

General Terms & Conditions for New Zealand

These Terms and Conditions are a legal agreement between you and Latitude Technologies Limited (Latipay) that governs your access to and use of Latipay's service as a Merchant.

Please review this entire Terms of Service before you decide whether to accept it and continue with the application process. If you do not accept these terms and conditions, you are advised not to use Latipay Platform.

1. Background and Purpose

This agreement is made between Latitude Technologies Limited ("Latipay", "us", or "we") with office location at Level 19, 120 Albert Street, Auckland, New Zealand and registration number 5532326, and the entity or person ("you", "your", or "merchant") who registered on the Latipay Account page to receive certain payment services, processing and other business services that maybe be offered by Latipay under the Laws of New Zealand. This Agreement describes the general terms & conditions that apply to your use of the Services as Merchant.

Latipay grants to the Merchant a non-exclusive, non-transferable license to use the Latipay Payment Gateway for the term of this agreement solely for the purposes of the permitted use. Except to the extent specifically authorized under this agreement, Merchant must not sub-license, transfer or assign the right to use.

2. Services

Latipay provide facilities for merchant to accept card scheme, e – wallet & other payment method (collectively payment services) to meet the needs of their end customer.

3. Definitions

The following defined terms appear in this Terms and Conditions;

- **Acquirer:** Any financial institution, usually a bank, that facilities to acceptance of payments from the Cardholder through Latipay, by processing transactions via payment methods for which the Acquirer is authorized by the relevant Scheme Owner.
- **Agreement:** This means the written (or electronic) agreement entered in to between the Merchant and Latipay International Limited, the terms of which are these Conditions of use as may be varied from time to time.
- **Card:** Any form of Credit Card or Debit Card, which may be used by a Cardholder to carry out a transaction on the Cardholder's account.
- **Cardholder:** Any person who is issued a Card; possesses and uses the Card and, when required, whose signature appears on the Card as an authorized user.
- **Merchant:** The entity that has entered into this Agreement with Latipay regarding the delivery of the Service.
- **PCIDSS:** Payment Card Industry Data Security Standard
- **Scheme Owner:** The party offering and/or regulating the relevant payment method.
- **Scheme Rules:** The collective set of bylaws, rules, regulations, operating regulations, procedures and/or waivers issued by the Scheme Owners as may be amended or supplemented over time and with which the Merchant must comply when using the relevant payment method.
- **Service:** The Latipay service, described in this Terms and Conditions, which facilitates the processing of Payment Transactions on behalf of a Merchant.

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- **Business Day:** means a day on which registered banks are open for general business banking, other than a Saturday, Sunday or statutory holiday.

4. Merchant Responsibilities and Undertakings

4.1 In the event of any changes to your company structure, including but not limited to the company name, business address, list of director and/or shareholder, designated bank account/details, etc you are required to provide us with all the relevant company document(s) within fourteen (14) working days from the respective change.

Inform Latipay if you or your company intends to change your business model or nature of business moving forward, your company shall be responsible in notifying Latipay to review the changes made.

4.1.1 When there are any change and/or additions of new category of products/services, your company shall seek prior written consent from us and understand that this request shall deem as new application. We shall at our sole discretion to reject or accept this new application and all other terms to be discussed further.

4.1.2 You acknowledge and agrees that Latipay might request for supporting document for payments e.g. sales invoice, tax invoice, supplier documents, proof of delivery, order confirmation email etc to prove product/ services has been delivered by your company.

4.1.3 You acknowledge and agrees that it is Latipay sole discretion to approve, reject or request additional documents if any of the provided documents does not satisfy our requirements. You agree to provide all reasonable information and documentation to assist Latipay meet its obligations under the Anti Money Laundering and Countering Financing of Terrorism Act 2009 and any other relevant Acts or regulations.

4.1.4 You warrant that you will provide complete, accurate, current and genuine information or documents and authorize Latipay to perform the necessary verification via third party verification partners.

