cards are being used for a purpose that is unlawful.
- 6.5** The rights to terminate this Agreement given by this Clause 6 shall not prejudice any other right or remedy of either party in respect of the breach concerned (if any) or any other breach.

## **7. Effects of Termination**

Upon the termination of this Agreement for any reason:

- 7.1** each party shall immediately pay to the other all amounts due under this Agreement, except to the extent that the Supplier must retain funds as required by law;
- 7.2** if the Company is terminated before implementation is complete, the Company will forfeit the Application fee;
- 7.3** each party shall (except to the extent referred to in sub-clause 9.3) forthwith cease to use, either directly or indirectly, any Confidential Information, and shall forthwith return to the other party any documents in its possession or control which contain or record any Confidential Information;
- 7.4** save as set out otherwise, all rights and obligations of the parties shall cease to have effect immediately upon termination of this Agreement except that termination shall not affect the accrued rights and obligations of the Parties at the date of termination;
- 7.5** all licenses granted under this Agreement shall terminate;
- 7.6** each party shall at the other party's option either destroy or return all copies of Confidential Information belonging to that other party in its possession or control and a duly authorised officer of the party shall certify in writing to the other party that it has complied with its obligation as aforesaid;



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- 7.7** the Payment Account will be closed and Payments Services or Card Services terminated. The Company shall comply with such procedures for the closure of the Payment Account and winding-down of the Card Services or Payment Services as the Supplier may notify to the Company in writing;
- 7.8** termination shall not affect or prejudice any right to damages or other remedy which the terminating party may have in respect of any breach of this Agreement which existed at or before the date of termination or the event giving rise to the termination of this Agreement;
- 7.9** Clauses 9 (Confidential Information), 10 (Intellectual Property) and 11 (Data Protection) shall remain in effect after termination of this Agreement; and
- 7.10** upon termination of this Agreement and/or at the request of the Company, Supplier will irretrievably delete or return to the Company all personal data, including all copies thereof, unless otherwise required by law, including but not limited to AML Requirements.

## **8. Information and Access**

- 8.1** The Company agrees that the Supplier and/or its agents shall be entitled throughout the continuance of this Agreement (after giving 24 hours prior notice) to have access to any information under the control of the Supplier for the purpose of making inquiries of any kind relating to the provision of the Services or any other matter relevant to this Agreement.

## **9. Confidentiality**

- 9.1** Each party undertakes to treat as confidential all Confidential Information.
- 9.2** Except with the prior written consent of the Disclosing Party, the Recipient shall not disclose Confidential Information to any third party other than in confidence to its own employees, sub-contractors, professional advisers (and then only to the extent that such disclosure is necessary for the performance of its obligations under the Agreement). The Recipient shall only use Confidential Information for the purpose for which it was disclosed. The Recipient shall ensure that all people to whom the Confidential Information is disclosed are aware of and bound by the terms of this Clause 9.
- 9.3** Clause 9.2 shall not apply to information which has been published other than through a breach of Clause 9.2, information which the Recipient can show was lawfully in its possession before its disclosure, information the Recipient obtained from a third party who is free at law to disclose it, or information which the Recipient is required to disclose pursuant to an order made by a court or regulatory body of competent jurisdiction.
- 9.4** The provisions of this Clause 9 shall continue in force in accordance with their terms, notwithstanding the termination of this Agreement for any reason.

## **10. Intellectual Property**

- 10.1** The Company acknowledges and agrees that the Supplier owns (or is the licensor) of all Intellectual Property Rights in the Services which for the avoidance of doubt shall mean any Material or Marks created or developed by the Supplier in connection with the Agreement.
- 10.2** Nothing in the Agreement shall operate to create or transfer any right in any Material or



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Mark owned or used under licence by a party. Except as expressly provided in this Clause 10, neither party may use the other party's Marks or Materials without the prior written consent of that other party.

