

# Term of Use for the Reseller Customer of the Hooyu Service

The Reseller Customer shall use the Hooyu Service subject to the conditions set out below:

## Definitions

**“Agreement”** means the terms and conditions specific to this Service

**“Applicable Laws”** means, subject to clause 25, all applicable laws, regulations, statutes, codes of practice, governmental orders or guidance or orders of any other competent regulatory authority including the Data Protection Regulations;

**“Background Materials”** means any information, materials or software of Hooyu (in any form) used or provided to the Customer by Pay360 or Hooyu from time to time in the provision of the Service or otherwise pursuant to this Agreement;

**“Chargeable Action”** means an action which incurs Fees as set out in this Agreement;

**“Confidential Information”** is defined in clause 7.3;

**“Customer”** means the Party to this Agreement that is buying the Service from Pay360;

**“Data Protection Regulations”** means the Data Protection Act 2018, General Data Protection Regulation (EU) 2016/679 (**“GDPR”**), the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and all applicable laws and regulations related to the processing of personal data and privacy in any relevant jurisdiction including any amended or superseding regulations to those set out here;

**“Data Retention Policy”** means the data retention policy operated by Hooyu for the Service as may be updated from time to time;

**“End-User”** means a person whose identity the Customer wishes to verify using the Service;

**“Fees”** means the fees payable by the Customer as set out in Annex 2;

**“Hooyu”** means the Service originator being Hooyu Limited of Commonwealth House, 55-58 Pall Mall, London, SW1Y 5JH;

**“Hooyu Bank”** means a minimum value of Chargeable Actions which the Customer agrees to purchase from Pay360;

**“Hooyu Result”** means the information including personal data provided by Hooyu to Pay360 and in turn from Pay360 to the Customer as a result of carrying out a Chargeable Action;

**“Hooyu Scorecard”** means an algorithm used in the Service which takes all the information obtained from an End-User and calculates a score for the likelihood of them being who they say they are;

**“Initial Term”** shall commence on the Effective Date and, unless extended by written agreement of the Parties, shall run for a period of twelve (12) months;

**“Intellectual Property Rights”** means all patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

**“Minimum Service Level”** means availability of the Service for a minimum 99.5% of the time in a calendar month;

**“Pay360”** means Pay360 Limited of 65 Gresham Street London EC2V 7NQ;

**“Permitted Purposes”** means identity verification and fraud prevention;

**“Pay360 Platform”** means the hardware and software technical platform owned by Pay360;

**“Security Event”** means an event where any personal data held by Pay 360 or Hooyu: (i) are accessed by an unauthorised person; (ii) are lost or stolen; or (iii) are otherwise accessed, obtained or used in breach of this Agreement;

**“Service”** means the Hooyu identify service as ordered from Pay360 by the Customer;

**“Unauthorised Use”** is defined in clause 6.2;

## **1. PROVISION OF THE SERVICE**

1.1 Pay360 is a reseller of the Service which is provided by Hooyu.

1.2 During the Term Pay360 shall:

- (a) provide the Service in accordance with this Agreement;
- (b) comply with all Applicable Laws;
- (c) meet the Minimum Service Level.

1.3 The Customer accepts that occasionally Pay360 may need to

- (a) change the specification of the Service for operational and other reasons but shall endeavour to ensure that such changes are not materially detrimental to the performance of the Service and do not reduce the functionality of the Service except as necessary to comply with Applicable Laws; and
- (b) suspend the Service for operational reasons such as maintenance or improvement, subject to seven (7) days notice or in an emergency, in which case Pay360 shall give as much notice as is practically possible in the circumstances and shall restore the Service as soon as possible.

## **2. FEES AND PAYMENT**

2.1 The Customer shall pay to Pay360 the Fees set out in the relevant appendix in accordance with the payment terms set out therein, without any demand, deduction or set-off. No such payment shall be deemed to have been received until Pay360 has received cleared funds.

