

# **Merchant Service Agreement**

**Between**

**Flutterwave Technology Solutions Limited**

**and**

**Ebenezer Acheampong**

**Table of Contents**

**THIS AGREEMENT is made this 16 day of July 2019**

**BETWEEN**

**FLUTTERWAVE TECHNOLOGY SOLUTIONS LIMITED** a Company incorporated under the Laws of the Federal Republic of Nigeria and having its principal place of business at Block 84, Plot 8, Providence Street, Lekki, Lagos ("**Flutterwave**") which expression shall, where the context so admits, include its successors and assigns) of the one part

**AND**

Ebenezer Acheampong of LC101, CAPE COAST ("Merchant") which expression shall, where the context so admits, include his successors and assigns) of the other part.

Flutterwave and the Merchant shall be collectively referred to as "the Parties" or individually as "a Party".

**WHEREAS:**

- A. Flutterwave is an integrated payment and transaction processing company that provides technology integration, advisory services, and transaction processing and payment infrastructure to government, merchant and corporate organizations across various sectors.
- B. Flutterwave has developed and owns an e-commerce service that authorizes payments for merchants.
- C. Flutterwave is in partnership with the Acquiring Bank to provide a payment service gateway to the Merchant.
- D. The Merchant is a <INSERT DETAILS>
- E. The Merchant is desirous to <INSERT DETAILS>
- F. The Parties deem it expedient to enter into this Agreement in order to provide for the terms and conditions for the provision of the Services and certain matters related thereto by entering into this Agreement.

**NOW IT IS HEREBY AGREED** as follows:

1. DEFINITIONS

In this Agreement, the following definitions apply:

**“3D-Secure”** means the backup two (2) levels of security which must include delivery of a dynamic code in a card transaction

**“Acquiring Bank”** means the financial institution/bank institution that processes credit or debit card payments on behalf of a merchant.

**“Agreement”** means this Merchant Service Agreement;

**“API”** means Application Program Interface belonging to Flutterwave for the purpose of providing the Services;

**“Applicable Law”** includes all Nigerian legislation, law, regulation, code, guidelines, rules, policies and directives of any competent regulatory entity, including without limitation CBN and NIBSS requirements with respect to payments, data protection, data privacy and data security, or any successor legislation, law, regulation, code, guidelines, rules, policies and directives amending, consolidating or replacing such Applicable Law, that is applicable to the deployment or operation of the core IT Banking Solution as well as any Services to be provided with respect to this Agreement, and any court decision having the force of law in Nigeria;

**“Acquirer Network”** means Visa, MasterCard, American Express and any affiliates thereof or any other card payment network applicable to this Agreement;

**“Business Day”** means any day other than Saturday, Sunday, or any other day on which banking institutions in the Territory are authorized by law or executive action to close;

**“Cardholder”** means any authorised user of a card who uses the card to carry out a card transaction on the Payment Gateway;

**“Confidential Information”** means all information relating to the Disclosing Party which is obtained, whether in writing, pictorially, in machine readable form or orally or by observation in connection with this Agreement, including but without limitation, financial information, know-how, processes, ideas, intellectual property (irrespective of its registerability or patentability status), schematics, trade secrets, technology, customer list (potential or actual) and other customer-related information, sales statistics, market,

market intelligence, marketing and other business strategies and other commercial information of a confidential nature but does not include information which is known to the Receiving Party without any limitation or restriction on use or disclosure before receipt of such information from or on behalf of the disclosing party or becomes publicly available, other than as a breach of this Agreement, or becomes lawfully available to the Receiving Party from a third party free from any confidentiality restriction or any information required to be disclosed under any relevant law or any binding judgment or order of court or arbitration tribunal or any stock exchange regulations or under direction from any relevant regulatory authority;

**“Customers”** means patrons of the Merchant;

**“Chargebacks”** means the process of a customer requesting for a refund on the basis of a service denial, suspected fraud on card or any other number of reasons;

**“Disclosing Party”** means any one of the Parties under this Agreement who discloses Confidential Information to the other Party to this Agreement;

**“Disputed Transactions”** means any transaction arising from the use of a card by a person other than the authorized Cardholder or Customer or the use of a card that is not authorised in terms of the rules governing the issuance and use of cards;

