

WIX MERCHANT

Terms and Conditions

1. Introduction

1.1. This "Agreement" is a legal agreement between you ("Merchant") and Vyne Technologies Limited, a company incorporated in England and Wales with registered number 11872778 whose registered office is at 71-75 Shelton Street, London, WC2H 9JQ) ("Vyne").

1.2. Vyne and the Merchant are individually a "Party" and together the "Parties".

IMPORTANT NOTICE:

1.3. By clicking on the "Sign Up" button you agree, on Merchant's behalf, to the terms of this agreement which will bind Merchant from the date you click on the "Sign Up" button (the "Effective Date").

1.4. If you do not agree to the terms of this agreement, or do not have the authority to legally bind Merchant, do not click the "Sign Up" button. Merchant will not be able to use our services and will not be bound by these terms.

1.5. Please print a copy of this agreement for future reference.

2. Overview

2.1. Vyne provides the Service, that allows Merchants to receive payment transactions directly from End User bank accounts.

2.2. This agreement sets out the basis on which the Service is to be provided to the Merchant to enable such transactions to be requested of the bank by End Users.

3. Definitions and Interpretation

The following definitions and rules of interpretation apply in this Agreement:

3.1. Definitions:

Automatic Settlement	has the meaning given in paragraph 2 of Schedule 2 (Settlement Service)
Business Day	a day other than a Saturday or Sunday when clearing banks are open for the transaction of normal banking business in England;
Confidential Information	all non-public information, documentation and data, of whatever nature, disclosed in writing, by one Party to the other or obtained by one Party from the other, arising out of, or in connection with, this Agreement or its subject matter and whether or not it is marked as "confidential" but which ought to be reasonably considered to be confidential;
Data Protection Legislation	while they remain in force, the UK Data Protection Act 2018, Regulation (EU) 2016/679 of the European Parliament and of the Council, (the General Data Protection Regulation); any other existing or future law, directive or regulation (anywhere in the world) relating to the Processing of Personal Data or privacy, to which a Party is by law subject; and all notices, orders and codes of practice issued pursuant to that act, law, directive or regulation;

Effective Date	has the meaning given in the <u>"Important Notice" above</u> ;
E-Money Balance	means the total outstanding balance of funds belonging to Merchant in Merchant's Settlement Account. Generally this will include the total of any Inbound Transactions which have been received into the Settlement Account and any funds which Merchant has placed into its Settlement Account via bank transfer, in each case which have not been paid out from the Settlement Account
End User	Merchant's customers who will make a request to initiate a payment to purchase goods and services from Merchant;
End User Terms and Conditions	the agreement that relates to Vyne providing payment initiation services to an End User;
FCA	the UK Financial Conduct Authority;

Fees	all fees payable by the Merchant to Vyne, as presented to Merchant as part of the Vyne on-boarding process or as otherwise agreed between the Parties from time to time;
Force Majeure Event	<p>any circumstance outside Vyne's reasonable control including, without limitation:</p> <ol style="list-style-type: none"> 1. acts of God, flood, drought, earthquake or other natural disaster; 2. epidemic or pandemic; 3. terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; 4. nuclear, chemical or biological contamination or sonic boom; 5. any law or regulation or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent; 6. collapse of buildings, fire, explosion or accident; 7. any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the the workforce of Vyne or a member of its group; and 8. interruption or failure of utility service;

Inbound Transaction	means a Transaction received into Merchant's Settlement Account via the PI Service	
Insolvency Event	<p>in respect of either Party:</p> <ol style="list-style-type: none"> 1. such Party passing a resolution for its winding up, or a court of competent jurisdiction making an order for it to be wound up or dissolved, or that Party being otherwise dissolved; or 2. the appointment of an administrator of, or the making of an administration order in relation to, either Party, or the appointment of a receiver, liquidator or administrative receiver of, or an encumbrancer taking possession of or selling the whole or any part of, that Party's undertaking, assets, rights or revenue; or 3. that Party entering into an arrangement, compromise or composition in satisfaction of its debts with its creditors or any class of them, or taking steps to obtain a moratorium, or making an application to a court of competent jurisdiction for protection from its creditors; or 4. that Party being unable to pay its debts, or being capable of being deemed unable to pay its debts, within the meaning of paragraph 123 of the Insolvency Act 1986; or 	

