

XENDLE LIMITED.
SERVICES TERMS AND CONDITIONS

These Services Terms and Conditions (these “**Terms**”) are made and entered into as of _____ (the “**Effective Date**”) by and between Xendle Limited (“**Xendle**,” “**our**,” or “**we**”) and _____ (“**Customer**”, or “**you**”). For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Xendle and Customer agree as follows:

1. PRIVACY

Please see Xendle’s privacy policy at xendle.com/privacy for information about how Xendle collects, uses, and discloses all personal information about users of xendle.com (the “**Site**”) and Services (as defined below).

2. DEFINITIONS

“**Customer Data**” means any and all data provided by Customer (and any of its Users or permitted Non-subscribers (as defined below)) to Xendle pursuant to Customer’s (and its Users and permitted Non-subscribers) use of the Services (including third party data, PII, and associated metadata transmitted to or from, or stored on, the Hosted System or your own systems).

“**Hosted System**” means an information system (including, software, hardware, and networking elements) maintained by Xendle (or a party on its behalf) for certain of Xendle’s customers (including, but not limited to, Customer) or your own systems (in the event that you make such election).

“**Intellectual Property Rights**” means all patent rights, copyrights, moral rights, trademark rights, trade secret rights, and any other form of intellectual property rights recognized in any jurisdiction, including applications and registrations for any of the foregoing.

“**Laws**” means federal, national, state, provincial, municipal, and local laws, regulations, rules, judicial decrees, decisions, and judgments in each and every jurisdiction applicable to Customer, Xendle, the subject matter of these Terms, and/or the Services.

“**Personally Identifiable Information**” or “**PII**” means: (a) a combination of any information that identifies an individual with that individual’s sensitive and non-public financial, health, or other data or attribute, such as a combination of the individual’s name, address or phone number with the individual’s social security number or national insurance number or other government issued number, financial account number, date of birth, address, biometric data, mother’s maiden name, or other personally identifiable information; (b) (for Customers based in the United States) any “non-public personal information” as that term is defined in the Gramm-Leach-Bliley Act found at 15 USC Subchapter 1, § 6809(4); or (c) (for Customers based in the United States) “protected health information” as defined in the Health Insurance Portability and Accountability Act found at 45 CFR §160.103; (d) (for Customers based in Australia), "personal information" which is defined in the Privacy Act 1988 (Cth); (e) (for Customers based in New Zealand) "personal information" which is defined in the Privacy Act 1993.

“**Security Obligations**” means: (a) providing unique access credentials for each customer; and (b) controlling and monitoring physical access to the sensitive areas of Xendle’s facility where Customer Data is stored, encrypted using AES-128-CCM.

“**Services**” means the services provided pursuant to the Xendle package you selected.

“**Service Level Standards**” means the service levels located at www.xendle.com/sls or such other terms to which Xendle has expressly agreed to in writing. The Service Level Standards are incorporated into these Terms by this reference.

“**Subscription Fee**” means the monthly fee you must pay to Xendle in exchange for your rights to the Services as determined by the Xendle package you selected.

“**Subscription Period**” means the monthly period, during which you have rights to the Services, as determined by the Xendle package you selected.

“**Users**” means an authorized employee or consultant of Customer.

“**Xendle Support**” means the type of technical maintenance and support services for the Services that you have selected from Xendle’s support offerings listed at xendle.com/support or such other support terms to which Xendle has expressly agreed to in writing. The terms and conditions of the Xendle Support are incorporated into these Terms by reference.

3. REGISTRATION

In order to access the Services, Customer must complete the Xendle registration form provided. During the registration process, Customer must select a Xendle package (which includes a Subscription Fee, and other terms and conditions). All such information is incorporated into these Terms by reference.

Customer and each User agrees to: (a) provide accurate, current and complete information about Customer or User (whichever is applicable) as may be required in the registration forms (“**Registration Data**”); (b) maintain the security of Customer’s or User (whichever is applicable) password; (c) maintain and promptly update the Registration Data, and any other information Customer or User (whichever is applicable) provides to Xendle, to keep it accurate, current and complete; and (d) accept all risks of unauthorized access to the Registration Data and any other information Customer or User (whichever is applicable) provides to Xendle.

Customer and each User is responsible for safeguarding the password that Customer or User uses to access the Services, and Customer and each User agrees to be fully responsible for activities or transactions that relate to Customer’s or User’s (whichever is applicable) account or password.

Customer must notify Xendle immediately if Customer learns of an unauthorized use of Customer’s account or password.

4. GRANTS

Subject to the terms and conditions of these Terms and our Privacy Policy xendle.com/privacy, Xendle grants to Customer a limited, non-transferable, and non-exclusive right, during the Subscription Period, to access and use the Services and grant each User the right to access and use the Services in strictly accordance with the terms and conditions of these Terms.

Subject to the terms and conditions of these Terms, Customer grants to Xendle a limited, non-exclusive, and worldwide right and license to access, reproduce, use, modify, and store the Customer Data in order to perform the Services.