**“Flutterwave Terms and Conditions”** means collectively the terms and conditions set forth in this Agreement, as may be amended from time to time, including all exhibits, schedules and addendum thereto and the terms and conditions of the Payment Gateway on <https://flutterwave.com/ng/terms-of-service/> ;

**“Intellectual Property Rights”** means patents, rights to inventions, copyright and related rights, trademarks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or 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;

**“Payment Gateway”** means the infrastructure and e-commerce service of Flutterwave that authorizes payments for merchants;

**“Receiving Party”** means any person receiving Confidential Information from a Party

under this Agreement;

**“Services”** means usage of the Flutterwave APIs by the Merchant for its payment services;

**“Territory”** means the Federal Republic of Nigeria; and

**“User Acceptance Test”** (UAT) means the last phase of testing of the Payment Gateway integration to ensure functionality according to specification.

In this Agreement, a reference to:

A document in the “agreed form” is a reference to a document in a form approved and for the purposes of identification signed by or on behalf of the Parties;

A statutory provision includes a reference to:

The statutory provision as modified from time to time (whether before or after the date of this Agreement); and

Any subordinate legislation made under the statutory provision (whether before or after the date of this Agreement);

A person includes a reference to any individual, body corporate, unincorporated association or partnership; and in the case of an individual, to that person’s legal personal representatives, successors or assigns;

A clause or annex is, unless the context otherwise requires, a reference to a clause or annex to this Agreement;

All references to the singular shall include the plural and vice versa;

One gender shall include all other genders;

The words “including” and “in particular” shall be deemed to be followed by the expression “(but not limited to)”;

An account means an account and any sub-accounts of that account and as each may be substituted, renewed, re-designated, replaced or renumbered;

The clause headings in the Agreement have been inserted for convenience only and shall not be taken into account in its interpretation.

Words and expressions defined in any sub-clause, shall for the purposes of the clauses of which the sub-clause forms a part, bear the meaning assigned to such words and expressions in that sub-clause;

If any definition is a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it were a substantive clause in the body of the Agreement, notwithstanding that it is only contained in the

interpretation clause;

If any period is referred to in this Agreement by way of reference to a number of days, the days shall be reckoned exclusively of the first and exclusively of the last day except the last day falls on a Saturday, Sunday or public holiday in which case it shall be made on the previous Business Day;

Any payment which is due to be made under this Agreement which falls on a day which is not a Business Day, shall be made on the first Business Day thereafter, except if it falls in the next month, in which case it shall be made on the previous Business Day;

A person who is not a party to this Agreement has no right to enforce any term of this Agreement; and

The Annexes/Schedules form part of this Agreement and shall have the same force and effect as if set out in the body of this Agreement and references to this Agreement include the Annexes.

## 2. NON-EXCLUSIVITY

Flutterwave hereby grants the Merchant the non-exclusive right to channel its customers through the Payment Gateway.

## 3. TERM

3.1 This Agreement shall commence from the date of the last signature (**“Effective Date”**) and shall continue for an initial term of twelve (12) months.

3.2 Upon expiry of the initial term, this Agreement shall auto renew for successive one (1) year periods until terminated in accordance with this Agreement.

## 4. FLUTTERWAVE'S OBLIGATIONS

Flutterwave hereby agrees to:

1.%2 work with Acquiring Bank to ensure that settlements of all monies collected by the Merchant is handled in a timely manner;

2.%2 grant to the Merchant and the Merchant hereby accepts from Flutterwave limited, non-exclusive, non-transferable license and right to the Flutterwave API and accompanying integration technical specification in respect of this Agreement subject to the Merchant's acceptance of the Flutterwave Terms and Conditions;

3.%2 work with the Merchant to provide the requisite integration technical specification

and APIs in respect of the Payment Gateway subject to the Merchant's acceptance of Flutterwave Terms and Conditions;