Intellectual Property Rights	all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;
Malicious Software	any software program or code intended to destroy, interfere with, corrupt or have a disruptive effect on program files, data, other information, or any system or network, executable code or application software macros, including (without limitation) any virus, worm, Trojan horse or bot, whether or not its operation is immediate or delayed, and whether such software program or code is introduced wilfully, negligently or without knowledge of its existence;
Merchant Account	means Merchant's verified bank account in the name of Merchant, specified to Vyne by Merchant from time to time;

Merchant Email Address	the email address provided to Vyne as part of on-boarding for the purposes of contacting Merchant regarding this Agreement and matters concerning or connected to this Agreement, which the Merchant may update from time to time in accordance with the provisions of clause 21 below;
Notice	a notice made in accordance with the provisions of clause 21 of this Agreement;
Originating Account	an End User's account from which an Inbound Transaction originates
Party	each of Vyne or Merchant, and " Parties " means both of them;
Refund	a payment from the Settlement Account to an Originating Account, which may be the whole or part of the amount of a Transaction paid by an End User to Merchant;

	Platform	the Wix platform and website;
	Platform Provider	the provider of the Platform;
	Relief Event	<p>any of the following:</p> <ul style="list-style-type: none"> • any act, error or omission by Merchant, Merchant's affiliates or Merchant's contractors; • the failure or non-occurrence of a responsibility of Merchant (including without limitation the failure of Merchant, Merchant's affiliates or Merchant's contractors to implement any remedial action proposed by Vyne, including without limitation, any system updates); • the occurrence of events or matters beyond Vyne's reasonable control, including without limitation, any act, error or omission taken by a government, regulated body or regulatory authority (including or failing to grant a necessary licence or consent) or any TPP (including without limitation any TPP ISP or network service provider, external payment processor or network), war, lockouts, strikes, embargoes, fires, interruption or failure of a utility service, failures of the internet or act of God; or

	<ul style="list-style-type: none"> such other matters in respect of which Vyne is entitled to relief under any other provision of this Agreement
Reserved Amount	means a pre-calculated sum which is retained in Merchant's E-Money Balance, as specified by Vyne from time to time;
Restricted Activity	any business activity which involves the sale or facilitation of any items or activities specified on this page and as updated by Vyne from time to time: https://www.payvyne.com/restricted-wix
Service	means either or both of the PI Service and/or the Settlement Service, as the context requires;
Settlement Account	means an E-Money account in Merchant's name held with the UK Settlement Provider and/or EEA Settlement Provider, as indicated on this Order Form, with a sort code and account number unique to this account, managed by Vyne on behalf of Merchant
Settlement Service	the service described in Schedule 2 (Settlement Service);

Transaction	<p>a payment or transfer of funds between an End User's account and:</p> <ul style="list-style-type: none"> • where Merchant receives the Settlement Service, the Settlement Account (which transfer may be from End User to Merchant, or may be a Refund); and • otherwise, the Merchant Account (which transfer may, for the purposes of the PI Service, be inbound to Merchant only)
Transaction Fee	<p>the transaction fee payable by Merchant, as agreed as part of the Vyne on-boarding process or as otherwise agreed between the Parties from time to time.</p>

3.2. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.

3.3. The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.

3.4. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

3.5. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

3.6. A reference to writing or written includes e-mail.

3.7. Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

3.8. References to clauses and Schedules are to the clauses and Schedules of this Agreement; references to paragraphs are to paragraphs of the relevant Schedule.

4. Initial Arrangements and KYC

4.1. During the registration process, Vyne will request information which Vyne requires in order to comply with its legal and regulatory requirements. Merchant must provide this information by return. Information on why these data are requested by Vyne and what Vyne will do with them is available at <https://www.payvyne.com/privacy-policy>. Merchant must ensure that it is authorised to provide all data that it transmits to Vyne.

4.2. Merchant must register with Vyne all Websites (URLs) using the Services and each trading name under which Merchant does business. Vyne shall not be liable for any costs arising from End Users not recognising the trading name associated with a specific Transaction on their account statement.