5. USE BY THIRD PARTIES

Users may allow third parties (each, a “**Non-subscriber**”) to access Users’ tasks and documents through the Services. To do so, a User must submit the applicable Non-subscriber’s email address, and an email will be sent to the Non-subscriber inviting them to access the applicable document. The Non-subscriber will be required to create a password. Customer understands that Non-subscribers will be able to view, save, add, and make decisions about Customer’s applicable documents, as well as chat online with Users about the applicable task they are addressing through the Services and add other Non-subscribers to have access to the applicable documents.

6. RESTRICTIONS

Except as expressly authorized by these Terms, Customer may not (and Customer will ensure that each User does not): (a) modify, disclose, alter, translate, or create derivative works of the Services (or any components thereof); (b) license, sublicense, resell, distribute, lease, rent, lend, transfer, assign, or otherwise dispose of the Services (or any components thereof); (c) disassemble, decompile or reverse engineer any of the software components of the Services; (d) use the Services to store or transmit any viruses, software routines or other code designed to permit unauthorized access, to disable, erase, or otherwise harm software, hardware or data; (e) copy, frame or mirror any part of the Services; (f) access the Services in order to build a competitive product or service, or copy any features or functions of the Services; (g) interfere with or disrupt the integrity or performance of the Services, including any Third Party Software and Services;

(h) attempt to gain unauthorized access to the Services or the Hosted System; (i) disclose to any third party any performance information or analysis relating to the Services; (j) disclose to any third party any terms or conditions of the Xendle package purchased by Customer that are not expressly set forth on the Site; (k) develop, promote, market, offer to sell, sell, license, or distribute, directly or indirectly, a product or service that competes with the Services (or any portion thereof); (l) remove, alter, or obscure any proprietary notices in or on the Services including copyright notices; or (m) use the Services to store any data or other content in violation of any applicable law, rule, regulation, or policy.

7. SERVICES, SECURITY, SUPPORT AND SERVICE LEVEL STANDARDS

During the term of these Terms, Xendle will use commercially reasonable efforts to (a) provide the Services, (b) meet the Security Obligations, (c) provide the Xendle Support, and (d) meet the Service Level Standards.

8. CUSTOMER OBLIGATIONS, DATA AND USERS

Customer must use reasonable security precautions in connection with Customer's use of the Services. Customer must (and Customer must ensure that all Users and Non-subscribers) (a) comply with all applicable laws with respect to Customer's use of the Services and with the Xendle acceptable use requirements as set forth below, and (b) cooperate with Xendle's reasonable investigation of Service downtime/outages, security problems, and any suspected breach of these Terms.

Customer represents and warrants that: (a) all Customer Data is either the sole property of Customer or has been collected from a third party by Customer in accordance with Customer's privacy guidelines and/or applicable laws; (b) where Customer is not a consumer, Customer's privacy guidelines comply with all applicable Laws; (c) Customer has obtained all consents required by the applicable Laws to grant Xendle the rights and licenses set forth in these Terms (including, but not limited to, the right to transfer all of the Customer Data to Xendle for storage by Xendle within the territory set forth in the Xendle package selected by Customer; (d) all of Customer's registration and account information is true, accurate, and complete; and (e) Customer will maintain the security of Customer's password.

Notwithstanding any terms to the contrary in these Terms and our Privacy Policy [xendle.com/privacy] Xendle may disclose Customer Data: (a) as required by any applicable Laws; or (b) in response to a subpoena or other compulsory legal process.

Customer will be responsible for acts or omissions of all of its Users and Non-subscribers to the same extent as if such acts or omissions were undertaken by Customer, and for the purposes of these Terms acts or omissions undertaken by a User or Non-subscriber will be deemed to have been undertaken by Customer. Xendle is not responsible for the deletion or removal of any Customer Data from Customer's account, no matter how or by whom it is deleted or removed. Customer is responsible for maintaining a copy of any Customer Data uploaded to Customer's account.

9. OWNERSHIP AND RESERVATION OF RIGHTS

As between Customer and Xendle and subject to Section 4 (Grants): (a) Customer owns all right, title and interest in and to the Customer Data and any and all Intellectual Property Rights embodied in or related to the foregoing; and (b) Xendle owns all right, title and interest in and to the Services (and any and all modifications to or derivative works of the Services), all Anonymous/Aggregate Data (as defined below), and any and all Intellectual Property Rights embodied in or related to the foregoing.

Each party reserves all rights not expressly granted in these Terms, and no licenses are granted by a party to the other party under these Terms, whether by implication, estoppel or otherwise, except as expressly set forth in these Terms.

10. FEES AND PAYMENT TERMS

In exchange for Customer's rights to the Services, Customer will pay to Xendle the Subscription Fees. The Subscription Fees together with the applicable taxes. The Subscription Fees are made up of: (a) the fixed monthly payment that is due and payable in advance; and (b) the usage/overage fee (which is set forth in the Xendle package you selected) and is due and payable on a monthly basis in arrears.

Unless Xendle states otherwise, all payments must be made: (a) in the currency of the country within which you reside; and (b) by payment card via an authorized Xendle payment processor, by bank wire transfer or check in immediately available funds to an account designated by Xendle or an automatic bank payment option pre-approved by Xendle in writing.

