

## MERCHANT SERVICE AGREEMENT

This Service Agreement (“**Agreement**”) is made at Chennai on (" +model.getCreatedDatetime()+ " ) by and between:

" +model.getArea()+ ", a Company registered under the provisions of the Companies Act 1956, having its registered office at . " +model.getBillingAddress()+ " (hereinafter referred to as “**Merchant**”, which expression shall, unless repugnant to the context there of, include its successors-in-interest and permitted assigns);

**version 1.9**  
**/072023**

**AND**

**Tyche Payment Solutions Private Limited**, a company incorporated under the Companies Act 1956 under the brand name of 'Basispay' having its registered office at New No 9, Old No 11 First Floor, Palayakaran street, Kalaimagal Nagar, Ekkaduthangal, Chennai – 600032. (Hereinafter referred to as **"Tyche"**, which expression shall, unless repugnant to the context thereof, include its successors-ininterest and permitted assigns); ( Tyche and the Merchant are hereinafter collectively referred to as **"Parties"** and individually as **"Party"**.)

**WHEREAS:**

- A. Tyche provides inter axlia aggregate payment gateway solutions (**"Tyche Services"**) to various businesses/organizations selling goods and services or collecting money for a specified purpose, over the internet. Tyche has developed a software application (**"Software Application"**) and hosting Tyche Sites by way of which Tyche provides a single payment gateway solution to such businesses/organizations and facilitates them in accepting online payments initiated by their customers on their website or mobile application directed to the Tyche Site or through Tyche's IVR System, using credit/debit cards, net banking and various other acceptable modes of Payment Mechanism options provided by Tyche.
- B. The Merchant is desirous of availing Tyche Services in order to accept payments of Customer Charge through the internet and/or through IVR System from Customers, for Products purchased by them on the Merchant Site and receive aggregate final payment of Settlement Amounts in the Merchant Bank Account.
- C. Tyche has agreed to provide the Tyche Services and Merchant has agreed to obtain the same on terms and conditions hereinafter contained in this Agreement.

**NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS, TERMS AND CONDITIONS AND UNDERSTANDINGS SET FORTH IN THIS AGREEMENT AND OTHER GOOD AND VALUABLE CONSIDERATION (THE RECEIPT AND ADEQUACY OF WHICH ARE HEREBY MUTUALLY ACKNOWLEDGED), THE PARTIES WITH THE INTENT TO BE LEGALLY BOUND HEREBY AGREE AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION:**

- 1.1 In this Agreement, except where the context otherwise requires, the following words and expressions shall have the following meanings.
- (a) **“Acquiring Banks”** shall mean various banks, financial institutions, Card Associations, payment system providers who are defined and licensed under the Payment and Settlement Systems Act, 2007 and other software providers who are in the business of providing information technology services, including but not limited to, internet based electronic commerce, internet payment gateway and electronic software distribution services.
  - (b) **“Acquiring Bank Services”** shall mean the payment gateway system and services provided by the Acquiring Banks such as to (i) route internet based Valid Card transactions; (ii) offer various facilities through the internet, including Net Banking facilities; (iii) provide Authentication and Authorization from Card Associations or other third-party clearing houses; and (iv) provide settlement facilities in respect of payment instructions initiated by the customers.
  - (c) **“Agreement”** shall mean this Service Agreement, all schedules, appendices, annexures and exhibits attached to it or incorporated in it by reference.
  - (d) **“Annual Maintenance Charge”** shall mean the charges set out in **Part I of Schedule ‘A’** (Consideration).
  - (e) **“Authentication”** shall mean the process by which the Customer’s identification is authenticated by the Acquiring Banks.
  - (f) **“Authorization”** shall mean the process by which the Issuing Institution and/or the relevant Card Association electronically or otherwise convey the approval of the charge (i.e. if the Customer has a Valid Card and/or the required credit limit/ debit limit to pay the Customer Charge requested) on a Transaction being undertaken by a Customer on the Merchant Site.
  - (g) **“Business Days”** shall mean any day on which Acquiring Banks are open for business in India, other than Saturday, Sunday and any days declared by Tyche India and/or Acquiring Bank as a Holidays

- (h) **“Card Association(s)”** shall mean any of Visa, MasterCard, Visa Electron, Maestro, Diners, American Express or any other card association as may be specified by Tyche from time to time.
- (i) **“Card Association Rules”** shall mean the written rules, regulations, releases, guidelines, processes, interpretations and other requirements (whether contractual or otherwise) imposed or adopted by any Card Association.
- (j) **“Chargeback”** shall mean the approved and settled card or net banking Transactions which are at any time refused, debited or reversed from the Merchant Bank Account or from the Merchant’s Settlement Amount in the Nodal Account (shall also include similar debits to Tyche bank accounts, if any) by the Acquiring Bank for any reason whatsoever, together with the bank fees, penalties and other charges incidental thereto.
- (k) **“Completion of Transaction”** shall mean Tyche Completion of Transaction depending upon the Tyche Services Product opted for or if Tyche demands Proof of Delivery.
- (l) **“Confidential Information”** shall mean any and all written, oral or other tangible or intangible form of information, discoveries, ideas, concepts, know-how (whether patentable or copyright able or not), research, development, designs, drawings, blueprints, diagrams, models, samples, flow charts, data, computer programs, disks, diskettes, tapes, algorithms, software programs, marketing plans or techniques, technical, financial, or business information” trade secrets which includes but is not restricted to any portion or scientific or technical or proprietary information, design, process, procedure, formula or improvement which is not generally available to the public as delivered by either Party (“Disclosing Party”) to the other Party (“Receiving Party”) within the framework of this Agreement or resulting therefrom. Provided that confidential information disclosed orally or those produced by electronic media or through any other intangible means shall be deemed confidential if it is identified as being confidential if it is reduced in writing within (30) thirty days of the date of disclosure. Such writing shall specify the date, time, place, persons involved and the substance of the confidential information so disclosed.
- (m) **“Customer”** shall mean an individual or legal entity, who/which purchases Products, offered by the Merchant on the Merchant’s Website or Mobile Application or through IVR System directed to the Internet Payment Gateway using a Valid Card or Net Banking account or any other acceptable modes of Payment Mechanism, provided by Tyche.