4.3. Vyne may, at its sole option, permit Merchant to receive Transactions via the PI Service before KYC verification has been completed. Where this is the case, and until KYC verification has been completed to Vyne's satisfaction:

4.3.1. Vyne may, at its sole discretion, restrict Merchant from being able to access funds in Merchant's Settlement Account ("Retained Funds"); and

4.3.2. Merchant may not be able to make refunds.

4.4. If Merchant's fails Vyne's KYC requirements, Vyne:

4.4.1. shall notify Merchant that this is the case (but shall not be required to provide any reasons);

4.4.2. may terminate this Agreement on giving Notice to the Merchant with effect from the date and time specified by Vyne (which may be immediate); and

4.4.3. shall send the Retained Funds to the Merchant Account, minus any sums required to pay outstanding fees, except to the extent Vyne is restricted from doing so by operational difficulties or legal or regulatory requirements.

5. Provision of the Service

5.1. Upon completion by Vyne of all applicable KYC verification, identification, anti-money laundering, and any other regulatory requirements notified to Merchant, and subject to Merchant's continued compliance with the terms of this Agreement and payment of the Fees, Vyne agrees to provide the Service to the Merchant.

5.2. Vyne will:

5.2.1. use reasonable endeavours to keep the PI Service available to receive Transactions 99% of the time (measured on a quarterly basis), except:

(a) during scheduled downtime (i.e. when the PI Service is not available due to maintenance activities); and

(b) where non-availability is caused by a Relief Event

5.2.2. use reasonable efforts to carry out any scheduled downtime between 0000-0700 hrs GMT on either a Tuesday, Wednesday or Thursday; and

5.2.3. give the Merchant as much notice as is reasonably possible of any changes to or unavailability, or anticipated unavailability, of the Service.

5.3. Merchant acknowledges that the Service facilitates payments being requested by the End User and effected between Merchant and Merchant's End Users. Any End User may withdraw his or her permission for use of the Service to initiate payments from his or her account at any time, or may decline to authorise his or her bank to effect any Transaction. Vyne shall not be liable to Merchant for any costs, losses, damages, chargebacks, fees or fines associated with any failed or declined payment requests made through the Service in such situations.

5.4. Merchant agrees that Merchant is solely responsible for fulfilment of all transactions entered into by Merchant with End Users for the provision and supply of goods and services to such End Users, including, without limitation, all contractual and statutory obligations arising in connection with Merchant's contract with End Users, and that all disputes as to fulfilment, delivery, satisfactory performance, suitability, fitness for purpose and like matters arising from any dispute, and any refunds, replacements, repair or cancellation of any matters that are the subject of such End User contracts are Merchant's responsibility. Merchant shall not take any steps to encourage End Users to bring a claim against Vyne.

5.5. Vyne is authorised by the FCA as a Payment Institution and is authorised to carry out payment initiation services with FCA registration number 925649. Vyne is also an EMD Agent of Modulr FS Limited for the issuance, distribution and redemption of E-Money with FCA registration number 850257. Vyne reserves the right to vary its regulatory arrangements without notice to Merchant, provided that (subject to clause 16) Vyne remains bound to continued provision of the Service in accordance with this Agreement.

6. Use of the Service

6.1. Merchant agrees to provide Vyne with all necessary information and co-operation in relation to Merchant's receipt of the Service, and all such access to information or systems as may be required by Vyne to ensure proper operation of the Service.

6.2. Merchant must only use the Service in accordance with the terms of this Agreement and any support documentation or instructions Vyne provide to Merchant.

6.3. Merchant warrants, represents and undertakes that its use of the Service will not:

6.3.1. infringe any applicable laws ,including without limitation by;

(a) offering for sale any goods or services:

(i) in conflict with any applicable law or regulation or which causes an unacceptable risk for Vyne's reputation;

(ii) without being willing or able to deliver them to the relevant End User(s) within a reasonable period, or in any event within the period required by local law and regulation;

(iii) collecting payments without an appropriate and valid contract between Merchant and the End User; or

(iv) without having in place an operating model which is suited to adequately treating customer complaints and disputes; or

(b) committing fraud, terrorism-financing, money laundering, illegal activities or aiding and abetting and/or allowing fraudulent and unlawful activities; or

6.3.2. constitute or facilitate any Restricted Activity.

6.3.3. contain any material or content that is obscene, offensive, abusive, harassing, indecent, defamatory or discriminatory;

6.3.4. infringe the Intellectual Property Rights of any third party; or

6.3.5. hacking, phishing, attempt to penetrate, or transmit or introduce any Malicious Software into, Vyne's systems or those of any financial institution.

