



## MERCHANT AGREEMENT

This Merchant Agreement ("**Agreement**") is entered into as of **DD-MM-YYYY** (the "Effective Date")

### BETWEEN

**INSTANOW INFO SYSTEMS PRIVATE LIMITED** a Company incorporated under the Companies Act 2013, having its Registered Office at **OFFICE NO. 325, SECOND FLOOR, CASA DEL SOL, MIRAMAR, PANJIM, NORTH GOA, GOA, 403001**, hereinafter referred as "**INSTIFI**" which means and include, unless repugnant to the context or meaning thereof mean and include its liquidators, successors, receivers and assigns of the **ONE PART**;

### AND

**[MERCHANT NAME]** a Company incorporated under the companies Act, 2013 /1956 having its principal place of business/registered office at **[MERCHANT ADDRESS]**, hereinafter referred as "**Merchant**" which means and include, unless repugnant to the context or meaning thereof mean and include its liquidators, successors, receivers and permitted assigns of the **SECOND PART**.

(Wherever the context so requires, "**INSTIFI**" and "**Merchant**" shall hereinafter also be referred to collectively as the "Parties" and individually as a "Party")

### WHEREAS,

- I. INSTIFI is engaged in the business of inter alia online payment gateway solutions, payment processing, payment routing, reconciliation, facilitating the initiation and receipt of electronic payments, and bulk payments effected through inter alia National Electronic Funds Transfer, Real Time Gross Settlement, Immediate Payment Service and Unified Payments Interface including but not limited to payments effected through credit cards, debit cards, net-banking, pre-paid instruments and payment methods offered by and routed through the infrastructure established by the RBI, NPCI such as UPI and Bharat QR.
- II. Merchant is engaged in the business of [ **Nature of Business**].
- III. The Merchant is desirous of using the services of INSTIFI to enable its customers to make payments for their purchase of goods/services from the Merchant. In accordance with that, Merchant is willing to enter into an agreement with INSTIFI to engage INSTIFI to facilitate the Merchant in accepting online payments initiated by its customers on the website or mobile application using credit/debit cards, net banking and various other acceptable modes of payment mechanism options provided on such terms and conditions as mentioned hereinafter.

**NOW THEREFORE**, in consideration of the mutual covenants, terms & conditions and understandings set forth in this Agreement and for other good and valuable consideration, the sufficiency of which is acknowledged by the Parties, the Parties hereby agree as follows:

#### 1) SCOPE OF SERVICES

- I. INSTIFI hereby agrees to permit the Merchant to use INSTIFI Services being offered through the Facility Providers, to enable the Customers to pay for the Order placed by such Customer's on the Merchant Site and shall provide its services solely based on the Terms and Conditions of this Agreement. The Parties may amend the Schedules and/or execute additional schedules to cover other / additional services upon such Terms and Conditions as may be mutually agreed in writing from time to time.
- II. INSTIFI is entitled to modify its Services for enhancement, security of Transactions or for improvement of INSTIFI Services in its absolute discretion, if nothing in the foregoing provision shall limit INSTIFI's obligations or liabilities under this Agreement for the INSTIFI Services. Under such circumstances whatsoever, INSTIFI shall not be required to take the consent of the Merchant for carrying out these modifications, during the course of this Agreement. However, INSTIFI shall promptly inform the Merchant in case of improvement or modification of its Services or security of Transactions which is likely to affect the Merchant's use of the INSTIFI Services.



III. Notwithstanding anything mentioned in this clause, INSTIFI does not make any representations, express or implied, about the suitability of INSTIFI Services for the Merchant's business.

- IV. The Merchant agrees that the customizations, if any, carried out for and on behalf of the Merchant by INSTIFI within the scope of INSTIFI Services, shall be Intellectual Property Rights of INSTIFI.
- V. Except as provided under this Agreement, no other rights as such are granted to the Merchant under this Agreement.

## 2) APPROVAL AND REGISTRATION TO AVAIL INSTIFI SERVICES

- I. The Merchant shall disclose the exact business category for which the Merchant will be using the INSTIFI Services of this Agreement and shall only avail the INSTIFI Services through its designated Merchant Site as communicated to Instifi in writing. In order to use the INSTIFI Services for any other purpose, the Merchant understands and acknowledges that it shall notify INSTIFI in writing of such change and such change will be subject to approval by INSTIFI. If the Merchant uses the INSTIFI Services for any unapproved or undisclosed business activity, thereby violating this requirement, INSTIFI shall be entitled to recover from the Merchant all losses, claims, chargebacks, penalties, brand-related losses, refunds, or damages arising from such violation. INSTIFI may additionally impose a penalty, determined on a case-to-case basis, which the Merchant agrees not to dispute.
- II. The Merchant understands that in order to avail the INSTIFI Services, the Merchant must be approved by and registered with INSTIFI. Any undertaking with respect to the INSTIFI Services under this Agreement shall be subject to INSTIFI's approval and completion of the registration process. The Merchant shall provide INSTIFI with all such documents as required by INSTIFI to register the Merchant with INSTIFI. The Merchant further understands and acknowledges that INSTIFI has the right to withdraw its approval/consent at any time prior to or after commencement of the INSTIFI Services.
- III. The Merchant hereby expressly confirms agrees and undertakes to ensure that it has necessary, risk assessment policy, refund policy in relation to its customers at all times during the term of this Agreement and such policies shall be in consonance with the extant RBI guidelines and Applicable Laws, as may be applicable and shall be published on the Merchant's Website. Further, the Merchant shall have necessary data privacy policy, system security policy and customer grievance redressal policy in place and the same shall be published on its Website.

## 3) DEFINITIONS

For the purpose of this Agreement, the terms set forth in this Article, when used in this agreement either in singular or plural forms are defined to mean unless the context otherwise requires, the following:

- i. **"ACQUIRING BANKS"** shall mean various banks, financial institutions, payment system providers who are defined and licensed under the Payment and Settlement Systems Act, 2007 which enables INSTIFI to provide internet based electronic commerce, internet payment gateway to merchants.
- ii. **"ACQUIRING BANK SERVICES"** shall mean the services provided by the Acquiring Banks for acceptance and processing of Transactions, including (i) receiving and processing payment instructions; (ii) providing authorization responses received from the relevant Issuer or payment system operator; and (iii) crediting the Transaction proceeds to INSTIFI's escrow account in accordance with applicable RBI regulations..
- iii. **"AGREEMENT"** means this Merchant Agreement along with all annexures, schedules, addenda, supplemental terms, and amendments as made from time to time.
- iv. **"AUTHENTICATION"** is the process implemented by the applicable payment system operator (including NPCI or Card Networks) and/or the Issuer to verify whether the Payment Instrument used for the Transaction is validated in accordance with (I) the security features of the Payment Instrument and/or; (II) the guidelines prescribed by the RBI, NPCI or the relevant Government Authority.

- v. **"AUTHORIZATION"** shall mean the process by which the Issuer and/or the relevant Payment System Provider (including NPCI or Card Association) electronically or otherwise convey the approval of the Customer Payment Amount (i.e. if the Customer has a Valid Card and/or the required credit limit/ debit limit to pay the Customer Payment Amount requested) on a Transaction being undertaken by a Customer on the Merchant Site.
- vi. **"INSTIFI SERVICES"** shall mean Services to be availed by the Merchant.
- vii. **"BHARAT QR"** is a payment solution developed and operated by NPCI, enabling person to merchant mobile payments through the use of imaging device readable encrypted codes referred to as QR codes.
- viii. **"BUSINESS DAYS"** shall mean any day on which Acquiring Banks are open for business in India, other than Saturday, Sunday and any days declared by INSTIFI and/or Acquiring Bank as Holidays.
- ix. **"CARD ASSOCIATION RULES"** shall mean the written rules, regulations, releases, guidelines, processes, interpretations and other requirements (whether contractual or otherwise) imposed or adopted by any Card Association.
- x. **"CHARGEBACK"** shall mean the reversal (such reversal being requested by an Issuer pursuant to a request from the Issuer's Customer) of the debit of the Transaction Amount that was charged to the Customer, where the reversal is approved by the Issuer following examination of the Transaction related documents and information furnished by the Customer, subject to the Merchant being unable to provide an explanation along with documentary evidence as to why the chargeback request should be rejected in accordance with applicable laws.
- xi. **"CUSTOMER PAYMENT AMOUNT"** shall mean the total amount paid by the Customer towards the Merchant Services which will include, inter alia, charges and other taxes, duties, costs, charges, INSTIFI Fees (if applicable) and expenses in respect of the Merchant Services.
- xii. **"CONFIDENTIAL INFORMATION"** shall mean all written, oral or other tangible or intangible form of information, discoveries, ideas, concepts, know-how (whether patentable or copyrightable or not), research, development, designs, drawings, blueprints, diagrams, models, samples, flow charts, data, computer programs, disks, diskettes, tapes, algorithms, software programs, marketing plans or techniques, technical, financial, or business information, TDR/Fees, trade secrets which includes but is not restricted to any portion or scientific or technical or proprietary information, design, process, procedure, formula or improvement which is not generally available to the public as delivered by either Party (**"Disclosing Party"**) to the other Party (**"Receiving Party"**) within the framework of this Agreement or resulting there from. Information disclosed orally or those produced by electronic media or through any other intangible means shall be deemed confidential if identified as being confidential and is reduced in writing within (30) thirty days of the date of disclosure. Such writing shall specify the date, time, place, persons involved and the substance of the confidential information so disclosed.
- xiii. **"CUSTOMER"** shall mean any person who is availing services or products of the Merchant through the Merchant Site and makes payment using a valid payment instrument using INSTIFI Services availed by such Merchant.
- xiv. **"CUSTOMER BANK ACCOUNT"** shall mean a bank account or credit/ prepaid/ cash card account of the Customer with Issuer/Issuing Bank.
- xv. **"CARD ASSOCIATION(S)"** shall mean any of Visa, MasterCard, Visa Electron, Maestro, Diners, American Express, RuPay or any other card association as may be specified by INSTIFI from time to time.
- xvi. **"DELIVERY"** shall mean (i) in respect of a good, delivery of the good by a courier /parcel service appointed by the Merchant or its vendors, to the Customer within delivery due date at the address specified by the Customer in this behalf; or (ii) in respect of a service, delivery or performance of provisions of service within the delivery due date.
- xvii. **"ESCROW ACCOUNT"** shall mean an account maintained by INSTIFI with any of the scheduled commercial bank for the purpose of pooling the amount collected from Customers on behalf of the Merchant and facilitating the transfer of these funds in final settlement to the Merchant (after deducting TDR).