- (n) **“Customer Bank Account”** shall mean a bank account or credit/ prepaid/ cash card account of the Customer with Issuing Institution.
- (o) **“Customer Charge”** shall mean the sale price of the Products purchased by the Customer plus the shipping charge (if any) and all other taxes, duties, costs, charges and expenses in respect of the Products/payment that are to be paid by the Customer.
- (p) **“Delivery”** shall mean (i) in respect of a good, delivery of the good by a courier /parcel service appointed by the Merchant or its vendors, to the Customer within Delivery Due Date at the address specified by the Customer in this behalf; or (ii) in respect of a service, delivery or performance of provisions of service within the Delivery Due Date.
- (q) **“Delivery Due Date”** shall mean the date/period displayed on the Website or otherwise notified to the Customer on or before which the Merchant shall deliver the Products to the Customer(s).
- (r) **“GST”** shall mean applicable Goods and Services Tax (including any statutory modifications (s) or re-enactment(s) thereof, for the time being in force, and the rules enacted thereunder).
- (s) **“Internet Payment Gateway”** shall have the meaning ascribed to it in Clause 3.3.
- (t) **“Issuing Institution”** shall mean a bank or financial institution or other legal entity, with which the Customer has an Net Banking account and/or which has issued the Valid Card to the Customers (explanation: except for debit card or credit card Transactions, the Issuing Institution of the Customer and the respective Acquiring Bank will be the same).
- (u) **“IVR System”** shall mean interactive voice response technology that allows the Customer to interact with the Merchant’s Tyche hosted IVR platform through a telephone by way of tele communication signal tone input on the keypad and make payments of Customer Charge through IVR dialogue.

- (v) **“Merchant Tyche Account”** shall mean the merchant account maintained with Tyche in order to provide the Tyche Services to the Merchant.
- (w) **“Merchant Bank Account”** shall mean the bank account maintained by Merchant which it nominates for settlement of its Settlement Amount and the details of which are provided in **Part II of Schedule A (Consideration)**.
- i **“Merchant Site”** shall mean the active website bearing the domain name "+model.  
getApiKey()+". and/or the mobile application, the contents of which are controlled, operated and owned by the Merchant and established for the purposes of enabling the Customers to view Products and carry out Transactions for purchase of Products, offered on the website or mobile application; and/or the IVR System hosted by Tyche for the Merchant through which the Customer can make payments for Products purchased from the Merchant.
- (x) **“Net Banking Account”** shall mean the facility and internet account provided by the Issuing Institution to Customers holding a bank account or digital wallet account with the Issuing Institutions specified by Tyche from time to time. Provided that the bank account is not listed in current warning or restricted bank account bulletins or notices.
- (y) **“Nodal Account”** shall mean an inoperative account held by Tyche with any of the banks for the purpose of pooling the monies collected from Customers on behalf of the Merchant and facilitating the transfer of these funds in final settlement to the Merchant (after deducting Service Fee), pursuant to RBI notification DPSS.CO.PD.No.1102/ 02.14.08/2009-10, dated 24/11/2009 or any other RBI notifications/guidelines amended from time to time.
- (z) **“Nodal Bank”** shall mean the bank(s) designated by Tyche for the purpose of pooling the funds collected from Customers on behalf of the Merchant and facilitating the transfer of these funds in final settlement to the Merchant (after deducting Service Fee), pursuant to RBI notification DPSS.CO.PD.No.1102/ 02.14.08/2009-10, dated 24/11/2009 or any other RBI notifications/ guidelines amended from time to time.
- (aa) **“One Click Checkout”** shall mean the facility provided to the Customers to save its ValidCard details on the Tyche server to purchase the Products from the Merchant Site with a single click.

- (bb) **“Outstanding Amount”** shall mean the amount payable by the Merchant to Tyche, Acquiring Banks and/or Customers for any losses, costs, damages, penalties, Chargebacks, refund overdraft or credit problems suffered or incurred by the Customers, Tyche and/or Acquiring Banks; any fees and other payments owed to Tyche by the Merchant; and any claims or proceedings filed against Tyche and/or Acquiring Banks by the Customers or any third Party.
- (cc) **“Payment Mechanism”** shall mean the mechanism of making payment by utilizing the internet facilities of various Acquiring Banks, Card Associations, card payment systems and through such other modes and mechanisms of payment and delivery as may be notified by Tyche from time to time.
- (dd) **“Tyche Services”** shall have the meaning ascribed to it in Recital A provided through Tyche Services Products.
- (ee) **“Tyche Services Product”** shall mean Tyche by means of which Tyche provides Tyche Services. The Merchant will be provided with the Tyche Services Product opted for in Schedule B.
- (ff) **“Tyche Site”** shall mean the websites provided by Tyche Payments Private Limited (depending upon the Tyche Services Product opted for by the Merchant as mentioned in Schedule B of this Agreement) by means of which Tyche provides aggregative Internet Payment Gateway services/ Tyche Services to the Merchant and the Customers.
- (gg) **“Products”** shall mean goods and/or services offered for sale by the Merchant on the Merchant Site.
- (hh) **“Proof of Delivery”** shall mean sufficient legitimate records evidencing Delivery of the Product to the Customer (i.e. Courier Company’s delivery confirmation and delivery confirmation by the Customer).
- (ii) **“RBI”** shall mean the Reserve Bank of India.