6.4. Merchant must make available to the End Users any statements, notices or other terms (which End Users may be required to accept before proceeding to authorise payments to Merchant) that Vyne provides to Merchant in relation to use of the Service.

6.5. Except as expressly stated herein, Merchant must not (nor permit any third party or End User to):

6.5.1. copy, modify, duplicate, create derivative works from, mirror, republish, download, display, transmit, or distribute all or any portion of the Service;

6.5.2. decompile, translate, reverse engineer or otherwise reduce to derive source code, algorithms, tags, specification, architecture, structure or other elements of the Service, in whole or in part;

6.5.3. access all or any part of the Service in order to build a product or service which competes with the Service; or

6.5.4. remove any trade mark, logo, trade name, copyright notice and/or any other proprietary notice (as applicable) from the Service.

6.6. Merchant must not provide access to (including sharing Merchant's access credentials) or resell the Service to any third party.

6.7. Merchant acknowledges that Vyne is authorised and regulated by the FCA and has legal obligations as a result of such authorisation and, accordingly, Merchant agrees promptly to take all steps and supply all such information as may legally be required by the FCA or other supervisory authorities as a result thereof. Merchant further accepts and understands that Vyne may be prevented from performing all or part of the Service if issued with a lawful instruction by the applicable law enforcement authorities or financial regulator (including the FCA). In those circumstances, Vyne will use its reasonable efforts to perform the Service so far as it is legally permitted to do so and will, so far as permitted by law, consult with Merchant in so doing.

6.8. On delivering a payment instruction for processing under this Agreement, Merchant represents and warrants to Vyne that the transaction to which the payment relates is a bona fide transaction in the ordinary course of business and in respect of which the End User is of full legal age and capacity. Merchant further agrees not to effect, or attempt to effect, payments in respect of transactions which constitute unlawful transactions and/or relate to goods and services in respect of which Merchant has not verified legal requirements as to age of the relevant End User and Vyne shall have the absolute right to refuse to process or to cease processing payments which it believes constitute such transactions.

7. Security

7.1. Vyne will take all reasonable industry standard steps (and in particular having regard to compliance with Vyne's obligations as an FCA regulated entity) to ensure the security of the Service and protect Merchant's data and the data of Merchant's End Users.

7.2. Merchant must promptly implement any security measures that Vyne reasonably require (or as may arise from Vyne's obligations as an FCA regulated entity) from Merchant in order for Merchant to continue using the Service.

7.3. Merchant must notify Vyne immediately via the communication methods outlined in section 21 of this agreement if Merchant becomes aware of any:

7.3.1. misdirected payments;

7.3.2. unauthorised access or use of the Service; or

7.3.3. any other actual or potential breach of security in relation to the Service, and provide reasonable assistance to Vyne to address the relevant issue.

8. Fees

8.1. The Transaction Fee is payable for any Transaction between Merchant and an End User which has been initiated using the Service and received into Merchant's Settlement Account.

8.2. The Fees include a minimum monthly amount which Merchant agrees to pay notwithstanding that Transaction fees may not add up to such amount (the "Minimum Invoice Amount").

8.3. Vyne shall invoice Merchant via the Merchant Email Address, or any other method which Vyne deems appropriate from time to time, at the end of each calendar month. The Minimum Invoice Amount will be pro-rated in the first invoice.

8.4. All payments of Vyne's invoices rendered in accordance with this Agreement shall be made in full without any set off, deduction or withholding whatsoever, save for such deductions or withholdings as are required by applicable law. If the Merchant is required by applicable law to make any deduction or withholding, the sum due in respect of such payment shall be increased so that, after the making of such deduction or withholding, Vyne receives a net sum equal to the sum Vyne would have received had no such deduction or withholding been made.

8.5. The Fees are exclusive of any amounts in respect of VAT. If anything done by one Party under this Agreement constitutes, for VAT purposes, the making of a supply to the other Party and VAT is or becomes chargeable on that supply, the Party receiving the supply shall pay the other Party, in addition to any amounts otherwise payable under this Agreement by the Party receiving the supply, and against delivery of a valid VAT invoice to the Party receiving the supply, a sum equal to the amount of VAT which is chargeable in respect of that supply. Such sums payable by Merchant shall be paid by the applicable method referenced in clause 8.8 below.

