

# NEXPAY

## **Terms & Conditions (business)**

1.	DEFINITIONS AND INTERPRETATION .....	3
1.1.	DEFINITIONS .....	3
1.2.	INTERPRETATION .....	4
2.	SCOPE OF TERMS & CONDITIONS .....	4
3.	BUSINESS ACCOUNT .....	5
4.	TERM OF ISSUANCE AND REDEMPTION OF ELECTRONIC MONEY .....	5
5.	GENERAL REQUIREMENTS APPLICABLE TO YOU .....	6
5.1.	GENERAL .....	6
5.2.	AML/KYC REQUIREMENTS .....	7
5.3.	REQUIREMENTS REGARDING DOCUMENTS SUBMITTED BY YOU .....	7
6.	USING YOUR BUSINESS ACCOUNT .....	8
6.1.	GENERAL .....	8
6.2.	TOPPING OF YOUR BUSINESS ACCOUNT .....	8
6.3.	WITHDRAWING FROM YOUR BUSINESS ACCOUNT .....	9
7.	PAYMENTS .....	9
8.	AUTHORISATION .....	12
9.	FEES .....	13
10.	RIGHTS AND OBLIGATIONS .....	13
10.1.	NEXPAY RIGHTS AND OBLIGATIONS .....	13
10.2.	YOUR RIGHTS AND OBLIGATIONS .....	13
11.	INTELLECTUAL PROPERTY RIGHTS .....	14
12.	USE OF PERSONAL DATA .....	14
13.	ASSIGNMENT .....	14
14.	CHANGES TO AGREEMENT .....	15
15.	NON-DISCLOSURE .....	15
16.	REPRESENTATIONS AND WARRANTIES .....	15
17.	LIABILITY .....	16
17.1.	LIABILITY, LIMITATION OF LIABILITY .....	16
17.2.	FORCE MAJEURE .....	17
18.	SUSPENSION OF BUSINESS ACCOUNT .....	17
19.	TERMINATION .....	18
20.	NOTIFICATION ON FRAUD AND SECURITY THREATS .....	19
21.	COMMUNICATION .....	20
22.	GENERAL .....	20
23.	HEARING OF COMPLAINTS .....	21

## 1. Definitions and interpretation

### 1.1. Definitions

1.1.1. The following capitalized definitions when used in this Agreement shall have the following meanings:

- 1.1.1.1. **Agreement** has the meaning set out in Article 2.2;
- 1.1.1.2. **Business Day** has the meaning of any day from 9am to 5pm except Saturday, Sunday and public holiday in Lithuania;
- 1.1.1.3. **Business Account** has the meaning of the payment account opened by Nexpay to the Client in order to use Nexpay Services for business needs;
- 1.1.1.4. **Client or you, your** has the meaning of the natural person or legal entity holding Business Account with Nexpay;
- 1.1.1.5. **Closed Account Fee** has the meaning of the monthly fee payable by you to Nexpay for the safekeeping of your remaining balance following the termination of the Agreement;
- 1.1.1.6. **Fee** has a meaning of a fee charged by Nexpay for a Payment transaction and/or related services;
- 1.1.1.7. **Electronic money (also referred to as funds in these Terms & Conditions)** has the meaning of electronically stored value corresponding to the par value of the funds stored in Nexpay clients' funds bank account represented by a claim against Nexpay;
- 1.1.1.8. **Fraud** has the meaning set out in Article 20.2;
- 1.1.1.9. **Nexpay, we or us** has the meaning of UAB NexPay, a limited liability company organized and existing under the laws of the Republic of Lithuania, registration code 304708124, having its registered office at Sporto str. 7A, Vilnius, Lithuania and holding unlimited electronic money institution license No 18 issued by the Lithuanian financial supervisory authority Bank of Lithuania (Gedimino av. 6, 01103 Vilnius, Lithuania; email: [info@lb.lt](mailto:info@lb.lt), [prieziura@lb.lt](mailto:prieziura@lb.lt)), as of 10 October 2017 ([https://www.lb.lt/en/enforcement-measures-1/view\\_license?id=427](https://www.lb.lt/en/enforcement-measures-1/view_license?id=427));
- 1.1.1.10. **Nexpay system** has the meaning of IT solution used to provide Services to the Client under the Agreement;
- 1.1.1.11. **Monthly Fee** has the meaning of the fee payable by the Client to Nexpay each month for the use of Nexpay Services. Monthly Fee is calculated against the Pricing Plan assigned to the Client;
- 1.1.1.12. **Personalized Security Features** has the meaning of the authorization that includes an Auth Code, which is generated based on payment amount and payee information. The Auth Codes are provided to you via a different environment than the one through which you use to initiate the payment. Nexpay shall be entitled decide on the type of Personalized Security Features to be issued and may change it at any time necessary;
- 1.1.1.13. **Parties** have the meaning of Nexpay and the Client;
- 1.1.1.14. **Payment** has the meaning of an act initiated by the payer of placing, transferring or withdrawing Electronic Money, irrespective of any underlying obligations between the payer and the payee;
- 1.1.1.15. **Payment Order** has the meaning of an instruction by you to Nexpay requesting the execution of a Payment;
- 1.1.1.16. **Pricing Plan** has the meaning of fees payable by the Client to Nexpay for Nexpay Services;
- 1.1.1.17. **Security Threat** has the meaning set out in Article 20.3;
- 1.1.1.18. **Services** has the meaning of services provided by us to the Client under the Agreement. Nexpay will provide to the Client the following services:

- (a) opening of Business Account with a dedicated IBAN. Business Account enables the Client with a range of services to support the Client's daily financial operations, including execution of payment transactions:
    - i. execution of direct debits, including one-off direct debits;
    - ii. execution of payment transactions through a payment card or similar device;
    - iii. execution of credit transfers, including standing offers;
  - (b) issuance of Electronic Money to Business Account (and respectively withdrawal from);
- 1.1.1.19. **Terms & Conditions** has the meaning of the terms and conditions set out herein and which forms a part of the Agreement;
- 1.1.1.20. **Unique Identifier** has the meaning of a combination of letters, numbers or symbols specified to the payment services user by the payment services provider and to be provided by the payment services user to identify unambiguously another payment services user and/or the payment account of that other payment services user for the Payment or an email of other Nexpay client when the Payment is initiated within Nexpay system;
- 1.1.1.21. **Website** has the meaning of the website available at [www.paynexpay.com](http://www.paynexpay.com).

## 1.2. Interpretation

- 1.2.1. References to Sections and Articles, unless stated or the context required otherwise, shall be construed as references to Sections and Articles of these Terms & Conditions.
- 1.2.2. References to Schedules, Annexes unless stated or the context required otherwise, shall be construed as references to Schedules and Annexes of these Terms & Conditions.
- 1.2.3. References to legal acts (if any) shall include references to any amendment, modification, extension, consolidation, replacement or re-enactment of any such legal act.
- 1.2.4. In these Terms & Conditions:
  - 1.2.4.1. words importing the masculine gender include the feminine and the neuter and vice versa;
  - 1.2.4.2. words in the singular include the plural and vice versa;
  - 1.2.4.3. references to persons shall include legal persons, unincorporated associations and partnerships, in each case whether or not having a separate legal personality;
  - 1.2.4.4. words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation".

## 2. Scope of Terms & Conditions

- 2.1. Together with the Privacy policy and other documents (if any), these Terms & Conditions shall govern provision of Nexpay Services to you.
- 2.2. In addition to these Terms & Conditions, the Agreement with Nexpay includes <https://paynexpay.com/fee> and any other annexes, appendices or schedules entered into by and between you and Nexpay. You can obtain the documents to the Agreement online. You will be able to download and save documents to your device. In certain case, the Agreement or separate document to the Agreement will be sent by email to the address registered with Nexpay for the purpose of opening of the Business Account.
- 2.3. You may only use the Business Account in relation to your business, products or services that Nexpay have been informed about before entering into the Agreement with you and Nexpay has approved such business, products and/or services. Should you intend to start using Business Account for other business, products and/or services or for other purposes, you must inform Nexpay in accordance with these Terms & Conditions and obtain Nexpay prior written approval in relation to such use. Failure to do so shall be considered as the

material breach of the Agreement and shall be subject to unilateral termination with an immediate effect of this Agreement.

