

# Terms and conditions for Payment Processing Services

Last updated: February 29, 2025.

AVALONPAY FINANCE LIMITED (“**us**” or “**we**” or “**our**” or “Avalonpay”) registered on 16.10.2023 under the company registration No. BC1444577, legal address at: 301-220 BREW STREET PORT MOODY BC V3H0H6 CANADA, license (**MSB**) – M23727352. Avalonpay is incorporated under the laws of Canada.

Please read the Terms and Conditions ("**Agreement**") set out herein and all applicable appendices including the Privacy Policy carefully before accepting them and using the Services provided by us. You agree that any use of our Services by you shall constitute your acceptance of this Agreement. If you do not accept this Agreement, do not access or use our Services.

For the purpose of this Agreement, Merchant and wherever the context so requires, “you”, “your” means any natural or legal person who is accessing Website, its contents and using the Services offered on or through Website (“**Merchant**”, “**Merchants**”, “**you**”, “**your**”).

Please note that the Agreement is a general framework agreement and the individual provisions of the cooperation with you will be regulated by a separate agreement.

## 1. GLOSSARY

1.1. The following terms when used in this Agreement or any document referred to herein shall have the following meaning:

1.1.1. 3D Secure – a payment card payment processing system for improved online transaction security, developed by VISA, which VISA adopted together with Mastercard.

1.1.2. Acceptable Language – English language.

1.1.3. Business Day – any day set by Avalonpay on which Avalonpay

provides the Services to the Merchants. Avalonpay shall be entitled to set different Business Days for the provision of different Services.

1.1.4. Confidential Information – except as otherwise provided in this Agreement, all information (however recorded or preserved) disclosed by or exchanged between the Parties in connection with the Services, including, but not limited to the existence and terms of the Agreement, any information provided by a Party in respect of itself or its business affairs; and any information or analysis derived from the Confidential Information.

1.1.5. Authorisation – the process of electronic verification of Card data, as a result of which the Bank either approves or declines a Transaction.

1.1.6. Bank – any Bank that issues an International Payment Card Organisation's Card, and/or an acquiring Bank (acquirer) that provides services to Avalonpay.

1.1.7. Card(s) – a Visa, Visa Electron, Mastercard or Maestro payment card, with which a Cardholder pays for the goods and/or services offered by the Merchant. The Card is considered to be valid if the purchase is made before the last day of the year and month of the validity period specified on the Card, or after the first day of the year and month of the validity period specified on the Card (if any).

1.1.8. Cardholder – a person who possesses a Card and every right to use the Card, and who is the Merchant's client/buyer.

1.1.9. Chargeback – an invalid Transaction Amount which the Organisation that has issued the Card withholds from Avalonpay, and which Avalonpay, in turn, has to withhold from the Merchant.

1.1.10. Current Account – the Merchant's current account specified in the separate agreement with the Merchant.

1.1.11. Fee – remuneration, which the Merchant pays to Avalonpay in accordance with Avalonpay's remuneration rates.

1.1.12. International Payment Card Organisations – International Payment Card Organisations Mastercard International and VISA.

1.1.13. Identification – identification and verification of the identity of the Merchant or related person in accordance with the procedure established by Avalonpay.

1.1.14. Identity Authentication Measures – the signature, electronic signature of the Merchant, personal identification number assigned (issued) to the Merchant, the e-mail and telephone number of the Merchant or other means (passwords, codes, keys etc.) used for validation of the identity of the Merchant in the manner agreed by Avalonpay and the Merchant and authorisation of the Transactions.

1.1.15. Illegitimate Transaction – any transaction which is inaccurate,

incomplete, not typical for business of Merchant, without the Authorisation, contrary to any applicable laws, suspicious, fraudulent or made for purposes other than in connection with the business purposes Merchant have described to Avalonpay. It also includes any transaction which is not a legitimate legal commercial transaction between Merchant and Cardholders for goods or services that are free of liens, claims, and encumbrances.

1.1.16. Merchant – one of the Parties to this Agreement, a legal entity selling goods and/or services through a Merchant's Website.

1.1.17. Merchant's Website – an electronic (factual) trade place with the address specified in the agreement with the Merchant, created by the Merchant in the global open access system/interrelated computer networking field (Internet), that is registered/available on the Internet with the help of the respective uniform address resource (URI, URL), and on which Transactions may be made with the use of the Module.

1.1.18. Module – software that ensures the transmission of Transaction data.

Party (or Parties) – Avalonpay or the Merchant (or all together).

1.1.19. Personal Data – any information relating to a natural person (data subject) who is known or who can be identified directly or indirectly by reference to such data as a personal identification number or one or more factors specific to his physical, physiological, mental, economic, cultural or social identity.

1.1.20. Privacy Policy – Avalonpay privacy policy available at Website.

1.1.21. Refunding – returning a Transaction Amount to the Cardholder.

1.1.22. Rolling Reserve – a rolling reserve is a type of reserve that withholds a set amount of percentage of all of Merchant's turnover in a non-interest-bearing account for a predetermined amount of time before releasing the funds to the Merchant. Rolling Reserve is intended for avoiding any losses that may arise in the course of executing this Agreement due to potential Chargebacks by Cardholders, penalties enforced by an International Payment Card Organisation, acquiring Bank or Avalonpay for any violations, whether of this Agreement, other applicable agreements, applicable laws and regulations, International Payment Card Organisation rules, or otherwise.

1.1.23. Services – the services described in Clauses 2.1 and 2.2 of this Agreement.

1.1.24. Services Payment Account – a special Avalonpay's current account to which funds received from a Bank as a result of Transactions have been transferred.

1.1.25. Transaction Amount – an amount of funds for which a Cardholder

purchases goods and/or services from the Merchant.