8.6. If any invoice (or part thereof) which is due and payable under this Agreement is not paid by the due date, Vyne may charge interest on any unpaid amounts at the rate of an annual rate equal to four per cent. (4%) over the then current base lending rate of the Bank of England from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

8.7. Vyne may increase the Fees at any time upon not less than sixty (60) days' prior Notice to Merchant. By continuing to use the Service following such Notice, Merchant will be deemed to have accepted the update.

8.8. Without prejudice to any other remedy available to Vyne under this Agreement, Vyne may suspend Merchant's use of and access to the Vyne Service without any liability to Merchant if any Fees are outstanding, until such Fees are paid.

8.9. Payment of the Fees will be made by Vyne deducting the Fees from available balances and/ or from each transacted amount, which Vyne may do at such intervals as Vyne may choose at its sole discretion. Where such balances and transacted amounts are insufficient to pay the Fees, Merchant shall pay Vyne the shortfall within 14 days of Vyne's invoice for it.

9. Intellectual Property Rights

9.1. Merchant may only use the "Vyne" name and any of Vyne's trade marks as authorised by Vyne and in accordance with any brand usage requirements that Vyne may provide to Merchant from time to time.

9.2. Merchant permits Vyne to identify Merchant as a client. To this end, Merchant grants Vyne a perpetual, non-exclusive, royalty-free and non-transferable licence during the Term for Vyne to use the Merchant's logo, name and branding on Vyne's website and in any marketing and publication materials including but not limited to social media channels.

9.3. All Intellectual Property Rights in and to the Service (including all software contained therein and all documentation made available to Merchant pursuant to this Agreement) shall remain vested in Vyne or its third party licensors, and Merchant's rights are limited to the usage rights expressly stated herein.

9.4. Vyne shall indemnify Merchant against all liabilities, costs, expenses, damages and losses suffered or incurred by Merchant arising out of or in connection with any claim brought against the Merchant for actual or alleged infringement of a third party's Intellectual Property Rights arising out of Merchant's use of the Services, provided:

9.4.1. such use is in accordance with the terms of this Agreement,

9.4.2. Merchant notifies Vyne in writing of any claim against it in respect of which it wishes to rely on the indemnity immediately upon becoming aware of the claim;

9.4.3. Merchant does not, without Vyne's prior approval, make any admission to the claim or attempt to settle it, and allows Vyne, at its own cost, to conduct all negotiations and proceedings and to settle the claim, always provided that Vyne shall obtain Merchant's prior approval of any settlement terms, such approval not to be unreasonably withheld; and

9.4.4. Merchant provides Vyne with such reasonable assistance regarding the claim as Vyne requires, subject to reimbursement by Vyne of Merchant's costs so incurred.

10. Confidentiality

10.1. Each Party agrees with the other:

10.1.1. to keep all Confidential Information received from the other Party or otherwise pursuant to this Agreement confidential;

10.1.2. to apply appropriate security measures and a reasonable degree of care to the Confidential Information, which shall be at least that which the recipient applies to its own confidential information;

10.1.3. only use Confidential Information of the other Party for the purpose of enjoying that Party's rights and fulfilling that Party's obligations under this Agreement or any other agreement in place between the parties; and

10.1.4. not to disclose such Confidential Information in whole or in part to any person other than its own directors, officers, employees, agents and advisers, provided that Each Party shall ensure that all persons to whom it discloses the other Party's Confidential Information keep it confidential in accordance with the terms of this clause 10.

10.2. The obligations of confidentiality under this Agreement shall not apply to any Confidential Information:

10.2.1. which becomes public knowledge other than as a result of a breach of this Agreement;

10.2.2. already in the receiving Party's possession without an obligation of confidentiality prior to disclosure by the disclosing Party in connection with this Agreement;

10.2.3. lawfully obtained by the receiving Party without any obligation of confidentiality from a third party who was entitled to disclose it; or

10.2.4. which the receiving Party can demonstrate was independently created by the receiving Party without the use of any of the disclosing Party's Confidential Information.

10.3. Each Party may disclose the other Party's Confidential Information to the extent required by law or regulation, by any governmental or other regulatory authority (including, without limitation, the Financial Conduct Authority) or by a court or other

authority of competent jurisdiction provided that, to the extent it is practicably possible and legally permitted to do so, it gives the other Party as much Notice of such disclosure as possible and, where Notice of disclosure is not prohibited, it takes into account the reasonable requests of the other Party in relation to the content of such disclosure.