- 2.4. By executing the Agreement, the Parties hereby agree to not apply provisions of Section III, Articles 11(1), 11(2), 29(3), 37, 39, 44 and 51 of the Law on Payments of the Republic of Lithuania for their contractual relationship. In addition, the Parties agree to not comply with the terms indicated in Article 36 of the Law on Payments of the Republic of Lithuania. Applicable terms shall be indicated in these Terms & Conditions.

### **3. Business Account**

- 3.1. The Business Account is a payment account that enables you to send and receive Payments, as well as to use other functionalities available in the Business Account. The Business Account is not a bank account. Electronic Money held in the Business Account does not constitute a deposit and Nexpay will pay no interest for holding it.
- 3.2. By executing the Agreement, you hereby acknowledge that the Lithuanian deposit guarantee scheme (in accordance with the Law on Insurance of Deposits and Obligations to Investors of the Republic of Lithuania) does not apply to the Business Account. Nexpay strictly adheres to the legal requirements under the European Union law and Lithuanian laws that are designed to ensure the safety and liquidity of the funds deposited for issuance of the Electronic Money. In the unlikely event that Nexpay becomes insolvent, your Electronic Money may become valueless and unusable, and as a result you may lose your Electronic Money.
- 3.3. Your funds transferred for the issuance of the Electronic Money are safeguarded in accordance with the Law on Electronic Money and Electronic Money Institutions of the Republic of Lithuania. You shall retain the ownership of the funds transferred for the issuance of the Electronic Money. In the unlikely event if Nexpay becomes insolvent, your funds transferred for the issuance of the Electronic Money shall be protected against any claims of the creditors. You shall bear no losses in such situation.
- 3.4. The Electronic Money in the Business Account belongs to you. No other person shall have any rights to the Business Account and/or the Electronic Money issued to the Business Account.
- 3.5. To open the Business Account, you must follow the instructions provided on the Website. As part of the signup process you will have to accept these Terms & Conditions and Privacy Policy and any other documents that may be necessary, taking into consideration the scope of Services you intend to use.
- 3.6. You may only open the Business Account if it is legal to do so in your country of registration. By opening the Business Account you represent and warrant to us that opening of the Business Account does not violate any laws or regulations applicable to you. By accepting these Terms & Conditions, you undertake to indemnify Nexpay against any losses Nexpay incurs in connection with your breach of obligation.
- 3.7. The Client may top up or withdraw the Electronic Money from the Business Account within the terms and conditions of these Terms & Conditions.
- 3.8. You are entitled to open 1 (one) Business Account on Nexpay system.
- 3.9. If you transfer your login details required to access Business Account to any third party, any and all actions performed on the Business Account shall be considered as to have been performed by you and to correspond to your will. In the event, you and/or Nexpay suffer any damages in relation thereto, such damages shall be borne by you and you shall be obliged to fully reimburse damages suffered by Nexpay.

### **4. Term of issuance and redemption of Electronic money**

- 4.1. Funds held on the Business Account are the Electronic money, which Nexpay issues after the funds are deposited or transferred to your Business Account. After the funds are deposited or transferred to your Business Account and Nexpay receives the funds, Nexpay credits it to your Business Account, at the same time issuing Electronic money at the nominal value. The Electronic money is credited to and held on your Business Account.
- 4.2. Value of the Electronic money coincides with the value of funds deposited or transferred to the Business Account after deduction of the applicable fees, if any.

- 4.3. At your request, the Electronic money held on your Business Account shall be redeemed at their nominal value at any time without undue delay.
- 4.4. You shall submit a request for redemption of the Electronic money by generating the Payment Order to transfer the Electronic money from your Business Account to any other account specified by you or withdraw Electronic money from your Business Account in accordance with Article 6.3. Nexpay shall be entitled to apply limitations for the redemption of the Electronic money specified in this Agreement and applicable law.
- 4.5. No specific conditions for redemption of the Electronic money that would differ from the standard conditions for transfers and other Payment operations performed on the Business Account shall be applied. The amount of redeemed or transferred Electronic money is chosen by you unless limitations are applicable
- 4.6. No additional fee for the redemption of the Electronic money shall be applicable. In the event of the redemption of the Electronic money, you shall be subject to the standard fees applicable to such a type of the transaction chosen by you.

## **5. General requirements applicable to you**

### **5.1. General**

- 5.1.1. By executing the Agreement, you hereby confirm that you understand that the execution of the Agreement shall be subject to the results of your assessment, including, but not limited to your AML/KYC assessment, to be carried out by Nexpay before the execution of the Agreement.
- 5.1.2. By executing the Agreement, you confirm that you understand that Nexpay shall be entitled to request you to provide information required to assess your risk and/or information required for Nexpay to fulfil its obligations under the Law on Prevention of Money Laundering and Terrorist Financing of the Republic of Lithuania. You hereby confirm that you understand that Nexpay shall have the sole discretion to request you to provide additional information, i.e. not indicated in these Terms & Conditions or other documents to the Agreement or in the questionnaires you will have to fill in for the purpose of opening of the Business Account, if such information shall be required to perform your assessment or to fulfil Nexpay obligations under the Law on Prevention of Money Laundering and Terrorist Financing of the Republic of Lithuania and thus, you must submit such information without a delay, within a term specified by Nexpay in the request for such additional information. Failure to meet the foregoing requirement and remedy it within the additional term indicated by Nexpay in writing will be considered as the material breach of the Agreement and will be subject to unilateral termination with an immediate effect of the Agreement by Nexpay.
- 5.1.3. By executing the Agreement, you represent and warrant to Nexpay that the submitted documents, data and/or information are true and correct in all aspects on the date of this Agreement and shall remain as such on each day of the Agreement.
- 5.1.4. By executing the Agreement, you undertake to inform Nexpay in writing of any change in the circumstances submitted to Nexpay for the purpose of opening of the Business Account. In relation to the foregoing, you must inform on the following changes in:
  - 5.1.4.1. Control of the Client;
  - 5.1.4.2. Ownership of 25% or more in the Client share capital or voting rights;
  - 5.1.4.3. The Client's managing director (managing directors);
  - 5.1.4.4. The Client's documents submitted to Nexpay for the purpose of establishment of the Client's identity or assessment of the Client's risk. For the purpose of clarity, adoption of new documents with the effect to the Client's management shall also fall under this Article;
  - 5.1.4.5. The Client's legal form;
  - 5.1.4.6. The Client's business activities;
  - 5.1.4.7. The Client's contact details;

5.1.4.8. The Client's financial standing that may affect the Client's ability to perform the Agreement or to perform the Client's obligations under other agreements that the Client is party to;

5.1.4.9. The real beneficiaries; and

5.1.4.10. Any other change in the Client's circumstances of relevance to the Agreement.

5.1.5. The above list is not exhaustive. Should you be of the opinion that the change that has occurred may have a material effect on performance of the Agreement, however, is not listed above, you must inform Nexpay on such change.

5.1.6. You undertake to inform Nexpay on such changes as soon as you become aware of them, however, not later than 5 (five) Business Days upon occurrence of such change. You hereby represent and warrant that you understand that such changes may result in a risk re-assessment and/or new additional requirements and/or restrictions or limits that would require amendment of the Agreement or may be subject to the termination of the Agreement.