If you pay via a payment card or direct debit, you hereby: (a) authorize Xendle (or its authorized payment processor) to make automatic recurring charges to your designated payment card number or bank account in the applicable amount of the Subscription Fees on a monthly basis for the duration of the Subscription Period; (b) represent and warrant that you are authorized to use and have fees charged to the payment card number or bank account you provide to Xendle; and (c) understand that you may withdraw this consent by emailing Xendle at accounts@xendle.com.

Notwithstanding any terms to the contrary in these Terms: (a) Xendle, at its sole discretion, may modify its pricing during any Subscription Period and such modifications will be effective as of the directly subsequent Subscription Period; and (b) Xendle will not be obligated to issue any refunds for Subscription Fees paid.

Interest on any late payments will accrue at the rate of 3% per annum for Customers that are consumers, or the highest rate permitted by law for Customers that are using the Services in the course of their business, from the date such amount is due until the date such amount is paid in full. You will be responsible for, and will pay all use or excise taxes, VAT, duties, tariffs, federal, state or local tax, or any other sales and similar taxes, and all license and similar fees levied upon the provision of the Services provided under these Terms, excluding only taxes based solely on Xendle's net income. You will indemnify and hold Xendle harmless from and against any and all such taxes and related amounts levied upon the provision of the Services and any costs associated with the collection or withholding thereof, including penalties and interest.

11. ADDITIONAL TERMS

Professional Services

In the event that Customer elects to have Xendle (or a party acting on its behalf) perform any integration, design, development, operational and other professional services ("**Professional Services**"), the parties will enter into a separate agreement governing the provision of such Professional Services.

Data

Customer understands that Xendle intends to collect anonymous and aggregate statistics regarding the use of the Services (collectively, "**Anonymous/Aggregate Data**").

12. FEEDBACK

Notwithstanding any terms to the contrary in these Terms, any suggestions, comments or other feedback provided by Customer to Xendle with respect to the Services, Xendle Support or Xendle (collectively, "**Feedback**") will constitute Confidential Information. Xendle will be free to use, disclose, reproduce, license and otherwise distribute and exploit the Feedback provided to it as it sees fit, entirely without obligation or restriction of any kind, on account of Intellectual Property Rights or otherwise.

13. TERM, TERMINATION AND EFFECTS OF TERMINATION

Term

Unless terminated as set forth in these Terms, the term of these Terms will be for the Subscription Period and thereafter these Terms will automatically renew for successive periods equivalent to the Subscription Period (each a "**Renewal**").

Termination and Suspension

Customer may terminate these Terms with no less than 14 days advance written notice to Xendle.

Either party may terminate these Terms for cause if the other party: (a) materially breaches these Terms and (in the case of a material breach capable of remedy) does not remedy such failure within 30 days after its receipt of written notice of such

breach; or (b) if any encumbrancer takes possession of or a receiver, administrative receiver or similar officer is appointed over any of the property or assets of the other party or if the other party makes any voluntary arrangement with its creditors or becomes subject to an administration order or has an administrator appointed or goes into liquidation or has a resolution for its winding-up passed (except for the purpose of amalgamation or reconstruction not involving insolvency where the resulting entity agrees to be bound by or assumes the obligations imposed on the other party) or anything analogous to any of these events under the law of any jurisdiction occurs in relation to the other party or if the other party ceases or threatens to cease to carry on business. Notwithstanding any terms to the contrary in these Terms, Xendle may, at its sole discretion, either immediately terminate these Terms, for cause, or suspend the Services if Xendle reasonably believes that Customer has breached any of the terms set forth in Sections 5 or 7. Further, notwithstanding any terms to the contrary in these Terms, Xendle may terminate these Terms, for convenience, with 30 days' prior notice to Customer.

Effect of Termination

Upon any termination of these Terms: (a) all rights and licenses granted to Customer under these Terms will immediately terminate; (b) Customer will immediately pay to Xendle all amounts due and payable up to the effective date of termination of these Terms; and (c) Customer will promptly return to Xendle all Confidential Information in its possession or destroy all copies of Confidential Information, at Xendle's sole discretion and direction. Further, upon any termination of these Terms, Xendle will use commercially reasonable efforts to: (i) provide Customer with access to all Customer Data stored on a Hosted System (provided by Xendle or a party on its behalf) for up to 30 days from the date of termination of these Terms; and (ii) within a commercially reasonable time, transfer, at Customer's sole expense, such Customer Data to Customer or Customer's designated service provider. Notwithstanding any terms to the contrary in these Terms, after such 30-day period, Xendle will have the right (but not the obligation) to destroy all such Customer Data.

Notwithstanding any terms to the contrary in these Terms, all sections (except for your right to access and use the Services and Section 6) will survive any termination of these Terms.