1.1.26. Transaction – purchasing of the goods and/or services from the Merchant by the Cardholder that leads to approved Authorisation.

1.1.27. Website – the official Avalonpay website located at <https://avalon-pay.com>.

## **2. SCOPE OF THE AGREEMENT**

2.1. Avalonpay shall enable Merchant and the Cardholders (users) to use payment by Card as a non-cash means of payment for the Merchant's services offered on the Merchant's Website(s).

2.2. Avalonpay shall provide the following Services:

- Receipt of an Authorisation from the respective Bank regarding the Cardholder's ability to make the claimed payment;
- Collection of the Cardholder's (Merchant's client's) Card data;
- Receipt the respective amount of funds from the Bank;
- Transfer of the funds received from the Bank to the Services Payment Account;
- Informing the Merchant about successful Authorisation of the Card;
- Transfer of the funds received from the Bank, being made from the Services Payment Account to the Current Account;
- Refund management.
- Information about successful or unsuccessful Authorisation of the Card shall be furnished to the Merchant via electronic means.

The scope of services can be modified upon separate agreement between the Parties.

2.3. The Services shall be rendered to the Merchant only and shall in no case be considered as the services rendered to the Merchant's clients. The Merchant shall not demonstrate or let somebody know that Avalonpay is a representative or the second party to the Transaction made only between the Merchant and their client.

2.4. Merchant is solely responsible for the Transactions, and it is expressly agreed and understood that the Transaction takes place between the Cardholder and Merchant, whereby Avalonpay is a service provider of Merchant, not a party to the Transaction.

2.5. This Agreement shall not be considered as a separate agreement for providing Services for the Merchant, which shall be established between

2.6. Avalonpay and Merchant on acquiring payments on the Merchant's website.

Avalonpay currently can't accept payments from Cards not in your name or your business' name.

### **3. DUE DILIGENCE OF MERCHANT**

3.1. Before starting using the Services, you would be required to submit to Avalonpay an application for the Services, as well other documents and information required by Avalonpay for Identification purposes. You will not be able to use the Services until you have passed our identity and security validation and verification checks, and provided information and documents requested in accordance with the applicable anti-money laundering regulations.

3.2. You can apply to start using the Services provided that:

3.2.1. If you are an Individual, you are at least 18 years of age.

3.2.2. If you are applying on behalf of a legal entity, you confirm that you have authority to bind the legal entity on whose behalf you use and/or access our Services and that legal entity accepts this Agreement.

3.2.3. You represent and warrant that your using the Services does not violate any laws or regulations applicable to you.

3.3. Avalonpay may require Identification of the Merchant, representatives, directors, shareholders, beneficial owners of the Merchant, cardholders, agents, intermediaries or other persons related to provision of the Services. By agreeing to this Agreement, the Merchant agrees to Identification of these persons. Avalonpay shall have the right to request repeated Identification at any time at its discretion.

3.4. The Merchant agrees that for the purposes of Identification Avalonpay may use the services of third-party providers.

3.5. Avalonpay shall be entitled to dismiss the application of the Merchant without specifying any reasons; nevertheless, such dismissal must always be justified by substantive reasons which may or may not be disclosed by Avalonpay to the Merchant.

3.6. The Merchant shall provide only full and accurate information in the application and any of its amendments thereafter.

3.7. If there is any change in information provided by the Merchant to Avalonpay, the Merchant undertakes to notify Avalonpay immediately. The Merchant shall bear any losses that may occur due to the submission of invalid, incorrect or inaccurate Information to Avalonpay.

3.9. When requested by Avalonpay and in accordance with the procedure established by Avalonpay, the Merchant shall confirm the use of Services,

carry out Identification or provide any other information reasonably required by Avalonpay so that Avalonpay could commence or continue provision of the Services.

3.10. Avalonpay shall be entitled to request documents and/or relevant information on or related to the Merchant which is reasonably required for Identification or proper use of the Services. The Merchant agrees to provide all necessary documents and information as may be reasonably required by Avalonpay for the purposes of Services, including, but not limited to, the data and documents required for Identification, establishment of the origin of the funds or assets and Merchant's business activities.

3.10. Avalonpay reserves the right to stop provision of Services if the Merchant does not comply with this Agreement or applicable laws and regulations, does not respond to reasonable requests of Avalonpay or Avalonpay is not able to verify the authenticity of information, data or documents provided for the purposes of Identification.

3.11. Identification may include the following (without limitation):

3.11.1. in case of a natural person, provision of a valid identity document with a photograph, signature, name and surname, personal identification number and/or date of birth (if available, personal identification number or any other unique sequence of symbols assigned to the person intended for identification of the person), number of the document, citizenship and other data evidencing the identity of the representative of the Merchant; and

3.11.2. in case of a legal entity, provision of a certificate of incorporation (or a similar document), an extract from the register of legal entities (or a similar document) stating its name, legal form, place of registration and registered office, legal entity identification number (legal entity registration number or another code assigned in the register of legal entities) and documents evidencing the shareholders, controlling persons and ultimate beneficial owners of the legal entity.

3.12. Avalonpay expressly reserves the right to request any other documents or information for Identification purposes.

3.13. Avalonpay shall have full discretion to accept or decline any documents provided by the Merchant for Identification purposes.

3.14. Avalonpay may request from the Merchant additional information and/or documents related to the Merchant or the operations performed by the Merchant, and to request the Merchant to fill in and periodically update the application. All documents and information shall be drawn up and provided at the expense of the Merchant and in the form required by Avalonpay. If the Merchant fails to provide any information and/or

documents within the time limit specified by Avalonpay, Avalonpay shall be entitled to terminate or suspend provision of the Services.