- (jj) **“Reserve”** shall mean the interest free, refundable funds provided and replenished by the Merchant to Tyche from time to time.
- (kk) **“Service Fee”** shall mean the fee charged by Tyche for providing Tyche Services. The Service Fee shall include bank charges, technology fee and the fee for various value-added services provided by Tyche.
- (ll) **“Settlement Amount”** shall mean Customer Charge minus the Service Fee and any other charges/fees payable by the Merchant to Tyche under this Agreement.
- (mm) **“Software Application”** shall have the meaning ascribed to it in Recital A.
- (nn) **“Transaction”** shall mean every payment request/order placed by the Customer on the Merchant Site for purchasing Products from the Merchant.
- (oo) **“Valid Card”** shall mean any unexpired credit card or debit card which is issued by an Issuing Institution designated to issue a Visa, MasterCard, Visa Electron or a Maestro or cash card, pre-paid card or other card as may be specified by Tyche from time to time. Provided that the card is not listed in current warning or restricted card bulletins or notices and bears the signature of the person in whose name the card is issued.

## 1.2 In this Agreement:

- (a) Except where the context requires otherwise, references to Clauses, Schedules and Annexures are to Clauses of, Schedules to and Annexures to this Agreement.
- (b) Words denoting the singular number include the plural number and vice versa, words denoting the masculine gender include the feminine gender and words denoting persons include companies.
- (c) Headings are inserted for convenience only and shall not affect the construction of this Agreement.



- (d) In case of any ambiguity or discrepancy between the Clauses and the Annexures to this Agreement, the Clauses shall prevail.
- (e) Any reference to any agreement, deed, instrument, license, code or other document of any description shall be construed, at the particular time, as a reference to that agreement, deed, instrument, license code or other document as the same may then have been amended, varied, supplemented, modified, suspended or novated.

## **2. TERM**

- 2.1 This Agreement shall be in force from Effective Date and shall remain in force until terminated by either Party in accordance with the provisions of this Agreement.

## **3. SCOPE OF TYCHE SERVICES**

- 3.1 Tyche has developed a Software Application and established Tyche Sites.
- 3.2 The Merchant has established Merchant Site to sell the Products and/or collect payments online from the Customers.
- 3.3 Tyche will act as an intermediary by creating a link between the Merchant Site and the respective Acquiring Banks by means of the Software Application and Tyche Site, for enabling the Customers to make payment of Customer Charge on the Merchant Site for Transactions carried through the Payment Mechanisms using Acquiring Bank's Services. (**"Internet Payment Gateway"**).
- 3.4 In order to serve in this role, Tyche has entered into agreements with various Acquiring Banks to enable use of internet payment gateways/Payment Mechanisms developed by them and process payments using Acquiring Bank Services.

- 3.5 Once the payment instruction is Authenticated and Authorized by the respective Acquiring Bank in respect of a Transaction, the Acquiring Bank will transfer such approved Customer Charge from the Customer Bank Account to the Nodal Account.
- 3.6 The Merchant hereby directs and authorizes Tyche to receive, hold, disburse and settle the Customer Charge in accordance with and subject to the provisions of this Agreement.
- 3.7 Except as provided in this Agreement and Schedules hereto, no right is granted to the Merchant or to any third party.

#### **4. APPROVAL AND REGISTRATION TO AVAIL TYCHE SERVICES/ACQUIRING BANK SERVICES**

- 4.1 The Merchant shall disclose the exact business category/business sub-category for which the Merchant will be using the Tyche Services in **Schedule B** of this Agreement and shall only avail the Tyche Services through its designated Merchant Site. In order to use the Tyche Services for any other purpose, the Merchant understands and acknowledges that it shall notify Tyche in writing of such change and such change will be subject to approval by Tyche.
- 4.2 The Merchant understands that in order to avail the Tyche Services and Acquiring Bank Services, the Merchant must be approved by and registered with Tyche, the Acquiring Banks and Nodal Bank. Any undertaking with respect to the Tyche Services under this Agreement shall be subject to Tyche's, the Acquiring Banks' and Nodal Bank's approval and completion of the registration process. The Merchant shall provide Tyche with all such documents as required by Tyche to register the Merchant with Tyche, the Acquiring Banks and Nodal Bank. The Merchant further understands and acknowledges that Tyche, the Acquiring Banks and Nodal Bank have the right to withdraw their approval/consent at any time prior to or after commencement of the Tyche Services.