- 4.%2 work with the Merchant to provide fraud protection and compliance support to the Merchant subject to the Merchant's acceptance of the Flutterwave Terms and Conditions;
- 5.%2 set-up the Merchant on Flutterwave Payment Gateway;
- 6.%2 develop and provide card & token processing API's for all Flutterwave Acquirer Network and tokens in the market of scope;
- 7.%2 provide technology support to the Merchant on a discretionary basis;
- 8.%2 provide post-implementation support to the Merchant and its customers as provided in Annexure 3;
- 9.%2 to maintain an open communication channel with the Merchant to discuss future joint product designs for future initiatives that both Parties can benefit from, and to discuss joint press announcements;
- 10.%2 handle settlement of all monies collected by Merchants to Merchant's Bank Account in Merchant's preferred Bank. Timeframe for all monies to be settled is found in Annexure 2 and which you also accept upon go-live on <http://www.flutterwave.com>;
- 11.%2 advise Merchant by email on the start date, upon successful completion of the pre-go live UAT, to carry out a controlled end to end test in the live environment with selected internal users only within Merchant's organization for a period of one or two weeks in order to certify that the entire project implementation is successful and satisfactory with sign off by Merchant; and
- 12.%2 provide adequate technical support for the test duration where applicable during the implementation of the task stated in clause 4.11 above.

## 5. THE MERCHANT'S OBLIGATIONS

The Merchant hereby agrees:

- 5.1 to offer the Flutterwave infrastructure as preferred method to route supported cards, payment methods & tokens originated transactions through the provided APIs in supported countries as mutually agreed upon;

- 5.2 to work with Flutterwave to implement the 3D-Secure on its site to certify Customer transactions;
- 5.3 to respond to all fraud enquiries not later than one (1) Business Day of receipt of such enquiry,
- 5.4 to respond to all Chargebacks / Disputed Transactions enquiries with sufficient proof and evidence of value/service delivery within one (1) Business Day of receipt of such enquiry;
- 5.5 that for any undisputed Chargebacks, the Merchant will be liable and would have to provide an equivalent sum for Chargebacks;
- 5.6 that for all disputed Chargebacks for which 3D-Secure was used, the Chargebacks shall be subject to arbitration with the Acquirer Network;
- 5.7 that in the event of fraud that is in no way attributed to the fault or negligence of Flutterwave or where Flutterwave is called upon in any issue regarding any fraudulent card transaction or other transaction(s) of any Customer or Cardholder that is in no way attributed to the fault or negligence of Flutterwave, the Merchant shall at the request of Flutterwave irrevocably and unconditionally indemnify and defend Flutterwave and/or pay any damages, charges, fees and/or costs awarded against Flutterwave in a resulting final judgment (including reasonable legal fees) arising out of or resulting from any claim, action or demand from any Customer, Cardholder or third party;
- 5.8 to promptly notify Flutterwave of any security breach, misuse, irregularity, suspected fraudulent transaction or suspicious activities that may be connected with attempts to commit fraud or other illegal activity through the use of Merchant's site;
- 5.9 to authorise Flutterwave to debit the nominated bank settlement account for the full value plus other lawful charges in respect of all lawful transaction where the Cardholder is adjudged by the Acquirer Network to be entitled to a refund;
- 5.10 to ensure adequate fraud protection and compliance to regulatory and Acquirer Network requirements;
- 5.11 to ensure the Merchant's Customers abide by the Flutterwave Terms and Conditions by ensuring the Customers are fully aware of the Flutterwave Terms and Conditions;
- 5.12 to provide a full scope of future plans and use cases of the provided Flutterwave



APIs;

- 5.13 to maintain an open communication with Flutterwave to discuss potential future joint product designs for future initiatives that both parties can benefit from, and to discuss joint press announcements;
- 5.14 to put in place appropriate security measures to monitor, control and prevent fraud on Merchant website;
- 5.15 to ensure that at all times, the following information is displayed on its website;  
Return, Refund and cancellation Policy  
Description of the service (s) being offered for sale  
Delivery policy for the service(s) offered for sale  
Commitment to process orders promptly (stating in clear terms delivery timelines where applicable)  
An undertaking to ensure the security of Cardholders' information and not to violate the privacy of Cardholders who transact on its site.  
Phone number(s) and e-mail address(es) for customer service contact.  
An undertaking to respond to all customer enquiries/issues within one (1) Business Day.
- 5.16 to promote the Payment Gateway services to its Customers;
- 5.17 to utilize the integration specification document and APIs in respect of the Payment Gateway provided by Flutterwave in the prescribed manner;
- 5.18 ensure that the provided APIs will be used across all of its applicable digital Merchant assets in the prescribed manner;
- 5.19 to carry out an end to end UAT in the live environment with selected internal users only within the Merchant's organization and not the general public to certify:  
that integration process was successful;  
account settlement; and  
account statement narration is satisfactory etc.
- as applicable for a period of one (1) or two (2) weeks in conjunction with Flutterwave.
- 5.20 to close the project, following successful implementation of the UAT, by signing off a project Go-Live document provided by Flutterwave, for this purpose, before exposing Merchant's project (service) to the general public.