3.15. If the Merchant uses the Module, such Merchant must be authenticated according to the Identity Authentication Measures, Passwords or by other means provided by Avalonpay.

## **4. REQUIREMENTS TO THE DOCUMENTS OF THE MERCHANT**

4.1. The authenticity of the documents submitted by the Merchant electronically may be verified by Avalonpay by requesting originals or notarised copies of such documents or conducting independent third-party searches.

4.2. If Avalonpay has reasonable doubts regarding the authenticity or accuracy of the documents provided by the Merchant, Avalonpay shall be entitled not to fulfil the requests/orders provided by the Merchant and request additional proof of the authenticity or accuracy of the documents provided by the Merchant.

4.3. If the documents provided to Avalonpay are executed outside of the Canada, Avalonpay may request that such documents be certified by apostille or legalised by other means.

4.4. The documents provided to Avalonpay shall be made in the Acceptable Language or other language if agreed by Avalonpay. If the documents provided to Avalonpay are made in a different language, Avalonpay may request that these documents are translated into the Acceptable Language or another language agreed by Avalonpay, the translation to be signed by the translator and the authenticity of the signature to be attested by a notary.

4.5. Having accepted the documents made not in the Acceptable Language from the Merchant, if necessary, Avalonpay may arrange for translation of such documents into the Acceptable Language and the Merchant will bear the relevant documented translation costs. All costs of drawing up, delivery, approval and translation of the Merchant's documents provided to Avalonpay shall be borne by the Merchant.

4.6. Avalonpay shall be entitled to keep and store the copies and originals (if any) of the documents provided by the Merchant.

4.7. The Parties will exchange documents that require signature using Canada recognized and reputable electronic signature solutions (e.g., DocuSign). At the same time, Avalonpay reserves the right to request that the Merchant signs the documents in the presence of Avalonpay's

representative, provides signed documents in a notarized form or delivers original signature pages of the relevant document.

4.8. The Merchant agrees that the Identity Authentication Measures specified and verified at the moment of Identification (e-mail address, telephone number etc.) may be used for signature of the documents between the Parties.

## **5. SERVICES USE**

5.1. You can also only use the Services yourself, and only in your own right, in the course of your business activities. This means that you cannot allow anyone other than you to use the Services and you cannot use the Services to accept or process payments on behalf of anyone else. It also means you cannot use the Services in a personal capacity, outside of your business activities. You are responsible, and promise to pay us immediately if we suffer any loss, relating to any acts and omissions of anyone who uses your account to access the Services.

5.2. You must also use the Services in a lawful and proper manner. This means that you must obey all international and domestic laws, rules, and regulations that apply. These may include the requirements of payment systems or other third parties, as well as legislative bodies. In particular, you must comply with any requirements relating to Refunding, Chargebacks, the use of Services, notification and consumer protection, unfair competition, privacy, advertising, and any other laws relevant to your Transactions. These include the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) Canada and the General Data Protection Regulation.

5.3. You cannot use the Services to process any Illegitimate Transaction. We have no way of knowing if a transaction is an Illegitimate Transaction and you are responsible for identifying and preventing any Illegitimate Transactions. You must monitor whether your transactions are Illegitimate Transactions and, if you are unsure, take steps to ensure they are not Illegitimate Transactions before submitting them for processing. You are solely responsible for any losses you incur due to any Illegitimate Transactions.

5.4. You cannot use the Services to process any other transactions prohibited by the Agreement either. If you accept or process any transactions that are prohibited by the Agreement or any other law or separate agreement with us, or we think your business is exposing us to an unacceptable risk, then we may immediately terminate or suspend your use of the Services, or refuse, refund, condition, or suspend the



activities we think are in breach. We may also do this if we think you are trying to or are likely to do one of these things, even if you don't actually do it.

5.5. The Merchant undertakes to place on the Merchant's Website the Merchant's company name and registration number (if any), registration country, contact address, e-mail address, contact telephone number, a list of the goods and/or services offered, prices for the goods and/or services offered, types of payment cards that are accepted on the Merchant's Website, payment currency, terms and conditions of purchase of the goods and/or services, territorial restrictions, and export restrictions, if any; provisions related to refund, return, change or rejection of the goods and/or services, as well as the goods returning provisions, actions that are to be taken to make the Transaction, and the moment of consummation of the Transaction, other provisions or circumstances that are essential for the Cardholder in making the decision about purchasing the goods and/or services offered, active references to Visa / Mastercard, the logos of Visa / Mastercard / 3D Secure, a notice prior to payment stating that the Cardholder must consent to all of the terms and conditions specified on the Merchant's Website.

5.6. The Merchant shall notify Cardholders about, and to receive their consent to, the Merchant and Avalonpay having the right to process their personal data with the purpose of executing this Agreement; to keep records of data, offer, provide and maintain services, effect and protect the rights and legal interests of Avalonpay for the purpose of fulfilling duties under the Agreement, fulfilling requirements specified in the applicable legislation, and notifying Cardholders about other conditions regarding transfer of personal data; and, if necessary, to receive confirmation from Cardholders in accordance with the applicable data protection legislation and the General Data Protection Regulation. Avalonpay shall have the right to obtain personal data from third parties and to transfer such to third parties for the purpose of executing this Agreement and complying with regulatory requirements. Merchant shall sell the goods and/or services on the Merchant's Website in accordance with the provisions of the Agreement and in compliance with the separate agreement between Merchant and Avalonpay.

## **6. REFUNDING. ROLLING RESERVE. DEDUCTIONS**

6.1. Even authorised Transactions may be subject to a dispute by a Cardholder, or otherwise reversed. We are not responsible for, or liable

to you, for any Transaction which is later the subject of a dispute, Refunding, Chargeback, other reversal or which is otherwise submitted without authorisation or proper basis. Rather, you are responsible to us for these things.