5.1.7. Taking into consideration Article 5.1.4, any change in the circumstances must be submitted in writing, in a form satisfactory to Nexpay (as set forth in these Terms & Conditions) via email at the address [support@paynexpay.com](mailto:support@paynexpay.com) or in any other way available on your Business Account (if any). If you fail to meet the form requirement, it shall be considered that you have failed to meet your obligations under Article 5.1.4 of these Terms & Conditions and such failure shall be considered as the material breach of the Agreement and shall be subject to unilateral termination with an immediate effect of the Agreement by Nexpay.

## 5.2. **AML/KYC requirements**

5.2.1. As electronic money institution, holding an unlimited license issued by the Lithuanian financial supervisory authority Bank of Lithuania, Nexpay shall be obliged to comply with the requirements of the Law on Prevention of Money Laundering and Terrorist Financing of the Republic of Lithuania. Therefore, by fulfilling the requirements under the Law on Prevention of Money Laundering and Terrorist Financing of the Republic of Lithuania, Nexpay will establish your identity before the execution of the Agreement for the purpose of the foregoing law.

5.2.2. Nexpay shall be entitled to request and you shall be obliged to submit information, data and documents, as well as to fill in questionnaires submitted by Nexpay to you and/or perform other actions that may be required to establish your identity to comply with the applicable law. Nexpay shall retain the right to re-establish your identity at any time during the term of the Agreement and in connection to that, to request to submit to Nexpay additional information, data and/or documents, fill in documents and/or perform actions. Failure to comply with this requirement or the negative result of such re-establishment of the identity shall be subject to termination of this Agreement with an immediate effect.

5.2.3. Nexpay shall commence providing Services only if you submit all and any information and documents reasonably requested by Nexpay to assess your risk and your compliance with Nexpay risk appetite and Nexpay partner prohibitions and restrictions.

5.2.4. Nexpay shall be entitled to request you to submit to Nexpay information, data and/or documents regarding your Payments performed on your Business Account in order to justify such Payments. Failure to comply with this requirement may result in suspension of Nexpay Services to you or may be subject to termination of this Agreement with an immediate effect by Nexpay.

## 5.3. **Requirements regarding documents submitted by you**

5.3.1. You must submit duly certified copies of the documents required to establish your identity following the instructions provided by Nexpay. Notwithstanding the foregoing, Nexpay shall retain the right to request to provide the hard copy of the document if Nexpay shall have any doubts regarding validity and/or legality of the document.

5.3.2. The documents or their copies must be of high resolution, all information must be clear and visible, there must be no amendments, deletions on the original of the document and its copy thereof. The documents or their

copies that are issued outside the Republic of Lithuania must be duly authorized and legalized as required under Lithuanian law, unless otherwise instructed by Nexpay.

- 5.3.3. All documents (and such documents containing information) submitted by you to Nexpay shall be considered as true, effective and accurate on the day of the Agreement and shall remain as such on each day of the Agreement.
- 5.3.4. All documents must be submitted in English language unless otherwise agreed with Nexpay in advance. In the event, translation of the documents shall be required, the translation must be duly authorized by the signature of the translator. All translation cost shall be borne by you.
- 5.3.5. In the event, you fail to submit the documents that meets the above requirements, Nexpay shall be entitled to refuse to accept such documents and shall not take into consideration the information consisting such documents. If you fail to cure such shortages within the term indicated by Nexpay in writing and such failure poses too high risk to Nexpay (i.e. it is not possible to attribute you to higher risk group or it is not possible to establish your identity), Nexpay shall be entitled to terminate the Agreement with immediate effect.

## **6. Using your Business Account**

### **6.1. General**

- 6.1.1. You must use your login details to access your Business Account. You must take all reasonable steps to keep your username and password to your Business Account safe at all times and never disclose it to any third parties. Nexpay personnel will never ask to disclose the password to Nexpay or to any third party. If you received a request to disclose the password or other login information anywhere else than on the Website, you must not disclose the password or other login information for any reason and must immediately report such incident to Nexpay. Such report can be submitted via [support@paynexpay.com](mailto:support@paynexpay.com).
- 6.1.2. Nexpay recommend to you to change password to your Business Account regularly in order to reduce the risk of a security breach in the Business Account. Nexpay also recommends not to choose a password that can be easily identified from the information someone might know or gather about you or a password that has a meaning. You must never allow anyone to access the Business Account or have anyone watching you accessing the Business Account.
- 6.1.3. If you have any indication or suspicion of the Business Account, login details, password or other Personalized Security Features being lost, stolen, misappropriated, used without authorization or otherwise compromised, you are advised to change the password immediately and inform Nexpay in relation thereto. Any undue delay in notifying Nexpay may not only affect the security of your Business Account but may result in you being liable for losses incurred as a result. If you suspect that the Business Account has been accessed by a third party, you should also contact local police and report the incident.
- 6.1.4. You must take all reasonable care to ensure that your email used to register with Nexpay is secure and can only be accessed by you, as your email address will be used to communicate with you. In case email address registered with the Business Account during the term of our and your relationship is compromised, you must inform Nexpay without undue delay after becoming aware of this and contact the email service provider.
- 6.1.5. Irrespective of whether you are using a public, shared or his/her own computer to access your Business Account, you must always ensure that your login details are not stored by the browser or cached or otherwise recorded. You should never use any functionality that allows login details or passwords to be stored by the computer you are using.

### **6.2. Topping of your Business Account**

- 6.2.1. To top your Business Account, you will be required to indicate the amount of the deposit in EUR or in other currency offered by Nexpay and select one of the available methods for topping up of your Business Account available on Nexpay Website.
- 6.2.2. Nexpay shall be solely entitled to add other methods for topping up the Business Account and respectively, to discontinue such methods at any given time and Nexpay shall not give a guarantee regarding any top up method available on the Website at a particular time, provided at least one method is available at any time.



- 6.2.3. Nexpay will have no responsibility over your funds used to top up the Business Account until Nexpay receives it to Nexpay clients' funds bank account. The Electronic money will only be issued to your Business Account after the respective amount has been credited to Nexpay clients' funds bank account and only in the amount received to Nexpay clients' funds bank account.
- 6.2.4. Nexpay shall retain the right to impose additional authorization measures for topping up the Business Account.
- 6.2.5. You are solely responsible for the accuracy and completeness of the payment details entered for the purpose of topping up your Business Account. In no event Nexpay shall be held liable for any losses you may suffer as a result of inaccuracy of the payment details.
- 6.2.6. You understand and accept that your payment services provider may apply fees for executing a transfer to Nexpay clients' funds bank account. You understand that Nexpay will not be responsible for the term within which the funds will be credited to Nexpay clients' funds bank account.

### 6.3. **Withdrawing from your Business Account**

- 6.3.1. You may at any time request to withdraw part or all of the Electronic Money held in your Business Account, in accordance with these Terms & Conditions. To do so, you must log into your Business Account and follow the instructions provided therein.
- 6.3.2. You may place a request to withdraw part or all Electronic Money held in your Business Account. Nexpay shall be solely entitled to add and respectively discontinue any withdrawal method at any time and Nexpay shall not give a guarantee regarding any withdrawal method available on the Website at a particular time, as long as at least one withdrawal method is available anytime.
- 6.3.3. Nexpay will not charge for withdrawal of the Electronic Money, however, since the withdrawal request is performed by a third party (i.e. payment services providers), withdrawal is subject to third party fees.
- 6.3.4. You are solely responsible for the accuracy and completeness of the payment details entered for the purpose of withdrawal. In no event Nexpay will be held liable for the withdrawal of the Electronic Money to the wrong account if it happened due to wrong payment details provided by you. If you withdrew funds to a wrong account, you may request Nexpay to assist in reclaiming such funds, however, Nexpay gives no guarantee that the efforts to reclaim will be successful, nor assume any liability thereof.
- 6.3.5. Nexpay shall not be responsible for the withdrawal payment once the funds are received by your payment service provider as Nexpay is the payer and not the payment services provider for the purpose of withdrawal.