2.2 Without prejudice to Pay360's rights under clause 2.3, any payment which remains unpaid by the due date shall accrue interest from the due date for payment at the rate of 4% above the official bank rate of the Bank of England from time to time calculated on a daily basis until payment is made, whether before or after any judgment.

2.3 The Customer acknowledges that: (i) the Fees set out in the relevant appendix have been offered by Pay360 in return for a commitment to purchase the value of Chargeable Actions included in the Hooyu Bank; (ii) the value of Chargeable Actions included within the Hooyu Bank shall be for use by the Customer during the Initial Term and that any unused Hooyu Bank will lapse at the end of the Initial Term.

### **3. TERM AND TERMINATION**

3.1 Except where terminated under the termination provisions, this Agreement shall be for the Initial Term and may be extended for a further period by written agreement between the Parties.

3.2 Each Party shall have the right to terminate or suspend this Agreement at any time by the service of immediate written notice on the other if:

- (a) the other Party is in material breach of the Agreement and fails to remedy such breach within 14 (fourteen) days after receiving written notice specifying the breach;
- (b) the other Party ceases to do business, becomes unable to pay its debts as they fall due, becomes or is deemed insolvent, has a receiver, manager, administrator, administrative receiver or similar officer appointed in respect of the whole or any part of its assets or business, makes any composition or arrangement with its creditors, takes or suffers any similar action in consequence of debt or an order or resolution is made for its dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction), or any equivalent or similar action or proceeding is taken or suffered in any jurisdiction and the same is not dismissed or discharged within 30 (thirty) days thereafter; or
- (c) either party's response to any request of the other does not satisfy the enquiring party (acting reasonably) that the other party's use of the Service is in compliance with all Applicable Laws;

3.3 On the expiry or termination of this Agreement or suspension of provision of the Service for whatever reason:

- (a) Pay360 shall cease to perform or make available to the Customer the part of the Service that is suspended or terminated;
- (b) the Customer shall forthwith make payment in full to Pay360 of any Fees properly due;
- (c) the Customer shall only retain any Hooyu Results or data contained within Hooyu Results, including personal data, in its possession, custody, power or control which are permitted to be kept under Applicable Law;
- (d) each Party shall within 7 (seven) days either (at the option of the Disclosing Party as defined in clause 7.1) return all Confidential Information in its possession to the Disclosing Party or destroy it; and
- (e) notwithstanding clause 3.3(d) Pay360 may authorise Hooyu to retain data in accordance with its Data Retention Policy.

3.4 The termination of this Agreement shall not affect the accrued rights, remedies, obligations and liabilities of the Parties existing at termination. Nor shall it affect the continuation in force of any provision of this Agreement which expressly or by implication is intended to continue in force after termination.

#### **4. CUSTOMER WARRANTIES**

The Customer warrants to Pay360 that:

- (a) it will use the Service and Hooyu Results solely as permitted under this Agreement; ;
- (b) it will at all times comply with Applicable Laws;
- (c) only authorised employees of the Customer who need access to the Service to carry out the legitimate interests of the Customer in accordance with the Permitted Purposes will be given access to Customer credentials which are issued to the Customer for access to the Service;
- (d) it is responsible for the acts and omissions of all individuals which it permits to use the Service and is liable for any failure to perform or observe these terms and conditions;
- (e) the Customer is a legally formed business or organisation and is not acting as a consumer; and
- (f) except as explicitly set out in this Agreement, it shall not use or exploit the Intellectual Property Rights in the Service or Hooyu Results.

#### **5. LIABILITY**

5.1 This clause 5 sets out the entire financial liability of each Party (including any liability for the acts or omissions of its employees, agents or contractors) to the other Party in respect of any breach of this Agreement and any representation, statement or tortious act or omission including negligence arising under or in connection with this Agreement.

5.2 Nothing in this clause 5 or otherwise under this Agreement shall exclude or limit either Party's liability:

- (a) for death or personal injury resulting from its negligence;
- (b) for fraud or fraudulent misrepresentation; or
- (c) in respect of any other liability for which it would be unlawful for the Parties to limit or exclude liability.