6.2. If a Transaction is reversed, this means that the amount you received will be taken out of your accounts and returned to the Cardholder. This will be shown on your transaction history. For example, we may reverse a Transaction where:

6.2.1. it was made in connection with an Illegitimate or fraudulent Transaction or a restricted activities described in clause 9 of the Agreement;

6.2.2. it was made following or in connection with a breach of the Agreement;

6.2.3. a third-party partner (like a card scheme) has invalidated the charge or it breaches their requirements;

6.2.4. funds we settled to you without authorisation or otherwise in error.

6.3. You may have the ability to challenge a reversal by submitting evidence. We may request additional information to assist with assessing the challenge. We may need to share this information with the third parties we worked with to process the payment as well. However, we cannot guarantee that any challenge will be successful. We (or those third parties) may deny your challenge for any reason we (or they) deem appropriate. You may not submit a new charge which duplicates a Transaction that is subject to a dispute. But if a transaction is reversed, you cannot resubmit it.

6.4. To protect ourselves against the risk of providing the Services to you, we will always withhold a percentage of each Transaction value processed for you for a period of time, i.e. Rolling Reserve. Rolling Reserve in relation to the monetary funds of Avalonpay shall be established from the moment of crediting the account of Avalonpay. We will determine the Reserve, and the period of time it is held for, based on our assessment of the risk you pose.

6.5. The percentage amount may be anywhere between 0% and 100%, and the period of time is also at our discretion. We can change the percentage amount or the period of time at any notice, and we'll let you know if we do. For example, we may do so if:

6.5.1. Your or Cardholders' activities increase the risk of loss to us or to Cardholders;

6.5.2. You have violated this Agreement or we think you are likely to;

6.5.3. we think the number of disputes or Refunding you have is high;

- 6.5.4. we think that the period of time between a Transaction and delivery of your services to Cardholder is significant;
- 6.5.5. we have any other reasonable basis for doing so.
- 6.6. We may fund the Rolling Reserve with funds processed through your use of Services.
- 6.7. Parties shall be liable for the failure to fulfil their duties under the Agreement, or the inadequate fulfilment thereof in accordance with the applicable legislation of Canada and the provisions of the Agreement, providing reimbursement to the other Party for any losses caused to it in the event that such losses occur, except for those described in the Agreement.
- 6.8. The Merchant shall bear financial liability against Avalonpay (i) for any claims received by the International Payment Card Organisation(s), the Bank or by the authorities caused by the fault of the Merchant, its Cardholders, or the services rendered by the Merchant; (ii) for all acts, omissions, Cardholder disputes and other Cardholder customer service related issues caused by the Merchant; (iii) for all and any possible fines or fees of the competent organisations and authorities caused by the fault of the Merchant.

## 7. FEES

- 7.1. The Merchant shall pay the Fee, and Fees for the Services rendered under this Agreement shall be deducted by Avalonpay in accordance with the then-applicable pricing list. Fee for the Services provided by Avalonpay shall be paid by the Merchant to the designated bank account of Avalonpay upon receipt of the invoice.
- 7.2. The Merchant shall pay the Fee for the review of the application for the Services provided by the Merchant and Identification of the Merchant described in the clause 3 of the Agreement (“**Onboarding Fee**”), and Onboarding Fee rendered under this Agreement shall be deducted by Avalonpay in accordance with the then-applicable pricing list. Onboarding Fee shall be paid by the Merchant to the designated bank account of Avalonpay upon receipt of the invoice or by the card. In case of non-payment of Onboarding Fee, the Avalonpay has the right to suspend the Identification procedure and the review of the above-mentioned application. The Onboarding Fee is non-disputable and non-refundable, including but not limited to Merchant's rejection of Merchant's above-mentioned application or Merchant's non-compliance with the terms and conditions of the Identification.
- 7.3. Fees, by default, shall be deducted in EUR or GBP.

7.4. All payments made by the Merchant under this Agreement regarding any Fees shall be free from and without set-off, withholdings, counterclaims or deductions whatsoever. Avalonpay shall make all payments due to the Merchant under this Agreement in full unless required by law to make deductions including, without limitations, deductions or withholdings in respect of any taxation liabilities. For the avoidance of doubt, the Fees will be deducted by Avalonpay in accordance with the then-applicable pricing list.

7.5. Each Party undertakes to submit tax reports and pay taxes applicable to their income under any jurisdiction. If Avalonpay must pay such taxes for the Merchant's income, the Merchant shall immediately pay to Avalonpay the amount of such taxes and all interest, penalties and requested amounts relating to it. If changes are made to the applicable legislation, and Avalonpay must pay the value added tax or any other such tax on its Services, such tax shall be added to the Fee.

## **8. FORCE MAJEURE**

8.1. Neither party will be liable for any delay or non-performance of its obligations under this Agreement to the extent that such delay or non-performance is a result of any condition beyond its reasonable control (the "Force Majeure"), including but not limited to, governmental action, the war, riots, hurricane, typhoon, acts of terrorism, earthquake, fire, flood, lightning, explosion strikes, lockouts, emergency state, pandemic or any other diseases as defined by the World Health Organisation, prolonged shortage of energy supplies, and acts of state or governmental action prohibiting or impeding any party from performing its respective obligations under the Agreement or other acts of God, labour conditions, power failures, and Internet disturbances.

8.2. If the above Force Majeure events last for more than 2 (two) months, either Party shall have the right to unilaterally terminate this Agreement notifying the other Party of it.

8.3. The burden of proof rests on the Party claiming that it is unable to fulfil its obligations due to the above force majeure events in order to prove the occurrence of such Force Majeure events, and said Party shall, within 5 (five) days, duly and in writing inform the other Party about the occurrence and cessation of such circumstances.