## 7. **Payments**

- 7.1. With your Business Account you shall be entitled to execute the following Payments:
    - 7.1.1. Payment to another Nexpay client within Nexpay system;
    - 7.1.2. SEPA Payments; and
    - 7.1.3. SWIFT Payments.
- In order to perform any of the above Payment, you must follow the instructions in Business Account.
- 7.2. In order to perform SWIFT Payments, some manual actions may be required, in this case, you will be instructed on every step.
  - 7.3. In case of a Payment Order in different currency than EUR, currency exchange is based on the exchange rate of Nexpay partner bank (currency exchange rates are applied without separate notice).
  - 7.4. Payment Order is received on the day such Payment Order is placed within Nexpay system.
  - 7.5. If the Payment Order is placed not on the Business Day or after 4 pm on the Business Day (after 3 pm in the case of SWIFT Payment), such Payment Order is deemed to be received on the first following Business Day. Execution term of such Payment Order shall be calculated against the moment indicated herein.
    - 7.5.1. You will be able to see the status of your Payment Orders on the Business Account anytime by logging into your Business Account. You shall not be entitled to cancel the Payment Order once such Payment Order is

received in accordance with these Terms & Conditions.

- 7.6. By placing the Payment Order, you must clearly express your will. Placed Payment Orders must be clear, unambiguous and comply with the applicable law. Nexpay will not be held liable for errors, inconsistencies, repetitions and/or contradictions or other shortages in your Payment Order and depending on the nature of such errors or shortcomings, Nexpay may execute such Payment Order according to the data provided in the Payment Order or reject execution of such Payment Order.
- 7.7. You are responsible for indicating the correct payee's Unique Identifier and information that is required to execute your Payment Order, if any (for the purpose of clarity, all information required to place Payment Order will be available on your Business Account). Provided you have indicated the Unique Identifier and the respective Payment Order was executed against such Unique Identifier, Nexpay will be considered as to have been duly performed its obligations and shall bear no responsibility to the extent of such Payment Order. Fee for such Payment will be applied and will not be refunded to you even if Nexpay retracts the Payment and the funds will be credited back to your Business Account.
- 7.8. You may be requested to enter additional data to proceed with your Payment Order if such is required by the payee's payment services provider. You are solely responsible for entering the correct additional information.
- 7.9. Nexpay shall be entitled, however, not obliged, to verify if the Unique Identifier required to execute the Payment Order corresponds to name of the respective account holder. Should Nexpay establish that name of account holder and the Unique Identifier clearly mismatches, Nexpay shall be entitled to reject such Payment Order. Nevertheless, if Nexpay executes the Payment Order against the provided Unique Identifier, Nexpay shall be deemed to have duly and in full fulfilled its obligations in relation to such Payment Order.
- 7.10. Taking into consideration Article 7.7 of these Terms & Conditions, Nexpay will help you to recall the Payment, however, Nexpay gives no guarantee that Nexpay will be able to do so. Fee shall be applicable for the attempt to retract Payment, irrespective if such attempt is successful or not. If Nexpay was unable to retract the Payment and credit it back to your Business Account, Nexpay will furnish you with the information required for you to independently pursue return of the Payment.
- 7.11. Your Payment Order may not be executed or execution it may be delayed on the following cases:
- 7.11.1. Nexpay has reasonable doubts if the Payment Order was submitted by you;
  - 7.11.2. Nexpay has reasonable doubts regarding legality of the Payment Order;
  - 7.11.3. Nexpay has reasonable doubts regarding content of the Payment Order;
  - 7.11.4. Nexpay has doubts whether the information, data and/or documents provided in relation to the Payment Order are true and authentic;
  - 7.11.5. Nexpay needs additional information, data and/or documents from you to verify the Payment Order; or
  - 7.11.6. Payment Order placed by you raises other doubts that can be reasonably justified by Nexpay.
- The above list is not exhaustive. In the event of any of the above, Nexpay shall be entitled to request you to provide additional information, data and/or documents or perform certain actions to clear doubts in relation to the Payment Order. Nexpay will make every effort as well as take all actions within its power to collect additional information, data and/or documents from you as soon as possible. By executing the Agreement, you represent and warrant that in such an event, Nexpay shall not be held liable if you suffer any damages in relation to delayed Payment Order.
- 7.12. Nexpay shall be entitled to request you to provide any and all supporting information, data and/or documents evidencing your ownership, nature of origin and legality of the funds in your Business Account and/or reasoning the Payment Orders placed or Payments received by you. Nexpay will not be liable against you for non-execution of the Payment Order if you fail to comply with Nexpay request.
- 7.13. Payment Orders shall be executed on the Business Days, unless indicated otherwise. Payment Orders shall be executed within following terms:
- 7.13.1. Payment Orders within Nexpay system to other Nexpay clients shall be executed within period of 5 (five)

minutes;

- 7.13.2. SEPA Payment Orders shall be executed not later than on the next Business Day; Payment Orders in EUR within the Republic of Lithuania and placed not later than 12pm shall be executed on the same Business Day provided such Payment Order shall be placed on the Business Day; and
- 7.13.3. SWIFT Payment Orders placed not later than 3 pm of the Business Day shall be executed within a maximum of four (4) business days.

Nexpay will be considered as to have duly fulfilled its obligations to execute Payment Order once the transfer of the amount of Payment has been initiated. If Nexpay failed to fulfil its obligations in accordance to this clause, Nexpay will put its best efforts to retract such Payment without any fee applicable in relation thereto. Nexpay shall not be obliged to reimburse the fee paid by you or the damages suffered by you regarding late payment.

- 7.14. If additional actions are required in relation to the Payment Order, including, but not limited to correction of errors in your Payment Order, you shall be informed about such required additional actions by email at the email address which has been indicated for the purpose of opening of the Business Account. In the event your error in the Payment Order resulted in the rejection of such Payment Order, fee for such Payment Order shall be applied as it has been executed.
- 7.15. Your Payment Order will be rejected if there are errors in your Payment Order and Nexpay is not able to correct such errors. If there is sufficient data to correct such errors, Nexpay shall be entitled, but not obliged, to do so by itself and execute the amended Payment Order. If the error in the Payment Order resulted in the rejection of such Payment Order, fee for such Payment Order shall be applied as it has been executed.
- 7.16. By entering into the Agreement with Nexpay, you hereby consent to constantly monitor the balance of your Business Account and ensure that the balance required for execution of your Payment Order and settlement of applicable fees is available upon placement of such Payment Order. Nexpay does not undertake to monitor the balance of your Business Account and send you notifications in anyway in relation thereto.
- 7.17. If your Business Account is seized or use of it suspended, you shall not be able to place Payment Order, placed Payment Orders shall not be executed.
- 7.18. Nexpay shall be entitled to suspend the execution of your Payment Order if such is required under the applicable law or because of other reasons that Nexpay cannot control.
- 7.19. You must immediately inform Nexpay if your Business Account has been credited with the funds that do not belong to you. You must not use such funds in any way irrespective of the reason such funds have been credited to your Business Account. By executing the Agreement, you hereby irrevocably consent that such erroneous funds may be deducted from your Business Account without you placing the Payment Order. If there is not sufficient amount of funds on your Business Account, you must immediately, however, not later than within 3 (three) Business Days, credit the respective amount of the funds to your Business Account. Until you fulfil the foregoing obligation, Nexpay shall be entitled to freeze the remaining amount of the funds on your Business Account and suspend execution of your Payment Orders. If you do not credit your Business Account with the respective amount of funds within 3 (three) Business Days, Nexpay shall be entitled to exercise other rights to retract such funds in accordance with the applicable law. By executing the Agreement, you hereby represent and warrant that you understand that in such an event you shall not only be obliged to return such funds, but also to reimburse any and all cost and/or damages suffered by Nexpay regarding retraction of such funds.
- 7.20. If your Payment Order is refunded and Nexpay is not responsible for such a refund (e.g. Payment Order cannot be executed because of the erroneous Unique Identifier etc.), fees in relation to execution of such Payment Order will not be refunded and additional fees in relation to crediting Business Account with the refund might be applicable.
- 7.21. If Nexpay is liable for non-execution or inappropriate execution of the Payment Order, no fees shall be applicable to such Payments.
- 7.22. You must regularly monitor your Business Account and review any and all transactions on your Business Account, including, but not limited to your Payment Orders and Payments and inform Nexpay of any

discrepancies on your Business Account no later than 1 (one) month following the day of the execution of the Payment via [support@paynexpay.com](mailto:support@paynexpay.com).