14. CONFIDENTIALITY

"Confidential Information" means all information disclosed (whether in oral, written, or other tangible or intangible form) by Xendle to you concerning or related to these Terms, the Services or Xendle (whether before, on, or after the Effective Date) which you know or should know, given the facts and circumstances surrounding the disclosure of the information by Xendle is confidential information of Xendle. Confidential Information includes, but is not limited to, the Services, the know-how and other similar information. You will, during the Subscription Period (and thereafter), maintain in confidence the Confidential Information, and you will not use such Confidential Information except as expressly permitted herein. You will use the same degree of care in protecting the Confidential Information as you use to protect your own confidential information from unauthorized use or disclosure, but in no event less than reasonable care. You agree that your obligations hereunder are necessary and reasonable in order to protect the Confidential Information, and you expressly agree that monetary damages would be inadequate to compensate Xendle for any breach of this Section 14. Accordingly, you acknowledge and agree that: (a) any such violation or threatened violation will cause irreparable injury to Xendle; and (b) in addition to any other remedies that may be available to Xendle at law, in equity or otherwise, Xendle will be entitled to obtain injunctive relief against any threatened or actual breach of this Section 14 or the continuation of any such breach, without the necessity of proving actual damages and without the necessity of posting a bond (or other security) from any court of competent jurisdiction, and, notwithstanding any terms to the contrary in these Terms, each of the parties hereby (i) agrees to consent and submit to the personal jurisdiction of such courts, and (ii) waives any objection to such jurisdiction, whether based on forum non conveniens or otherwise.

15. DISCLAIMER

YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK. EXCEPT FOR THE SERVICE LEVEL STANDARDS, THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. EXCEPT AS EXPRESSLY SET FORTH IN THESE TERMS, XENDLE DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN) WITH RESPECT TO THESE TERMS, THE XENDLE IP AND ANY THIRD-PARTY SOFTWARE WHETHER ALLEGED TO ARISE BY OPERATION OF LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, BY COURSE OF DEALING OR OTHERWISE, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, WARRANTIES OF FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT XENDLE KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE AWARE OF ANY SUCH PURPOSE), AND WARRANTIES OF NON-INFRINGEMENT OR CONDITION OF TITLE. XENDLE DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE

SERVICES WILL BE ACCURATE OR MEET CUSTOMER'S REQUIREMENTS, OR THAT THE OPERATION OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. XENDLE EXPRESSLY DISCLAIMS ANY LIABILITY FOR THE ACTS OR OMISSIONS OF AMAZON WEB SERVICES ("AWS") IN PROVIDING ANY HOSTED SYSTEM AND ITS AWS SERVICE OFFERINGS, INCLUDING ANY DOWNTIME CAUSED BY AWS OR CUSTOMER'S INABILITY TO OTHERWISE ACCESS TO AWS' SERVICE OFFERINGS.

In relation to Australian residents only, nothing in these Terms excludes, restricts or limits any term or guarantee that cannot be excluded, restricted or limited under Australian consumer laws. However, the liability of Xendle is limited to the maximum extent permitted by Australian law.

Notwithstanding the above, nothing in these Terms excludes, restricts or limits any term or guarantee that cannot be excluded, restricted or limited under New Zealand consumer laws. However, the liability of Xendle is limited to the maximum extent permitted by New Zealand law.

16. INDEMNIFICATION

Customer, at its sole expense, will defend Xendle and its directors, officers, employees, and agents ("**Xendle Indemnitees**") from and against any actual or threatened suits, actions, proceedings (at law or in equity), claims, damages, payments, deficiencies, fines, judgments, settlements, liabilities, losses, costs, and expenses (including reasonable attorneys' fees, costs, penalties, interest, and disbursements) arising from or related to Customer's violation (or alleged violation) of these Terms (including, but not limited to, any breach or alleged breach of any of Customer's representations or warranties) or any acts or omissions of any parties acting on Customer's behalf (including, but not limited to, a Hosted System not provided by Xendle).

17. LIMITATION OF LIABILITY

- A. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL XENDLE BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES WHATSOEVER, ARISING OUT OF OR RELATED TO THESE TERMS, THE SERVICES OR ANY THIRD PARTY SOFTWARE/SERVICES (INCLUDING AWS SERVICE OFFERINGS), HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, WHETHER ACTIVE, PASSIVE OR IMPUTED), PRODUCT LIABILITY, STRICT LIABILITY OR OTHER THEORY), EVEN IF XENDLE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION MAY NOT APPLY TO CUSTOMERS RESIDENT IN ANY SUCH JURISDICTION.
- B. IN NO EVENT WILL XENDLE'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS (INCLUDING WITHOUT LIMITATION AS A RESULT OF BREACH OF CONTRACT, NEGLIGENCE OR ANY OTHER TORT, UNDER STATUTE OR OTHERWISE) EXCEED THE SUBSCRIPTION FEES PAID BY CUSTOMER TO XENDLE DURING THE SUBSCRIPTION PERIOD WITHIN WHICH THE DAMAGES AROSE.
- C. NOTWITHSTANDING ANY TERMS TO THE CONTRARY IN THESE TERMS: (A) THE SOLE AND EXCLUSIVE REMEDY FOR ANY FAILURE OF ANY SERVICE LEVEL STANDARDS ARE THE CREDITS PROVIDED UNDER THESE TERMS; AND (B) XENDLE WILL NOT BE LIABLE FOR ANY DISCLOSURE OF, UNAUTHORIZED USE OF AND/OR UNAUTHORIZED ACCESS TO ANY CUSTOMER DATA AND/OR ANONYMOUS/AGGREGATE DATA.
- D. NOTWITHSTANDING ANY TERMS TO THE CONTRARY IN THESE TERMS, NOTHING IN THESE TERMS SEEKS TO LIMIT OR EXCLUDE ANY LIABILITY OF XENDLE THAT CANNOT BE EXCLUDED OR LIMITED BY APPLICABLE LAW.