## 6. DISPUTED TRANSACTIONS AND CHARGEBACKS

6.1 Notwithstanding any other provision to the contrary, Flutterwave shall have the right to:

6.1.1 Send the settled transactions received from the Merchant to the issuing banks/authorities concerned for the purpose of checking and in case of objection and/or opposition on the executed transactions by the issuing bank or the authorities concerned for any reason, Flutterwave shall not be bound to pay the Merchant the transaction amount during the period contained in this agreement.

6.1.2 Suspend, withhold or refuse payment to the Merchant in the event that Flutterwave has reasonable grounds to suspect fraud in respect of any transaction;

6.2 Flutterwave shall not be obliged to investigate the validity of any Chargeback by any issuing banks/authorities or other financial institution, whose decision shall be final and binding in respect of any such Chargeback.

6.3 As Chargebacks may arise a considerable period after the date of the relevant transaction, Client acknowledges and agrees that, notwithstanding any termination of this Agreement or the Parties relationship for any reason, Flutterwave shall remain entitled to recover Chargebacks that occur in relation to transactions effected during the term thereof.

## 7. SET OFF

Flutterwave shall have the unconditional right of set off against any funds, amounts or claims belonging to the Merchant and kept by Flutterwave to guarantee any amounts or claims requested by Flutterwave from the Merchant and/or for the purposes of checking the records and the accounts or make a reversal records and to settle the amounts requested by Flutterwave.

## 8. FEES & REVENUE SHARE

- 8.1 Fees payable for Flutterwave Services under this Agreement is further structured as provided in Annexure 1 and which you also accept upon Go-live on [www.flutterwavedev.com](http://www.flutterwavedev.com).
- 8.2 Merchant shall be responsible for the direct processors fees from Acquirer Network which are already contained in the fees contained in clause 8.1 above.
- 8.3 Flutterwave reserves the right to increase/reduce/waive its transaction fees as provided in Annexure 1 from time to time without recourse to the Merchant but shall notify the Merchant of such increase/reduction/waiver immediately upon its implementation.
- 8.4 The Merchant may markup fees to its Customers without recourse to Flutterwave.

## 9. WARRANTIES

- 9.1 The Merchant warrants that it has never had an agreement with a payment scheme provider which was terminated upon request and/or demand by the payment scheme provider or any regulatory authority.
- 9.2 The Merchant shall not submit any transaction that the Merchant knows is illegal or fraudulent.
- 9.3 The Merchant warrants it will conduct appropriate due diligence on all Customers (if applicable).
- 9.4 Flutterwave warrants that it is duly registered and licensed, and have the full capacity, regulatory approvals and corporate authorisation to enter into this Agreement and discharge the obligations and responsibilities created herein.
- 9.5 The Parties further warrant that no element of this transaction constitutes a breach of any existing law, regulation, patent, copyright, or other intellectual property in its country or countries of domicile and operation.
- 9.6 The Parties warrant that in the case of any third-party software used in respect of this Agreement, that they have the required licence and the right to grant a sub-

licence to use such third-party software.

- 9.7 Each Party warrants to the other that this Agreement constitutes a legal, valid and binding obligation, enforceable against it in accordance with the terms and obligations therein,
- 9.8 The Parties shall keep each other indemnified against all actions, claims, proceedings and all legal cost or other expenses arising out of any breach of the above warranties or out of any claim by a third party based on any facts which if substantiated would constitute such a breach or a breach of other relevant legal or contractual duty.
- 9.9 Flutterwave neither warrants that the use of the Payment Gateway or the operation thereof will be uninterrupted nor error free, however, Flutterwave warrants that it shall use its best endeavours to ensure that the Payment Gateway functions optimally at all times and within generally accepted industry standards during the term of this Agreement.
- 9.10 Except as set forth in this clause 9, Flutterwave makes no express or implied representations or warranties with respect to the Payment Gateway and related services or their condition, merchantability, fitness for any particular purpose or use by the Merchant or the Merchant's customers.
- 9.11 Disclaimer. EXCEPT FOR THE WARRANTIES SPECIFICALLY SET FORTH IN THIS AGREEMENT, EACH PARTY DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MARKETABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON- INFRINGEMENT, AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES.