- xviii. **"ESCROW BANK"** shall mean the scheduled commercial bank designated by INSTIFI for the purpose of pooling the funds collected from Customers on behalf of the Merchant and facilitating the transfer of these funds in final settlement to the Merchant (after deducting TDR).
- xix. **"FACILITY PROVIDER(S)"** shall mean various banks, financial institutions, Card Associations, and various software providers who are in the business of providing information technology services including but not limited to Internet based electronic commerce, Internet payment gateway and electronic software distribution services. These Facility Providers have collaborated with INSTIFI Services.
- xx. **"FRAUDULENT TRANSACTION"** shall mean an unauthorised debit or misuse of the Customer's Bank Account/payment instrument.
- xxi. **"ISSUER/ISSUING BANK"** in respect of a Customer shall mean a bank or financial institution or other legal entity which issued a Net Banking account//Valid Card/ Mobile Wallet/Gift Card/ Cash Card to the Customers and/or which has provided loan facility to the Customers which Customer uses to make payment for the Merchant's Services.
- xxii. **"MERCHANT BANK ACCOUNT"** shall mean the bank account maintained by Merchant which it nominates for settlement of its Settlement Amount.
- xxiii. **"MERCHANT SITE"** shall mean the active website bearing the domain name as communicated to INSTIFI and/or the mobile application, the contents of which are controlled, operated and owned by the Merchant and established for the purposes of enabling the Customers to avail the services offered on the website or mobile application for which the Merchant shall be availing INSTIFI Services.
- xxiv. **"MERCHANT SERVICES"** the services or products provided by the Merchant through its Website to its Customer/s, the remittance/payment for which is to be made through the Customer's valid accounts / Card/s or bank account, using INSTIFI Services.
- xxv. **"NET BANKING"** shall mean the facility and internet account provided by the Issuer to Customers holding a bank account or digital wallet account with the Issuers. Provided that the bank account is not listed in current warning or restricted bank account bulletins or notices.
- xxvi. **"OUTSTANDING AMOUNT"** shall mean the amount payable by the Merchant to INSTIFI, Acquiring Banks and/or Customers for any losses, costs, damages, penalties, Chargeback, refund overdraft or credit problems suffered or incurred by the Customers, INSTIFI and Acquiring Banks; any fees and other payments owed to INSTIFI by the Merchant; and any claims or proceedings filed against INSTIFI by the Customers or any third Party.
- xxvii. **"ORDER"** shall mean Customer placing order to purchase the products/services offered for sale by the Merchant.
- xxviii. **"RBI"** means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934.
- xxix. **"SETTLEMENT AMOUNT"** shall mean Customer Payment Amount minus the TDR and any other charges/fees payable by the Merchant to INSTIFI under this Agreement.
- xxx. **"TRANSACTION"** shall mean every payment request/order placed by the Customer on the Merchant Site for purchasing products/services from the Merchant.
- xxxi. **"TRANSACTION DISCOUNT RATE"** or **"TDR"** shall mean the non-refundable total fee per transaction agreed between INSTIFI and the Merchant in writing.
- xxxii. **"TERMS AND CONDITIONS"** shall mean these terms and conditions under this Agreement, and all schedules, appendices, annexure and exhibits attached to it and includes any addition, modification, amendment, addendum or deletion thereof agreed to in writing by the Parties.
- xxxiii. **"THIRD PARTY"** means any entity/person who is not a party to the Agreement.
- xxxiv. **"VALID CARD"** shall mean any unexpired credit card or debit card which is issued by an Issuer designated to issue a Visa, MasterCard, Visa Electron or a Maestro or cash card, pre-paid card or other card as may be specified. Provided that the card is not listed in current warning or restricted card bulletins or notices and bears the signature of the person in whose name the card is issued.

- xxxv. **"UPI"** is a payment system that powers multiple bank accounts into a single payment network of any participating banks which permits merging several banking features, seamless fund routing & merchant payments into one hood.
- xxxvi. **"WALLET"** is a pre-paid payment instrument that facilitates purchase of goods and services against the value stored on these instruments. The value stored on such instruments represents the value paid for by the holders by cash, by debit to a bank account, or by credit card.
- xxxvii. **"GST"** shall mean applicable Goods and Services Tax (including any statutory modifications(s) or re-enactment(s) thereof, for the time being in force, and the rules enacted thereunder).

#### **4) INSTIFI FEES AND TERMS OF PAYMENT**

In consideration for INSTIFI Services, the Merchant agrees to pay INSTIFI, fees as mutually agreed by the Parties in writing. The TDR shall be deducted by INSTIFI from the Customer Payment Amount payable to the Merchant in respect of each completed Transaction. INSTIFI reserves the right to revise the INSTIFI Fees periodically; any revision in INSTIFI Fees shall be effective only upon mutual agreement by both the Parties in writing.

Both Parties shall comply with all applicable tax laws, including GST and any other statutory levies or withholdings, as may be applicable from time to time, and shall maintain appropriate compliance rating, including timely payment, deposit, and issuance of all required tax documentation.

#### **5) AUTHORIZATION AND AUTHENTICATION OF TRANSACTION**

- I. The Acquiring Bank will authenticate, authorize, and process the payment instructions given by the Customers on the Website in respect of the Transactions upon fulfilment of valid criteria as set forth by the Acquiring Banks, Facility Providers and the Card Associations from time to time and accordingly transfer such approved Customer Charge from the Customer Bank Account to the Escrow Account.
- II. The Merchant understands that INSTIFI, Acquiring Banks, Facility Providers, and/or Card Association may reject Authorization of Transaction placed by the Customer for any reason including but not limited to, risk management, suspicion of fraudulent, illegal or doubtful Transactions, selling of banned items, use of compromised Valid Cards, use of blacklisted/banned cards or in accordance with the RBI, Acquiring Banks, Issuing Institution, Facility Providers and/or Card Association rules, guidelines, regulations, etc. and any other laws, rules, regulations, guidelines in force in India, etc.

The Merchant acknowledges and agrees that INSTIFI, as part of its risk management tool, and fraud-prevention framework, reserves the right to impose limits or restrictions on the Merchant's aggregate transaction size, velocity and/or monthly volume at any time for the Merchant. For the purpose of clarity such limitations or restrictions shall not relate to, nor operate as, limits on any specific payment instrument or payment mode, in accordance with applicable RBI regulations. Further, as a security measure, INSTIFI may at its sole discretion block or restrict any card number, account numbers, group of cards or Transactions from any specific blocked or blacklisted customer cards, accounts, specific, group of IP addresses, devices, geographic locations and / or any such risk mitigation measures it wishes to undertake or if directed by any law enforcement authorities..

#### **6) PAYMENT SETTLEMENT**

##### **I. Payment to Merchant**

- i. The total Customer Payment Amount(s), in respect of the Transactions of the Customers through various channels covered under this Agreement shall be deposited directly in the Escrow Account as per the prevailing RBI guidelines.
- ii. The Payments of the amount deposited in the Escrow Account shall be transferred to the Merchant's Bank Account (as communicated by the Merchant to INSTIFI) after deduction of INSTIFI Fees/TDR as agreed in writing.