18. ARBITRATION FOR BUSINESS CUSTOMERS BASED IN THE UNITED STATES

PLEASE READ THE FOLLOWING PROVISIONS CAREFULLY BECAUSE THEY REQUIRE CUSTOMER AND XENDLE TO ARBITRATE DISPUTES AND LIMITS THE MANNER IN WHICH BOTH PARTIES CAN SEEK RELIEF.

Where Customer is based in the United States and is using the Services in the course of its business, Customer and Xendle will arbitrate any dispute, claim, or controversy arising from or related to these Terms or the Services, except that neither Customer nor Xendle is required to arbitrate any dispute in which either party seeks equitable and/or other relief for the

alleged unlawful use of copyrights, trademarks, trade names, logos, trade secrets, or patents. ARBITRATION PREVENTS CUSTOMER AND XENDLE FROM SUING IN COURT OR FROM HAVING A JURY TRIAL. Customer and Xendle will notify each other of any dispute within 30 days of when it arises and attempt informal resolution before any demand for arbitration. Arbitration will be conducted confidentially in San Francisco, California, by a single arbitrator in accordance with the rules of JAMS (or its successor). Except as expressly provided in these Terms, the arbitrator has the authority to grant any remedy that would otherwise be available in court. The arbitrator will render a written opinion including findings of fact and law, and the award and determination of the arbitrator will bind the parties and will not be subject to appeal. Judgment may be entered upon the award of the arbitrator in any court of competent jurisdiction. The parties will equally share the expenses of the arbitration unless the arbitrator determines to apportion fees and expenses differently. To the fullest extent permitted by applicable law, WHETHER THE DISPUTE IS HEARD IN ARBITRATION OR IN COURT, NO ARBITRATION OR CLAIM UNDER THESE TERMS WILL BE JOINED TO ANY OTHER ARBITRATION OR CLAIM, INCLUDING ANY ARBITRATION OR CLAIM INVOLVING ANY OTHER CURRENT OR FORMER USER OF THE SERVICES, AND NEITHER CUSTOMER NOR XENDLE WILL COMMENCE AGAINST THE OTHER A CLASS ACTION, CLASS ARBITRATION, OR OTHER REPRESENTATIVE ACTION OR PROCEEDING.

Customer can choose to reject this agreement to arbitrate (“opt out”) by sending Xendle a written opt-out notice (the “**Opt-Out Notice**”) to legal@xendle.com within 30 days after the date Customer accepts these Terms for the first time. The Opt-Out Notice must state that Customer does not agree to this agreement to arbitrate and must include Customer’s name, address, phone number, and email address. Customer must sign the Opt-Out Notice for it to be effective. This procedure is the only way Customer can opt-out of this agreement to arbitrate. If Customer opts-out of this agreement to arbitrate, all other parts of these Terms will continue to apply.

19. EXPORT MATTERS

Customer represents and warrants that Customer is not on the United States Department of Treasury, Office of Foreign Asset Controls list of Specially Designated National and Blocked Persons or any other equivalent list in any other jurisdiction (including without limitation the United Kingdom), and is not otherwise a person to whom Xendle is legally prohibited to provide the Services. Customer may not use the Services for the development, design, manufacture, production, stockpiling or use of nuclear, chemical or biological weapons, weapons of mass destruction or missiles, in a country listed in Country Groups D: 4 and D: 3, as set forth in Supplement No. 1 to the Part 740 of the United States Export Administration Regulations, nor may you provide administrative access to the Services to any person (including any natural person or government or private entity) that is located in or is a national of any country that is embargoed or highly restricted under United States export regulations or the export regulations of any other applicable jurisdictions.

20. MISCELLANEOUS

(a) Entire Agreement

These Terms (including the terms and conditions incorporated into these Terms by reference) set forth the entire agreement and understanding of the parties relating to the subject matter hereof, and supersede all prior or contemporaneous agreements, proposals, negotiations, conversations, discussions and understandings, written or oral, with respect to such subject matter and all past dealing or industry custom.

(b) Governing Law and Dispute Resolution for Customers Based in the United States

Subject to Paragraph (c), (d) and (e) below, these Terms will be governed by and construed in accordance with the laws of the State of California applicable to agreements made and to be entirely performed within the State of California, without resort to its conflict of law provisions. The state or federal court in San Francisco County, California, will be the jurisdiction in which any suits should be filed if they relate to these Terms. Prior to the filing or initiation of any action or proceeding relating to these Terms, the parties must participate in good faith mediation in San Francisco County, California. If a party initiates any proceeding regarding these Terms, the prevailing party to such proceeding is entitled to reasonable attorneys’ fees and costs for claims arising out of these Terms.