10.4. This clause 10 shall survive termination or expiry of this Agreement.

11. Compliance

11.1. Each Party shall at its own expense comply with all laws and regulations relating to its activities under this Agreement, as they may change from time to time, and with any conditions binding on it in any applicable licences, registrations, permits and approvals.

11.2. Both parties will comply with all applicable requirements of Data Protection Legislation, and provide support and information to each other in relation to such compliance insofar as it relates to the subject matter of this Agreement.

12. Warranties

12.1. Each Party hereby warrants and undertakes to the other Party that it has full capacity and authority to enter into and to perform this Agreement.

12.2. Merchant warrants that:

12.2.1. Merchant is legally entitled to use the Service in Merchant's countries of operation;

12.2.2. all information Merchant provides to Vyne in relation to the Service is complete and accurate in all respects; and

12.2.3 Merchant shall promptly and accurately update Vyne when any such information changes.

12.3. Save to the extent set out in clauses 5.1 and 7.1, Vyne does not give any warranties, conditions, guarantees or other commitments to Merchant:

12.3.1. in relation to the availability functionality, performance, service levels, latency or accuracy of, the Service including, without limitation, any commitment that the Service will be uninterrupted or error free, and Merchant acknowledges that the Service may be subject to downtime due to planned or emergency maintenance, updates or modifications; or

12.3.2. that data made available to Merchant in relation to Merchant's End Users through Merchant's use of the Service will be accurate or complete or meet any specific requirements.

12.4. Merchant acknowledges that transfer of data over the internet through the Service may be subject to limitations, delays and other problems inherent in the use of such communications facilities which are outside of Vyne's control.

12.5. Merchant shall indemnify Vyne against any and all costs, losses, damages, fines and other liabilities arising from:

12.5.1. any action brought against Vyne by any End User in connection with this Agreement and/or the Service; or

12.5.2. any breach by Merchant or Merchant's End Users of this Agreement or any applicable law or regulation.

13. Liability

13.1. Nothing in this Agreement shall limit the liability of either Party for:

13.1.1. death or personal injury resulting from negligence;

13.1.2. fraud or fraudulent misrepresentation; or

13.1.3. any other liability that cannot be excluded or limited by English law.

13.2. Subject to clause 13.1:

13.2.1. neither Party shall under any circumstances whatever be liable to the other, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for:

- (a) any loss of profit, sales, revenue, or business;
- (b) loss of anticipated savings;
- (c) loss of or damage to goodwill;
- (d) loss of agreements or contracts;
- (e) any loss arising out of the lawful termination of this Agreement or any decision not to renew its term, or
- (f) any loss that is an indirect or secondary consequence of any act or omission of the Party in question;

13.2.2. Vyne's total aggregate liability to Merchant under this Agreement and for any use by Merchant or Merchant's End Users of the Service shall not exceed the amount of Fees paid by Merchant to Vyne in the twelve (12) months preceding the date of any claim for liability (or, if this Agreement has been in force for less than twelve (12) months, shall not exceed the aggregate of fees actually paid up to the date of claim); and

13.3. Where Merchant elects to use a Platform to access the Service, Merchant acknowledges that Vyne will not be liable to Merchant in any manner whatsoever, for any losses, costs, fees, charges, liability and/or expenses that Merchant has incurred or may incur in connection with any failure, non-availability, suspension of or other issue or circumstances affecting the Platform, including without limitation:

- 13.3.1. inability to use, or issues with using the Service; and
- 13.3.2. failure of or defect in the security of the Platform.

13.4. Without limitation to Vyne's other remedies under this Agreement, Merchant acknowledges and accepts that if Vyne is subjected to a fine or other penalty by a regulatory authority as a result of Merchant's breach of this Agreement, Merchant shall be liable to recompense Vyne for such fine, and any associated legal and other professional services fees incurred in connection with the breach.

14. Force Majeure

14.1. If Vyne is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event, Vyne shall not be in breach of this Agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

14.2. Vyne shall:

14.2.1. as soon as reasonably practicable after the start of the Force Majeure Event, notify the Merchant of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and

14.2.2. use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

14.3. If the Force Majeure Event prevents, hinders or delays Vyne's performance of its obligations for a continuous period of more than two weeks, Merchant may terminate this Agreement on serving Notice with immediate effect.