4.2 The Merchant shall:

- i) Not make any warranty or representation what so ever in relation to the Services which may bind Latipay or make it liable in any way whatsoever unless provided otherwise in these Terms and Conditions;
- ii) Where required, comply with all security or encryption standards, rules and procedures imposed by Latipay as agreed herein;
- iii) Make connections to such other systems as Latipay may require from time to time;
- iv) Not capture, by any means possible, cardholder payment card details including but not limited to Primary Account Number (PAN) or Card Number, Personal Identification Number (PIN), Card Verification Value (CVV);
- v) Comply with all PCI DSS regulations as relates to the services herein;
- vi) keep any approved digital certificates for a site authentication current and valid and take all necessary measures to protect the security and secrecy of its site certificates;

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- vii) Only accept payments and/or process refunds from cardholders or customers in connection with goods and/or services which have been supplied to the relevant cardholder or customer;
 - viii) Subject to Section 4.2, undertake not to offer for sale on their sites, any goods or services not expressly stated during the registration of the Merchant's website with Latipay, the default of which Latipay shall, without any liability, three days after issuing written notice to the Merchant, immediately withdraw its Services and prevent access to the Systems;
 - ix) Agree that only the websites expressly stated upon its registration and approved by Latipay shall be integrated into the Systems and derive the services provided;
 - x) Ensure goods being ordered and paid for in its system are available in order to avoid refunds and chargebacks. If the chargebacks exceed 1% of the volumes processed via Latipay, then the Merchant may, at Latipay's absolute discretion, be deactivated from the platform or be subjected to the applicable penalties outlined in Schedule B of the Annexure in Merchant Agreement
 - xi) Get authorization through Latipay, from the relevant Card Issuer for all Card Payments and cancel any authorization for a Card Payment that does not go ahead straight away;
 - xii) Agree that when an authorization is requested, Latipay will contact the Card Issuer to approve the Card Payment. Authorization is not a guarantee of payment and it does not prevent Latipay from charging the Card Payment back to the Merchant if any of the reasons set out in clause 6.2 apply. The Merchant should be aware that accepting Card Not Present Payments is done so at its own risk and neither Latipay nor the Card Issuer will offer any guarantee of payment;
 - xiii) Note that the Floor Limit for all Electronic Commerce Payments is zero and so it must obtain authorization for all Electronic Commerce Payments through the Latipay system. Latipay may change the Floor Limit for Electronic Commerce Payments through the Latipay system from time to time and will notify the Merchant of any changes in writing;
 - xiv) Note that Latipay does not allow or process any Mail Order Telephone Order (MOTO) Payments through the Latipay system.
- 4.3 Unless otherwise agreed by the Parties in writing, the Merchant acknowledges and agrees that Merchant shall (at own cost) be solely responsible throughout the duration of this agreement for the provision of all such equipment, software, systems and telecommunications facilities which are required to enable the Merchant receive the Services.
- 4.4 In order to permit the Merchant's websites to inter-operate with Latipay payments systems, the Merchant will be provided with API codes to be installed on the Merchant's website. The Merchant shall have full responsibility for the integration process and Latipay shall not be liable for any fault or failure to integrate to the payment systems. All Integration however, shall be subject to passing Latipay's Integration acceptance tests prior to go live.
- 4.5 The Merchant shall be liable solely for directly incurred costs arising from Data stored or transmitted on or through the Systems or any use of the Systems passwords or identification codes assigned by Latipay.
- 4.6 The Merchant shall observe and comply with all security measures and instructions prescribed by Latipay or any bank in respect of any card transactions or customer (cardholder) payment instruction.

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- 4.7 The Merchant shall promptly notify Latipay of any security breach, misuse, irregularity, suspected fraudulent transaction, account numbers or suspicious activities that may be connected with attempts to commit fraud or other illegal activity through the use of the Merchant's site.
- 4.8 The Merchant shall be solely responsible to its online customers(cardholders) on its site and use thereof of the payment systems. The Merchant understands and agrees that under no circumstances shall use of the site or payment systems imply that Latipay endorses, sponsors, certifies or otherwise guarantees the sale or use of the Merchant's Products.
- 4.9 Both parties shall take all steps to keep secure and confidential any information or data related to transactions initiated on the Merchant's website. In the event any such information is lost, stolen or otherwise compromised, the Merchant shall forthwith report and give written notice of such occurrence to Latipay whereupon the Merchant shall take immediate steps to remedy the situation and prevent its re-occurrence.
- 4.10 The Merchant shall ensure that all sums due and payable by way of fees or settlement due to chargebacks or otherwise are settled in full to Latipay when they are due and the Merchant hereby authorizes and allows Latipay to debit its accounts for any such amounts or use any means available to recover such amounts.