## II. Rejection /cancellation/withholding of Payment

### i. Rejection

- A. Notwithstanding anything contained anywhere in this Agreement, the Merchant hereby fully confirms and agrees that INSTIFI reserve the right to reject payments prior to Authorisation in the following situations:
- a) The Transaction is for any reason unlawful, unenforceable, doubtful or erroneous.
  - b) Any Transaction made through a card outside the territory authorised for the use of the card.
  - c) Any Transaction cancelled due to very high-risk score discovered by the use of INSTIFI fraud mitigations tools.
  - d) The Transaction has not obtained a necessary Authorisation/Authentication as required to be obtained in terms of this Agreement.
  - e) The Customer's name or account number or any other necessary details is found to be omitted or incomplete.
  - f) INSTIFI is of the opinion that there are suspicious circumstances surrounding the Transaction.
  - g) If the Transaction was not made in accordance with the requirements API requirements of INSTIFI.
- B. Payments can be rejected by Acquiring Bank/Issuers/ Facility Provider post Authorization and prior to settlement in the following circumstances:
- a) The second or subsequent debit amount in case Transaction is debited more than once from Customer Bank Account,
  - b) Authorisation cancelled Transaction
  - c) Withheld Transaction found to be fraudulent or invalid.
  - d) Refund Transactions

### ii. Withholding

All Settlement amount due to the Merchant under this Agreement may be withheld or delayed till such time as INSTIFI deems fit, if

- A. the Merchant or its Customer or a third party commits any fraud or violates any law or legal requirement;
- B. INSTIFI have reasons to believe that a fraud has been committed against the Customers, INSTIFI, Acquiring Banks or any third party by the Merchant, or has reason to believe that the Merchant or the Customer has in connivance with any other person done any fraud or assisted in the same; or any transaction has been fraudulently initiated;
- C. the Merchant has excessive pending Chargebacks or poses high Chargeback and/or refund Risk;
- D. continuous non-delivery or delayed Delivery of Merchant's Services to Customers; or
- E. For any other reasonable reasons.

In the event of suspended or delayed payments mentioned above, INSTIFI shall promptly intimate the same to the Merchant. Also, INSTIFI may impose transaction limits and either temporarily or permanently in order to reduce reasonable apprehension of risk or loss under varying circumstances.

## 7) CHARGEBACK/ DISPUTES/ FRAUDULENT TRANSACTION AND REFUND

### I. Refund and Recourse:

Events when the price of Customer Order is to be credited back in the Customer Bank Account:



- i. Merchant for whatsoever reason expresses inability to deliver and/or perform the Customer Order fully or partially after capturing the transaction and before the Delivery but post settlement.
- ii. Merchant accepts the Customer claims for crediting his account back post Delivery and settlement
- iii. Merchant shall not make a cash refund to Customer. Merchant must not process a refund transaction, unless there is a preceding corresponding debit on a card account.
- iv. In case of failed transactions, INSTIFI will operate in accordance with RBI's directive on Harmonisation of Turn Around Time (TAT) and customer compensation for failed transactions using authorised Payment Systems

## II. Fraudulent Transactions:

- i. In the event INSTIFI is intimated, by the Acquiring Bank or Facility Provider or a Card Association, that a Customer has reported an unauthorised debit of the Customer's payment instrument ("Fraudulent Transaction"), then INSTIFI shall be entitled to suspend the settlement of the amount associated with the Fraudulent Transaction during the pendency of inquiries, investigations and resolution thereof by the Acquiring Bank or Facility Provider or the Card Payment Network. If the Fraudulent Transaction results in a Chargeback, then the Chargeback shall be resolved in accordance with the provisions relating to Chargeback as set out under these Terms and Condition.
- ii. If the amount in respect of a Fraudulent Transaction has already been settled to the Merchant pursuant to these Terms and Condition, any dispute arising in relation to the said Fraudulent Transaction, following settlement, shall be resolved in accordance with the RBI's notifications, circulars and guidelines issued by the RBI in this regard from time to time.

## III. Chargeback and Recourse:

- i. In the event Chargeback is raised by the Customer, INSTIFI shall forthwith inform Merchant of the same and shall debit the Customer Payment Amount to be made to the Merchant's Bank Account and make an intermediate credit in INSTIFI Escrow Account, pending any dispute that Merchant may have pertaining to such debit. The Merchant shall be entitled to dispute the Chargeback request, and furnish documents and information ("**Chargeback Documents**") pertaining to the Transaction associated with the Chargeback in order to substantiate (i) the completion of the aforesaid Transaction and/or;  
(ii) delivery of goods / services sought by the Customer pursuant to the said Transaction, within 2 (two) working days of the Merchant receiving the notification about the Chargeback request from INSTIFI.
- ii. The Merchant agrees and acknowledges that (i) if the Merchant is unable to furnish Chargeback Documents stipulated in paragraph above; (ii) the Issuer is not satisfied with the Chargeback Documents furnished by the Merchant, then the Escrow Bank shall be entitled to make a direct credit to the disputing Customer's Bank Account for the disputed amount which shall not be disputed by Merchant in any manner whatsoever.
- iii. The Merchant hereby agrees that all payments with respect to refunds and Chargebacks shall be the sole responsibility of the Merchant and INSTIFI shall not be liable for any claims, disputes, penalties which may arise in connection with such refunds or Chargebacks to the Merchant or the Customer.
- iv. If INSTIFI determine that the Merchant is incurring an excessive amount of Chargebacks, INSTIFI may with prior intimation and consent of the Merchant establish controls or conditions governing the Transactions contemplated under this Agreement, including without limitation, by (a) establishing new processing fees, (b) by requesting a Reserve in an amount reasonably determined by INSTIFI to cover anticipated Chargebacks, and (d) terminating or suspending the INSTIFI Services (e) by requesting to furnish a bank guarantee.

- v. All risks associated with the delivery of the products or service will solely be that of the Merchant and not of INSTIFI. Also, all disputes regarding quality, merchantability, non-delivery, delay in delivery or otherwise will be directly between the Merchant and the Customer without making INSTIFI, Acquiring Bank, Facility Providers, Escrow Bank a party to such disputes.
- vi. Further, INSTIFI also reserves the right to close, suspend, limit or put on hold the Merchant's access to the account with INSTIFI and/or the funds available therein, including Settlements Amount under inter alia the following scenarios:
  - a) If such Merchant's KYC credentials are found to be fake;
  - b) If the Merchant makes incorrect or untrue disclosure of the nature of its business, resulting in a merchant category code violation;
  - c) For violation of any of the provisions of the Terms and Conditions;
  - d) For violation of any of the provisions of any other agreement that the Merchant has entered into or might enter into with INSTIFI; and
  - e) For violation of any of the applicable laws by the Merchant.
  - f) Such right to close, suspend, limit or put on hold the Merchant's access to the account with INSTIFI shall continue till such time that the Merchant submits genuine KYC documents or credentials to the satisfaction of the relevant authorities as per the extant rules, regulations or guidelines with regard to KYC, as well as to the satisfaction of INSTIFI without prejudice to any other legal remedy that INSTIFI is entitled to prefer as per applicable law.
- vii. It is agreed between the Parties that in the event any amount to be received from the Merchant by INSTIFI due to excessive chargeback or refund or any other issues relating to any complaints of the Merchant's Customers and is over and above the amount which has been withheld by INSTIFI, INSTIFI shall have a right to raise an invoice relating to such payments to be made and the Merchant agrees to make payments of such invoice within a period of 15 (fifteen) days of receiving the invoice. Such unpaid amounts by the Merchant shall be subject to an interest, chargeable at the rate of three percent (3%) per month after the expiry of 15 (fifteen) days.

## 8) DEDUCTIONS

INSTIFI is hereby authorised and entitled to debit the Settlement Amount for any Outstanding Amount payable by Merchant to INSTIFI in terms of this Agreement (in short as "Deductions"). The said payments shall not be dependent upon or conditional to Merchant obtaining payment whether through INSTIFI/Escrow Bank or otherwise from Customers in respect of the Merchant's Services and/or irrespective of whether Merchant complies with the Order placed by Customer with Merchant. Merchant agrees and undertakes to execute all authorizations and writings as may be required in this regard by INSTIFI from time to time and shall ensure that there are sufficient funds in the Merchant's Bank Account at all times. INSTIFI shall also debit the amounts erroneously paid in excess to the Merchant.

## 9) AUDIT & INSPECTION

- I. Except as required by law, the Merchant shall be solely responsible for (a) compiling and retaining complete and accurate permanent records of all Transactions and other data in accordance with Applicable Laws, and (b) reconciling all Transaction information that is associated with its Customers.
- II. The Merchant shall be responsible to undertake reconciliation on a daily basis. If the Merchant identifies any discrepancies, the same must be notified to INSTIFI within 3 (three) days. However, if the Merchant fails to highlight any issues within such 3 (three) days, then INSTIFI shall not be held liable for not resolving any queries and/or concerns.