(c) Governing Law and Dispute Resolution for Customers Based in the United Kingdom

Notwithstanding Paragraph (b) above, where the Customer is based within the United Kingdom (including Scotland), the Terms, and the relationship between the parties, shall be governed by the laws of England and each party agrees that all disputes arising out of or in connection with the Terms, and/or with its negotiation, validity or enforceability, and/or the relationship between the parties, (in each case whether or not regarded as contractual claims) shall be exclusively governed by and determined in accordance with English law. Each party expressly submits to the exclusive jurisdiction of the English Courts (provided that where the Customer is a consumer resident in the United Kingdom it may bring a claim in the Courts of its country of residence).

(d) Governing Law and Dispute Resolution for Customers Based in Australia

Notwithstanding Paragraphs (b) and (c) above, where the Customer is based within Australia, these Terms, and the relationship between the parties, shall be governed by the laws of [New South Wales] and each party agrees that all disputes arising out of or in connection with these Terms, and/or with its negotiation, validity or enforceability, and/or the relationship between the parties, (in each case whether or not regarded as contractual claims) shall be exclusively governed by and determined in accordance with the laws of [New South Wales]. Each party expressly submits to the exclusive jurisdiction of the Courts of [New South Wales] and of appeal therefrom.

(e) Governing Law and Dispute Resolution for Customers Based in New Zealand

Notwithstanding Paragraphs (b), (c) and (d) above, where the Customer is based within New Zealand, these Terms, and the relationship between the parties, shall be governed by the laws of New Zealand and each party agrees that all disputes arising out of or in connection with these Terms, and/or with its negotiation, validity or enforceability, and/or the relationship between the parties, (in each case whether or not regarded as contractual claims) shall be exclusively governed by and determined in accordance with the laws of New Zealand. Each party expressly submits to the exclusive jurisdiction of the Courts of New Zealand and of appeal therefrom.

(f) Independent Contractors

Neither party will, for any purpose, be deemed an agent, franchisor, franchise, employee, representative, owner, or partner of the other party, and the relationship between the parties will only be that of independent contractors. Neither party will have any right or authority to assume or create any obligations or to make any representations or warranties on behalf of any other party, whether express or implied, or to bind the other party in any respect whatsoever.

(g) Modifications

Xendle reserves the right to change or modify any of the terms and conditions contained in these Terms (or any policy or guideline of Xendle) at any time and in its sole discretion by providing notice that these Terms have been modified. Such notice may be provided by sending an email, posting a notice on the Site, posting the revised Terms on the Site and revising the date at the top of these Terms or such other form of notice as determined by Xendle. Any changes or modifications will be effective 30 days after providing notice that these Terms have been modified (the “**Notice Period**”). Your continued use of any of the Services following the Notice Period will constitute your acceptance of such changes or modifications. Therefore, you should review these Terms whenever you access the Services or at least every 30 days to make sure that you understand the terms and conditions that will apply to your use of the Services.

(h) Assignment

Customer must not assign, delegate or transfer (by sale, merger, operation of law, or otherwise) these Terms or any right or obligation hereunder without the prior written consent of Xendle. Any attempted or purported assignment, delegation, or transfer in violation of the foregoing will be null and void and without effect. Xendle may assign, delegate or transfer (by sale, merger, operation of law, or otherwise) these Terms or any right or obligation hereunder without the prior written consent of Customer. These Terms will be binding and inure to the benefit of such assignees, transferees and other successors in interest of the parties, in the event of an assignment or other transfer made consistent with the provisions of these Terms.

(i) Third Party Software/Services

Customer acknowledges and agrees that the Services contain, otherwise use or are provided in connection with certain third party software and services (collectively, the “**Third Party Software and Services**”). A list of third party software (together with the names of the applicable licenses) is set forth at xendle.com/copyrights (and such list may be updated from time to time by Xendle and such list (together with any and all updates) is incorporated into these Terms by reference), and Customer must comply with the third party licenses and acceptable use policies applicable to such Third Party Software and Services. Further, Customer acknowledge and agrees that it will abide by all of the flow-down terms and conditions applicable to customers of Xendle provided by providers of the Hosted Systems, including those of AWS, which may be found here: <http://aws.amazon.com/agreement/> (the “**AWS Terms**”). Customer is responsible for reviewing these terms, including the acceptable use policy incorporated therein, and for periodically reviewing the AWS Terms and any policies incorporated therein for any changes made by AWS to the AWS Terms. Xendle is not responsible for notifying Customer of any changes made to the AWS Terms and will have no liability to Customer for the AWS Terms and any change made to any of the AWS Terms.