- 7.23. Nexpay shall be entitled to outsource third party service providers in order to provide Services to you, including, but not limited to execute your Payment Orders. By executing the Agreement, you represent and warrant that you understand that execution of your Payment Order may be suspended by such third party and Nexpay shall not accept any liability in relation to such suspension, however, Nexpay shall put its effort to identify reasons of such suspension.

## **8. Authorisation**

- 8.1. All Payments must be authorized before their execution. The Payments Orders are authorized by you authenticating the Payment Order by following the instructions provided by Nexpay. Such authorization shall be considered as the appropriate means of proof evidencing that the Payment has been authorized and, in such case, you shall not be entitled to contest such Payment.
- 8.2. In order to authorize the Payment, the Personalized Security Features shall be used. In relation to the Personalized Security Features:
- 8.2.1. Personalized Security Features must be used following the instructions provided by Nexpay. Failure to follow such instructions shall result in your responsibility for any and all damages in relation thereto;
- 8.2.2. Personalized Security Features must be kept inaccessible to third parties in any way. Obligation to ensure safety of the Personalized Security Features also includes a duty to secure that not only the Personalized Security Features would not be lost, stolen or misappropriated in any other way, but also Personalized Security Features would not be available for copying or obtaining data required to access to authorize Payment Orders in any other way without physically obtaining them;
- 8.2.3. Nexpay must be immediately informed about loss, theft or other misappropriation or unauthorised use of Personalized Security Features.
- 8.3. Nexpay shall retain the right to block Personalized Security Features if it is required so for security reasons. Such blocking may be temporary or permanent. You may be informed on such blocking by issuing an email, unless Nexpay is not entitled to do so under applicable law. Blocking shall be removed once the ground for it is expired.
- 8.4. Nexpay shall retain the sole right to request you to perform additional actions to authenticate your Payment Order, i.e. such actions may be not directly indicated in your Business Account. Should Nexpay employ such right, you shall be respectively instructed by email to the address used to register with Nexpay. Any and all authorizations performed on your Business Account shall be deemed to be made by you and have the same legal effect as the wet signature fixed on the hard copy of the document. Such authorization shall be considered as the appropriate means of proof evidencing that the Payment has been authorized and, in such case, you shall not be entitled to contest such Payment.
- 8.5. If the funds were written off your Business Account and you did not authorize such Payment, Nexpay shall be obliged as soon as practically possible, however, not later than until the end of the Business Day following the day when Nexpay became aware of such an unauthorised Payment to have been executed:
- 8.5.1. to refund you with the amount of such unauthorised Payment; and
- 8.5.2. to restore balance in your Business Account to such extent as if the Payment has not been executed; and
- 8.5.3. to ensure that you shall suffer no damages in relation to failure pay or receive (whatever may be the case) the interest on the certain term,
- save for the cases when Nexpay has objective reasons to suspect Fraud, as defined in Article 20.2 of this Agreement. In the latter case, Nexpay shall notify the supervisory authority Bank of Lithuania in writing on the reasons, which give ground for Nexpay to reasonably suspect fraud.
- 8.6. You must notify Nexpay on any and all unauthorized Payments on your Business Account in compliance with Article 7.22.

## **9. Fees**

- 9.1. By executing the Agreement, you undertake to settle for Nexpay Services in accordance with these Terms & Conditions.
- 9.2. Fees applicable to you are available <https://paynexpay.com/fee>. Nexpay shall be entitled to unilaterally change the applicable fees for the Services as set forth in Section 14. By executing the Agreement, you represent and warrant that you have familiarized itself with the applicable fees and respective terms and conditions in relation thereto.
- 9.3. In addition to the Fees indicated in Art. 9.2 of these Terms & Conditions, you may be subject to individual Fees agreed by and between you and us. In such a case, such individual Fees will be indicated in annex to the Agreement.
- 9.4. Any and all fees payable in relation to the Payment shall be indicated before the authorization of the Payment Order. By executing the Agreement, you authorize Nexpay to deduct the fees applicable in relation to execution of Payment Orders for the term of the Agreement.
- 9.5. Applicable fees shall be deducted upon execution of the Payment Order. You are obliged to ensure that there is sufficient amount of funds in your Business Account to pay the applicable fees in relation to the Payment Order placed. By executing the Agreement, you represent and warrant that you understand that Nexpay shall be entitled to reject your Payment Order if there is not sufficient amount of funds in your Business Account.
- 9.6. If for whatever reason Nexpay did not deduct applicable fee under the Agreement, Nexpay shall be entitled to do so within 1 (one) year following the day when respective fee to Nexpay was due.
- 9.7. Closed Account Fee (applicable under clause 19.8) means fee of 5% per month charged from your existing balance of funds.
- 9.8. In the event of a failure to settle for Nexpay Services in timely and due manner as indicated in these Terms & Conditions, you shall be obliged to pay default interest equal to 0.05% against the outstanding amount for each day until full and proper settlement with Nexpay.

## **10. Rights and obligations**

### **10.1. Nexpay rights and obligations**

- 10.1.1. Nexpay shall be obliged to provide the Services in accordance with the Agreement and applicable law.
- 10.1.2. Nexpay shall be entitled:
  - 10.1.2.1. to request information, data and/or documents for the purpose of performance of the Agreement;
  - 10.1.2.2. to deduct fees from your Business Account in accordance with the terms and conditions of the Agreement;
  - 10.1.2.3. to suspend use of Business Account; and
  - 10.1.2.4. shall have other rights indicated in the Agreement or the applicable law.

### **10.2. Your rights and obligations**

- 10.2.1. You shall be obliged:
  - 10.2.1.1. to use the Services in accordance with the terms and conditions of the Agreement and applicable law;
  - 10.2.1.2. not to access Nexpay Services from anonymous IP addresses;
  - 10.2.1.3. not to submit false, misleading or inaccurate information, data or documents;
  - 10.2.1.4. not to use your Business Account for illegal, unlawful or fraudulent activities;
  - 10.2.1.5. not to use your Business Account for activities that may harm Nexpay brand and image;
  - 10.2.1.6. not to use your Business Account for morally or ethically dubious purposes, or purposes which in

any way violate applicable laws, rules and regulations;

- 10.2.1.7. not to use your Business Account for the benefit of third party; not hack, improperly access or interfere with Nexpay system and other software and/or applications (if any) required to provide Services to you;
- 10.2.1.8. not to infringe Nexpay or any third party's copyright, patent, trademark, trade secret or other intellectual property rights, or rights of publicity or privacy;
- 10.2.1.9. submit any and all information, data and/or documents requested by Nexpay for the purpose of provision of Services under the Agreement;
- 10.2.1.10. not to disclose to any third party the Personalized Security Features issued for you to access Business Account. In the event, you fail to comply with this provision or you could, however, the you did not, prevent transfer of such Personalized Security Features or committed such transfer deliberately or due to gross negligence, you shall assume full liability for the losses incurred and you undertake to indemnify the losses of other persons, if any, if they have suffered damages due to your omission; and
- 10.2.1.11. act fairly and to comply with the provisions of the Agreement (including, but not limited to these Terms & Conditions).