- III. The Merchant shall maintain records of such periodical checks in such manner as may be specified by INSTIFI. INSTIFI shall be entitled to check and audit records, systems, policies (including refund and return policy, customer grievance policy, and terms and conditions), infrastructure and statements of the Merchant to ensure compliance with the Merchant's obligations under this Agreement at such intervals or times as INSTIFI may deem fit. INSTIFI may carry out such audits through its internal auditors, external auditors, or agents appointed on its behalf, and may obtain copies of any audit or review reports relating to the Merchant that concern the INSTIFI Services.
- IV. The Merchant shall permit the authorised representatives of INSTIFI, including its auditors and agents, and any regulatory, statutory or governmental authority (including without limitation RBI or any authority vested with inspection powers), to carry out physical inspections of the place(s) of business or other facilities of the Merchant to verify if the Merchant is in compliance with its obligations hereunder.
- V. If the Merchant refuses such inspection or provides inaccurate, untrue, or incomplete information, or fails to comply with the terms and conditions of this Agreement, INSTIFI reserves the right to suspend or terminate the INSTIFI Services forthwith.
- VI. INSTIFI's audit and inspection rights shall survive the expiry or termination of this Agreement for the period required under Applicable Laws.

#### **10) REPORTING & RECORDKEEPING**

- I. **Record Retention** – Merchant is obliged to retain complete records of each Debit Transaction and payment Request (including all adjustments, corrections and credit transactions) and all funds' disbursements and fees and other transactions during the Term, and consistent with Applicable Law but in no event less than 10 (ten) years from the date of the Debit transactions (including all adjustments, corrections. and Credit Transactions) to which such record applies. Merchant will provide a copy of any such records to INSTIFI upon written request.
- II. **Reporting** - Merchant will provide INSTIFI with the reports as may be sought by INSTIFI, with the immediate notice.
- III. **Proof of Delivery** - In the event INSTIFI needs or if a Regulatory Authority or a Participating Bank/Facility Provider request that INSTIFI furnish proof of delivery for goods or services purchased through the Services, INSTIFI will provide to the Merchant a notice of such request. Following the receipt of such intimation from INSTIFI, Merchant will use commercially reasonable efforts to provide the proof of delivery so requested within 2 (two) working days. Merchant acknowledges that failure to provide such proof of delivery, where applicable, may result in the Chargeback of the transaction and any additional penalties as may be levied on account of such failure to produce the proof.

#### **11) INSURANCE**

INSTIFI will facilitate insurance policy to Merchant through its collaboration with the insurance intermediaries or companies and copies of such policy will be provided to Merchant. Charges to be deducted by INSTIFI and invoice will be shared. Merchant is hereby obliged to take & maintain comprehensive insurance to cover its potential liabilities to INSTIFI.

#### **12) OBLIGATIONS OF MERCHANT**

##### **I. Merchant's obligation related to INSTIFI Services Product:**

- i. Merchant represents that it has the full right and/or authority to offer the Merchant's Services on the Merchant's Site. Merchant shall use Payment Gateway through the Acquiring Bank/ Facility Provider solely for the Merchant's Site and Merchant's Services.
- ii. Merchant acknowledges that the availability of the payment methods is subject to approval of the Acquiring Bank/ Facility Provider based on their respective policies, rules and regulations and/or as may be amended from time to time and may be mentioned on their respective website.
- iii. Merchant shall ensure at all times that all its employees/personnel are bound by the terms of this Agreement and ensure their employees/personnel conduct themselves in a manner essential for the purpose of carrying out the terms of this Agreement.

## **II. Merchant's obligation related to refund and return:**

- i. The Merchant agrees to process returns of, and provide refunds and adjustments for, Merchant's Services sold and/or payment collected through its Merchant Site in accordance with terms of the agreement signed with the Customer, the Acquiring Banks' or Facility Providers' instructions and Card Association Rules. The Merchant understands that all refunds must be routed through the same Acquiring Bank through which the Transaction was made. In the event that the Merchant initiates refunds through any other mode, the Merchant shall be fully liable for all Chargebacks raised in respect of the Transaction refunded. The Merchant shall ensure that INSTIFI at all times have sufficient funds of the Merchant to process refunds initiated. INSTIFI shall not be liable to process any refund initiated in the event of insufficient funds.
- ii. The Merchant understands that no refund shall be processed by INSTIFI after a period of 180 days from the date of the Transaction.
- iii. The Merchant shall (a) maintain a fair return, cancellation or adjustment policy in accordance with type of business; (b) disclose its return or cancellation policy to Customers at the time of purchase, (c) not give cash refunds to a Customer in connection with a card sale, unless required by law, and (d) not accept cash or any other item of value for preparing a card sale refund.
- iv. The amount of the refund/adjustment must include any associated taxes required to be refunded and cannot exceed the amount shown as the total on the original sales data except by the exact amount required to reimburse the customer for postage (if any) that the Customer paid to return Product. If the Merchant's refund policy prohibits returns or is unsatisfactory to the Customers, the INSTIFI still receive a Chargeback relating to the Disputed Transaction.
- v. It is hereby agreed and acknowledged by the Parties that the Service Fee charged by INSTIFI in respect of a Transaction that has been confirmed shall not be refunded or repaid by INSTIFI to the Merchant or any other person irrespective of the Customer Charge being rejected, chargeback, refunded or disputed.

## **III. Merchant's obligation to provide customer support:**

- i. The Merchant shall be solely responsible for all Customer service issues relating to the Transactions and the Merchant's Services sold on its Merchant Site including but not limited to Customer Payment Amount, order fulfilment, order cancellation, returns, refunds and adjustments, rebates, functionality and warranty, technical support and feedback concerning experiences with its personnels, policies or processes. The Merchant shall resolve any Customer queries/complaints as soon as possible but not later than thirty-six (36) hours on Business Days and display clear contact details, including an email address and telephone number. In performing Customer service, the Merchant shall always present itself as a separate entity from INSTIFI.
- ii. INSTIFI shall not, under any circumstances, be responsible to resolve Customer complaints, except for complaints received on INSTIFI's platform pertaining directly to the Transactions processed or attempted to process using INSTIFI's platform, which shall be handled as per INSTIFI's Grievance Redressal Policy
- iii. The grievance of the Merchant and Customer shall be addressed in accordance with INSTIFI's Grievance Redressal Policy.

## **IV. Merchant's general obligation:**

- i. The Merchant agrees to notify INSTIFI of any Third-Party claim that the Merchant's use of the INSTIFI Services conflicts with or infringes upon or violates any rights of such Third Party.
- ii. Merchant agrees and acknowledges that INSTIFI is not bound to provide any support services on termination of these Terms and Conditions.
- iii. Merchant undertakes to provide all the information and assistance as is required by INSTIFI or if the same is required to be provided to government or judicial/quasi-judicial authorities by INSTIFI.

- iv. Merchant undertakes not to offer any products, which are illegal or offensive or prohibited as per the list provided in **Schedule III** and/or are not in compliance with applicable laws, rules and regulations prescribed by any regulatory authorities in India. In addition, Merchant undertakes to comply with and shall ensure compliance by the Customers with all applicable guidelines, rules, regulations issued by RBI and Acquiring Banks or Facility Providers and/or Card Associations. Merchant agrees and understands that INSTIFI reserves the right to suspend Settlement Amount and/or INSTIFI Services until such time that Merchant do not discontinue selling such prohibited products or does not conform to all applicable laws and regulations in force from time to time. In addition, INSTIFI reserves the right to terminate this Agreement without further notice in the case of breach of this Clause by the Merchant.
- v. The Merchant agrees to fully comply with all programs, guidelines, requirements that may be published and/or mandated by the Card Association. Notwithstanding INSTIFI's assistance in understanding the Card Association Rules, the Merchant expressly acknowledge and agree that the Merchant assuming the risk of compliance with all provisions of the Card Association Rules, regardless of whether the Merchant is aware of or have access to those provisions. MasterCard, Visa and American Express make excerpts of their respective rules available on their internet sites. In the event of the Merchant's non-compliance of Card Association Rules, results in any fines, penalties or other amounts being levied on or demanded from INSTIFI by a Card Association, then without prejudice to INSTIFI's other rights hereunder, the Merchant shall forthwith reimburse INSTIFI an amount equal to the fines, penalties or other amount so levied or demanded or spent by us in any manner in relation to such fines, penalties and levies.
- vi. The Merchant undertakes and agrees to be solely responsible for obtaining permission from its customers or any clients for INSTIFI to affect recurring billing and for debiting their respective accounts. It is agreed between the Parties that INSTIFI shall not be responsible for any claims from any of the Merchant's Customers or any claims against INSTIFI for debiting their respective accounts in respect of the recurring billing.
- vii. The Merchant shall be solely responsible for the accuracy of all information and/or validity of the prices and any other charges and/or other information relating to the Merchant's Services, which are offered on its Merchant Site.
- viii. The Merchant shall be responsible to resolve all cardholder/customer account holder disputes and provide whatever assistance necessary to assist the Acquiring Banks, Facility Providers, Card Associations and INSTIFI deal with all cardholder/customer account holder disputes at its own cost.
- ix. The Merchant authorises INSTIFI to share KYC documents of the Merchant, collected from the Merchant and Transaction data and Customer information with the respective Acquiring Banks, Facility Providers and Card Associations.
- x. The Merchant shall maintain and run the Merchant Site as a part of its business and shall ensure that the Merchant Site does not contain libellous, defamatory, obscene, pornographic or profane material or any instructions that may cause harm to INSTIFI, the Acquiring Banks, Facility Providers, Card Associations and/or any other Third Party.
- xi. The Merchant shall not require the Customer to provide the Merchant with any details of the accounts held by it with Issuer. The Merchant shall not input any data on behalf of the Customers on the Merchant Site or the Acquiring Bank or Facility Providers, failing which it will be considered as breach of trust of INSTIFI.
- xii. INSTIFI shall be entitled: (a) to undertake comprehensive security assessment to ensure that technology related requirements are being adhered to by the Merchant; and (b) at its sole discretion specify any required upgrades or changes which the Merchant shall promptly implement to continue availing INSTIFI Services.
- xiii. The Merchant shall comply with all of INSTIFI's instructions with regard to the baseline technology related recommendations prescribed by the RBI from time to time.
- xiv. For those Merchants whose infrastructure and systems are mandated to be compliant with PCI-DSS and PCI-SSF at all times, such Merchants shall provide security assessment reports, in the manner specified by INSTIFI, as and when requested by INSTIFI, demonstrating its compliance with the aforesaid security standards.