5. Services Fees and Charges

Opening an account with us is generally free, but fees may apply depending on the services you use, which we will share with you in Schedule A in Merchant Agreement once we have complete the onboarding process.

6. Rolling Reserves

Depending on the nature of your business, and assessment of your applications, you may be subject to rolling reserve. The details will be outlined in the merchant agreement, which will be provided upon finalization of the agreement and completion of the onboarding process.

7. Settlement of Transaction Funds

7.1 Merchants have the option to select either automatic or manual withdrawal. For those opting manual withdrawal, it is the merchant's responsibility to submit a withdrawal notice.

Latipay process settlement funds at 3.00pm New Zealand time on business days (excluding weekends and public holidays.)

Submission Timing : Merchants who submit a withdrawal request after 3.00pm will have their settlement processed the next business day.

Settlement Timing :

If a merchant submits a withdrawal request on day "T" before 3pm, Latipay will process the settlement on business day "T+1" between 3pm and 4pm.

If a merchant submits a withdrawal request on day "T" after 3pm, Latipay will process the settlement on business day "T+2" between 3pm and 4pm.

Note : "T" refers to the date of the withdrawal request. "T+1" means the next business day after the date of withdrawal, and "T+2" means the second business day after the date of withdrawal.

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7.2 All settlement shall always be done in either New Zealand Dollar (NZD) regardless of the currency of the transaction. Where the payment is done on a card that is not denominated in the above currencies, we will convert the amount deducted from the card to a default USD on the day the transaction is processed using the prevailing foreign exchange index in the market.

7.3 Settlements shall only be made to the bank account provided by the merchant which should be in the merchant's name. No settlement will be made to any third-party bank account. Additionally, no claims shall be made to Latipay by a third party against funds settled directly to the merchant.

7.4 The Merchant shall have no right of objection to any received amount after the expiry of 30 business days.

8. Indemnity

- 8.1. The Merchant shall, except in instances where there is contributory negligence by Latipay, indemnify and hold Latipay indemnified from and against all direct actions, proceedings, costs, claims, demands, charges, expenses (including legal expenses), liabilities, fines, levies, losses and damages, whether arising in tort, contract or common law, which Latipay may actually have incurred or suffered to the extent arising out of or in consequence of or in connection with:
- a) any claim brought against Latipay and notified in writing to the Merchant within a reasonable period by a Customer, Cardholder, Card Scheme, Card Issuer, Other Financial Institution, Acquirer or other third party arising from a transaction and relating to the services whether or not previously remitted to you;
 - b) any other claim brought against Latipay arising from any aspect of this Agreement (including in connection with any security breach as described in clause 3.5, compromise or theft of Data held by Merchant or on behalf of the Merchant irrespective of whether such security breach, compromise or theft of Data was within or outside the Merchant's control);
 - c) the enforcement or attempted enforcement of this Agreement (which includes the recovery or attempted recovery of any sum owing to Latipay under this Agreement);
 - d) the protection of Latipay's interest in connection with any aspect of the parties relationship under this Agreement (including the cost of any third parties nominated by Latipay or instructed by Latipay for this purpose);
 - e) a breach by Merchant of any of these conditions or any other provisions of the Agreement not cured within seven days following Latipay written notice;
 - f) any transaction (including a transaction which is subsequently discovered to be fraudulent); or
 - g) Any other arrangements between the Merchant and the Merchant's customer, except, in each case, if and to the extent caused by or contributed to by Latipay's negligence or breach.
- 8.2. Save for wilful misconduct or gross negligence by Latipay, in no event shall Latipay be liable to the Merchant, or the Merchant be liable to Latipay in excess of the transaction fees accrued by virtue of this Agreement, in the month immediately preceding the date when a claim to be indemnified is raised.
- 8.3. If you are a partnership, each partner shall be jointly and severally liable under the Contract.