5.3 The Customer agrees that: (i) digital identity verification is not an exact science and there can be no certainty in the accuracy of Hooyu Results; (ii) Hooyu Results are dependent on the quality, accuracy and completeness of any data provided by an End-User; and (iii) an End-User may, whether intentionally, through negligence or otherwise, provide data that is inaccurate, incomplete or misleading. Therefore, Pay360 does not warrant the accuracy of Hooyu Results and the Customer accepts that it should not rely solely upon Hooyu Results in making decisions regarding the identity or trustworthiness of any person.

5.4 Pay360 is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Service and Hooyu Results may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

5.5 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.

5.6 Neither Party shall be liable either in contract, tort (including for negligence or breach of statutory duty) misrepresentation, restitution or otherwise for any loss of business, loss of profits, loss of anticipated savings, loss of reputation, loss of goodwill or business interruption, loss or corruption of data or information, increase in debt, nor for pure economic loss, any indirect consequential or special damages or losses arising out of or in connection with the performance or non-performance of this Agreement or its subject matter, whether or not that Party had notice of the possibility of such loss.

5.7 Subject to clause 5.2, Pay360's total aggregate liability in contract, tort (including negligence or breach of statutory duty), under an indemnity or otherwise arising in relation to the performance or non-performance of this Agreement shall not in any circumstances exceed the greater of the total Fees paid to Pay360 in the 12 (twelve) months immediately preceding the date of the event on which the applicable liability or claim arose.

## **6. USE AND RESTRICTIONS ON USE**

6.1 The Customer will:

- (a) use the Service solely for the Permitted Purposes; and
- (b) only process personal data or supply personal data to Pay360 where it meets one or more of the permitted processing condition(s) set out in the Data Protection Regulations and where Pay360 is so authorised to transmit such data to Hooyu.

6.2 The Customer shall keep all Hooyu Results secure and confidential, shall prevent unauthorised access to the Service and Hooyu Results and shall not, and procure that its employees and agents shall not (and shall not attempt to):

- (a) disclose (other than as mandated under Applicable Laws), sell, license, rent, loan, transfer, distribute, reproduce, adapt, translate, arrange, publish, modify, reverse engineer, decompile, disassemble, or otherwise attempt to derive or copy the Service or Hooyu Results, display or make available to any third party (either directly or indirectly) any part of the Service or Hooyu Results, nor use the Service or Hooyu Results on behalf of any third party;
- (b) re-use a Hooyu Result for any transaction other than the transaction that the identity verification and relevant Hooyu Result was first intended to support;
- (c) integrate the Service into any other website without the written agreement of Hooyu;
- (d) interfere with or disrupt the proper operation of the Service, Hooyu's software or systems including (but not limited to) knowingly or negligently transmitting data or files that may interrupt, damage, destroy or limit the functionality of the Service, Hooyu's systems or software, including corrupted files or files that contain viruses or other malicious content;
- (e) gain unauthorised access or attempt to gain unauthorised access to Hooyu's systems or the Service;
- (f) access or use the Service through mechanical, programmatic, robotic, scripted or other automated search means;
- (g) participate in any illegal, deceptive, misleading practices using the Service or Hooyu Results;
- (h) use the Service or Hooyu Results for or in connection with any sexually explicit, pornographic, offensive, racist, obscene, abusive, violent, criminal, discriminatory, libellous, defamatory or illegal purposes;
- (i) use the Service for anything that is not allowed by the Permitted Purposes;
- (j) use the Service in any way which is infringing, facilitates illegal activity or causes or may cause damage or injury to any person or property; or

(j) unless agreed by the Parties in writing utilise the Service in, or transfer Hooyu Results to, any country not listed in Annex 1.

collectively known as “**Unauthorised Use**”.

6.3 The Customer shall ensure that access to and use of the Service and Hooyu Results shall be restricted to those of its employees, representatives or agents who require it in order to fulfil the lawful interests of the Customer. The Customer shall be responsible for all acts and omissions of those persons that have access to the Service.