- xv. The Merchant shall ensure to keep confidential, all information submitted by the Customers on the Merchant Site. The Customer shall not be required or asked to disclose any confidential or personal data, which may be prejudicial to interests of the Customer. The Merchant shall not store/save any Customer's card details/credentials and such related data within its database or any other server accessed irrespective of the Merchant being PCI-DSS compliant or otherwise. The Merchant shall be liable to comply with existing data privacy regulations from time to time. In addition, Merchant agrees that INSTIFI and/or RBI may carry out a security audit of the Merchant to check its compliance with this requirement.
- xvi. The Merchant shall in writing inform INSTIFI of all changes in its constitution, Authorized Signatory/directors/partners/trustees, or change in the current addresses of each office, within seven (7) Business Days of such change having taken place listing out the names and details of the personnel in charge of the management and affairs of the Merchant. Such intimation shall be provided on the Merchant's letterhead signed by the authorized signatory of the Merchant.
- xvii. The Merchant shall ensure that any incident relating to the breach of data or breach of privacy is informed to INSTIFY within a reasonable time
- xviii. The Merchant shall not engage in activities that harm the business and/or brand of INSTIFI and shall not have any malaise intention of duping Customers nor do not sell fake/counterfeit products.
- xix. The Merchant hereby agrees that it shall bear and be responsible for the payment of all relevant taxes, surcharge, levies etc. (including withholding taxes) in relation to the Customer Payment Amount and INSTIFI Services provided under this Agreement.
- xx. The Merchant agrees to provide to INSTIFI all documents such as invoice, purchase orders, Delivery challan or any other proofs as may be required to evidence the transactions carried out. Such documents shall be provided by the Merchant within 24 hours of INSTIFI requesting for the same. In the event the Merchant fails to provide such documents, the Merchant agrees that INSTIFI shall have the right to withhold the settlements to the Merchant, pending enquiries by the Acquiring Bank or Facility Provider and till the resolution of such issues.
- xxi. The Merchant shall ensure that appropriate cancellation policy, refund policy, privacy policies, disclosures/disclaimers, terms of use pertaining to the Merchant Site, the terms of the Merchant's Services provided by the Merchant and terms of paying the Customer Payment Amount are displayed conspicuously on the Merchant Site in accordance with the terms of this Agreement (collectively "Merchant Terms and Conditions") . The Merchant shall prior to accepting any instructions from the Customers ensure that the Customers are duly registered on the Merchant Site and the Customers accept all the Merchant Terms and Conditions. The Merchant undertakes and agrees to adhere with applicable laws, rules and regulation prescribed for its business activity . The Merchant shall prominently display in its Terms and Conditions about the usage and applicability of its services according to the law of land for its Customers. INSTIFI reserves the right to inspect the Merchant Terms and Conditions at any times.
- xxii. The Merchant unconditionally agrees and undertakes that it is compliant with and shall do/ undertake all acts necessary to continue to be compliant with the provisions of all applicable laws of its specific jurisdiction, including but not limited to the provisions of Master Direction on Regulation of Payment Aggregator (PA) dated September 15, 2025, Payment and Settlement Systems Act, 2007, Prevention of Money Laundering Act, 2002, FEMA 1999, Know Your Customer (KYC) / Anti-Money Laundering (AML) / Combating Financing of Terrorism (CFT) guidelines issued by the Department of Regulation, RBI etc., that may be applicable to the Merchant in connection with its business and use of INSTIFI Services. (Specified in **Schedule II**)
- xxiii. The Merchant agrees that INSTIFI reserves a right to suspend the payment and/or INSTIFI Services provided herein, forthwith, in event the Merchant fails to observe the Terms and Conditions herein.
- xxiv. The Merchant shall ensure that the transactions undertaken by them are in line with their business profile.



xxv. The Merchant acknowledges that INSTIFI acts solely as a payment facilitator and shall not, at any time, be a party to any dispute between the Merchant and its Customers. The Merchant shall not implead INSTIFI in any litigation, arbitration or other proceedings arising from such disputes.

xxvi. The Merchant shall not place transactions or orders on behalf of Customers or simulate customer behaviour in any manner.

#### **14. REPRESENTATION AND WARRANTIES**

Each of the Parties represents warrants and undertakes that:

- I. It is duly organized and validly existing under the laws of the jurisdiction in which it is established;
- II. It has the requisite power and authority to execute, deliver and perform this Agreement and that this Agreement has been duly and validly authorized, executed and delivered by it;
- III. Its obligations hereunder constitute legal, valid, binding and enforceable obligations; and
- IV. The execution and delivery of this Agreement and the consummation of the Transactions contemplated herein do not breach its organizational documents or any law, provisions of any contract or order of court applicable to it and do not require any applicable governmental approval; and
- V. The person executing this Agreement is duly authorized to execute the Agreement for and on behalf of the respective Party and shall have the authority to bind the respective Party accordingly.
- VI. Both the parties shall comply with all Applicable Laws including the applicable data privacy laws and Information Technology Act, 2000, Information Technology (Amendment) Act, 2008.
- VII. PCI DSS stipulates that a Merchant has to procure a certificate if it crosses the stipulated transaction volumes as amended from time to time by regulatory or statutory authority and its non-compliance, attracts certain penalty as per the PCI DSS. The Merchant hereby agrees to indemnify INSTIFI against the payment of any penalty or other charges as may be levied by PCI due to such non-compliance by Merchant or otherwise.

#### **15. CONFIDENTIALITY**

- I. Each Party acknowledges and agrees that in connection with this Agreement, the receiving party shall not disclose to any third party any Confidential Information of the disclosing party that it may have access to during and in connection with its performance of services hereunder.
- II. Merchant shall ensure that either the Merchant or any of its employees shall not reverse engineer, decompile or disassemble any software shared/disclosed by INSTIFI.
- III. Each party acknowledges that monetary damages may not be a sufficient remedy for unauthorized disclosure of any Confidential Information / materials and that the disclosing party shall be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper.
- IV. Each party (the receiving party) will notify the other party (the disclosing party) immediately upon discovery of any unauthorized use or disclosure of Confidential Information or any other breach of this Agreement by the receiving party. The receiving party will cooperate with the other party in every reasonable way to help the disclosing party regain possession of such Confidential Information and prevent its further unauthorized use.
- V. The obligations set out in this Clause shall not apply to Confidential Information that:
  - i. is or becomes publicly known other than through breach of this Clause;
  - ii. is in possession of the receiving Party prior to disclosure by the other Party;



- iii. is independently developed by the receiving Party;
- iv. needs to be disclosed to professional advisers or in accordance with the order of a competent court or administrative authority;
- v. is thereafter rightfully furnished to such receiving Party by a third party without restriction by that third party on disclosure; or
- vi. is required by law, judicial court, recognized stock exchange, government department or agency or other regulatory authority, provided that sufficient notice is given of any such requirement, by the receiving Party to the disclosing Party, in order that the disclosing Party may seek for an appropriate protective order or exemption from such requirement, prior to any disclosure being made by the receiving Party and/or its Affiliates.
- vii. Such obligation of confidentiality shall continue for a period of 1 (one) year after the termination or expiry of this Agreement.

## 16. INTELLECTUAL PROPERTY

- I. Each Party acknowledges that any trademarks used or adopted by a Party in the conduct of its business is the sole property of the respective owners.
- II. Except as expressly set out in this Agreement no assignment of or license under any trademark or service mark or any other Intellectual Property Right, whether registered or not, owned or controlled by a Party is granted to the other by this Agreement. "Intellectual Property Right" means any and all patents, copyrights, trade secret rights, trademark rights, design rights, and other proprietary or similar rights in intellectual property, existing now or in the future, including the rights to secure registrations, renewals and extensions thereof.
- III. Nothing contained herein shall authorize the Parties to use, apply, invade or in any manner exploit or infringe the Intellectual Property Rights of the other Parties without prior written consent of the other Party, and the usage shall be in compliance with this Agreement and such approval and policies as may be notified from time to time. In addition, the Parties undertake not to infringe the intellectual property rights of any third party.
- IV. No Party may, under any circumstances, seek to register any trademark, business name, business processes, inventions, company name, and domain name using or incorporating the Intellectual Property of the other Party.
- V. Each Party acknowledges that upon expiry or termination of this agreement, it shall have no right whatsoever in connection with the Intellectual Property of the other Party.
- VI. It is agreed between the Parties that during the Term any promotion or publicity of the Service would always carry 'Merchant' and 'INSTIFI' service mark or the appropriate Merchant and INSTIFI marks as may be agreed between the Parties.
- VII. This Clause shall survive the termination or expiry of this Agreement.