## **9. RESTRICTED ACTIVITIES. SUSPENSION, CLOSURE AND TERMINATION**

9.1. When using the Services, the Merchant must not:

- 9.1.1. commit violations of this Agreement and separate agreements, applicable laws and regulations including, but not limited to the legal acts related to prevention of money laundering and terrorist financing;
- 9.1.2. infringe the rights of Avalonpay and third parties to the trademarks, copyrights, trade secrets and other intellectual property rights;
- 9.1.3. provide false, misleading or incorrect information and otherwise circumvent the procedures of Avalonpay;
- 9.1.4. refrain from providing the information reasonably requested by Avalonpay in connection with the Services;
- 9.1.5. provide false, misleading or incorrect information about Avalonpay and cooperation with Avalonpay to third parties;
- 9.1.6. transfer and/or receive money earned as a result of activities or transactions contradicting applicable laws;
- 9.1.7. refuse to cooperate with Avalonpay in investigation of violations;
- 9.1.8. refuse to carry out Identification when requested by Avalonpay;
- 9.1.9. use the Services in such way that may result in losses, liability or other adverse legal consequences to Avalonpay or other third parties;
- 9.1.10. use Services from the jurisdiction which is not acceptable to Avalonpay;
- 9.1.11. facilitate the spreading of computer viruses and conduct any other activities which could cause system malfunctions, damage or destroy information or result in any other damage to systems, equipment or information of Avalonpay or any third parties;
- 9.1.12. undertake any other deliberate actions disturbing provision of the Services to the Merchant or third parties or disturb proper functioning of the Module;
- 9.1.13. be involved in illegal gambling, illegal trafficking of tobacco products, alcohol, prescription medicines, steroids, guns, narcotic substances and the attributes related to narcotic substances, pornographic production, unlicensed lottery, illegal software or any other activities prohibited by applicable laws;
- 9.1.14. use Services to conduct business activities indicated as unacceptable by Avalonpay (e.g., provide financial services to third parties using the Services on a commercial basis);
- 9.1.15. log in to the Module as an anonymous user (e.g. via public proxy servers);
- 9.1.16. disclose Identity Authentication Measures and other personalised safety features to third persons and allow unauthorised persons to use

the Services in the name of the Merchant;

9.1.17. use the Services to enable any person to benefit from any activities that Avalonpay has identified as a restricted business or activity, including using the Services in or for the benefit of a country, organisation, entity, or person embargoed or sanctioned by any government or international organisation, including SDN, SSI sanctions lists, sanctions imposed by the US Office of Foreign Asset Control (OFAC), Special Economic Measures Act (SEMA), the Consolidated List of Persons maintained by European Commission and Groups and Entities subject to EU Financial Sanctions; and

9.1.18. be a Politically Exposed Person or act on behalf of a Politically Exposed Person.

9.2. This Agreement may be terminated, providing of Services suspended or refused to be reactivated, immediately by Avalonpay in one of the following events:

9.2.1. if you do not provide information upon the request of Avalonpay or the information provided does not meet Avalonpay 's requirements;

9.2.2. if you fail to make any payment which is due in accordance with this Agreement;

9.2.3. if you are in breach of any relevant statute, law, regulation or instruction of public authority and/or any material term of this Agreement (including all schedules), and you fail (where such breach is curable) to resolve the matter in a timely manner;

9.2.4. if this Agreement becomes unlawful for Avalonpay to perform for any reason, including without limitation if we need to do so to comply with the law or with a subpoena, court order, order or request of law enforcement or other government or regulatory agencies/authorities;

9.2.5. if using of Services is subject to any pending litigation, investigation, or government proceeding or Avalonpay perceives a heightened risk of legal or regulatory non-compliance associated with your using of Services activity;

9.2.6. if you are likely to become unable to pay its debts as they become due or have a bankruptcy petition presented against or any of the events specified above or anything analogous to them occurs under the laws of any applicable jurisdiction;

9.2.7. if Avalonpay in its sole discretion decides that you no longer meet Avalonpay clients' profile;

9.2.8. if Avalonpay believes that you adversely affect its reputation;

9.2.9. if you are reasonably suspected of carrying on illegal activities;

9.2.10. if you breach representations and warranties provided in this Agreement;

- 9.2.11. due to a Force Majeure event;
- 9.2.12. if our service partners are unable to support your use of the Services;
- 9.2.13. if you take any action that we deem as circumventing our controls;
- 9.2.14. if you attempt to gain unauthorised access to the Module or provide assistance to others attempting to do so;
- 9.2.15. if Avalonpay is concerned about the security of your using of Services;
- 9.2.16. if we suspect your using of Services is being used in an unauthorised manner, including without limitation, by a person other than you, or that the 9.2.17. Services are being used for the benefit of someone other than you, or used to commit fraud or for other illegal purposes;
- 9.2.18. if you act in a manner that is threatening or abusive to our staff or any of our representatives;
- 9.3. If the Merchant becomes aware of the occurrence of any event referred to in clause 9.2 above it must give Avalonpay an immediate written notice.
- 9.4. Avalonpay shall be entitled to unilaterally terminate the Agreement, refuse to provide the Services without specifying a reason by giving a 14 (fourteen) calendar days' written notice to the Merchant.
- 9.5. Each of the parties to this Agreement is entitled to terminate the Agreement with a prior 30 (thirty) days written notice given to the other party.
- 9.6. The Merchant will be responsible to compensate all outstanding Fee and any other payment to Avalonpay despite the write-off under this clause.
- 9.7. If the Merchant decides to terminate this Agreement, it is required to cover Avalonpay expenses.
- 9.8. The right to terminate this Agreement shall not prevent Avalonpay from exercising any other right or remedy in respect of the breach concerned (if any) or any other breach.