15. Term and Termination

15.1. This Agreement shall come into force on the Effective Date and, unless terminated earlier pursuant to this Agreement, shall continue until either Party serves not less than 30 days' Notice on the other Party to terminate this Agreement.

15.2. Either Party may terminate this Agreement with immediate effect by giving Notice to the other Party if the other Party:

15.2.1. materially breaches the provisions of this Agreement and such breach is not capable of remedy;

15.2.2. materially breaches the provisions of this Agreement and that Party fails to remedy the breach within ten (10) Business Days of being notified of the breach in writing; or

15.2.3. is subject to an Insolvency Event.

15.3. Merchant acknowledges that as Vyne is an FCA regulated entity, it has regulatory obligations. Accordingly, Vyne may suspend or terminate this Agreement immediately by Notice in writing to Merchant if Vyne:

15.3.1. has reasonable suspicions that Merchant is misusing the Service or are in breach of any applicable law or regulation. If Vyne terminates this Agreement in accordance with this clause 15.3.1, Vyne shall provide Merchant with evidence of Vyne's reasonable suspicion, unless prohibited from doing so by law; or

15.3.2. is not satisfied (acting in good faith) with the findings of any request for information from Merchant, including KYC information.

15.4. If Vyne ceases to provide the Service via the Platform, this Agreement shall automatically terminate.

15.5. On termination of this Agreement for any reason:

15.5.1. Merchant's right to use the Service shall immediately cease, and Merchant shall not solicit any payments from End Users by purporting to use the Service; and

15.5.2. Merchant shall make payment to Vyne of all Fees properly due and payable to Vyne (if any) up to the date of termination of this Agreement, including without limitation any monthly fees incurred prior to the termination date. Monthly fees which fall payable before the termination date shall be payable notwithstanding that the termination date may fall within the month covered by such fees.

15.6. Termination of this Agreement shall be without prejudice to any rights and remedies of either Party which may have accrued up to the date of such termination including, for the avoidance of doubt, payment of any Fees as have become due and payable.

16. Updates to this Agreement

16.1. Vyne may update this Agreement to the extent legally necessary to ensure continuing compliance with applicable laws or regulations. Merchant acknowledges that Vyne may make updates arising from legal requirements without Merchant's specific agreement or consent.

16.2. Vyne may also update this Agreement to accommodate changes to the way that its business operates. If any such updates substantially adversely impact Merchant's rights or Merchant's ability to use the Service, Vyne will provide Merchant with advance Notice of those changes. By continuing to use the Service following such Notice Merchant will be deemed to have accepted the update. If Merchant does not accept the proposed update, it may terminate this Agreement with immediate effect by providing Vyne with written Notice, provided that such Notice is received by Vyne within ten (10) days of the date the proposed update is sent to Merchant.

17. Entire Agreement and Variation

17.1. This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

17.2. Each Party acknowledges that in entering into this Agreement it does not rely on, and shall have no rights or remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out herein.

17.3. Except as provided in clause 16, no variation of this Agreement shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).

18. Assignment and Other Dealings

18.1. Merchant shall not assign, sub-contract, or deal in any other manner with any or all of its rights or obligations under this Agreement (including the licence rights granted), in whole or in part, without Vyne's prior written consent.

18.2. Vyne may at any time assign or sub-contract any or all of its rights or obligations under this Agreement, in whole or in part without Merchant's consent.

19. No Automatic Waiver

19.1. No failure or delay by a Party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

19.2. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

20. Severance

20.1. If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

21. Notices

21.1. Any notice given to Vyne under this Agreement shall be in writing and may be given by personal delivery, registered mail, email, or at Vyne's registered office or such other addresses as may be designated by Vyne to Merchant via email or the Portal. Vyne's email address for these purposes is support@payvyne.com.

21.2. Any notice given to Vyne under this Agreement shall be given, at Vyne's sole option, via email to the Merchant Email Address, or via the Portal.

22. Third Party Rights

22.1. A person who is not a Party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any terms of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999. The rights of the parties to rescind or vary this Agreement are not subject to the consent of any other person, including without limitation the Platform Provider.

23. Governing Law and Jurisdiction

23.1. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales. Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

Schedule 1

Payment Initiation Service

1. Overview

1.1. Vyne will provide Merchant with technology services that allow Merchant to accept direct account-to-account payments from End Users.