## 17. DATA, SYSTEM SECURITY AND COMPLIANCES

- I. **Disclosure** – Merchant shall not, without the prior written consent of INSTIFI, disclose the identity of any bank account holder or any information whatsoever relating to any transactions to any other person or otherwise use any information acquired by it in respect of the payment-transactions and in relation thereto other than for the purposes of this Agreement. Provided however that any information required to be disclosed by any order of a court or regulatory authority of competent jurisdiction may be disclosed to such court or regulatory authority to the extent specified in the order.
- II. **Security** - Merchant shall ensure that there are proper encryption and security measures at their respective websites to prevent any hacking into information pertaining to transactions contemplated under this Agreement. In availing the services and the settlement services, the parties declare, assure and undertake to abide by the relevant security standards/ regulations/ requirements/guidelines which would be applicable to the conduct of the transactions contemplated under this Agreement, including, without limitation, (a) regulatory provisions as



may be applicable from time to time, (b) security measures and resultant hardware/ software upgrade consequent upon upgrade of INSTIFI's systems and procedures with a view to ensure security of transactions. (c) maintenance, protection, confidentiality and such other requirements with respect to transaction data as may be imposed by any regulatory or standards authority including pursuant to PCI DSS and PCI-SSF, as applicable, and any modifications to or replacements of such programs that may occur from time to time.

- III. **Compliances** - The Merchant shall submit periodic security assessments, reviews or audits as may be required by INSTIFI to comply with applicable law or regulatory guidelines. INSTIFI may require the Merchant to complete security questionnaires, provide information, and remediate any security deficiencies within such timeframes as INSTIFI may specify. Failure to remediate any medium or high-risk security issue within the specified timeframe shall entitle INSTIFI to suspend or terminate the Services. IN THE EVENT OF ANY BREACH, CYBER-SECURITY INCIDENT, OR UNAUTHORISED ACCESS RELATING TO TRANSACTION DATA, PERSONAL DATA OR INSTIFI SERVICES, THE MERCHANT SHALL IMMEDIATELY, AND IN ANY CASE WITHIN TWO (2) HOURS OF DISCOVERY, NOTIFY INSTIFI AND PROVIDE ALL INFORMATION NECESSARY FOR INSTIFI TO COMPLY WITH ITS REPORTING OBLIGATIONS TO RBI, CERT-IN (Indian Computer Emergency Response Team) OR ANY OTHER REGULATORY AUTHORITY. The Merchant shall provide all such data as may be needed to facilitate such reporting by INSTIFI.

## 18. UNAUTHORIZED ACCESS

In respect of the INSTIFI services, installation kit will be provided to merchant. Merchant will use INSTIFI services only for the website for which merchant is entering into the agreement. If merchant disclose the credentials to the third party to access the INSTIFI Services, merchant will be responsible and liable for any access, use, misuse or disclosure by such third party. Merchant will make sure that; installation kit must not be stored in a way that enables others to access it. If merchant become aware of a payment being made via the INSTIFI Services that was not authorized by merchant or if merchant lose the device on which the INSTIFI service is installed, or merchant believe that someone else can use the services by impersonating, merchant shall inform INSTIFI immediately and INSTIFI will disable its service.

INSTIFI can refuse to act on any instruction including where INSTIFI believe an instruction: (i) was unclear; (ii) was not given by merchant; or (iii) might cause breach of a legal or other duty; (iv) service is being used for an illegal purpose; or (v) may harm reputation.

Merchant agrees to fully cooperate with INSTIFI, affiliates, payment gateway service providers, banks, regulatory authorities and the police where INSTIFI suspect there have been Unauthorized Payments in respect of the INSTIFI Services.

## 19. TERM & TERMINATION

- I. **Term** - This Agreement shall be in effect from the Effective Date for a period of 1 (one) year ("Term"); it shall be renewed automatically for consecutive periods of 12 (twelve) months unless terminated by either Party by giving 30 (thirty) days prior notice to the INSTIFI before the expiry of initial Term.

### II. Termination

- i. Either Party is entitled to terminate this Agreement, at its option by giving a notice of not less than **thirty (30) days** in writing to the other Party.
- ii. In the event of breach of the term of the Agreement by the Merchant, INSTIFI shall give **seven (7) days'** written notice to Merchant to rectify the breach, on failing INSTIFI shall terminate the Agreement with immediate effect.
- iii. INSTIFI shall be entitled at its option, to immediately terminate this Agreement by giving a written notice in that behalf, to the Merchant on the happening of any of the following events:

- a) If Merchant becomes or is declared bankrupt or goes in liquidation voluntary or compulsory, except for the purpose of amalgamation or reconstruction;
  - b) If Merchant ceases to carry on its business or suspends all or substantially all of its operations;
  - c) There is any material adverse change or any change in applicable law, rules, regulations, directives or guidelines, which prevents the continuing of the arrangement under this Agreement;
  - d) If an event of any Force Majeure conditions continuing for a period in excess of one month;
  - e) If the Merchant engages in fraud or other illegal or unethical activities.
  - f) If the Merchant fails to use the INSTIFI Services for a continuous period of one hundred and eighty (180) days.
- iv. Termination of this Agreement shall not release the Merchant from the obligation to make payment of all amounts then due and/or payable; upon Termination, the Merchant shall settle all outstanding amount payable to the INSTIFI and arrange to return all the documents and properties of the INSTIFI.
- v. The termination/expiration of this Agreement shall neither affect any accrued rights or liabilities of the Merchant nor it shall affect any provision of this Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.
- vi. If there are reasonable grounds for INSTIFI to suspect or upon receiving an intimation in written mode of communication from the Acquiring Bank or Facility Provider that a Transaction conducted on the Merchant platform in suspicious manner which amounts to breach of this Agreement or as a fraudulent Transaction, against the Acquiring Bank or Facility Provider or any Customer, INSTIFI shall be entitled to suspend its services immediately, terminate this Agreement with immediate effect without having to give any notice of termination to the Merchant and withhold the settlements to the Merchant, pending enquiries by the Acquiring Bank or Facility Provider and till the resolution of such issues. INSTIFI shall also have the right to block any future payments in this regard.
- vii. INSTIFI shall have the right to terminate the Agreement immediately in the event Chargeback to Gross Transaction Value Ratio goes beyond 1% (one percentage).
- viii. The Merchant agrees and confirms that the Merchant shall remain solely liable after the termination of this Agreement for all Chargebacks, refunds, penalties, loss, damages, brand reputation cost and cost incurred by INSTIFI, and/or Customers and for all claims and proceedings arising against INSTIFI with respect to this Agreement. At the time of termination, INSTIFI may retain such Settlement Amount payable to the Merchant (including Settlement Amounts withheld) as may be determined by INSTIFI to cover chargeback risk, refund risk or any potential loss, damages, penalties, cost that may be incurred by INSTIFI and/or Customers for a period of 180 (one eighty) Business Days. Subject to this Clause and any other Clause of this Agreement, all settlement to the Merchant after notice of termination shall be done post termination. In the event that such retained amount is not sufficient to cover all Outstanding Amounts of the Merchant post termination, the Merchant shall ensure that it pays INSTIFI all pending amounts within 10 (ten) days of receiving the demand notice and shall at all times keep INSTIFI indemnified in this respect. This Clause survives the termination of this Agreement.

## 20. LIMITATION OF LIABILITY

Notwithstanding anything stated under this Agreement, the aggregate liability of INSTIFI to the Merchant from any cause whatsoever shall not in any event exceed the sum equivalent to the preceding one month's aggregate TDR margin earned by INSTIFI under this Agreement from the date of occurrence of such liability. INSTIFI shall not be liable to the Merchant for any special, incidental, indirect or consequential damages, damages from loss of profits or business opportunities even if the Merchant shall have been advised in advance of the possibility of such loss, cost or damages. In no event INSTIFI shall be liable to the Customers or any third party.