6.4 Any breach by the Customer of any of the provisions in clauses 6.1 to 6.3 above shall constitute a material breach of this Agreement that cannot be remedied.

6.5 The Customer shall immediately inform Hooyu if there is any reason to think that Customer credentials to the Service have or are likely to become known to a person who is not authorised to access the Service under the terms of this Agreement or are likely to be used in an unauthorised way. Pay360 reserves the right to suspend the Service and / or to require that Customer credentials are changed if at any time Hooyu considers (acting reasonably) that there has been or is likely to be a breach of security or mis-use of the Service or Hooyu Results (including Unauthorised Use).

## **7. CONFIDENTIALITY**

7.1 For the purposes of this clause 7, the Party disclosing Confidential Information (as defined in clause 7.3) shall be referred to as the “**Disclosing Party**” and the Party receiving such Confidential Information shall be referred to as the “**Receiving Party**”.

7.2 Each Party undertakes that it shall not at any time disclose Confidential Information to any third party except as permitted by clauses 7.6 and 7.7 or to the extent necessary for the proper performance of this Agreement.

7.3 “**Confidential Information**” means any information related to the business and affairs of the Disclosing Party which is provided to the Receiving Party by the Disclosing Party including, whether before, on or after the Effective Date, but not limited to: (i) information regarding the business, affairs, customers, suppliers, operations, processes, product information (including Background Materials), know-how, technical information, designs, trade secrets or software of the Disclosing Party; (ii) any information, findings, data or analysis derived from Confidential Information including Hooyu Results; (iii) the existence and terms of this Agreement; (iv) personal data; and (v) any other information which should otherwise be reasonably regarded as possessing a quality of confidence or as having commercial value in relation to the business of the Disclosing Party.

7.4 Each Party warrants to the other that it shall apply the same security measures and degree of care to Confidential Information as it takes in protecting its own confidential information and in any event no less than that which a reasonable person or business would take.

7.5 Neither Party shall use the other Party’s Confidential Information for any purpose other than to perform its obligations under this Agreement.

7.6 Each Party may disclose Confidential Information:

- (a) to such of its employees, contractors, agents and professional advisers on a need to know basis for the purposes of that Party performing its obligations under this Agreement provided each such person complies with this clause 7; and
- (b) as may be required by law, court order or a governmental or regulatory authority.

7.7 For the purposes of clause 7.2 Confidential Information shall not include information which:

- (a) is or becomes generally available to the public other than through a breach of this Agreement;
- (b) is lawfully in the possession of the other Party before disclosure under this Agreement takes places;
- (c) is obtained from a third party who is free to disclose it;
- (d) the Parties agree in writing is not confidential or may be disclosed; or

## **8. DATA PROTECTION AND PERSONAL DATA**

8.1 Each Party will ensure that at all times it maintains all necessary registrations with relevant data protection authorities and will provide details of such registrations to the other Party upon written request.

8.2 Each Party shall at all times comply with all relevant Data Protection Regulations and shall render such assistance and co-operation as reasonably requested by the other Party.

8.3 The Customer acknowledges and agrees that Pay360 shall authorise Hooyu to maintain a log of all Chargeable Actions which it may use for internal purposes and to meet regulatory requirements.

8.4 The parties agree that:

8.4.1 with respect to personal data collected by the Customer from Data Subject's and transmitted to the Pay360 Platform for onward transmission to Hooyu, and in respect of Hooyu Results received by the Customer, the Customer is a data controller as defined in the Data Protection Regulations;

8.4.2 with respect to the personal data processed by Hooyu in providing the Service, Hooyu is a data controller as defined in the Data Protection Regulations;

8.4.3 with respect to personal data processed on the Pay360 Platform in respect of the Service Pay360 is a data processor and agrees to comply with the obligations in the Data Processing Addendum set out in Annex 3.