1.2. Vyne provides payment initiation services to End Users. Where Vyne provides payment initiation services directly to the End User, Vyne will issue End User Terms and Conditions to the End User that govern the provision of the payment initiation services. Vyne provides the payment initiation services to End Users in its capacity as a Payment Institution authorised by the FCA with registration no. 925649. Vyne may vary its regulatory arrangements without notice to Merchant, provided that (subject to clause 16) Vyne remains bound to continued provision of the PI Service in accordance with this agreement.

1.3. Merchant will be able to integrate the PI Service into Merchant's platform using the Vyne API which will enable an End User to make a request to initiate a payment from an End User's bank account to Merchant's bank account.

1.4. The option to "pay by Vyne" or "Instant Bank Transfer, powered by Vyne" is required to be placed on Merchant's checkout or purchase page.

1.5. Once an End User has selected "pay by Vyne" or "Instant Bank Transfer", Merchant will post Transaction details to the Vyne platform and the End User will make a request to initiate the Transaction to Merchant, whereupon Vyne will invoke the End User's banking app or bank website to verify themselves.

1.6. The End User will then approve or decline the payment, and will be redirected back to Merchant's website or app via Vyne's platform with a payment status of success or fail.

2. Flow of Funds

2.1. All funds are credited to Merchant's Settlement Account.

2.2. All Transactions occur and are completed through the Faster Payments scheme in the UK, SEPA Instant and other domestic schemes within the EU, and other regulated national and international schemes as appropriate and required.

3. Mobile & App Based Payments

3.1. Where an End User has a banking app installed on their payment device, and where the PI Service supports "deep linking" for that bank, the End User's banking app will be invoked for the End User to approve the payment. Where a banking app is not available, the End User will be asked to log-in and approve the Transaction via a web-page.

4. Web based Payments

4.1. Where a Transaction is initiated by an End User on a non-mobile device, the End User will be redirected to their bank's web-page to log in and approve the Transaction.

5. Marketing Requirements

5.1. The "Pay with Bank" option (or other wording as agreed with Vyne from time to time) is required to be placed on at least par with other payment options available to consumers on Merchant's payment page.

5.2. Merchant will work with Vyne to ensure a successful launch by promoting the Vyne payment method to its audience. This includes but is not limited to EDM campaigns, website banners, PR activity and social media posts.

5.3. Merchant will support Vyne in producing a case study for promotional purposes to be marketed and distributed by Vyne. Case study will be either in written or video format. Any associated costs of production will be borne by Vyne.

Schedule 2

Settlement Service

1. Provision of account

1.1. Vyne will provide to Merchant, or procure the provision to Merchant of, a Settlement Account. The funds received as a result of Transactions to Merchant will be credited to this account.

2. Automatic Settlement

2.1. Not less than once per day, Vyne will aggregate the amount of Inbound Transactions and pay them to the Merchant Account, net of fees payable to Vyne, minus a deduction to retain the Reserved Amount ("Automatic Settlement"). Inbound Transactions received into the Settlement Account in the half hour period before

Automatic Settlement taking place may not be included in that Automatic Settlement but shall be included in the next Automatic Settlement.

2.2. Vyne reserves the right to withhold funds from the Automatic Settlement, to be held in the Settlement Account, if they are suspected to be related to fraudulent Transactions, illegal activities, Restricted Activities or related to any breach or possible breach of these Terms, including but not limited to 6.3.1 and 6.3.2.

2.3. No interest will be due on amounts held by Vyne prior to Automatic Settlement or other amounts held prior to transfer to the Merchant Account at any time.

3. Payments in

3.1. The Settlement Account will receive payments received via the PI Service.

4. Payments out

4.1. Merchant will be able to make Refunds.

5. On termination

5.1. On termination or expiry of the agreement for the provision of the Settlement Service, Vyne will promptly pay to the Merchant Account all amounts held in the Settlement Account (including without limitation any Reserved Amount) less any Fees due to Vyne.

Schedule 3

Merchant Portal

Vyne shall provide Merchant with access to a Web-based portal (the "Portal"), which will provide Merchant with:

- (a) information regarding Transactions processed by the Services;
- (b) information and management tools relating to Merchant's account with Vyne, such as user creation and administration.

(d) information relating to Automatic Settlement schedules and calculation of the Reserved Amount.

Vyne will also communicate with the Merchant via the Portal as described elsewhere in this Agreement.