## 21. INDEMNITY

Notwithstanding anything contained in these Terms and Conditions, the Merchant hereby undertakes and agrees to indemnify and hold INSTIFI harmless against all actions, proceedings, claims, liabilities (including statutory liabilities), penalties, demands and costs (including without limitation, legal costs of INSTIFI on a solicitor / attorney and own client basis), awards, damages, losses and/or expenses however arising directly out of terms, services and clauses of this Agreement:

- I. any claim or proceeding brought by the Customer or any other person against INSTIFI in respect of any Merchant Services offered by the Merchant; or
- II. any fines, penalties or interest imposed directly or indirectly on INSTIFI on account of Merchant's Services under this Agreement; or
- III. breach of the confidentiality and intellectual property rights obligations by the Merchant, its agents, employees or representatives.
- IV. breach or non-performance by the Merchant of any of its undertakings, warranties, covenants, declarations or obligations under this Agreement;
- V. any act, deed, negligence, omission, misrepresentation, default, misconduct, non-performance or fraud by the Merchant, its employees, contractors, agents, Customers or any third party;
- VI. any hacking or lapse in security of the Merchant Site or the Customer data;
- VII. Chargebacks or refunds relating to the Transactions contemplated under this Agreement;
- VIII. breach of law, rules regulations, legal requirements (including RBI regulations, any Facility Provider rules including Card Association Rules, Acquiring Bank rules) in force in India and/or in any place from where the Customers is making the Transaction and/or where the Product is or to be Delivered and/or where the respective Issuing Institution is incorporated/registered/established; or
- IX. The indemnities under this Clause are in addition to and without prejudice to the indemnities given elsewhere in this Agreement.

The indemnities provided herein shall survive the termination or expiration of this Agreement.

## 22. RELATIONSHIP BETWEEN THE PARTIES

- I. The relationship between INSTIFI and the Merchant is on principal-to-principal basis. Nothing contained herein shall be deemed to create any association, partnership, joint venture or relationship of principal and agent or master and servant, or employer and employee between the Parties hereto or any affiliates or subsidiaries thereof or to provide either Party with the right, power or authority, whether express or implied to create any such duty or obligation on behalf of the other Party.
- II. INSTIFI has no connection or interest of whatsoever nature in the business of the Merchant or the Products offered/ marketed on the Website. INSTIFI does not in any manner take part in the business of the Merchant, directly or indirectly. INSTIFI shall only provide INSTIFI Services to the Merchant in relation to the Customers and the Acquiring Bank, as an independent entity and under the terms and conditions of this Agreement. For the Services provided by INSTIFI, it shall be paid an agreed service fee by the Merchant as stipulated in this Agreement and INSTIFI is nowhere connected or concerned about the revenues of the Merchant.

- III. INSTIFI has no relationship with the Merchant's Customers. The Merchant alone shall be responsible to the Customers and neither INSTIFI nor anybody connected to INSTIFI shall have any responsibility or liability towards the Customers and the Merchant shall keep INSTIFI and fully indemnified for all times to come in this respect.
- IV. INSTIFI is neither concerned nor required to monitor in any manner the use of the payment modes by the Customers for procuring / availing the Products of the Merchant. The Customers should be required to use the payment modes at their sole option and risks. The Merchant shall notify this responsibility to all its Customers under the instructions provided.

### **23. ETHICS AND CODE OF ACCOUNT**

- I. The Parties will conduct all its dealings in a very ethical manner and with the highest business standards.
- II. The Parties will provide all possible assistance to each other in order to investigate any possible instances of unethical behaviour or business conduct violations by an employee of the other. Either Party will disclose forthwith any breach of these provisions that comes to their knowledge to allow for timely action in their prevention and detection.
- III. Merchant undertakes that it will comply with, and all its activities will be performed in accordance with, the Anti-corruption Laws and that it shall not do, nor omit to do, any act that will lead to INSTIFI being in breach of any of the Anti-Corruption laws.
- IV. Merchant represents and warrants to INSTIFI that Merchant has not and will not make (or offer to make) any unlawful payments to, or confer (or offer to confer) any benefit upon any government official, any officer or employee of a public organization, any political party or official thereof or any candidate for political office on or behalf of INSTIFI or any of its affiliates in violation of any applicable anti-bribery laws or regulations, and INSTIFI will not bear any responsibility of such acts. Merchant also undertakes that no officer, director, employee of INSTIFI or any of their immediate family members has received or will receive anything of value of any kind from merchant or its Personnel in connection with this Agreement. Merchant further represents and warrants that merchant has not and will not make (or offer to make) any payments to, or confer (or offer to confer) any benefit upon, any employee, agent or fiduciary of any third party, with the intent to influence the conduct of such employee, agent or fiduciary in any manner relating to the subject of this Agreement.

### **24. DISCLAIMER**

- I. INSTIFI will make all reasonable efforts to provide uninterrupted service subject to down time and regular maintenance. However, notwithstanding anything in this Agreement, the Merchant acknowledges that INSTIFI Services may not be uninterrupted or error free or free from any virus or other malicious, destructive or corrupting code, program or macro and INSTIFI disclaim all warranties, express or implied, written or oral, including but not limited to warranties of merchantability and fitness of the services for a particular purpose.
- II. The Merchant also acknowledges that INSTIFI shall not be liable to the Merchant for any loss or damage whatsoever or howsoever caused or arising, directly or indirectly, including without limitation, as a result of loss of data; interruption or stoppage to the Customer's access to and/or use of the Merchant Site, INSTIFI Services, interruption or stoppage of INSTIFI Site, hacking or unauthorized access to the INSTIFI Services, non-availability of connectivity between the Merchant Site and INSTIFI Site, etc.
- III. INSTIFI shall not be responsible for any losses sustained through (i) the use of counterfeit or stolen bank cards, or stolen devices; (ii) fraudulent electronic transactions; or (iv) quality and service-related claims pertaining to the Merchant services.
- IV. In addition INSTIFI shall have no liability for any failure or delay in performing its obligations under this facility if such failure or delay: (i) is caused by the Merchant's acts or omissions; (ii) results from actions taken by INSTIFI in a reasonable good faith to avoid violating a law, rule or regulation of any governmental authority or to prevent fraud on cardholders/accounts; or (iii) is caused by circumstances beyond INSTIFI control, including but not limited to vandalism, hacking, theft, phone service disruptions, Internet disruptions, loss of data, extreme or severe weather conditions or any other causes in the nature of Force Majeure event.

25. FORCE MAJEURE

- I. Force Majeure shall be any event or occurrence starting after the date of this Agreement, whatever the origin, which cannot be foreseen and is beyond the control of, and cannot be circumvented by the Party affected, and which renders the performance of the obligations impossible, including but not limited to acts of governmental policy/authority, fires, floods, earthquakes or other natural disasters, explosions, general strikes, riots, war (declared and undeclared), rebellion, sabotage, computer hacking, unauthorized access to computer data and storage devices, computer crashes.
- II. The party affected by a Force Majeure event shall not be liable to the other party for its delay in the performance of, or non-performance, of its obligations or any part thereof under these Terms and Conditions. The party affected by a Force Majeure event shall give notice of the Force Majeure event to the other party as soon as possible.

26. MISCELLANEOUS

- I. **Assignments:** INSTIFI may assign, in whole or in part, the benefits or obligations of this Agreement by providing a thirty (30) days prior intimation of such assignment to the Merchant, which shall be binding on the Parties to this Agreement.
- II. **Waiver:** Unless otherwise expressly stated in this Agreement, the failure to exercise or delay in exercising a right or remedy under this Agreement shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies, and no single or partial exercise of any right or remedy under this Agreement shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.
- III. **Severability:** If any provision of this Agreement is or becomes, in whole or in part, invalid or unenforceable but would be valid or enforceable if some part of that provision was deleted, that provision shall apply with such deletions as may be necessary to make it valid. If any Court/Tribunal of competent jurisdiction holds any of the provisions of this Agreement unlawful or otherwise ineffective, the remainder of this Agreement shall remain in full force and the unlawful or otherwise ineffective provision shall be substituted by a new provision reflecting the intent of the provision so substituted.
- IV. **Corporate Authority/Further Assurances:** Each Party represents that it has taken all necessary corporate action to authorize the execution and consummation of this Agreement and will furnish the other Party with satisfactory evidence of same upon request. Each Party agrees to negotiate in good faith the execution of such other documents or agreements as may be necessary or desirable for the implementation of this Agreement and the effective execution of the transactions contemplated hereby and shall continue to do so during the Term of this Agreement.
- V. **Non-Exclusivity:** It is agreed and clarified that this Agreement is on a non-exclusive basis and the Parties are at liberty to enter into similar Agreements with others.
- VI. **Entire Agreement:** This Agreement constitutes the entire Agreement and understanding between the Parties and supersedes any previous agreement or understanding or promise between the Parties, relating to the subject matter of this Agreement. All Schedules, Recitals and Annexure to this Agreement shall be an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement.
- VII. **Notices:** All notices, requests, demands, waivers and other communications required or permitted to be given under the Agreement shall be in writing through certified or registered mail, courier, email, facsimile to be sent to the following addresses:

For INSTIFI:	For Merchant:
INSTANOW INFO SYSTEMS PVT LTD Kind Attn: PRAKASH RAVINDRAN - CEO Registered Office Address -OFFICE NO. 325, SECOND FLOOR, CASA DEL SOL, MIRAMAR, PANJIM, NORTH GOA, GOA, 403001 Email - accounts@InstiFi.com	Merchant Name : Kind Attn: Registered Office Address:  Email –

Or, in each case, at such other address as may be specified in writing to the other Parties in accordance with the requirements of this Clause. All such notices, requests, demands, waivers and other communications shall be deemed duly given (i) if by personal delivery, on the day after such delivery, (ii) if by certified or registered mail, on the 10th (tenth) day after the mailing thereof, (iii) if by courier service or similar service, on the day delivered, or (iv) if by email, facsimile or telegram, on the day following the day on which such email, facsimile or telegram was sent, provided that a copy is also sent by registered mail and, in the case of a facsimile, electronic confirmation of receipt is received.