## 10. INDEMNITY

The Merchant shall indemnify and hold Flutterwave harmless from and against any damage, loss or liability that Flutterwave may incur:

- 10.1 With respect to any negligent act or omission by, or wilful misconduct of, the Merchant's employees or agents to the extent however that such negligent act can be situated in the normal course of employment or appointment;

10.2 The violation of any applicable law, statute or regulation by the Merchant or its personnel;

10.3 By Merchant wilfully or carelessly exposing the process/product/service to the general public during the process of carrying out tests in the controlled Live environment as stated in clauses 5.19 and 5.20 above.

As a result of:

10.4 Any modification or amendment of the prescribed terms of use communicated by Flutterwave, that Flutterwave did not specifically approve in writing.;

10.5 Any warranty, condition, representation, indemnity or guarantee granted by the Merchant with respect to the Payment Gateway with respect to the limited warranties specified in clause 10;

10.6 Any omission or inaccuracy in the Merchant's advertisements or promotional materials that relate to the Payment Gateway,

10.7 Any modification of or addition to the Payment Gateway not provided or approved by Flutterwave or;

10.8 The Merchant's failure to comply with this Agreement or any part thereof.

10.9 This section will not be construed to limit or exclude any other claims or remedies to which Flutterwave may be entitled hereunder or in law or equity.

## 11. FRAUDULENT TRANSACTIONS

11.1 Fraudulent transactions shall include but not be limited to:

Any purchase of goods and services and/or transaction arising from the use of a card by a person other than the authorized cardholder.

Use of a card that is not authorised in terms of the rules governing the issuance and use of cards.

11.2 In the event that fraudulent transactions account for more than 0.10% of the

Merchant's sales turnover in any one (1) month, Flutterwave may, in addition to any other remedy available to it, be entitled to unilaterally terminate this Agreement forthwith and/or request the Merchant to delist the affected customer from the use of the platform and terminate the Merchant Agreement with the affected Customer.

- 11.3 Merchant agrees that it will always be responsible for the actions of the introduced Merchants, its employees including fraudulent acts or omission not traceable to the contributory negligence of Flutterwave.

## 12. LIMITATION OF LIABILITY

The liability of Flutterwave to the Merchant, whether in contract, negligence, and other tort, by way of indemnity or otherwise arising out of or in connection with this Agreement shall be subject to the financial limits set out below;

- 1.%2 In no event shall Flutterwave be liable to the Merchant in excess of any amount that has accrued to Flutterwave from transaction fees emanating by virtue of this Agreement, in the month immediately preceding the date the first such claim arises.
- 2.%2 No liability shall be raised against Flutterwave more than two (2) years after the accrual of the cause of such liability therefore. It is further agreed that the limitations on liability, expressed herein, shall inure to the benefit of and apply to all parents (both direct and indirect), subsidiaries and affiliates of Flutterwave.
- 3.%2 Flutterwave will not be liable for the actions or inactions of any third party not acting on the instructions of Flutterwave; neither will Flutterwave be liable for the actions or inactions not directly traceable to it.

## 13. TERMINATION

- 13.1 Either Party may terminate this Agreement forthwith by giving' notice in writing to the other Party if the other Party shall have a receiver or administrative receiver appointed or shall pass a resolution for winding-up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or shall cease or threaten to cease carrying on business or a court of competent jurisdiction shall make an order to that effect.
- 13.2 This Agreement may also be terminated forthwith by any of the Parties on giving written notice to the other, if the other Party is in material breach of the terms

of this Agreement and has failed to rectify such breach (in the case of a breach capable of being remedied) within twenty (20) Business Days of receiving a written notice requiring it to do so.

13.3 Flutterwave may terminate this Agreement and delist the Merchant where the Merchant is identified as a source of fraudulent activity or causes damage to the Flutterwave's brand whether financial or otherwise.

13.4 Either Party may terminate this Agreement at any time on giving one (1) month's written notice to the other Party.

13.5 On Termination, the Parties shall be discharged from any liability for further performance of its obligations under this Agreement and shall entitle either Party be paid the accrued sum for any successful transaction prior to such termination.