#### **5. CONNECTIVITY AND INTEGRITY OF HOTLINK**

- 5.1 Both Parties shall work together to link the Software Application with the Merchant Site software, for the purpose of connecting the Merchant Site with the Internet Payment Gateway as exemplified in Clause 3 above. The Merchant agrees to be responsible at its own costs and for providing and maintaining all necessary equipment, software and facilities at its end so as to connect the Merchant Site software to the Software Application. Each Party shall cooperate with the other Party and render assistance to it for connecting the respective software systems of the Parties.
- 5.2 For security during transmission of data in the course of providing services to the Customers, both Parties shall mutually work upon developing and implementing various mechanisms.
- 5.3 The Merchant shall take all such precautions and measures as may be directed by Tyche to ensure that there is no breach of security and the integrity of the link between the Merchant Site and the Internet Payment Gateway ("**Hotlink**") is maintained. The Merchant shall ensure that all Customers upon accessing the Hotlink are properly directed to the Internet Payment Gate way. The Merchant shall ensure that there are proper encryption and robust security measures to prevent any hacking into the information of the Customers and other data. In addition to the above, the Merchant shall also comply with security practices and procedures as prescribed in the Information Technology Act, 2000 and the rules made thereunder and/or the RBI rules and Regulations. Any loss incurred to the Merchant, Tyche or the Acquiring Bank as a result of the Hotlink being breached due to improper security on the part of the Merchant, its employees, contractors, agents, etc and/or on the Merchant Site, shall be borne solely by the Merchant and the Merchant agrees to indemnify, defend and hold harmless Tyche and the Acquiring Banks from any claims, actions, damages or losses arising out or in relation thereto.
- 5.4 Without prejudice to the generality of the aforesaid, Merchant shall routinely and at such time intervals as may be specified by Tyche and/or the Acquiring Banks check the integrity of the Hot link and provide such reports ("**MIS**") as may be required by Tyche and/or Acquiring Banks from time to time.

## **6. AUTHORIZATION AND AUTHENTICATION OF TRANSACTION**

- 6.1 The Acquiring Bank will authenticate, authorize, and process the payment instructions given by the Customers on the Merchant Site in respect of the Transactions upon fulfillment of valid

criteria as set forth by the Acquiring Banks and the Card Associations from time to time and accordingly transfer such approved Customer Charge from the Customer Bank Account to the Nodal Account.

- 6.2 The Merchant understands that Tyche, Acquiring Banks and/or Card Association may reject authorization of Transaction placed by the Customer for any reason including but not limited to risk management, suspicion of fraudulent, illegal or doubtful Transactions, selling of banned items, use of compromised Valid Cards, use of blacklisted/banned cards or in accordance with the RBI, Acquiring Banks, Issuing Institution and/or Card Association rules, guide lines, regulations, etc and any other laws, rules, regulations, guidelines in force in India, etc.
- 6.3 The Merchant acknowledges that as a risk management tool, Tyche and/or the Acquiring Banks reserve the right to limit or restrict transaction size, amount and/or monthly volume at any time. For the purpose of clarity such limitations or restrictions may be imposed for the following reasons including but not limited to limits/restrictions on the number of purchases which may be charged on an individual Valid Card or net banking account during any time period, rejection of Payment in respect of Customer Orders from Customers with a prior history of questionable charges, unusual monetary value of Transaction, etc. Further, as a security measure, Tyche may at its sole discretion block any card number, account numbers, group of cards or Transactions from any specific blocked or blacklisted customer cards, accounts, specific, group of IP addresses, devices, geographic locations and / or any such risk mitigation measures it wishes to undertake.

## **7. PAYMENT TO TYCHE**

- 7.1 In consideration for Tyche Services, the Merchant agrees to pay Tyche, Service Fees as detailed **Part I of Schedule A** . The Service Fee shall be deducted by Tyche from the Customer Charge payable to the Merchant in respect of each completed Transaction. Tyche reserves the right to revise the Service Fee periodically, and Tyche will intimate the Merchant of any such change within reasonable time.
- 7.2 The Merchant shall also pay to Tyche (i) a non-refundable one time set up fee, and (ii) Annual Maintenance Charge payable in advance every year as detailed in Part I of Schedule A.

Tyche shall have a right to deduct such set-up fee and Annual Maintenance Charges from the Settlement Amount payable to the Merchant. Also, through Nach or e-Nach mandates. Tyche reserves the right to revise the charges periodically, and Tyche will intimate the Merchant of any such change within reasonable time.

- 7.3 Tyche undertakes to comply with all the compliances mandated under the GST as may be applicable on Tyche as and when the same are implemented by the relevant government authority including timely deposit of GST to the government and maintaining appropriate compliance rating.

## **8. TERMS OF PAYMENT TO MERCHANT**

- 8.1 Subject to any other Clause of this Agreement, Tyche shall endeavor to instruct the Nodal Bank to transmit the Settlement Amount from the Nodal Account to the Merchant's Bank Account within the time period prescribed by RBI commencing from date of Completion of Transaction (as mentioned in Schedule A).
- 8.2 In the event that the Merchant opts for Tyche Services using Tyche Services Product: Tyche (as mentioned in Schedule B), the Merchant understand that the Transaction shall be completed only upon receipt of the Customer Charge in the Nodal Account from the Acquiring Banks and reconciliation of the same by the Acquiring Banks, Tyche and the Nodal Bank (**"Tyche Completion of Transaction"**)
- 8.3 The Merchant further acknowledges that transmission of the Settlement Amount to the Merchant Bank Account shall be subject to reconciliation of the Customer Charge by the Acquiring Banks, Tyche and the Nodal Bank after actual receipt of Customer Charge in the Nodal Account.
- 8.4 The Merchant hereby agrees that all payments with respect to refunds and Chargebacks shall be the sole responsibility of the Merchant and Tyche shall not be liable for any claims, disputes, penalties which may arise in connection with such refunds or Chargebacks to the Merchant or the Customer. The Merchant agrees to indemnify Tyche in respect of any claims, disputes,

penalties, costs and expenses arising directly or indirectly in relation to refunds or Chargebacks for all Transactions initiated and instructed through the Merchant Site.