10.2.2. You shall be entitled to request Nexpay to provide Services within the terms and conditions under the Agreement.

## **11. Intellectual property rights**

- 11.1. Nexpay (or Nexpay third party vendor, as the case may be) shall be the owner of Nexpay system and other software and/or applications required to provide Services to you by Nexpay. Proprietary rights and other intellectual property rights that may be attached to Nexpay system and/or other software and any other application shall belong exclusively to Nexpay or the relevant third party.
- 11.2. In relation to Article 11.1 you shall not:
  - 11.2.1. Make any copies of Nexpay system, other software and/or applications; nor
  - 11.2.2. Modify, adapt, reverse engineer, decompile or disassemble, create derivative works of, publish, distribute or commercially exploit Nexpay system, other software and/or applications or any content of Nexpay system; nor
  - 11.2.3. Remove any copyright or proprietary notices on Nexpay system, other software and/or applications; nor
  - 11.2.4. Use, distribute or disclose confidential, personal or sensitive information within the content of Nexpay system, other software and/or applications without appropriate authority;
  - 11.2.5. Make any unlawful or unauthorized use of Nexpay system, other software or other applications (including attempt to gain unauthorized access, introducing any computer virus or malware or inhibiting their operation).
- 11.3. In the event of any of the above situations indicated in Article 11.2, you shall be liable to reimburse any direct and indirect damage and losses of Nexpay and/or third party related to such event. Notwithstanding the foregoing, any such event shall constitute a material breach of the Agreement and shall grant Nexpay the right to immediately terminate this Agreement irrespective of the terms and conditions of the termination indicated in this Agreement and to block any access to your Business Account, other software and/or applications if Nexpay shall consider that necessary to safeguard Nexpay or third party's intellectual property and to avoid any further damages and losses of Nexpay and/or third party.
- 11.4. You shall not be entitled to use Nexpay trademark without Nexpay written consent in advance. For the purpose of the Agreement, trademark shall be defined as Nexpay word and/or graphic mark.

## **12. Use of personal data**

- 12.1. Any and all personal data in relation to the performance of the Agreement shall be processed in accordance with Nexpay Privacy Policy [https://static.paynexpay.com/docs/privacy\\_policy.pdf](https://static.paynexpay.com/docs/privacy_policy.pdf).

## **13. Assignment**

13.1. Nexpay shall be entitled, without your prior consent, to assign the Agreement to a third party, whether in whole or in part. In such cases, the Agreement shall continue in force, without changes, with the new party entering instead of Nexpay as the contracting party.

13.2. You shall not be entitled to assign or in any other way transfer the Agreement or any rights thereunder to a third party, whether in whole or in part without Nexpay prior consent in writing.

#### **14. Changes to Agreement**

14.1. Nexpay shall be entitled to unilaterally amend the Agreement, including applicable Fees, with a 30 (thirty) days written notice, unless stated otherwise in the document to the Agreement. Shorter notice shall be given if quicker modifications to the Agreement shall be objectively justifiable. Shorter notice may be given, if such modification is in response to change of applicable law, requirements of public authorities, for security reasons or otherwise shall be objectively justifiable. Notwithstanding the foregoing, Nexpay reserves the right to not inform you on the changes that are not of the material effect. For the purpose of this Agreement, grammar and style changes, amendment of the mistakes, paraphrasing, changing order of the sentences, articles or sections or introducing new wording aiming to better understanding of the provisions of the Agreement provided that none of the aforementioned changes in any way reduce or limit your rights or aggravate your situation shall be not be considered as having material effect.

14.2. Notice regarding amendment of the Agreement shall be sent to the email at the address registered with Nexpay for the purpose of opening of your Business Account.

14.3. For avoidance of any doubt, you shall have no right to amend the Agreement unilaterally, which shall be in writing signed by both parties.

14.4. In the event, the changes shall be made to the Agreement, such changes shall be considered to have been approved by you unless such changes disadvantage you and you, acting prior to the date of effectiveness of the changes, shall inform Nexpay that you shall not wish to be subject to the new terms of Agreement via [support@paynexpay.com](mailto:support@paynexpay.com). For the sake of clarity, use of Services after new edition of the Agreement shall come into effect, shall be considered as your approval of the new edition of the Agreement (and the respective changes).

14.5. If you shall inform Nexpay in writing that you do not wish to be subject to the new edition of the Agreement, the Agreement shall be considered terminated on the date on which the new version of the Agreement shall enter into force.

#### **15. Non-disclosure**

15.1. Nexpay and you shall be obliged to treat all information relating to the contractual relationship between Nexpay and you as confidential, irrespective of the form such information is obtained. The duty of confidentiality shall apply unless otherwise agreed in writing and in cases where the Party shall be required to disclose such information by law, regulation or a decision taken by the public authority, or where the information in question shall be already publicly available and this fact cannot be attributed to other Party's breach of contract.

15.2. Nexpay shall be entitled to disclose information about you to third parties, to the subcontractors and other companies, provided that such disclosure shall be required in order for Nexpay to fulfil its obligations under the Agreement.

15.3. If the Agreement should cease to apply as a result of your material breach of the Agreement, or because you have facilitated or aided and abetted fraud, Nexpay may be obliged to report you to the respective authorities and such report shall not be considered as the breach of non-disclosure obligation.

15.4. Section 15 shall apply during the term of this Agreement and shall continue to apply once the Agreement is terminated.

#### **16. Representations and warranties**

16.1. Each Party hereby represents and warrants to other Party that the following representations and warranties of the Party are true and correct in all aspects on the execution date of the Agreement and remain as such on



date when the Agreement comes into force, as if made anew:

- 16.1.1. **Authorisations.** The Party has full right, power and authority (including decisions and consents from its bodies, creditors and authorities) required to execute the Agreement and perform the obligations indicated herein and all such decisions and consents are valid and enforceable. The Agreement constitutes valid and binding obligation of the Party, enforceable in accordance with its terms.
- 16.1.2. **Non-conflict.** Neither the execution of the Agreement nor the compliance by the Party with its terms and provisions will conflict with, or result in a breach or violation of any of the terms, conditions and provisions of (i) any permit, consent, decision, judgement, order, decree or ruling of any person, authority, organisation or dispute resolution body, to which the Party is subject; (ii) any transaction or commitment to which the Party is a party; or (iii) any applicable laws or laws of incorporation country;
- 16.1.3. **No proceedings.** There is no claim, action, suit, proceeding, arbitration, investigation or hearing, pending or threatened, by or before any authority or dispute resolution body against the Party that might adversely affect the ability of the Party to perform its obligations under the Agreement;
- 16.1.4. **Capacity.** The Party is (i) a duly established company and is not subject to bankruptcy, restructuring, insolvency, reorganisation, spin-off or liquidation under laws of incorporation country and no such bankruptcy, restructuring, insolvency, reorganisation, spin-off or liquidation is pending or threatened against the Party; or (ii) natural person acting in full capacity.