13.6 Any termination of this Agreement (however occasioned) shall not affect any accrued rights or liabilities of any of the Parties nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

13.7 Upon termination of this Agreement the Merchant's right to use the Payment Gateway shall automatically be revoked.

#### 14. CONFIDENTIALITY

1.2 In order to implement this Agreement, Flutterwave and Merchant may receive and have access to certain information belonging to the other Party which the other Party may designate as Confidential Information, provided, the Parties recognize that they will not have access to, or share, nonpublic personal information regarding consumers under this Agreement. Flutterwave and Merchant agree that all Confidential Information is and shall remain the property of the Party providing the information and the Party receiving or gaining access to the information shall use all reasonable and prudent means to safeguard such Confidential Information, including all means required by law. Furthermore, neither Flutterwave nor Merchant shall copy, publish, disclose to others, or use such Confidential Information for any purpose other than the fulfillment of its obligations under this Agreement or where required by law.

2.2 Each of the Parties on behalf of itself and its employees, officers, directors, affiliates, and agents, hereby agrees that Confidential Information made available to it will not be disclosed or made available to any third party, agent or employee for any reason whatsoever, other than with respect to: (i) its employees on a "need to know" basis, (ii) affiliates on a "need to know" basis, provided that they are

subject to a confidentiality agreement which shall be no less restrictive than the provisions of this Section 14; and (iii) as required by Applicable Law or as otherwise permitted by this Agreement, either during the term of this Agreement or after the termination of this Agreement, provided that prior to any disclosure of any party's Confidential Information as required by law, the party subject to the requirement shall (iv) notify the other parties of all, if any, actual or threatened legal compulsion of disclosure, and any actual legal obligation of disclosure immediately upon becoming so obligated and (v) cooperate with the other parties' reasonable, lawful efforts to resist, limit, or delay disclosure.

3.%2 Upon the termination of this Agreement, or at any time upon the request of the other party, each party shall return all Confidential Information in the possession of such Party or in the possession of a third party (over which such party has or may exercise control).

4.%2 In the event of any breach of the obligations under this Section 14, each Party acknowledges that the other Party that in addition to such other remedies as may be available to the other Party, the other Party may obtain injunctive relief.

5.%2 This Section shall survive any termination or expiration of this Agreement.

## 15. FORCE MAJEURE

15.1 If any of the Parties hereto is prevented from fulfilling its obligations under this Agreement by reason of any supervening event beyond its control (including but not limited to an Act of God, Natural Disaster, or Civil Disorder) the Party unable to fulfil its obligations shall immediately give notice in writing of this to the other Party and shall do everything in its power, including but not limited to accepting assistance from third parties or the other Party, to resume full performance.

15.2 If the period of incapacity exceeds two (2) months, then this Agreement shall automatically terminate unless Parties expressly agree otherwise in writing.

## 16. RELATIONSHIP BETWEEN PARTIES

16.1 The relationship between the Parties hereto shall be one of collaboration for the single purpose of the business relationship herein created.



~~16.~~ This Agreement shall not in any way constitute a partnership or joint venture between the Parties or constitute either Party an agent of the other.

~~16.~~ This Agreement is not intended to confer on any person other than Flutterwave and the Merchant, any express or implied benefit or burden.

## 17. INTELLECTUAL PROPERTY

17.1 Nothing set forth in this Agreement shall constitute a transfer or assignment by one Party to another Party of any Intellectual Property Rights owned or otherwise controlled by such Party, and each Party hereby retains all of its rights, title and interest in such Intellectual Property Rights.

17.2 All Intellectual Property Rights in or related to the Payment gateway are and will remain the exclusive property of Flutterwave, whether or not specifically recognized or perfected under the laws of the jurisdiction in which the Payment gateway is used or licensed. The Merchant shall not take any action that jeopardizes Flutterwave's proprietary rights or acquire any right in the Payment gateway, or the Confidential Information, as defined herein. Unless otherwise agreed on a case-by-case basis, Flutterwave will own all rights in any copy, translation, modification, adaptation or derivation of the Payment gateway or other items of Confidential Information, including any improvement or development thereof. The Merchant shall obtain, at Flutterwave's request, the execution of any instrument that may be appropriate to assign these rights to or perfect these rights in Flutterwave's name.

## 18. NO ASSIGNMENT

The rights benefits or obligations under this Agreement may not be assigned or otherwise transferred in whole or in part without the prior written consent of all the parties but shall be binding upon and inure to the benefit of each of the parties and, where so permitted, their assigns or other transferees.