- 8.5 The Merchant hereby agrees and acknowledges that the service fee charged by Tyche in respect of the refunds, disputes and chargeback transactions shall not be refunded or repaid by Tyche to the Merchant or any other person.
- 8.6 Notwithstanding anything contained anywhere in this Agreement, the Merchant hereby fully confirms and agrees that Tyche, Acquiring Bank and Nodal Bank reserve the right to reject payments with respect to any Customer Charge for reasons including but not limited to unlawful, unenforceable, doubtful or erroneous Transaction, Chargeback, refund, fraud, suspicious activities, card Authentication and Authorization issues, overpayment made due to mathematical errors or otherwise, penalties incurred, Transaction related issues, issues related to Delivery, Customer Charge or Product, if the Transaction was not made in accordance with the requirements of Tyche and/or the Acquiring Banks and/or Card Association.
- 8.7 In the event of rejection of payment with respect to Customer Charge, Chargeback, refunds or other Outstanding Amounts due to Tyche, Acquiring Bank and/or the Customer by the Merchant, Tyche and/or the Acquiring Bank reserve the right to reverse the credit given to the Merchant Bank Account or set-off the payment amount rejected, Chargeback or refunded or the Outstanding Amount against Settlement Amount payable to the Merchant. Tyche and/or Acquiring Banks may also deduct the payment amount due from future Settlement Amounts payable to the Merchant with respect to subsequent Transactions.
- 8.8 If Tyche and/or the Acquiring Banks determine that the Merchant is incurring an excessive number of Chargebacks, Tyche may establish controls or conditions governing the Transactions contemplated under this Agreement, including without limitation, by (a) establishing new processing fees, (b) by requesting a Reserve in an amount reasonably determined by Tyche to cover anticipated Chargebacks, (c) delaying payouts, and (d) terminating or suspending the Tyche Services.
- 8.9 All Settlement Amount due to the Merchant under this Agreement may be suspended or delayed till such time as Tyche, the Acquiring Banks and/or nodal bank deems fit, if (a) the Merchant or its Customer or a third party commits any fraud or violates any law or legal requirement; (b) Tyche and/or the Acquiring Banks have reasons to believe that a fraud has been committed against the

Customers, Tyche, Acquiring Banks or any third party by the Merchant, its Customers, or any other third party; or has reason to believe that the Merchant or the Customer has in connivance with any other person done any fraud or assisted in the same; or any transaction has been fraudulently initiated; (c) the Merchant has excessive pending Chargebacks or poses high Chargeback and/or refund Risk; (d) continuous non-delivery or delayed delivery of Products to Customers; or (e) for any other reasonable reasons.

9.1 The Merchant agrees to provide Tyche with Reserve of such amounts as may be requested by Tyche from time to time to secure the performance of the Merchant's obligations under this Agreement for reason, including without limitation, high Chargeback risk, credit risk, refund overdraft risk, non-delivery issues, selling of banned items, non-payment of maintenance fees or other amount payable to Tyche or any other indications of performance problems related to Merchant's use of the Tyche Services. If the Merchant fails to provide Tyche with Reserve within seven (7) days of receipt of notice for the same, Tyche reserves the right to suspend and/or terminate the Settlement Amount payable to the Merchant or the Tyche Services without further notice. Tyche may use this Reserve to set-off including but not limited to any Outstanding Amounts payable by the Merchant to Tyche, Acquiring Banks and/or Customers.

9.2 In case the Settlement Amount payable to the Merchant and/or the Reserve (if any) is not sufficient to cover the Merchant's Outstanding Amount, then the Merchant shall pay Tyche and/or the Acquiring Banks the remaining amount due immediately upon request. Tyche shall be entitled to charge daily interest on such Outstanding Amount from the date of request until the date of payment in full, at the rate of 1.5% per month. Provided that the above right of

Tyche to appropriate the Reserve and set-off the Outstanding Amount in the above manner shall be in addition to and reserving fully the right of Tyche to recover all such losses, costs and damages etc from Merchant by any other means, which may be available to Tyche under the law. In addition, Merchant agree to pay all costs and expenses, including without limitation attorneys' fees and other legal expenses, incurred by or on behalf of us in connection with the outstanding amount and the collection of same from the Merchant.

## **10. DELIVERY**

10.1 The Merchant shall dispatch/render the Products to the Customer only upon transaction

confirmation from Tyche to the Merchant. The Merchant acknowledges that Tyche shall give confirmation only upon receipt of transaction confirmation in respect of the Transaction from the Acquiring Bank. Tyche shall not be responsible for any Transactions that have not been confirmed with Tyche by the Acquiring Banks.