## **10. CONFIDENTIALITY AND DATA PROTECTION**

10.1. Each Party ("the Receiving Party") to whom Confidential Information is furnished by another Party ("the Disclosing Party") shall keep the Confidential Information strictly confidential and, except with the prior written consent of the Disclosing Party or unless otherwise provided, shall not, and shall ensure that its authorised representatives

shall not:

10.1.1. use or exploit the Confidential Information in any way except for the Services; or

10.1.2. disclose or make available such Confidential Information in whole or in part to any third party, except as expressly permitted hereby; or

10.1.3. copy, reduce to writing or otherwise record the Confidential Information, except as necessary for the Services.

10.2. Confidential Information shall not include any information that:

10.2.1. is, or becomes, generally available to the public (other than as a result of disclosure by the Receiving Party or any of its authorised representatives in breach of this Agreement); or

10.2.2. was available to the Receiving Party on a non-confidential basis before disclosure by the Disclosing Party; or

10.2.3. was, is or becomes available to the Receiving Party on a non-confidential basis from a person who, to the Receiving Party's knowledge, is not bound by a confidentiality agreement with the Disclosing Party, or otherwise prohibited from disclosing the information to the Receiving Party; or

10.2.4. was lawfully in the possession of the Receiving Party before the information was disclosed to it by the Disclosing Party; or

10.2.5. the Parties agree in writing is not confidential or may be disclosed; or

10.2.6. is developed by or for the Receiving Party, independently of the information disclosed by the Disclosing Party.

10.3. The Receiving Party may disclose the Disclosing Party's Confidential Information to its authorised representatives for the purpose of provision of the Services, provided that such representatives are required to keep that information strictly confidential.

10.4. The Receiving Party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by the laws or regulations of any country with jurisdiction over the Receiving Party or by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction. However, to the extent it is legally allowed to do so, it must give the Disclosing Party as much notice of that disclosure as possible and consult with it as to possible steps to avoid or limit disclosure and take those steps where they would not result in significant adverse consequences for the Disclosing Party.

10.5. If the Receiving Party is required to provide documents or information to any governmental or other regulatory authority, but due to short notice or absence of such notice from an authority, is unable to provide the notice referred to in clause 10.4 to the other Party before



Confidential Information is disclosed, it shall (to the extent permitted by law) inform the other Party immediately after the disclosure of the full circumstances of the disclosure and the information that has been disclosed.

10.6. Avalonpay may retain Confidential Information of the Merchant regulatory and compliance purposes.

10.7. To provide our Services we need to collect and retain Personal Data about you and certain individuals connected to you. By accepting this Agreement, you are giving us explicit consent to access, process and/or retain any Personal Data for our provision of the Services. Please note that this "explicit consent" is a statutory requirement affecting Avalonpay as a payment service provider and does not affect any rights and obligations that you or we have under data protection laws including but not limited to the General Data Protection Regulation.

10.8. We are committed to maintaining your Personal Data in accordance with legal requirements relating to the collection, storage and use of Personal Data. Please review our Privacy Policy for more information on how we use and protect your Personal Data and your privacy rights.

10.9. If we suspect that we have been given false or inaccurate information, we may record and retain such suspicion together with any other relevant information.

10.10. If we receive false or inaccurate information, and we identify or reasonably suspect any fraud or other illegal activities, then we will pass details to fraud prevention agencies and/or other relevant agencies to prevent fraud, money laundering and other illegal activities.

10.11. We may check all Personal Data you give us with fraud prevention agencies and other organisations, and we may obtain information about you from credit reference agencies to verify your identity. A record of such enquiries may be left on your files with such third-party organisations and agencies and also held by us.

10.12. We may monitor and/or record telephone calls we have with you (without notice or warning to you) to help us maintain and improve the quality of service and for fraud prevention and detection purposes.

## **11. INTELLECTUAL PROPERTY**

11.1. We provide access to you on a non-exclusive non-transferable basis to use the Module and Website during the term of this Agreement as an integral part of the Services under this Agreement. You agree not to make any false or fraudulent statements as you use this Website and the Module. You acknowledge and agree that all content and Services

available on this Website are property of Avalonpay and are protected by copyrights, trademarks, service marks, patents, trade secrets, and other proprietary rights and laws, in the Canada and internationally. All rights not expressly granted herein are fully reserved by Avalonpay, its advertisers, and licensors. Any change affecting the Module or the Website, or any of its parts, however deemed necessary during the term of the Agreement does not constitute a change in this Agreement with you.

11.2. You may only install and use the Module and all content derived from the Module, including without limitation the patents, copyrights, design rights, trademarks and any other intellectual property rights in the Module, in connection with the Services, for your personal and non-commercial use and in accordance with this Agreement. The Module's code, structure and organisation are protected by intellectual property rights which are the exclusive property of Avalonpay or its licensors, as the case may be. You must not:

11.2.1. copy, interfere with, tamper with, redistribute, publish, reverse engineer, decompile, disassemble, amend, modify, translate or make any attempt to access the source code to create derivative works of the source code, or otherwise;

11.2.2. sell, assign, sublicense, transfer, distribute or lease the Module;

11.2.3. make the Module available to any third party through a computer network or otherwise;

11.2.4. export the Module to any country (whether by physical or electronic means); or

11.2.5. use the Module in a manner prohibited by any laws or regulations which apply to the use of the Module (collectively the “**Forbidden Practices**”).

11.3. You will be liable to us and our licensors, as the case may be for any damage, cost or expense we suffer or incur that arise out of or in connection with your committing any of the Forbidden Practices. You shall notify us as soon as reasonably possible after becoming aware of the commission by any person of any of the Forbidden Practices and shall provide us with reasonable assistance with any investigation we may conduct in light of the information provided by you in this respect.