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9. Taxes and chargebacks

- 9.1 Unless stated otherwise, all Fees, charges and other payments to be made by the Merchant are exclusive of GST and any other relevant taxes and in addition to paying such Fees, charges or other payments, Merchant shall also pay any such taxes.
- 9.2 In certain circumstances, Card Issuers, Card Schemes and/or Other Financial Institutions refuse to settle a transaction or require repayment in respect of a transaction previously settled and/or remitted, notwithstanding that authorization may have been obtained from the Card Issuer and/or Other Financial Institution (such circumstances being a "chargeback").
- 9.3 The Merchant acknowledges and agrees that under all applicable rules, regulations and operating guidelines issued by Card Schemes, Financial Institutions, Central Banks and Latipay relating to cards, transactions, other payment methods and processing of data, the Merchant may be required to reimburse Latipay for chargebacks in circumstances where the Merchant has accepted payment in respect of the relevant transaction and even if the Merchant is under no legal liability for the supply or performance of the goods or services concerned. Any chargeback notice shall be in writing and shall detail the reason.
- 9.4 All chargebacks shall correspond to the whole or part of the settlement value of the original transaction or, at an amount converted to the settlement currency from the currency of chargeback by the Card Scheme to Latipay at the rate of exchange quoted for Settlement purposes on the day the chargeback is processed together with the Latipay fees reflected herein in this agreement. Any chargeback notice shall be in writing and shall detail the reason and delivered to the Merchant as soon as it has been received from the Acquirer
- 9.5 Where a chargeback occurs, Latipay shall immediately be entitled to debit the Merchant's position or make a reversal from the Merchant's Account and/or make a deduction from any remittance and/or invoice the Merchant to recover the full amount of the relevant chargeback plus the fees; and any other costs, expenses, liabilities or Fines which may be incurred as a result of or in connection with such chargeback ("chargeback Costs").
- 9.6 A chargeback represents an immediate liability from the Merchant to Latipay and where the full amount of any chargeback and/or any chargeback Costs is not debited by Latipay from Your Merchant Bank Account or deducted from any Remittance or invoiced as referred to in clause 7.5, then We shall be entitled to otherwise recover from the Merchant by any means the full amount of such chargeback and chargeback Costs (or the balance thereof, as the case maybe).
- 9.7 Latipay shall not be obliged to investigate the validity of any chargeback by any Card Issuer, Card Scheme or Other Financial Institution, whose decision shall be final and binding in respect of any chargeback.
- 9.8 As chargebacks may arise a considerable period after the date of the relevant transaction, the Merchant acknowledges and agrees that, notwithstanding any termination of this relationship for any reason, Latipay shall remain entitled to recover chargebacks and chargeback Costs (and, where relevant, from any entity who has provided Latipay with a guarantee or security relating to the Merchant's obligations under this relationship) in respect of all chargebacks that occur in relation to transactions effected during the term thereof.
- 9.9 Latipay reserves the right to immediately pass on to the Merchant and recover from the Merchant any fines incurred and/or impose further charges on Merchant as per clause 3.1 m and/or terminate the relationship forthwith if we consider that the total value of refunds

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and/or chargebacks is unreasonable based on the frequency, amounts and the proportion of volume of transactions. Latipay can recover fines from the Merchant in the same way as chargebacks and in any event, they represent an immediate liability from the Merchant to Latipay.

- 9.10. The Merchant agrees that it bears the responsibility to prove to Latipay's satisfaction (or that of the relevant Card Issuer or Other Financial Institution) that the debit of a customer's or cardholder's account was authorized by such customer or cardholder.
- 9.11. Chargeback provisions shall be as per the terms of the acquiring bank.

10. Refunds

- 10.1. In certain circumstances the Merchant may choose to refund a card payment to a customer for credit to your customer's Card account where the customer has declined acceptance of or returned the goods or services
- 10.2. The Merchant must make the request for a refund of card transactions to Latipay within one hundred and eighty days (180) of the transaction.
- 10.3. There shall be no refund of the fees charged for executing the original transaction in part or in whole to the Merchant where the transaction is refunded.
- 10.4. The refund transaction will be charged in accordance with applicable fees as per Schedule A for Latipay services
- 10.5. The Merchant understands and agrees that refunds for cards shall be subject to the acquiring bank's terms and conditions as outlined under clause 7.
- 10.6. The refund and its details must be in the form which we have approved.