8.5 Pay360 shall ensure that Hooyu shall:

- (a) take reasonable steps to ensure the reliability of employees who have access to personal data and ensure that all such employees are appropriately trained to handle and process the personal data in accordance with the Data Protection Regulations and the technical and organisations security measures implemented by Pay360 in accordance with clause 8.6 (d);
- (b) process the personal data solely in accordance with the Permitted Purpose;
- (c) provide all reasonable assistance to the Customer to enable each of the Customer and Pay360 to comply with its obligations under the Data Protection Regulations.
- (d) take appropriate technical and organisational measures to prevent unauthorised access to, use of, storage, destruction and control of the Service, personal data and Hooyu Results by any person or entity, including implementing appropriate policies and procedures which shall: (i) account for

known or anticipated security threats; (ii) meet or exceed Good Industry Practice; and (iii) provide for prompt remediation of any deficiencies identified;

(e) maintain and enforce data destruction procedures to protect the security and confidentiality of all personal data processed in connection with this Agreement;

(f) in the event that a Security Event occurs or is suspected to have occurred, promptly inform Pay360 by written and email notification and comply with Data Protection Regulations in the handling of that Security Event;

(g) not process or transfer or allow such processing or transfer of personal data outside the UK and the European Economic Area, other than with the prior agreement of the Customer;

8.6 If any complaint, enquiry or investigation is made of either Party which relates to the use of personal data then each Party agrees to promptly assist the other in dealing with the matter;

8.7 Except as required by law, Pay360 shall ensure that Hooyu shall under no circumstances reveal details of the Chargeable Actions or Hooyu Results to any third party.

## **9. INTELLECTUAL PROPERTY**

9.1 The Customer acknowledges and agrees that all Intellectual Property Rights in and to: (a) the Service (and the associated application and its functionality); (b) the Hooyu Results; and (c) Hooyu's trade marks, trade names, service marks, trade dress, logos, URLs and domain names, any identifying slogans and symbols vest in Hooyu or its licensors or its or their third party suppliers. Hooyu has granted Pay360 a right to grant the Customer a limited, non-transferable, non-exclusive license for it to use the Service and Hooyu Results only in accordance with this Agreement without the right to sub-licence and does not grant any rights that are not expressly provided in this Agreement.

9.3 In the event that any third party makes or threatens to make a claim against the Customer, Pay360 or Hooyu that the use of the Service or Hooyu Results or part thereof infringe any third party's Intellectual Property Rights, Pay360 may: (i) suspend any part of the Service that is the subject of the infringement claim; and /or (ii) modify the Service so as to avoid any alleged infringement; or (iii) terminate the Agreement upon written notice to the Customer, providing a refund to the Customer of any sums paid in advance related to any unexpired period of the Term.

9.4 The Customer grants Pay360 a right to grant Hooyu a non-transferable, non-exclusive license to use, copy and store personal data supplied by the Customer to the Reseller to enable Hooyu to exercise its rights and carry out its obligations under this Agreement and to comply with Applicable Law and to use personal data to improve the effectiveness of the Service.

## **10. AUDIT RIGHTS**

10.1 Upon reasonable notice to the other Party and on reasonable grounds, a Party shall be entitled to conduct an audit (which may require on-site presence, documentation, system and staff access) or to appoint a third party to conduct an on-site audit of the other Party's compliance with the obligations of this Agreement.

10.2 Audits shall not be carried out more than once a year during the Term unless the auditing Party reasonably believes that the other Party is in material breach of this Agreement or unless the auditing Party is required to do so by a regulatory body with competent jurisdiction with respect to

the Service. The auditing Party or its auditor may be accompanied by a representative of any such regulatory body or a third party data supplier.

10.3 All audits will be conducted in a manner intended not to materially disrupt, delay or interfere with the audited Party's performance of its business and shall be carried out at the auditing Party's expense. Should the audit reveal a breach of this Agreement by the audited Party, the audited Party shall reimburse the auditing Party for the full cost of the audit.