11.4. The brand names relating to the Website and the Module and any other trademarks, service marks and/or trade names used by us either on our own behalf from time to time (the “**Trademarks**”) are owned by us or our licensors. In addition to the rights in the Trademarks, we and/or our licensors own the rights in all other content of the Website and the Module (that is not considered as transactional or personal data

(the “**Content**”). By using the Services, you shall not obtain any rights in the Trademarks or the Content and you may use the Trademarks and Content only in accordance with the provisions of this Agreement.

11.5. Avalonpay makes no representations whatsoever about any other interface which you may access through the Website. Notwithstanding anything to the contrary herein, the Website may provide links or other forms of reference to other interfaces, resources or data, over which Avalonpay has no control (“**External Content**”). Therefore, you acknowledge that any link to an External Content is provided on the Website for convenience purposes only. Avalonpay is not responsible for the availability or any content of the External Content, including opinions, advice, statements, prices, activities and advertisements, and you use such content at your own risk. You have to review the policies posted on the External Content regarding privacy and other topics before using it.

11.6. Termination of this Agreement shall trigger the automatic termination of access to the Module and Website. The remuneration for the access is included in the Fees. You are not allowed to grant access to any third party. The scope of access is territorially unlimited.

11.7. Except where necessary in order to view the information on the Website and/or the Module, or as permitted under the English law or this Agreement, no information or content on the Website and the Module may be reproduced, adapted, uploaded to a third party, linked to, framed, performed in public, distributed or transmitted in any form by any process without a specific written consent of Avalonpay.

11.8. You hereby acknowledge that we may be bound by a licence arrangement with a third-party software provider which governs our licence to use the Module and provide with the Services. Your access to the Module therefore depends on our licence and may be terminated at any time without prior notice and you hereby waive any claim against us and/or against the third-party licensor in that respect.

## **12. LIABILITY OF THE PARTIES**

12.1. You expressly agree that you are using the Services at your sole risk and that the Services are provided on an "as is" basis without warranties of any kind, either express or implied, including, but not limited to, warranties of title or implied warranties, merchantability or fitness for a particular purpose (except only to the extent prohibited under the applicable law), completeness and/or accuracy of the Website and/or the Module and/or the Services and/or infringement of applicable laws

and regulations. The entire risk as to the use, quality and performance of the Services and/or Website lies with you.

12.2. Services depend in large part on the performance of the internet services provided or controlled by third parties. Actions or inactions caused by these third parties can produce situations where Avalonpay's connection to the internet may be impaired or disrupted. Although Avalonpay will use commercially reasonable efforts to take actions it deems appropriate to remedy and avoid such events, Avalonpay cannot guarantee that they will not occur. Accordingly, 12.3. Avalonpay does not assume any and all liability to the Merchant or any third party resulting from or related to such events.

Avalonpay warrants that the Services will be provided with reasonable care and skill. If this warranty is breached, you must notify our support as soon as possible. You must give our support a reasonable time to fix the problem, which solution may include (a) supplying you with a reasonable way to work around the problem that is not materially detrimental to you and/or (b) re-performing any relevant Service(s). Our support will attempt to fix any such problems without any additional charge to you. Our support is able to do so within a reasonable time, this will be your sole and exclusive remedy in relation to any breach and no Avalonpay will have any obligation or liability in relation to such breach.

12.4. In no event will Avalonpay, its affiliates, shareholders, directors, employees and representatives be liable to the Merchant or any third party for any damages, whether direct or consequential, losses, liabilities, costs and expenses incurred by the Merchant arising out of or resulting from any misuse of the Services and/or the Module by the Merchant, any mistake or negligence from the Merchant, any failure or omission on the Merchant's side, any missing documentation despite our request, any fraud or attempt of fraud, any upset of the Module due to telecommunication connections, any Force Majeure event, or any other cause of action or claim that does not directly result from a fault of Avalonpay in the performance of the Services.

12.5. Avalonpay shall be liable only for direct losses incurred by the Merchant as a result of the breach of this Agreement. Avalonpay will not be liable for consequential or indirect loss, such as loss of profits, opportunity or reputation. The aggregate Avalonpay's liability under this Agreement shall not exceed the amount of Fees for the last 3 (three) months paid by the Merchant to Avalonpay or CAD 2,000, whichever is greater.

12.6. The Merchant will indemnify and hold Avalonpay, its affiliates, shareholders, directors, employees, and representatives harmless from

and against any and all costs, liabilities, losses, and expenses (including, but not limited to, reasonable attorneys' fees and fees of experts) arising out of any claim, suit, action or proceeding initiated by the Merchant against the third party or by the third party against the Merchant (each an "**Action**"). The Merchant will pay any settlement reached or judgement entered thereon against Avalonpay and/or against any third party.

12.7. The Merchant will provide Avalonpay with a prompt written notice upon the existence of any Action immediately when it becomes aware of it. Such notification must provide information on possibility for Avalonpay to participate in the defence thereof.

12.8. The Merchant shall indemnify and hold Avalonpay harmless against any loss or damage (including costs) that may be awarded or agreed to be paid to any person in respect of a claim or action arising of (i) any breach of the Agreement or (ii) violation of any law or the rights of a third party by the Merchant.

12.9. To the maximum extent permitted by applicable law, Avalonpay makes no warranty that the Website and/or Services and/or the Module will meet your requirements, will be uninterrupted or error-free, timely or secure, that defects will be corrected, and/or that Website, the Module and the servers that makes them available are free of viruses and bugs and/or represents the full functionality, accuracy, reliability of the materials and/or as to results or the accuracy of any information obtained by you through the Services and/or the Module and/or the Website.