- 10.2 The Merchant shall ensure that it maintains Proof of Delivery with respect to each Transaction initiated through the Merchant Site for a period of at least one (1) year from the date of Delivery. Proof of Delivery shall be open for inspection by Tyche and/or the Acquiring Banks at all times during working hours on Business Days. Notwithstanding any other Clause of this Agreement, the Merchant understands that Tyche and/or the Acquiring Bank and/or Nodal Bank reserve the right to call for Proof of Delivery, at any time, before and/or after settlement of Settlement Amount to the Merchant's Bank Account with respect to any Transaction. Tyche and/or the Acquiring Banks have the right to reverse Customer Charge amount to the Customers and/or reject the Customer Charge to Merchant, if Proof of Delivery is not provided in accordance to this Agreement.
- 10.3 The Merchant shall deliver the Product within the Delivery Due Dates specified at the time of making the transaction on the Merchant Site. If the Merchant is unable to deliver the whole or any part of the Transaction within the Delivery Due Date, the Merchant shall forthwith inform the Customer and take immediate action to refund the Customer Charge in whole or in part as per the Customers instructions.
- 10.4 All risks associated with the Delivery by the Merchant shall be solely that of the Merchant and not Tyche. Any and all disputes regarding quality, merchantability, non-Delivery, delay in Delivery or otherwise shall be resolved directly between the Merchant and the Customer without involving Tyche and/or the respective Acquiring Bank as a party to such disputes.

## **11. REFUND AND RETURN POLICY**

- 11.1 The Merchant agrees to process returns of, and provide refunds and adjustments for, Products sold and/or payment collected through its Merchant Site in accordance with this Agreement, the Acquiring Banks instructions and Card Association Rules. The Merchant understands that all refunds must be routed through the same Acquiring Bank payment gateway through which the



Transaction was made. In the event that the Merchant initiates refunds through any other mode, the Merchant shall be fully liable for all Chargebacks raised in respect of the Transaction refunded. The Merchant shall ensure that Tyche at all times have sufficient funds of the Merchant to process refunds initiated. Tyche shall not be liable to process any refund initiated in the event of insufficient funds.

- 11.2 The Merchant understands that no refund shall be processed by Tyche after a period of 180 days from the date of the Transaction.
- 11.3 The Merchant shall (a) maintain a fair return, cancellation or adjustment policy in accordance with type of business; (b) disclose its return or cancellation policy to Customers at the time of purchase, (c) not give cash refunds to a customer in connection with a card sale, unless required by law, and (d) not accept cash or any other item of value for preparing a card sale refund.
- 11.4 The amount of the refund/adjustment must include any associated taxes required to be refunded and cannot exceed the amount shown as the total on the original sales data except by the exact amount required to reimburse the customer for postage (if any) that the Customer paid to return Product. The Merchant understands that if the refund policy prohibits returns or is unsatisfactory to the Customers, the Merchant may still receive a Chargeback relating to the Disputed Transaction.
- 11.5 It is hereby agreed and acknowledged by the Parties that the Service Fee charged by Tyche in respect of a Transaction that has been confirmed shall not be refunded or repaid by Tyche to the Merchant or any other person irrespective of the Customer Charge being rejected, chargeback, refunded or disputed.

## **12. CUSTOMER PRODUCT SUPPORT**

- 12.1 The Merchant is solely responsible for all Customer service issues relating to the Products sold on its Merchant Site including but not limited to Customer Charge, order fulfillment, order cancellation, returns, refunds and adjustments, rebates, functionality and warranty,

technical support and feedback concerning experiences with its personnels, policies or processes. In performing Customer service, the Merchant will always present itself as a separate entity from Tyche.

- 12.2 The Merchant shall provide Customer support within 36 (thirty six) hours during all Business Days. Such support shall include appropriate notice to Customers of means of contacting the Merchant including e-mail address and telephone number, in the event the Customer has questions/queries regarding the nature or quality of the Product and the procedures for resolving disputes.
- 12.3 Under no circumstances shall Tyche be responsible for customer product support to the Customer or any third party.

### **13. INSPECTION**

- 13.1 Except as required by law, the Merchant shall be solely responsible for (a) compiling and retaining permanent records of all Transactions and other data and (b) reconciling all Transaction information that is associated with its Customers.
- 13.2 The Merchant shall maintain records of such periodical checks in such manner as may be specified by Tyche and/or Acquiring Banks. Tyche and/or Acquiring Banks shall be entitled to check and audit records and statements of the Merchant to ensure compliance with the Merchant's obligations under this Agreement at such intervals or times as Tyche and/or Acquiring Bank may deem fit.
- 13.3 The Merchant shall also permit the authorized representatives of Tyche and/or the Acquiring Banks to carry out physical inspections of the place(s) of business or other facilities of the Merchant to verify if the Merchant is in compliance with its obligations hereunder.
- 13.4 If the Merchant refuses such inspection or provides inaccurate, untrue, or incomplete information, or fails to comply with the terms and conditions of this Agreement, Tyche reserves the right to suspend or terminate the Tyche Services forthwith.