## 19. MODIFICATIONS

This Agreement may not be modified except by an instrument in writing signed by duly authorized representatives of each of the Parties.

## 20. WAIVER

The respective rights of the Parties (whether arising under this Agreement or under the applicable law) shall not be capable of being waived or varied otherwise than by an express waiver or variation in writing; and in particular any failure to exercise or any delay in exercising any of such rights shall not operate as a waiver or variation of that or any other such right; any defective or partial exercise of any of such right shall not preclude any other or further exercise of that or any other such right; and no act or course of conduct or negotiation on the part of either Party shall preclude them from exercising any such right or constitute a suspension or variation of such right.

## 21. SEVERANCE

In the event that any provision of this Agreement is declared by any applicable law, judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable or irrelevant It shall to the extent required by such law or authority, be severed from this Agreement and rendered ineffective so far as is possible without modifying the remaining provisions of this Agreement.

## 22. FURTHER ASSURANCES

At all times after the date hereof the Parties shall at their own expense execute all such documents and do such acts and things as may be reasonably required for the purpose of giving full effect to this Agreement.

## 23. WHOLE AGREEMENT

Save for clause 4.2, 4.3, 4.4, 4.10 and 5.11 of this Agreement, this Agreement contains the whole agreement between the Parties with respect to the subject matter hereof and supersedes any prior written or oral agreement between them in relation to its subject matter and the Parties confirm that they have not entered into this Agreement upon the basis of any representation that are not expressly incorporated herein and the Flutterwave Terms and Conditions.

## 24. ARBITRATION

24.1 In the event of a dispute between Parties with respect to any issue arising out of or relating to this Agreement in any manner, including but not limited to the breach thereof, resolution of which cannot be resolved amicably by the Parties through negotiation within thirty (30) days shall be resolved by arbitration at the Lagos Court of Arbitration (LCA) before a single arbitrator in accordance with the Arbitration and Conciliation Act, Cap A18, Laws of the Federation of Nigeria.

24.2 The Parties shall be entitled to require the appointment of an arbitrator by the Chairperson of Chartered Institute of Arbitrators (UK), Nigeria Branch, where the Parties fail to reach an amicable decision of the arbitrator.

24.3 The arbitration shall be held in Lagos, Nigeria and conducted in the English language.

24.4 The decision of the arbitrator shall be final and binding on the Parties and Parties agree to be bound by it. Such decision shall be rendered within thirty (30) days of the closing of the hearing record.

24.5 The cost of arbitration shall be borne equally by the Parties.

24.6 Judgment upon the award rendered by the arbitrator shall be entered in any court of competent jurisdiction. No award of punitive damages by the arbitrator may be enforced.

## 25. GOVERNING LAW

This Agreement shall be governed by the Laws of the Federal Republic of Nigeria.

## 26. NOTICES.

Any notice required or permitted by this Agreement to be given to either Party by the other shall be given by personal delivery to such Party or by registered or certified mail, electronic mail, postage prepaid, return receipt requested, and addressed to:

FLUTTERWAVE TECHNOLOGY SOLUTIONS LIMITED  
Block 84, Plot 8, Providence Street,  
Lekki Phase 1, Lagos  
Email: hi@flutterwavego.com

Attention: Managing Director

## **Ebenezer Acheampong**

LC101, CAPE COAST

### **27. ANTI-CORRUPTION**

27.1 Each Party hereby undertakes that, at the date of this Agreement, itself, its directors, officers, employees or affiliates have not offered, promised, given, authorized, solicited or accepted any undue pecuniary or other advantage of any kind (or implied that they will or might do any such thing at any time in the future) in any way connected with this Agreement and that it has taken reasonable measures to prevent subcontractors, agents or any other third parties, subject to its control or determining influence, from doing so.

27.2 Each Party shall comply with all applicable anti-bribery and anti-corruption Laws in any relevant jurisdiction (including those in the Territory and the Foreign Corrupt Practice Act of the United States of America and the Bribery Act 2010 of the United Kingdom) and all applicable anti-bribery and anti-corruption regulations and codes of practice.

27.3 The Merchant shall ensure that this clause 27 is observed in all relationship with its customers.

REMAINDER OF PAGE LEFT INTENTIONALLY BLANK

\*SIGNATURE PAGE FOLLOWS\*

**IN WITNESS WHEREOF** the parties have caused this Agreement to be executed in the manner hereinafter appearing.

SIGNED for and on behalf of the within named **FLUTTERWAVE TECHNOLOGY SOLUTIONS LIMITED**.