12.10. The Merchant shall be fully liable for correctness of the data and orders provided to Avalonpay.

12.11. You agree that the statute of limitations in respect of any claim or cause of action which you may have arising out or related to the Services and/or the use of the Module shall be limited to one (1) year after such claim or cause of action arose. Any action passed that delay shall be barred.

12.12. Each Party shall notify the other Party in writing of any Force Majeure circumstances which prevent compliance with this Agreement within 10 (ten) calendar days from the date of occurrence of such circumstances or when it becomes aware of the occurrence of such circumstances. Failure to notify in time would deprive the relevant Party from its right to refer to the Force Majeure circumstances as liability limitation event.

12.13. For the avoidance of doubt, you acknowledge and agree that Avalonpay does not act as a financial advisor, does not provide any

investment advice in connection with the Services contemplated by this Agreement, and any communication between you and Avalonpay cannot be considered as investment advice. Without prejudice to our foregoing obligations, in asking us to enter into use of the Services, you represent that you have been solely responsible for making your own independent appraisal and investigations into the risks of using the Services. You represent that you have sufficient knowledge, market sophistication and experience to make your own evaluation of the merits and risks of using the Services and that you received professional advice thereon. We give you no warranty as to the suitability of the Services and assume no fiduciary duty in our relations with you.

### **13. GOVERNING LAW AND JURISDICTION**

13.1. This Agreement and the relationship between you and us will be governed by and construed in accordance with the with the laws of Canada and British Columbia without reference to conflict of law or choice of law provisions, and you irrevocably submit to the exclusive jurisdiction of the courts in Canada, BC, for determination of any dispute concerning this Agreement (provided that this shall not prevent Avalonpay from bringing an action in the courts of any other jurisdiction). You further irrevocably waive any objection which you may have at any time to the laying of venue of any proceeding brought in any such court and agree not to claim that such proceedings have been brought in an inconvenient forum or that such court does not have jurisdiction over it.

### **14. CONTACT METHODS**

14.1. Avalonpay will give messages and notices to the Merchants by publishing them on the Website (in case such messages are addressed to multiple recipients), the Module, sending them via email, regular mail, SMS or Push notifications in each case using verified Identity Authentication Measures.

14.2. Any communications or notices sent by:

14.2.1. email will be deemed received on the same day if it is received in the email inbox before 5pm GMT. If it is received in the email inbox after 5pm GMT or at any other time, it will be deemed received on the next day;

14.2.2. post will be deemed received three days from the date of posting

for Canada post or within five days of posting for international post; and

14.2.3. SMS or Push notifications will be deemed received the same day.

14.3. A notice given by the Merchant to Avalonpay shall be considered given properly if a notice is sent using support email indicated on the Website, or, if at the time it is not objectively possible, by calling support number during business hours indicated on the Website and sending notice to the email indicated on the Website.

14.4. For urgent matters, such as notification about suspected or executed unauthorised or fraudulent operations, unlawful use of Services or security threats, Merchant shall always give notice using support numbers indicated on the Website.

14.5. All notices shall be sent in the Acceptable Language, unless otherwise agreed between the Merchant and Avalonpay.

14.6. The Merchant must immediately inform Avalonpay of any changes in its verified contact details (telephone number, email and address) which could be used by Avalonpay to contact the Merchant. If the Merchant fails to inform Avalonpay of such changes, all consequences arising from the failure of Avalonpay to give a notice to the Merchant shall be borne by the relevant Merchant.

14.7. Avalonpay shall promptly notify the Merchant of any known or potential technical failures of the Module and the systems or equipment of third parties contracted by Avalonpay for provision of Services which may affect the Services.

14.8. Avalonpay shall be free to change the technical solution or update the software used to provide the Service at any time. Such changes and updates may result in temporary interruptions to Services. Avalonpay will give a prior notice of any such changes and updates to the Merchants.

14.9. The Parties shall immediately notify each other of any circumstances relevant to the compliance with this Agreement and provide the documents substantiating such circumstances, if required (e.g. bankruptcy, initiation and opening of restructuring proceedings, liquidation, reorganisation or restructuring, etc.).

## **15. MISCELLANEOUS**

15.1. Each Party represents and warrants that it has all necessary consents, approvals, permits and licences required under the applicable laws that are necessary for the execution and performance of this Agreement.

15.2. The Merchant shall not have the right to assign its rights and

obligations arising out of this Agreement to third parties without a prior written consent of Avalonpay. Avalonpay reserves the right to assign its rights and obligations arising out of this Agreement to third parties at any time by serving a written notice to the Merchant if such assignment of rights and obligations is not in conflict with applicable laws and regulations.

15.3. If any provision of this Agreement is recognised as invalid, this shall not affect the validity of the remaining provisions of this Agreement.

15.4. Any delay or failure by us to exercise any right or remedy under this Agreement is not to be considered a waiver of that right or remedy and it will not stop us from exercising it at any subsequent time.

15.5. No one other than you and us has any right to enforce any of the provisions of this Agreement.

15.6. This Agreement is disclosed on the Website in the Acceptable Language and may be individually requested by the Merchant from Avalonpay.

15.7. Avalonpay may unilaterally change this Agreement, including the Fees, at any time. These changes will be disclosed at Website and be effective upon such disclosure. Avalonpay may, or may choose not to, notify the Merchant of such changes. You should check the Website regularly. If the Merchant is not in agreement with the changes to this Agreement, including the Fees, it will have the right to terminate this Agreement. In such case no termination Fees will be charged.

15.8. The Merchant shall not have the right to unilaterally amend this Agreement.

15.9. The Parties may agree on other terms not provided in this Agreement.