## 14 COVENANTS OF THE MERCHANT:

14.1 The Merchant hereby declares, assures, undertakes and covenants as under:

- (a) The Merchant shall duly fulfill all Transactions placed on the Merchant Site in accordance with the terms and conditions on the Merchant Site and instructions of the Customer. The Merchant undertakes to ensure that the Delivery is done as per specifications of the Customer on or before the Delivery Due Date.
- (b) The Merchant will not offer out of stock Products for sale. The Merchant shall be solely liable for quality and efficiency and merchantability of the Products. Further the rates displayed on the Merchant Site shall include all applicable taxes.
- (c) The Merchant shall comply with all applicable laws, rules and regulations in offering the Products or collecting Payments on its MerchantSite. The Merchant shall ensure that all requisite approvals, licenses and registrations, etc. in accordance with all laws, rules, regulations, guidelines in force in India from time to time, have been obtained and are kept in full force and effect to enable the Merchant to offer the Products for sale. The Merchant shall not conduct any business through the Tyche Services or offer Products thereof in violation of any law or legal requirement of any applicable jurisdiction and shall keep Tyche fully indemnified for all times to come in this regard.
- (d) The Merchant shall not offer any Products, which are illegal or offensive or banned as per the list provided in **Schedule C** and/or are not in compliance with applicable laws, rules and regulations whether central, state, local or international of all jurisdiction from where the Customers avail the Products. In addition, the Merchant shall comply with and shall ensure compliance by the Customers with all applicable guidelines, rules, regulations issued by RBI and guidelines set by Tyche, Acquiring Banks and/or Card Associations. The Merchant agrees and understands that Tyche reserves the right to suspend Settlement Amount and/ or Tyche Services to the Merchant until such time that the Merchant does not discontinue selling such banned/illegal Products or does not conform to all applicable laws and regulations in force from time to time. In addition, Tyche reserves the right to terminate this Agreement without further notice in the case of breach of this Clause.

- (e) The Merchant shall ensure that appropriate cancellation policy, refund policy, privacy policies, disclosures/disclaimers, terms of use pertaining to the Merchant Site, the terms of the Products provided by the Merchant and terms of paying the Customer Charge are displayed conspicuously on the Merchant Site in accordance with the terms of this Agreement (collectively “**Merchant Terms and Conditions**”) . The Merchant shall prior to accepting any instructions from the Customers ensure that the Customers are duly registered on the Merchant Site and the Customers accept all the Merchant Terms and Conditions. Tyche reserves the right to inspect the Merchant Terms and Conditions at any times.
- (f) In the event that the Merchant provides One Click Checkout option to its Customers and the Customer opt for One Click Checkout, the Merchant understands that Tyche shall store the Valid Card data of the Customers on its server.
- (g) In the event that the Merchant has obtained a PCI DSS certification and opts for a One Click Check out API, the Merchant shall be responsible to ensure that all Customer Valid Card data shared with the Merchant is kept safe and not shared with any third party without the consent of Tyche and the Customer. The Merchant shall ensure that there is no unauthorized use or disclosure of such data or any hacking of the same. The Merchant accepts all liabilities with respect to such Customer Valid Card data and shall keep Tyche indemnified in case of any breach of this Clause. In addition, in the event that the Merchant calls the One Click Checkout API  
  
for the wrong Customers Valid Card data or the Customer’s account with the Merchant is compromised, the Merchant shall be fully liable for all transactions processed and Tyche shall have no liability towards the Customers or the Merchant. Further, the Merchant shall also have in place a privacy policy for handling or dealing with the Customer’s personal information including all Customer Valid Card data, and such policy should be available to the Customers and be published on the Merchant Site.
- (h) The Merchant shall have the marketable and legal right and title to sell Products offered by it to the Customers by using Tyche Services.
- (i) In the event any Customer complaints or is dissatisfied with any Product, the Merchant shall take such measures as may be required to resolve the same at its sole cost and expenses.

- (j) The Merchant shall ensure that the best service standards in the industry are adopted and shall ensure Delivery of all Products paid for on the Merchant Site to Customers in accordance with the highest standards.
- (k) The Merchant agrees to put up such notices, disclaimers or warranties as may be required by Tyche and/or the Acquiring Bank and the Merchant shall comply with such request forthwith.
- (l) The Merchant shall be solely responsible for the accuracy of all information and/or validity of the prices and any other charges and/or other information relating to the Products, which are offered on its Merchant Site.
- (m) In the event that the Merchant provides EMI options to the Customers, the Merchant shall endeavour to deliver the Product after the approval of the EMI option from the Issuing Institution providing the EMI option through Tyche. Tyche shall not be liable to the Merchant or the Customer for any dispute arising with respect to rejection of EMI option to a Customer after a Transaction has been confirmed, irrespective of the Settlement Amount being in the Nodal Bank or already transferred to the Merchant Bank Account. The Customer shall raise such dispute directly with the Issuing Institution.
- (n) The Merchant hereby agrees that it shall bear and be responsible for the payment of all relevant taxes, surcharge, levies etc. (including withholding taxes) in relation to the Customer Charge and Tyche Services provided under this Agreement.
- (o) As the Merchant will be using the Acquiring Banks Services and Card Association Services, the Merchant shall comply with all applicable rules, guidelines, instructions, requests and actions, etc made by the Acquiring Banks and/or Card Associations from time to time. The Acquiring Banks has the right to reverse/reject settlement, suspend and/or terminate Acquiring Banks Services/Tyche Services, make inspections or inquiries in relation to the Transaction, etc. The Merchant understands that the Acquiring Banks and Card Association Rules form a part of this Agreement. In the event that Merchant's non-compliance of Acquiring Banks and/or Card Association Rules, results in any fines, penalties or other amounts being levied on or demanded of Tyche by an Acquiring Bank and/or Card Association, then without prejudice to Tyche's other rights

hereunder, the Merchant shall forthwith indemnify Tyche in an amount equal to the fines, penalties or other amount so levied or demanded. If the Merchant fails to comply with its obligations towards the Acquiring Banks and/or Card Associations, Tyche may suspend settlement or suspend/terminate the Tyche Services forthwith.