VIII. **Amendment:** This Agreement shall not be varied, amended or modified by any of the Parties in any manner whatsoever unless such variation, amendment or modification is mutually discussed and agreed to in writing and duly executed by both the Parties.

IX. **Counterparts:** This Agreement may be executed in two or more counterparts, each of which, when executed and delivered, is an original, but all the counterparts taken together shall constitute one document.

## 27. GOVERNING LAW, SETTLEMENT OF DISPUTES AND JURISDICTION

This Agreement (and any dispute or claim relating to it, its enforceability or its termination) is to be governed by and construed in accordance with the laws of India. In the event of a dispute, difference or claim between the Parties hereto, arising out of this Agreement or in any way relating hereto, or any term, condition or provision herein mentioned or the construction or interpretation thereof or otherwise in relation hereto, the Parties shall first endeavour to settle such difference, dispute, claim or question by mutual discussion, failing which the same shall be referred to arbitration in accordance with the Arbitration & Conciliation Act, 1996, or any statutory modification or re-enactment thereof for the time being in force. Each Party may nominate an arbitrator and the two appointed arbitrators shall nominate a third arbitrator. The third arbitrator shall conduct the arbitration proceedings. The place of arbitration shall be in **Mumbai** and any award whether interim or final, shall be made, and shall be deemed to be made for all purposes between the Parties. The arbitral procedure shall be conducted in English language and any award or awards shall be rendered in English. The procedural law of the arbitration shall be Indian law. The award of the arbitrator shall be final and conclusive and binding upon the Parties. Subject to the foregoing, the courts at Mumbai shall have exclusive jurisdiction solely for the purpose of granting interim reliefs and for the enforcement of any arbitral award.

**IN WITNESS WHEREOF** the Parties hereto have executed this Agreement through their authorized signatories on the day, month and year first herein mentioned above:

For **INSTANOW INFO SYSTEMS PRIVATE LIMITED** For **[MERCHANT NAME]**

Signed by **Prakash Ravindran – CEO**

Signed By **[ AUTHORISED SIGNATORY]**



## **SCHEDULE I – BANNED PRODUCTS / SERVICES**

The Merchant hereby expressly agrees not to directly or indirectly deal in the following product/s or service/s at any time during the tenure of this Agreement.

1. Adult goods and services which includes pornography and other sexually suggestive materials (including literature, imagery and other media); escort or prostitution services;
2. Alcohol which includes Alcohol or alcoholic beverages such as beer, liquor, wine, or champagne;
3. Body parts which include organs or other body parts.
4. Bulk marketing tools which include email lists, software, or other products enabling unsolicited email messages (spam);
5. Cable descramblers and black boxes which include devices intended to obtain cable and satellite signals for free;
6. Child pornography which includes pornographic materials involving minors;
7. Copyright unlocking devices which include Mod chips or other devices designed to circumvent copyright protection.
8. Copyrighted media which includes unauthorized copies of books, music, movies, and other licensed or protected materials; Copyright infringing merchandise;
9. Copyrighted software which includes unauthorized copies of software, video games and other licensed or protected materials, including OEM or bundled software
10. Products labelled as "tester," "not for retail sale," or "not intended for resale";
11. Counterfeit and unauthorized goods which includes replicas or imitations of designer goods; items without a celebrity endorsement that would normally require such an association; fake autographs, counterfeit stamps, and other potentially unauthorized goods;
12. Products that have been altered to change the product's performance, safety specifications, or indications of use;
13. Drugs and drug paraphernalia which includes hallucinogenic substances, illegal drugs and drug accessories, including herbal drugs like salvia and magic mushrooms;
14. Drug test circumvention aids which include drug cleansing shakes, urine test additives, and related items.
15. Endangered species which includes plants, animals or other organisms (including product derivatives) in danger of extinction.
16. Government IDs or documents which includes fake IDs, passports, diplomas, and noble titles;
17. Hacking and cracking materials which includes manuals, how-to guides, information, or equipment enabling illegal access to software, servers, websites, or other protected property;
18. Illegal goods which include materials, products, or information promoting illegal goods or enabling illegal acts.
19. Miracle cures which include unsubstantiated cures, remedies or other items marketed as quick health fixes.
20. Offensive goods which include literature, products or other materials that: a) Defame or slander any person or groups of people based on race, ethnicity, national origin, religion, sex, or other factors b) Encourage or incite violent acts c) Promote intolerance or hatred.
21. Offensive goods, crime which includes crime scene photos or items, such as personal belongings, associated with criminals;
22. Pyrotechnic devices (apart from the ones mentioned in the Restricted category), hazardous materials and radioactive materials and substances;
23. Tobacco and cigarettes which includes e-cigarettes, cigars, chewing tobacco, and related products;
24. Traffic devices which include radar detectors/jammers, license plate covers, traffic signal changers, and related products.
25. Weapons which include firearms, ammunition, knives, brass knuckles, gun parts, and other armaments.
26. Matrix sites or sites using matrix scheme approach/Ponzi/Pyramid schemes;
27. Work-at-home information;
28. Any product or service which is not in compliance with all applicable laws and regulations whether federal, state, local or international including the laws of India;
29. Merchant who deals in BPO services.
30. Merchant who deals in surgical products on B2C model.
31. Merchant who deals in immigration services (only consultancy is doable).
32. Merchant who deals in loose diamonds.
33. Merchant who deals in guaranteed employment services.

34. Religious products which are making false claims or hurting someone's religious feelings.
  35. Merchant who deals in adoption agencies.
  36. Merchant who deals in pawnshop.
  37. Merchant who deals in esoteric pages, psychic consultations.
  38. Merchant who deals in telemarketing (Calling list, selling by phone for example travel service, overall sales);
  39. Merchant who deals in credit Counselling/Credit Repair Services.
  40. Merchant who deals in get rich businesses.
  41. Merchant who deals in bankruptcy services.
  42. Merchant who deals in websites depicting violence and extreme sexual violence.
  43. Bestiality
  44. Sale of narcotics or other psychotropic substances;
  45. Sale of products or services that require licenses, where the license cannot be presented or the license is not valid;
  46. Casinos and gambling equipment, including "Junket Operators" that arrange gambling tours;
  47. Betting, bookmaking, racing - car/animals;
  48. Military arms, firearms and ammunitions;
  49. Raising funds for political candidates or political organizations;
  50. Lotteries, raffles;
  51. Replica merchandise;
  52. Companies engaged in financial services which are not regulated by RBI/any other regulatory body or where relevant licenses are not available even though required;
  53. Live animals or hides/skins/teeth, nails and other parts etc. of animals;
  54. Any business or activity where the names of the promoter/partner/proprietor/owner of such business or activity appear in the RBI defaulters/negative list/ or such other list which may be published by the bank from time to time;
  55. Activities relating to operation of lobby groups;
  56. Business of chit funds / unauthorized financial schemes;
  57. Any activities carried on exclusively outside India, with no presence (operational or administrative) in India;
  58. Mining / oil drilling and refining;
  59. Credit repair companies /debt consolidation firms;
  60. Money changers, remittance services, money transmitter, check cashing business, currency exchange;
  61. The Merchant shall not sell, purchase, provide or exchange a cardholder's name or MasterCard / Visa account number information in any form obtained by reason of a MasterCard/ Visa Card transaction to any third party other than its MasterCard/ Visa acquiring Member, or pursuant to a government /statutory or competent body's request;
  62. Regulated goods which include air bags; batteries containing mercury; Freon or similar substances/refrigerants; chemical/industrial solvents; government uniforms; car titles; license plates; police badges and law enforcement equipment; lock-picking devices; pesticides; postage meters; recalled items; slot machines; surveillance equipment; goods regulated by government or other agency specifications.
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## SCHEDULE II – CONFIRMATION ON ANTI-MONEY LAUNDERING (AML)

**Statement and Purpose:** The Merchant and its group companies are committed to operate its businesses conforming to the highest moral and ethical standards. The Merchant has a stringent code of conduct and confirms hereby that it is committed to act professionally, fairly and with integrity in all its business transactions and relationships wherever it operates.

Merchant acknowledges and agrees that it:

1. will comply with all applicable laws, regulations and sanctions relating to anti-bribery, anti-corruption and anti-money laundering.
  2. is prohibited from dealing with any acts which may be deemed as money laundering under any applicable law, regulations or restrictions.
  3. in the event the Merchant does not honour these commitments, the Merchant agrees that this will be considered as a material breach of the Agreement. Therefore, INSTIFI may immediately terminate the Agreement.
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