(j) Force Majeure

Except for payments due under these Terms, neither party will be responsible for any failure to perform or delay attributable in whole or in part to any cause beyond its reasonable control, including, but not limited to, acts of God (fire, storm, floods, earthquakes, etc.), civil disturbances, disruption of telecommunications, disruption of power or other essential services, interruption or termination of service by any service providers being used by Xendle to provide or host the Services or to link its servers to the Internet, labor disturbances, vandalism, cable cut, computer viruses or other similar occurrences, or any malicious or unlawful acts of any third party (each a “**Force Majeure Event**”). In the event of any such delay, the date of delivery will be deferred for a period equal to the time lost due to the delay.

(k) Electronic Communications

Xendle may choose to electronically deliver all communications with Customer, which may include email to the email address Customer provides to Xendle. Xendle’s electronic communications to Customer may transmit or convey information about action taken on Customer’s request, portions of Customer’s request that may be incomplete or require additional explanation, any notices required under applicable law, and any other notices. Customer agrees to do business electronically with Xendle and to receive electronically all current and future notices, disclosures, communications and information and that the aforementioned electronic communications satisfy any legal requirement that such communications be in writing. An electronic notice will be deemed to have been received on the day of receipt as evidenced by such email.

(l) Publicity and Press Release

Where Customer uses the Services in the course of its business, Customer consents to Xendle’s use of Customer’s name and logo on the Site and Xendle’s marketing materials identifying Customer as a user of the Services, and Customer agrees that Xendle may issue a press release identifying Customer as a user of the Services, notwithstanding any terms to the contrary in these Terms.

(m) Waivers

No failure or delay (in whole or in part) on the part of Xendle to exercise any right or remedy hereunder will operate as a waiver thereof or effect any other right or remedy. All rights and remedies of Xendle under these Terms are cumulative and are not exclusive of any other rights or remedies provided hereunder or by law. Xendle’s waiver of one breach or default or any delay in exercising any of Xendle’s rights will not constitute a waiver of any subsequent breach or default

(n) Severability

If any provision of these Terms is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other provisions of these Terms will nonetheless remain in full force and effect so long as the economic and legal substance of the

transactions contemplated by these Terms is not affected in any manner adverse to any party. Upon such determination that any provision is invalid, illegal or incapable of being enforced, the parties will negotiate in good faith to modify these Terms so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled.

21. QUESTIONS

If Customer has any questions regarding the use of the Services, please email Xendle at legal@xendle.com

IN WITNESS WHEREOF, the parties have caused these Terms to be executed as of the Effective Date.

[CUSTOMER]

Xendle Limited.

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Address:

Address:

Phone No.: _____

Phone No.: _____

Facsimile No.: _____

Facsimile No.: _____

Email: _____

Email: _____

XENDLE SUPPORT

Last Revised: _____

Support

Xendle Support allows customers to interact directly with Xendle customer services representatives.

All defined terms used herein have the meaning ascribed to them in these Terms unless otherwise defined herein.

All requests or inquiries must be first submitted to Customer's designated support representative(s) (each a "**Customer Service Representative**"). If the Customer Service Representative determines that there is an Error (as defined below) in the Services and such Error cannot be corrected after reasonable efforts, the Customer Service Representative may contact Xendle regarding the Error at support@xendle.com. All support requests will be issued with a unique ticket number for reference and tracking purposes.

Errors and Response Times

"**Error**" means an issue that causes the Services to perform in a manner that deviates from its Documentation.

The types of Errors recognized by Xendle are as follows:

- Service Availability – Where the service is not available due to server side fault causing service wide outage
- Other Errors – All other errors where the service behavior deviates from its documentation

In the event of an Error, Xendle will acknowledge the related inquiry from the Customer Service Representative within the target timeframes set forth below dependent on the elected Xendle plan. Xendle will escalate Errors by notifying and ensuring the involvement of select Xendle senior management individuals as may be required.

	Business Standard	Business Premium	Enterprise
Service Availability	99.9% Uptime Service Level Standard	99.9% Uptime Service Level Standard	As agreed – refer to commercial agreement
Errors and Support Requests	- Email support - Response within 24 hours	- Telephone support	As agreed – refer to commercial agreement
Urgent support requests or additional support requests outside incidents covered in elected plan	Refer to plan rate www.xendle.com/pricing	Refer to plan rate www.xendle.com/pricing	As agreed – refer to commercial agreement

Assistance

Customer will cooperate in good faith with Xendle in the performance of the Services including, but not limited to, providing any reasonably requested assistance and information.

Support Email

Xendle provides Xendle Support through Xendle's Support Email. This can be accessed at support@xendle.com. Customer must use this email address for all Xendle Support requests, to track the status of issues, to access general or routine questions (i.e., any questions or issues regarding the Services that do not constitute an Error).

XENDLE SERVICE LEVEL STANDARDS

Last Revised: _____

All defined terms used herein have the meaning ascribed to them in the Services Terms as attached unless otherwise defined herein.

Service Levels

Xendle will use commercially reasonable efforts to make the Services available 99.9% or more ("**Xendle SLS**") of the time during any calendar month. Subject to the exclusions set forth below, an outage will be defined as any time where the Services are not available for normal use by Customer due to a cause within the control of Xendle.