- (p) The Merchant shall not require the Customer to provide the Merchant with any details of the accounts held by it with Issuing Institution. The Merchant shall not input any data on behalf of the Customers on the Merchant Site or the Acquiring Bank, failing which it will be considered as breach of trust of Tyche and/or of the Acquiring Bank.
- (q) The Merchant shall ensure to keep confidential, all information submitted by the Customers on the Merchant Site. The Customer shall not be required or asked to disclose any confidential or personal data, which may be prejudicial to interests of the Customer. The Merchant shall use the Customer data only for the purpose of completing the Transaction for which it was furnished, and shall not sell or otherwise furnish such information to any third party. The Merchant shall be liable to comply with existing data privacy regulations from time to time.
- (r) The Merchant shall in writing inform Tyche of all changes in its constitution, directors/partners/trustees, or change in the current addresses of each office, within seven (7) Business Days of such change having taken place listing out the names and details of the personnel in charge of the management and affairs of the Merchant. Such intimation shall be provided on the Merchant's letterhead signed by the authorized signatory of the Merchant.
- (s) The Merchant shall not engage in activities that harm the business and/or brand of Tyche, the Acquiring Banks and/or card associations.
- (t) The Merchant must indicate its acceptance of all the respective Acquiring Banks and/or Card Associations, whose Payment Mechanism is being used by the Merchant, whenever it communicates the payment methods it accepts to its Customers without prejudice to anyone of the Acquiring Banks and/or Card Associations. In the event that the Merchant decides to display the logos of the Acquiring Banks and/or Card Associations whose Payment Mechanism it is providing as a Valid Card payment option to its Customers on the Merchant Site and/or other marketing materials, the Merchant must ensure that it prominently displays the logos of all the

respective Acquiring Banks and/or Card Associations (being used to process Valid Cards) in the same manner and without prejudice to any one of them and in accordance with the guidelines and /or direction provided by the respective Acquiring Banks and/or Card Associations. In addition, the Merchant shall not promote, dissuade or impose restrictions/ conditions on any one Valid Card Payment Mechanism and/or Card Association over the other. Exceptions being limited time bound tactical marketing programs with one or more Acquiring Banks and/or Card Associations.

- (u) Merchant agrees to intimate Tyche and refund back to Tyche any excess or wrong credit received in its account. Merchant also agrees to recover and fully cooperate with Tyche to recover any incorrect settlement done on behalf of the Merchant to any third party.
- (v) The Merchant shall be responsible to resolve all cardholder/customer account holder disputes and provide whatever assistance necessary to assist the Acquiring Banks, Card Associations and Tyche deal with all cardholder/Customer Account holder disputes at its own cost.
- (w) The Merchant authorizes Tyche to share Transaction data and Customer information with the respective Acquiring Banks and Card Associations.
- (x) The Merchant agrees that Tyche has the right to hold an amount from the pending settlement towards future chargeback recovery, based on the risk category and chargeback history of the merchant, in case the merchant stops transacting or drastically reduces volume.
- (y) The Merchant shall maintain and run the Merchant Site as a part of its business and shall ensure that the Merchant Site does not contain libelous, defamatory, obscene, pornographic or profane material or any instructions that may cause harm to Tyche, the Acquiring Banks, Card Associations and/or any other third party.
- (z) The Merchant agrees that Tyche reserves a right to suspend the payment and/or Tyche Services provided herein, forthwith, in event the Merchant fails to observe the terms and conditions herein.
- (aa) The Merchant assures and guarantees to Tyche that the Merchant complies with all government laws, rules, and regulations applicable to its business and supports the eradication of

corruption. Consistent with the Anti-bribery/Anti-corruption, and Anti-money laundering, the Merchant has had a long-standing commitment to compliance with the minimum requirements adopted by the US/OFAC, UK, UN and the EU in regards to anti-bribery and anti-corruption, antimoney laundering (“**Anti-Financial Crimes Laws**”) of all of the countries and territories in which the Company does business. Merchant acknowledges and agrees that the Merchant undertakes to be compliant and shall continue to abide to the relevant Anti-Financial Crimes Laws set out in **Schedule D** hereto.

(bb) The Merchant agrees to abide by the companies’ policies and procedures regarding the Refunds, disputes, Chargeback, Grievance &#8743; complaints, etc. mentioned in Schedule D.

## 15. REPRESENTATIONS BY THE PARTIES

15.1 Each of the Parties represents warrants and undertakes that:

- (a) It is duly organized and validly existing under the laws of the jurisdiction in which it is established;
- (b) It has the requisite power and authority to execute, deliver and perform this Agreement and that this Agreement has been duly and validly authorized, executed and delivered by it;
- (c) Its obligations hereunder constitute legal, valid, binding and enforceable obligations; and
- (d) The execution and delivery of this Agreement and the consummation of the Transactions contemplated herein do not breach its organizational documents or any law, provisions of any contract or order of court applicable to it and do not require any applicable governmental approval; and
- (e) The person executing this Agreement is duly authorized to execute the Agreement for and on behalf of the respective Party and shall have the authority to bind the respective Party accordingly.