## **17. Liability**

### **17.1. Liability, limitation of liability**

- 17.1.1. Notwithstanding any other provisions of these Terms & Conditions that shall discuss the liability of Nexpay and limitation of liability, under no circumstances shall Nexpay be liable for any specific, indirect or incidental loss, operating losses, consequential damages, claims by third parties and/or lost data, profits, revenue, customers, goodwill or interest in any other circumstance.
- 17.1.2. Notwithstanding the foregoing and without thereby limiting liability, you shall indemnify Nexpay for any losses or claims, including claims for damages, and for any complaints, legal proceedings or expenses (including, within reasonable limits, lawyers' fees), including but not limited to any fine or fee imposed on Nexpay as a result of your breach of and/or failure to comply with the Agreement and/or all relevant rules, regulations and legislation applicable to you. The foregoing shall apply irrespective of the Agreement being terminated.
- 17.1.3. No limitation of liability shall be applicable if that shall not be allowed under the applicable law.
- 17.1.4. Nexpay shall not be held liable for the following:
  - 17.1.4.1. for any Payment and loss in relation to such Payment that resulted from the failure to protect the Personalized Security Features required to access your Business Account and/or authorize Payment Order (irrespective of the reason) or from loss, theft or misappropriation of the Personalized Security Features required to access your Business Account and/or authorize Payment Order or breach into your Business Account for which Nexpay is not liable;
  - 17.1.4.2. for late receipt of funds by the payee of the Payment Order if Nexpay duly and timely executed the Payment Order;
  - 17.1.4.3. errors, delays, suspension of funds and discrepancies that occurred by third parties beyond Nexpay control;
  - 17.1.4.4. breach of any Nexpay obligations caused by third parties beyond Nexpay control;
  - 17.1.4.5. for any consequences resulting from the termination of the Agreement, suspension of Services or delay of Payment by Nexpay if Nexpay acted in accordance of the Agreement and applicable law;



- 17.1.4.6. for breach of the Agreement and/or any and all damages that occurred because of Nexpay compliance with the applicable law and/or court order and/or order by other state authorities.
- 17.1.5. Any and all damages shall be suffered by you in relation to unauthorized Payments arising because of failure to:
  - 17.1.5.1. comply with the rules of use of your Personalized Security Features resulting from your wilful misconduct or gross negligence or you are acting unfair;
  - 17.1.5.2. inform Nexpay immediately on loss, theft or misappropriation of the Personalized Security Features as soon as practically possible;
  - 17.1.5.3. follow Nexpay instructions regarding protection of your Personalized Security Features, shall be borne by you.

## 17.2. **Force Majeure**

- 17.2.1. Notwithstanding the foregoing, Nexpay shall not be liable for losses incurred as a result of failure to comply with its obligations in connection with circumstances beyond Nexpay control. Even in areas where stricter liability rules prevail, Nexpay cannot be held responsible for losses incurred as a result of:
  - 17.2.1.1. failure of IT systems, inability to access IT access, damage to the data maintained in the IT systems as a result of any of the reasons listed below, irrespective of whether Nexpay or a third party is responsible for the operation of such systems,
  - 17.2.1.2. a power supply failure or failure in Nexpay' telecommunications systems, legislative or administrative interventions, natural disasters, war, revolution, civil unrest, sabotage, terrorism or vandalism (including virus attacks and computer hacking),
  - 17.2.1.3. strikes, lockouts, boycotts or blockades, regardless of whether the conflict is directed against or was started by Nexpay or by Nexpay' organisation, and regardless of the cause of such conflict. The foregoing also applies if the conflict only affects portions of Nexpay and other circumstances that are beyond Nexpay' control.
- 17.2.2. Nexpay exemption from liability in the event of force majeure does not apply if:
  - 17.2.2.1. at the date of the Agreement Nexpay should have foreseen the circumstances giving rise to the loss, or if Nexpay should have been able to avoid or overcome the cause of the loss or consequences thereof by taking appropriate commercial precautions;
  - 17.2.2.2. the legislation under all circumstances makes Nexpay liable for the circumstances giving rise to the loss.

## 18. **Suspension of Business Account**

- 18.1. Nexpay shall be entitled to suspend your Business Account in the following cases:
  - 18.1.1. You fail to submit to Nexpay requested information, data and/or documents within time indicated in such a request;
  - 18.1.2. You fail to settle with Nexpay in timely and due manner in accordance with the terms and provisions of the Agreement;
  - 18.1.3. You have negative balance on your Business Account;
  - 18.1.4. Nexpay has reasonable doubts regarding origin of the funds on your Business Account;
  - 18.1.5. Nexpay has reasonable doubts regarding Payment Order (i.e. its reasonability, purpose, legality etc.);
  - 18.1.6. Nexpay has reasonable grounds to suspect that money laundering or terrorist financing has been or is intended to be carried out via your Business Account;

- 18.1.7. Nexpay becomes aware of the theft, loss or misappropriation of Personalized Security Features granting access to your Business Account;
- 18.1.8. Nexpay has reasonable ground to believe that your Business Account is being used by other persons rather than you or in addition to you;
- 18.1.9. You use your Business Account in such a way that requires prior approval of Nexpay of such way of use;
- 18.1.10. Nexpay becomes aware of your bankruptcy or liquidation proceedings;
- 18.1.11. Nexpay becomes aware of any other circumstances which may prevent you from proper fulfilment of your obligations under the Agreement;
- 18.1.12. Your use of the Business Account contradicts provisions of the Agreement and/or applicable law; and
- 18.1.13. Nexpay is obliged to do so in accordance to the applicable law.
- 18.2. The above list is not exhaustive and Nexpay shall be entitled to suspend your use of Services on any other ground if Nexpay shall see it necessary to protect your interests and/or Nexpay and/or other clients of Nexpay. Suspension of use of Services shall be removed once the ground for such limitation shall extinct. In certain cases, depending on the gravity of situation, the above circumstances may result in unilateral termination of the Agreement by Nexpay with an immediate effect.
- 18.3. Depending on the reason that led to the suspension, Nexpay may explain circumstances in relation to the suspension of your Business Account and respectively provide you with instructions how to cure the situation at hand, unless Nexpay shall not be entitled to do so under the applicable law.
- 18.4. Nexpay shall not be held responsible for any of your loss or damages suffered by you in relation to suspension on use of Services provided Nexpay had a grounded reason to suspend your use of the Services.

## **19. Termination**

- 19.1. The Agreement shall come into effect on its execution and shall remain as such until terminated in accordance with the terms and conditions of the Agreement. These Terms & Conditions will be available on your Business Account during the term of Agreement.
- 19.2. Both Nexpay and the Client shall be entitled to terminate the Agreement by servicing a written notice at least 30 (thirty) days in advance.
- 19.3. Nexpay shall be entitled, with an immediate effect, to terminate the Agreement if:
  - 19.3.1. At the day of the Agreement, you provided inaccurate or incomplete information about you of which Nexpay was not and was not able to be aware of and if Nexpay was aware of such circumstances to exist before the or on the day of the Agreement, Nexpay would have not executed the Agreement;
  - 19.3.2. There is a major change in your circumstances, to the extent that if such circumstances existed before the or on the day of the Agreement, the Agreement would have not been executed;
  - 19.3.3. You failed to provide information regarding changes after execution of the Agreement;
  - 19.3.4. You pose too high risk of money laundering and/or terrorist financing;
  - 19.3.5. You are in material breach of the Agreement;
  - 19.3.6. Your breach of the Agreement continues, and such breach is not cured by you within the time limit specified in writing by Nexpay;
  - 19.3.7. Your activities include illegal or unlawful activities;
  - 19.3.8. You become subject to debt collection action or shall be entered in debtors' register;
  - 19.3.9. in Nexpay opinion, your activities or actions shall be damaging or may damage the image/reputation of Nexpay;
  - 19.3.10. there is a change in your control or a change in the ownership of more than 25% of your share capital and such change is not acceptable to Nexpay;