---

AUTHORISED SIGNATORY

NAME:

DATE:

**SIGNED by <INSERT COMPNAY NAME>**

---

DATE:

In the Presence of :

Name:

Address

Date:

## ANNEXURE 1

### FEES

#### FLUTTERWAVE API OFFERING & APPLICABLE FEES

##### Processing (Cards)

Country	Local	Foreign
Ghana	2.5%	3.5%
Kenya	2.5%	3.5%
Rwanda	2.5%	3.5%
South Africa	2.9%	3.5%
Tanzania	3.5%	3.5%
Uganda	3.2%	3.5%
Rest of Africa	3.5%	3.5%

##### Processing (Mobile Money)

Country	Local	Foreign
Ghana	2.5%	3.5%
Kenya	2.5%	3.5%
Rwanda	2.5%	3.5%
Tanzania	2.5%	3.5%
Uganda	2.65%	2.65%
Rest of Africa	3.5%	3.5%

## Payouts

Country	Bank	Cash Pickup
Ghana	N/A	N/A

Kenya	KES250	3.5%
Rwanda	USD 5 / RWF 4347.68	3.5%
Tanzania	TZS 7100	3.5%
Uganda	UGX 11400	3.5%
Rest of Africa	\$5	3.5%

## General Settlement Timelines

---

Country	Local	Foreign
Ghana, Kenya, Rwanda, Tanzania, Uganda	T + 1	T + 5
Rest of Africa	T + 5	T + 5

**NOTES:**

More channels and New regions are being added. Hence this pricing will be reviewed periodically to reflect changes.

**ANNEXURE 2**  
**SETTLEMENT**

ITEM	NIGERIA	GHANA	KENYA	NOTES
Settlement period (Local)	T + 1	T + 1	T + 1	T is the day the transaction occurred
Settlement Period (International)	T + 14	T + 5	T + 5	T is the day the transaction occurred.



## **ANNEXURE 3**

### **SUPPORT SERVICE LEVEL AGREEMENT**

#### **Introduction**

This annexure outlines the service level standards to be provided by Flutterwave to the Merchant with regards to support under in this Agreement, unless agreed otherwise in the Contract.

#### **Definitions**

“Level 1” shall mean the queries initiated by Merchant through various interaction points (email, slack, Helpdesk etc.)

“Level 2” shall mean the queries escalated from level 1 to a specialist team (e.g. Technical team, customer success team, operations team etc.)

“Level 3” shall mean the queries escalated from level 2 due to complexity and/or

because the resolution will require a system change/update.

## **SERVICE LEVELS**

Merchant's Customer Support

The Merchant is responsible for providing Level 1, Level 2, and Level 3 Customer support.

## **FLUTTERWAVE SUPPORT**

Flutterwave shall provide Level 2 and Level 3 support to the Merchant in accordance with this Service Level Agreement.

Flutterwave shall provide support through its standard support program, accessible at

Email	hi@flutterwavego.com
Online Help Widget	www.flutterwave.com

## **FAULTS SEVERITY CLASSIFICATION**

FAULT SEVERITY	DESCRIPTION
Critical	The Service is inaccessible and/or unable to operate.
Major	The Service is operational, but a major function is not operating, or the Service has a fault that significantly effects its

Minor	The Service has a fault that does not significantly affect its normal operation.
-------	--

## STANDARD RESPONSE TIME

Description	Fault Severity and Response Time Frames		Flutterwave Support is delivered
	Critical	1 hours	Remotely
Assistance by	Major	2 hours	Minor
email	4 hours	Remo Critical	1 hour
Remotely	Major	<u>online</u> 2 hours	Minor

## ESCALATION PROCEDURE

Level	Name	Role	e-mail	Mobile Phone
1	Jo-Sharon Udoh	Customer Success	customersuccess@flutterwavego.com	+2348169728879
2	Bode Abifarin	COO	bode@flutterwavego.com	+2348035353092
3	Olugbenga Agboola	CEO	gb@flutterwavego.com	+1 857-919-4613

Queries, problems or complaints shall be logged via the Flutterwave website or [hi@flutterwavego.com](mailto:hi@flutterwavego.com).