Exclusions

Xendle does not include in its calculation of downtime any time the system is offline (and Services are not provided) due to:

- Force Majeure Events; or
- scheduled downtime for maintenance, upgrades, etc; or
- actions or inactions on Customer's part, whether authorised by Customer or not, including, but not limited to, Customer's failure to maintain the Required Components configurations, use of supported platforms and following policies of Xendles Acceptable Use Requirements; or
- events arising from Customer's systems including hardware or software or other on-premise components; or
- outages associated with any suspension, or termination of these Terms (or part of these Terms); or
- power failures or outages; or
- failures due to any third party service providers including any storage providers including but not limited to AWS as well as issues resulting from insufficient bandwidth or connectivity; or
- the Customers User of the Service did not modify the use of the Service after Xendle advised Customer to modify its use of the Service; or
- any beta or trial services as may be determined by Xendle; or
- any factors outside Xendles reasonable control; or
- any and all other fees, expenses or services paid or due to Xendle by Customer including but not limited to set up fees, professional services, customized services or products, add on products, third party products or services, one off fees, other related or unrelated products; or
- changes requested by the Customer; or
- any Customer or User in violation of these Terms or the Acceptable Use Requirements under these Terms; or
- during any time Customer or User is suspended or terminated from using the Service; or
- any modifications to the configuration by Customer, Users or third party, agent, vendor or contractor of Customer; or
- any use by a permitted Non-subscriber.

Service Credits

If Xendle fails to achieve the availability percentage above, Customer will be eligible to receive a credit ("**Service Credit**") calculated as a percentage of Customer's Subscription Fees in the calendar month when the applicable outage occurred. Service Credits are specifically restricted to Subscription Fees only. The maximum Service Credit will not exceed the Customers Subscription Fee for the Services for the month or period in question.

Downtime is defined as any period of time when Users are unable to access the Service for which they have authorisation but do not include any Exclusions as listed above in these Terms.

Monthly Uptime is calculated for each individual Customer as a percentage by calculating the total number of minutes in a calendar month multiplied by the total number of Users less the total number of minutes of Downtime experienced by all Users in the given calendar month. The total of this calculation will then be divided by the total number of minutes in that calendar month multiplied by the total number of Users. The following will be used for this calculation:

Total number of minutes in a month multiplied by the total number of Users less the total minutes of Downtime experienced by all Users in the given month. This total is then divided by the total number of minutes in a month multiplied by the total number of Users

The Service Credits increase based on the amount of aggregate outage as follows:

Service Availability	Service Credit
Less than 99.9%	5%
Less than 99	10%
Less than 98%	15%

Service Credits are non-transferable and will be issued in the same currency as your usual invoice or payment for the Services. To receive a Service Credit, Customer must contact Xendle in writing within 7 days following the outage and demonstrate to Xendle's reasonable satisfaction that Customer's use of the Services was adversely affected because of the outage. Any validated Service Credits will be applied against the next open invoice due to Xendle by Customer.

Sole Remedy

Notwithstanding any terms to the contrary in these Terms, the Service Credits are Customer's sole and exclusive remedy for any outage of the Services.

ACCEPTABLE USE REQUIREMENTS

Third-Party Rights and Content – In using the Services, you may not:

- store any messages, text, materials, data, information, software, audio, art, images, photos, video, graphics, or other items or materials (“**Content**”) that infringes upon or violates the copyright, trademark, patent, trade secret, publicity, privacy or other rights of any third party;
- attempt to circumvent any content filtering techniques Xendle may employ; or
- attempt to defeat or assist others in defeating any technical copyright protections.
- Inappropriate Content – In using the Services, you may not store any Content that:
 - is obscene, pornographic, indecent or sexually explicit or that constitutes, fosters or promotes pornography or bestiality;
 - depicts graphic, excessive or gratuitous violence; or
 - is derogatory, demeaning, inflammatory, malicious, defamatory, abusive, offensive or hateful.

Protected Health Information (“**PHI**”) – In using the Services, you may not store any Protected Health Information, as defined by the US Department of Health and Human Services;

Unlawful, Harmful or Prohibited Content or Conduct – In using the Services, you may not:

- violate any applicable local, state, federal or international laws, regulations, rules, orders and other requirements, now or hereafter in effect;
 - store any material that is illegal or fraudulent or that would encourage, solicit, foster, glorify or provide instructions for a criminal or civil offense including, but not limited to, material that promotes illegal drugs, violates export control laws, relates to illegal gambling or illegal arms trafficking, or that any United States or foreign governmental entity considers to be confidential information of a national security interest or similar concern;
 - store any material that contains software viruses, corrupted data or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware;
 - attempt to probe, scan, penetrate or test the vulnerability of a Xendle system or network;
 - attempt to gain unauthorized access to or use of Xendle’s data or the data of Xendle’s customers;
 - cause any breach of Xendle’s security or authentication measures;
 - attempt to use or access another user’s account without authorization or create a user account under false or fraudulent pretenses; or
- engage in any conduct that is likely to result in retaliation against Xendle or its employees, officers or other agents including, but not limited to, engaging in behavior that results in any server being the target of a denial of service attack.