11. Undertakings of Latipay

- 11.1. Latipay shall provide the services with reasonable care and skill and in accordance with all applicable laws and regulations and this Agreement
- 11.2. Latipay shall provide the Merchant with daily transaction and settlement reports during the Business Days. No reports shall be provided on non-settlement days. The Merchant must check its reports and statements carefully and notify Latipay if it includes something which appears to be wrong. We shall correct any erroneous entries to your merchant account as soon as possible after you notify us about them or we discover them. If you disagree with any of the entries on the report or statement, you must notify us within thirty (30) days from the date of the report otherwise the report will be deemed to be accurate.
- 11.3. Latipay warrants that it has the right and authority to grant to the Merchant the license set out in clause 1, in accordance with the terms of this Agreement; and any Support Services provided under this Agreement shall be performed in a workmanlike manner and in accordance with the usual, prevailing professional standards used by service providers in the provision of similar services.
- 11.4. Limitations on Warranties: To the fullest extent permitted by law, except as expressly set out in this agreement, Latipay excludes all warranties, conditions, terms, representations or undertakings whether express, implied, statutory or otherwise, including without limitation any condition or warranty of merchantability or fitness for a particular purpose.

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- 11.5. Latipay shall not be liable to the Merchant in event that the Merchant suffers loss arising from a breach of the security and integrity of the Merchant's Site, hardware or software related to this Service.
- 11.6. Latipay liability shall be limited to the fees earned by Latipay in the month preceding the event that caused loss. In no event shall Latipay be liable for any special, circumstantial, consequential or indirect loss to the Merchant or any third party.
- 11.7. The Merchant shall raise any claim from Latipay only within one (1) month of the issue causing the claim arose.

12. Disputes

- 12.1. Latipay shall not be involved in any dispute that may arise between the Merchant and a customer, unless such dispute specifically relates to transaction settlement.
- 12.2. Any dispute between the Merchant and Latipay shall be referred to the most senior executives of the Parties to resolve within thirty (30) days.
- 12.3. Upon the failure of an amicable resolution, disputes may be submitted to arbitration by either party. Such arbitration will take place in New Zealand. The parties shall agree on a mutual arbitrator, failure to which, either party shall apply to the AMINZ to make such appointment. To the extent permissible by law, the decision of the arbitrator shall be final and binding on the parties.

13. Service Termination

- 13.1. This Agreement shall remain effective until terminated.
- 13.2. Either Latipay or the Merchant may elect to terminate this agreement by giving thirty (30) days' prior notice in writing of its intention to do so.
- 13.3. Latipay shall, be entitled to immediately suspend the provision of the service or to terminate the service and by effect this agreement at any time with immediate effect by notice to Merchant if:
 - a. the Merchant is in material breach of any of the provisions herein;
 - b. the Merchant fails to pay any amount due under this Agreement;
 - c. Latipay considers (in its absolute discretion) that the total value of refunds and/ or chargebacks is unreasonable;
 - d. the Merchant is in breach of any applicable trading limit or floor limit;
 - e. the Merchant presents a transaction in a situation where the Merchant does not give to the relevant customer or cardholder the goods, services or other facilities referred to which they could reasonably expect to receive;
 - f. the Merchant becomes insolvent or any step is taken for the Merchant's liquidation, winding-up, bankruptcy, receivership, administration or dissolution (or anything analogous to the foregoing occurs in any jurisdiction);
 - g. anything happens to the Merchant or a matter is brought to the attention of Latipay which in our absolute discretion, we consider may affect the Merchant's ability or willingness to comply with all or any of Merchant's obligation or liabilities herein;