10.4 The audited Party shall provide the auditing Party (or any regulatory body) with reasonable and supervised access to its premises, employees, computers, IT systems and records as required for the purposes of a successful audit, save that in respect of the Reseller the Reseller shall be entitled to redact information from records which contain data from other customers of the Reseller and limit access to IT systems to the extent reasonably required by its security standards .

10.5 Prior to an audit under this clause 10, the auditing Party shall be entitled (but not obligated) to submit a questionnaire to the audited Party regarding the performance of the audited Party's obligations under this Agreement. The audited Party shall respond to such a questionnaire within 14 days of its receipt. The submission of a questionnaire under this clause will not prejudice auditing Party's audit rights under this clause.

## **11. FORCE MAJEURE**

11.1 If either Party is prevented or delayed in the performance of any of its obligations hereunder by Force Majeure (as defined below), and serves notice thereof on the other specifying the matters constituting Force Majeure together with such evidence as it can reasonably give and specifying the period for which it is estimated that such prevention or delay will continue, then, subject to clause 11.2, the Party giving notice shall be excused from the performance or the punctual performance as the case may be as from the date of such notice for so long as such cause of prevention or delay shall continue. For the purpose of this Agreement, "Force Majeure" shall be deemed to be any cause affecting the relevant Party's performance of this Agreement arising from or attributable to acts, events, omissions or accidents beyond its reasonable control, including acts of God, fire, explosion or accidental damage, terrorism, riot, civil commotion, war and hostilities, any labour dispute or interruption or failure of utility service.

11.2 If the event of Force Majeure prevails for a continuous period of more than 60 days, either Party may terminate this Agreement by giving 14 days' written notice to the other.

11.3 The provisions of this clause 11 shall not delay or suspend the obligation for the Reseller to pay any Fees due unless such Fees relate to future use of the Service and Pay360 has advised the Reseller of a Force Majeure event that prevents such future use.

## **12. ASSIGNMENT AND SUB-CONTRACTING**

12.1 The Customer acknowledges that Hooyu sub-contracts certain parts of the Service to third parties and does not object subject to Pay360 ensuring that:

(i) Hooyu shall be responsible for any acts or defaults (including negligence or fraud) of its sub-contractors as if they were its own acts or defaults; and (ii) appropriate contractual arrangements are in place between Hooyu and the sub-contractor with respect to the protection and security of personal data as required under the Data Protection Regulations as well as the confidentiality obligations of this Agreement.

12.2 Neither Party shall be entitled to assign or transfer to any party, or charge or deal in any other manner with any of its rights or obligations under this Agreement without the prior written agreement of the other Party (which shall not be unreasonably withheld or delayed).

### **13. CHANGES TO CATER FOR APPLICABLE LAW**

13.1 Should it become necessary to change these terms and conditions in order to ensure compliance by the Parties with Applicable Laws, the Parties shall negotiate in good faith to agree the necessary change. Should the Parties be unable to agree upon such a change then either Party may give ninety (90) days (or less if required by Applicable Law) notice of its intention to terminate this Agreement.

### **14. WAIVER**

The failure by either Party to enforce at any time or for any period any one or more of the terms or conditions of this Agreement shall not be construed to or operate as a waiver thereof nor shall any single or partial exercise of any right or remedy preclude the further exercise of such right or remedy as the case may be. The rights or remedies provided in this Agreement are cumulative and are not exclusive of any rights or remedies provided by law.

### **15. GOVERNING LAW**

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law and the Parties hereby submit to the exclusive jurisdiction of the courts of England and Wales.

## **ANNEX 1 – AUTHORISED COUNTRY LIST**

Andorra  
Austria,  
Belgium,  
Bulgaria,  
Canada  
Croatia,  
Cyprus,  
Czech Republic,  
Denmark,  
Estonia,  
Finland,  
France,  
Germany,  
Greece,  
Guernsey  
Hungary,  
Ireland,  
Isle of Man  
Italy,  
Jersey  
Latvia,  
Lithuania,  
Luxembourg,  
Malta,  
Netherlands,  
Poland,  
Portugal,  
Romania,  
Slovakia,  
Slovenia,  
Spain,  
Switzerland  
Sweden  
United Kingdom.