- 10.3** The Supplier grants to the Company a non-exclusive, worldwide, royalty-free licence for the duration of the Agreement to use the Supplier Material and Marks only to the extent required to enable to the Company to receive the benefit of the Services and for the purpose of carrying out its obligations under the Agreement. The licence granted by this clause 10.3 shall include the right to copy, distribute and display Supplier Material on the Company's website.
- 10.4** The Parties agree that each shall only use such Marks and Material in accordance for the purpose of the operating and promoting the Card Services.
- 10.5** The Company agrees that during the course of this agreement Cards with a design bearing the Company's logo or Mark may be used by the Company at its sole discretion on the Company's promotional materials including but not limited to its own website.
- 10.6** If the Company provides feedback, suggestions, improvements, or requests for additional functionality related to the Services (collectively, "Feedback"), the Company grants Supplier a perpetual, irrevocable, royalty-free, worldwide license to use, reproduce, display, perform, modify, transmit, distribute and create derivative works of such Feedback in any way Supplier deems reasonable, without any attribution or accounting. This paragraph will survive any termination or expiration of this Agreement.
- 10.7** As between Company and Supplier, Company owns all right, title, and interest to the specific data and information about the Company, its business, its users, Cardholders (but excluding Cardholder Data, which is the property of the applicable Card Services Provider or Sponsoring Bank and subject to their respective privacy notices and requirements under Data Protection Laws applicable to the Card Services Provider or Sponsoring Bank, including GLBA ), and its employees submitted, processed, or stored by Company using the Services (collectively, the "Company Data"). Company is solely responsible for the accuracy and quality of the Company Data. The Parties agree that under no circumstances will Supplier be responsible or have any liability for Company's use of the Company Data. Company is responsible for updating its own Company Data. Company hereby grants to Supplier a perpetual, irrevocable, non-exclusive, royalty-free, worldwide, transferable license to (i) aggregate and analyse such Company Data (the "Aggregated Data") and to (ii) use, copy, reproduce, adapt, combine with other data, edit and re-format, generate, store, disclose, distribute, maintain a database of, and make derivative works based upon, any and all Aggregated Data.
- 10.8** Supplier owns all the information, data, documents and any other output results generated by queries, data feeds, and any use of and access to the Services by Company (collectively "Results"). Supplier will have no responsibility for any decisions made on the basis of Results or for completeness or accuracy of the Results or for their usefulness for Company's purposes.

## **11. Data Protection**

- 11.1** Each party warrants to the other that it shall:



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- 11.1.1 comply and shall procure the compliance of its personnel with the Data Protection Law;
- 11.1.2 use appropriate technical and organizational security measures against unauthorised or unlawful processing of the personal data and against accidental loss or destruction of, or damage to, such personal data; and
- 11.1.3 not make any changes to its information security measures that would materially increase the risk of unauthorised access to any personal data unless required by Data Protection Law.

**11.2** The Supplier warrants to the Company in its capacity as data processor that it shall:

- 11.2.1 act only on instructions from the Company and, specifically, shall only process Company Data (which shall include the disclosure of personal data other than Cardholder Data to third parties) for the purposes notified by the Supplier to the Company;
- 11.2.2 ensure that all employees and personnel authorized to process the Company Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- 11.2.3 except where it is required to fulfil its obligations to perform the Service, not engage another processor to carry out the processing of the Company Data without entering into a written contract with such sub-processor containing the same or substantially similar data protection obligations as detailed in this Agreement;
- 11.2.4 prior to processing the Company Data, implement appropriate technical and organizational measures to enable it to process personal data in compliance with Data Protection Law, including, as appropriate:
  - (i) the pseudonymisation and encryption of the Company Data that is personal data (excluding Cardholder Data);
  - (ii) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services and Company Data held thereon;
  - (iii) the ability to restore the availability and access to the Company Data in a timely manner in the event of a physical or technical incident; and
  - (iv) have a process for regularly testing, assessing and evaluating the effectiveness of the technical and organizational measures.

**11.3** Each party shall:

- 11.3.1 Immediately notify the other party of any event involving the actual or potential compromise of the security, confidentiality or integrity of personal data within its control including but not limited to the loss, compromise or any unauthorised access to, or breach of the security of, any personal data transferred by it to the other Party and shall provide the other party with all reasonable assistance and



**B4B Payments (USA) Inc.**  
40 Washington Street  
Suite 150  
Wellesley  
MA, 02481  
Tel: +19177679445

description of the nature of the event including the cause, nature of the personal data affected and the identity of each affected person or class of persons;

- 11.3.2 assist the other party in order to respond to requests from data subjects to exercise their rights under Data Protection Law, promptly forward any such request received directly by it to the other party, as applicable and required, and, if applicable to Supplier, to only respond to such request on the Company's written instructions;
- 11.3.3 if deemed required, carry out a data protection impact assessment;
- 11.3.4 make available all information necessary to demonstrate compliance with the obligations contained in this clause 11.3; and
- 11.3.5 ensure it maintains an up-to-date record detailing which data subjects have consented, at what time and in what form.

## 12. **Force Majeure**

Except for the Company's payment obligations, neither party shall be responsible or liable for any losses arising out of any delay in or interruption of the performance of its obligations under the Agreement due to any act of God, act of governmental authority, act of the public enemy or due to war or terrorism, the outbreak or escalation of hostilities, riot, civil commotion, insurrection, labour difficulty in relation to a third party (including, without limitation, any strike, or other work stoppage or slow down), severe or adverse weather conditions, communications line failure, or other similar cause beyond the reasonable control of the party so affected at the time such causes arise ("**Force Majeure Event**"). The party so affected shall be excused from its performance of its obligations for the duration of such Force Majeure Event provided that it shall at all times use all reasonable endeavours to mitigate the effects of such Force Majeure Event. If a Force Majeure Event continues for a period exceeding 15 consecutive Business Days then either party shall be entitled to terminate the Agreement without further liability.