- 19.3.11. You, your senior management, shareholders or beneficiaries are included in the international financial sanctions and restrictive measures lists or become politically exposed person during the term of this Agreement;
- 19.3.12. You are declared insolvent, become subject to debt relief proceedings, enter into composition proceedings or similar debt relief arrangements, are declared bankrupt, go into liquidation, shall be subject to compulsory winding-up or otherwise cease activities or commence cessation proceedings or enter into restructuring proceedings, unless the estate or you undergoing restructuring is entitled to enter into the Agreement under the applicable legislation, and chooses to do so. At Nexpay request, in its judgment, the estate is obliged to decide whether it wishes to enter into the Agreement within 24 hours;
- 19.3.13. Nexpay is required to do so in accordance to the applicable law.
- 19.4. In case the Agreement is terminated in accordance with Article 19.3 of the Agreement, termination of the Agreement shall become effective on the 5<sup>th</sup> day following the receipt of the notice regarding termination of the Agreement.
- 19.5. You shall be liable to reimburse any and all Nexpay direct and indirect damages and losses that were suffered regarding termination of the Agreement on any of the grounds indicated in Article 19.3.
- 19.6. Upon the notice of the termination of the Agreement, you by logging into your Business Account and following the instructions therein are entitled to transfer the remaining balance to another account prior termination of the Agreement. Nexpay undertakes to transfer the balance of funds to another account not later than within 5 (five) Business Days from the authorization of the Payment.
- 19.7. Nexpay shall be entitled to deduct from your Business Account amount payable by you to Nexpay, state authorities or third parties, any and all outstanding penalties, damages, losses and other amounts that Nexpay has suffered or paid due to your fault. Should there were not sufficient funds on your Business Account, you undertake to credit your Business Account with the respective amount of funds without undue delay, however, not later than within 5 (five) Business Days following Nexpay request in writing.
- 19.8. In case there is a remaining balance on your Business Account after the termination of your Business Account, Nexpay will transfer your remaining balance to Nexpay internal account. Closed Account Fee which is described in the clause 9.7 shall be applicable until you request to transfer your remaining balance with Nexpay to another account or until the amount of the remaining balance becomes equal to zero. You acknowledge and agree that we assume no responsibility for any delays or losses incurred due to Closed Account Fee.
- 19.9. You are also entitled to submit a request to Nexpay to transfer the balance of funds to another account following the termination of the Agreement. When submitting the request, you shall to follow the procedure set in Article 6.3 of these Terms & Conditions. Nexpay undertakes to transfer the remaining balance of funds within 5 (five) Business Days to another account following the receipt of your request.
- 19.10. In case Nexpay fails to transfer the balance of funds to you due to reasons beyond the control of Nexpay, you shall be notified thereof immediately. You shall immediately indicate another account or provide additional information necessary to transfer the balance of funds (execute a Payment).
- 19.11. Termination of the Agreement shall not release you from the proper fulfilment of all liabilities that arose before the termination of the Agreement.
- 19.12. Even if the Agreement is terminated, it shall remain valid in respect of outstanding claims at the time of the Agreement's expiry.
- 20. Notification on Fraud and Security Threats**
- 20.1. In the event of misappropriation of data related to provision of Services, suspected or executed Fraud or Security Threat, you will be informed by Nexpay by email at the address registered with Nexpay for the purpose of opening of your Business Account, by phone and/or other telecommunication facilities. In order to properly identify you, Nexpay may ask you to provide Nexpay with the data known to Nexpay. In the event, you were informed on Fraud and/or Security Threat by phone call, such phone call shall be recorded. Nexpay shall be

entitled to suspend the use of your Business Account and execution of your Payment Orders or Payments during the time that Nexpay shall require to clarify if there was no Fraud executed and/or Security Threats.

20.2. For the purpose of the Agreement, the Fraud shall be defined as:

20.2.1. an unauthorized Payment, including, but not limited to resulting from the loss, theft, or misappropriation of the Personalized Security Features or other sensitive payment data, regardless of detectability or root cause;

20.2.2. the Payments, Payment Orders which were placed and authorized by you when you acted unfairly and was misrepresented, regardless of intent;

20.2.3. the Payments executed as a result of you being manipulated.

20.3. For the purpose of the Agreement, the Security Threat shall be defined as the risk of inadequate or insufficient internal processes or external events that have or may have a negative impact on the availability, integrity and confidentiality of information and communication technology (ICT) systems and / or payment service information. This includes the risks associated with cyber-attacks or insecurity.

## 21. Communication

21.1. To communicate with Nexpay, you may do so via internal messages logging into your Business Account or via email at the address [support@paynexpay.com](mailto:support@paynexpay.com) if you are not able to contact us via internal message (i.e. you are not able to login into your Business Account irrespective of the reason). You will be serviced a reply via internal message or to your email address used to register with Nexpay. You are obliged to check your internal messages and email constantly.

21.2. All communication will be conducted in English.

21.3. When the applicable law requires Nexpay to provide you with information on a durable medium, Nexpay will send you an email to your email address used to register with Nexpay.

21.4. When the applicable law requires Nexpay to communicate with you in a secure way, Nexpay may use other secure forms of communication.

## 22. General

22.1. **Language.** The Parties hereby agree that the language of the Agreement shall be English.

22.2. **Entire Agreement.** This Agreement shall contain the entire agreement between the Parties hereto with respect to the relationship contemplated herein, and all prior negotiations, representations, agreements and understandings are merged into, extinguished by and completely expressed by it. The Parties shall execute any other instruments or documents or perform any other acts that shall be or may be necessary to effectuate and carry on the purposes set forth in this Agreement.

22.3. **Sub-contraction.** Nexpay shall be entitled to sub-contract any third party for the purposes of provision the Services under this Agreement. Notwithstanding the foregoing, Nexpay shall remain liable to you regarding proper provision of the Services under this Agreement.

22.4. **Waiver.** Any failure or delay by any Party in exercising any right or remedy in one or many instances shall not prohibit a Party from exercising it at a later time or from exercising any other right or remedy. No part of this Agreement may be waived, modified, amended, or supplemented in any manner whatsoever except by a written document signed by authorized officers of the Parties.

22.5. **Invalidity.** If any provision of this Agreement shall be found by any court or legal authority to be invalid, unenforceable or illegal, the other provisions shall remain valid and in force and, to the extent possible, the provision shall be modified to ensure it is valid, enforceable and legal whilst maintaining or giving effect to its commercial intention.

22.6. **Effect.** All provisions of this Agreement which by their nature shall be intended to continue shall survive termination, including terms relating to exclusions and limitations of Nexpay's liability, intellectual property restrictions and reimbursement of damages.

- 22.7. **Accrue rights.** Termination of this Agreement or the Services shall not affect accrued rights and obligations of Nexpay and you except unless such rights were accrued unlawfully or in breach of this Agreement.
- 22.8. **Enforceability.** No provisions of this Agreements shall be intended to be enforceable by any other person other than the Parties of this Agreement.
- 22.9. **Governing law.** This Agreement shall be governed by the Lithuanian law and Lithuanian courts shall have jurisdiction to hear any disputes arising out of or in connection to this Agreement.
- 22.10. **Counterparts.** This Agreement may be executed in counterparts, all of which taken together will constitute one single agreement between the Parties.
- 22.11. **Titles and Subtitles.** Titles and subtitles used in this Agreement shall be used for convenience only and shall not be considered in the interpretation of this Agreement.
- 22.12. **Conflict.** In the event of any conflict and/or discrepancy between these Terms & Conditions and special provision applicable to you, the special provisions shall prevail.
- 22.13. **Further Assurances.** You shall execute and deliver such other instruments and documents, and take such other actions, Nexpay reasonably requests or as are necessary or appropriate to evidence or effect the transactions contemplated by this Agreement.
- 23. Hearing of Complaints**
- 23.1. If you are of the opinion that your rights and/or interests related to the Agreement and/or the Services have been violated, you can submit the complaint to:
- 23.1.1. Nexpay following the instructions provided by [here](#); and/or
- 23.1.2. Financial supervisory authority Bank of Lithuania, either in writing (by submitting the complaint to the following address (by your choice): Totorių str. 4, LT-01121, Vilnius, Lithuania) or by email: [info@lb.lt](mailto:info@lb.lt). The complaint may be submitted either in English or Lithuanian language. Further information regarding submission of the complaint to the Bank of Lithuania is available [here](#).