## **ANNEX 2 - FEES**

Fees, excluding VAT, are as agreed in an Order Schedule

## ANNEX 3 – DATA PROCESSING ADDENDUM

### 1. Pay360's Obligations.

(a) The terms of this Data Processing Addendum shall apply to personal data which is transmitted by Customer to Pay360's Platform in respect of the Service ("Customer Personal Data").

(b) The Parties agree that Pay360 shall only process Customer Personal Data in accordance with Customer's instructions and not for Pay360's own purposes. If Pay360 is required to process the personal data for any other purpose under applicable laws, Pay360 will inform Customer of such requirement prior to the processing unless that law prohibits this on important grounds of public interest.

(c) When processing Customer Personal Data, Pay360 shall:

- i. take appropriate technical and organizational measures to; (a) ensure the security of, and protect against the unauthorized or unlawful processing of Customer Personal Data; and (b) protect against the accidental loss, destruction or damage of Customer Personal Data;
- ii. take reasonable steps to ensure compliance with those measures;
- iii. notify Customer immediately if, in Pay360's opinion, an instruction for the processing of personal data given by Customer infringes Data Protection Regulations;
- iv. use its reasonable commercial endeavours to assist Customer in responding to requests by data subjects to exercise their rights;
- v. implement and maintain data retention and destruction procedures in compliance with the requirements of the Data Protection Regulations and Pay360 shall not retain any of the Customer Personal Data for longer than is necessary to perform its obligations under the Agreement.;
- vi. ensure that all Pay360 personnel and sub-contractors required to access the Customer Personal Data are informed of the confidential nature of the Customer Personal Data and that only staff who are contractually bound to respect the confidentiality of the personal data shall have access to the same;
- vii.
- viii. .

(d) If Pay360 becomes aware of any accidental, unauthorized or unlawful destruction, loss, alteration, or disclosure of, or access to the Customer Personal Data that is processed by or on behalf of Customer (a "**Security Breach**"), it shall without undue delay and taking into account the nature of the processing and information available to Pay360, notify Customer and provide Customer with a detailed description of the Security Breach. Any action taken by Pay360 under the immediately preceding sentence shall be at Pay360's expense except to the extent that the Security Breach is caused by the acts or omissions of Customer, in which case such action shall be at Customer's expense.

(e) Pay360 shall, upon the written request of Customer and taking into account the nature of the processing and the information available to Pay360, use commercially reasonable endeavors, to assist Customer with Customer's obligations under the Data Protection Regulations to:

- i. communicate Security Breaches to data subjects;
- ii. carry out data protection impact assessments of envisaged processing operations on the protection of the Customer Personal Data; and
- iii. consult the applicable supervisory authority prior to processing where a data protection impact assessment indicates that the processing would result in a high risk in the absence of measures taken by Customer to mitigate the risk.

(f) If the European Commission lays down, or an applicable supervisory authority adopts, standard contractual clauses for the matters referred to in Article 28(3) and Article 28(4) of the General Data Protection Regulation pursuant to Article 28(7) or Article 28(8) of the General Data Protection Regulation (as appropriate) and Customer notifies Pay360 that it wishes to incorporate any element of any such contractual clauses into this Data Processing Addendum, Pay360 shall agree to changes necessary to incorporate such elements in writing.

## **2. Transfers of Personal Data from the EEA**

Pay360 shall not transfer Customer Personal Data) from a location in the territory comprising the EEA and the United Kingdom to a location outside that territory without the prior written consent of Customer.

## **3. Appointment of Sub-Contractors**

Pay360 may authorize a third party ("**Sub-Contractor**") to process the Customer Personal Data provided that the Sub-Contractor is subject to contractual terms that protect Customer Personal Data to the same extent as provided for in this Data Processing Addendum.