## 13. **Liability.**

- 13.1** DISCLAIMER OF DAMAGES. EXCEPT FOR AMOUNTS PAYABLE BY COMPANY AND COMPANY'S INDEMNIFICATION OBLIGATIONS IN CLAUSE 14 OR MISAPPROPRIATION OF SUPPLIER'S INTELLECTUAL PROPERTY RIGHTS, SUPPLIER WILL HAVE ANY LIABILITY UNDER THIS AGREEMENT FOR CONSEQUENTIAL, EXEMPLARY, INDIRECT, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES, INCLUDING FOR ANY LOST DATA, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT ANY REMEDY PROVIDED SHOULD FAIL OF ITS ESSENTIAL PURPOSES, OR FOR ANY CLAIM BY ANY THIRD PARTY. THESE LIMITATIONS WILL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

## 14. **Indemnity**

- 14.1** Subject to clause 14.2 below, each party (the "**Indemnifying Party**"), at its own expense shall defend or at its option settle, any claim, suit or proceeding ("**Claim**") brought against the other party (the "**Indemnified Party**") by a third party and pay any liabilities, damages



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and costs awarded in any such suit or proceeding if the suit or proceeding is based on:

- 14.1.1 infringement of any Intellectual Property Rights of any third party to the extent attributable to the provision by a party of that party's Marks and/or Material under licence to the other party; or
- 14.1.2 the Indemnifying Party's failure to comply with all applicable laws, rules and regulations; or
- 14.1.3 the Indemnifying Party's failure to transfer the Initial Float or Funding Payments in breach of the Agreement (in which event the Company shall be the Indemnifying Party).

**14.2** The Indemnified Party shall provide the Indemnifying Party with:

- 14.2.1 full written notice as soon as practicable after it becomes aware of the Claim;
- 14.2.2 exclusive control over the defense and settlement of such claim including control of any negotiations or proceedings in connection with the Claim; and
- 14.2.3 proper and full information and assistance at the reasonable expense of the Indemnifying Party to settle or defend any such claim

**14.3** The Indemnified Party shall take reasonable steps to mitigate any loss or liability in respect of the Claim and not compromise or settle the Claim in any way without the Indemnifying Party's written consent.

## **15. Assignment and subcontracting**

**15.1** Each party shall be entitled to subcontract any of its obligations under this Agreement. Any party that subcontracts the performance of any of its obligations to a third party, shall remain responsible for every act or omission of the subcontractor as if it were an act or omission of the party itself.

**15.2** This Agreement is personal to the parties and neither Party may assign, novate or otherwise transfer, mortgage, or charge (otherwise than by floating charge) any of its rights hereunder without the prior written consent of the other party.

## **16. Notices**

**16.1** All notices under this Agreement shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the party giving the notice.

**16.2** Notices shall be deemed to have been duly given:

- 16.2.1 when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or
- 16.2.2 when sent, if transmitted by fax or e-mail and a successful transmission report or return receipt is generated before 4.00pm on a Business Day but otherwise at 10.00am on the next Business Day; or
- 16.2.3 on the third Business Day following mailing, if mailed by USPS mail, postage prepaid; or





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16.2.4 on the tenth Business Day following mailing, if mailed by airmail, postage prepaid. In each case addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.

## **17. General**

- 17.1** This Agreement together with any documents referred to in it constitutes the entire agreement between the parties with respect to its subject matter and supersedes all non-fraudulent prior representations, warranties, arrangements and agreements between them relating to it.
- 17.2** No purported variation of the Agreement shall be effective unless it is in writing signed by the duly authorised representatives of the parties.
- 17.3** Each Party acknowledges that, in entering into this Agreement, it does not rely on any representation, warranty or other provision except as expressly provided in this Agreement, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 17.4** No failure or delay by either party in exercising any of its rights under this Agreement shall be deemed to be a waiver of that right, and no waiver by either party of a breach of any provision of this Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.
- 17.5** At any time after the date hereof each of the parties shall, at the request and cost of another party, execute or procure the execution of such documents and do or procure the doing of such acts and things as the party so requiring may reasonably require for the purpose of giving to the party so requiring the full benefit of all the provisions of this Agreement.
- 17.6** Subject to any provisions to the contrary each party to this Agreement shall pay its own costs of and incidental to the negotiation, preparation, execution and carrying into effect of this Agreement.
- 17.7** If any provision of the Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if the Agreement had been executed with the invalid illegal or unenforceable provision eliminated. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of the Agreement, the parties shall immediately commence good faith negotiations to remedy such invalidity.
- 17.8** The Agreement may be executed in any number of counterparts and by the parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart, when executed, shall be an original of the Agreement and all counterparts shall together constitute one instrument.
- 17.9** The Supplier shall use all reasonable endeavours to complete provision of the Services within estimated time frames but time shall not be of the essence in the performance of any Services.
- 17.10** Nothing in this Agreement shall create a partnership or joint venture between the parties and save as expressly provided in the Agreement, neither party shall enter into or have authority to enter into any engagement or make any representation or warranty on behalf of or pledge the credit of or otherwise bind or oblige the other party.



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**17.11** For a Company located in the United States of America, this Agreement will be governed by, and construed and enforced in accordance with, the laws of the State of Delaware without regard to any principle that would require the application of the laws of another jurisdiction.