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- h. any other change in the Merchant's circumstances (including a deterioration in or change to the Merchant's financial position) or in the nature of the Merchant's business or in the goods and/or services supplied by the Merchant to customers or cardholders occurs which Latipay in its absolute discretion considers material to the continuance of the services or any facilities made available to the Merchant;
 - i. the Merchant ceases to carry on business;
 - j. Latipay in its absolute discretion, in the course of the Agreement, determines that the relationship with the Merchant's business represents increased risk of loss or liability;
 - k. anything happens to Merchant or comes to the attention of Latipay in relation to Merchant or arising from or incidental to the Merchant's business or the conduct of the Merchant's business (including trading practices and individual activities) or the Merchant engages in any business trading practices or individual activity which in Latipay's absolute discretion is considered disreputable or capable of damaging Latipay's reputation or that of any of the Card Schemes or Other Financial Institutions, detrimental to Latipay's business or that of any of the card schemes or other financial institutions or which may or does give rise to fraud or any other criminal activity or suspicion of fraud or any other criminal activity;
 - l. any fines or any other claims are brought against Latipay by any card scheme, financial institution or any other third party arising from any aspect of the parties' relationship (including in connection with any security breach, compromise or theft of Data held by the Merchant or on behalf of Merchant only if such security breach, compromise or theft of Data was within or under the scope of the Merchant's control);
 - m. Latipay is required or requested to do so by any Scheme Owner or Financial Institution;
 - n. the Merchant undertakes trading practices which Latipay has not consented to;
 - o. Latipay or any affiliate becomes entitled to terminate any agreement with or enforce any security from the Merchant or the Merchant's affiliate;
 - p. Any card scheme, financial institution, acquirer or regulator introduces additional terms and conditions or amends the terms and conditions relating to such services and in scope of the additional terms and conditions, it makes it impossible for Latipay to work with the Merchant.
- 13.4. The Merchant shall be entitled to terminate the Agreement at any time with immediate effect by notice if:
- a. save where permitted or authorized to do so pursuant to these Conditions, Latipay fails to pay any undisputed sums due to the Merchant within 30 days of notice from the Merchant informing that such payment has not been made;
 - b. Latipay becomes insolvent or any step is taken for its liquidation, bankruptcy, receivership, administration, dissolution or other similar action; or
 - c. Latipay is in material breach of any of the provisions of herein.

14. Consequences of Termination

- 14.1. Upon termination of this agreement and or service, all rights and obligations of either Party shall cease to have effect immediately, save that:
 - a. the clauses of conditions which expressly or by implication have effect after termination will continue to be enforceable notwithstanding such termination; and

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b. Termination shall not affect accrued rights and obligations of either Party under the Contract as at the date of termination.

14.2. Upon or at any time after termination, the Merchant shall immediately pay all amounts owed under the service and, for the avoidance of doubt, Latipay shall remain entitled to withhold sums, set-off any sums and recover any chargebacks and chargeback Costs pursuant to the relevant clauses herein.

15. Law

These Terms and Conditions shall be governed by the laws of New Zealand.

16. Waiver

The failure by either Party to enforce any of the provisions of this Terms and Conditions shall not constitute a waiver of the same or affect that Party's rights thereafter to enforce the same.

17. Assignment

Neither Party shall assign any of its obligations under this Terms and Conditions without prior written consent of the other Party, which shall not be unreasonably withheld.

18. Confidentiality

Each of the Parties hereto undertakes to the other to keep confidential all information (written or oral) concerning the business and affairs of the other that it shall have obtained or received as a result of the discussions leading up to or the acceptance of this Terms and Conditions save that which is

a) trivial or obvious; or

b) already in its possession other than as a result of a breach of this clause; or

(c) in the public domain other than as a result of a breach of this clause.

And each of the Parties undertakes to the other to take all such steps as shall from time to time be necessary to ensure compliance with the provisions of this clause by its employees, agents and subcontractors. The confidentiality obligations shall survive the termination of the Latipay Payment Gateway Service Provisions.

19. Force Majeure

If the compliance with these Terms and Conditions or any obligation under it is prevented, restricted or interfered with by reason of circumstance beyond the reasonable control of the Party obliged to perform it, the Party so affected shall be excused from performance to the extent of the prevention, restriction or interference, but the Party so affected shall use his best endeavours to avoid or remove the causes of non-performance and shall continue performance under this Terms and Conditions with utmost dispatch whenever such causes are removed or diminished.

20. Notices

20.1. Any notice required hereunder shall be in writing and may be served either personally, or by registered or recorded delivery mail, or by email to the last known address of the parties.

20.2. A notice shall be deemed to have been served, if it was served in person, at the time of service, or if it was served by email, at the time of confirmation of read receipt by the recipient.