

## COMMERCIAL API FRAMEWORK AGREEMENT

### BETWEEN:-

- (1) **NATIONAL WESTMINSTER BANK PLC**, incorporated in England (company number 00929027) and having its registered office at 250 Bishopsgate, London EC2M 4AA (the "**Bank**"); and
  - (2) The Company as set out in the Order Form ("the **Company**"),
- (each a "**party**" and together the "**parties**").

### WHEREAS:-

- (A) The Bank has agreed to make available to the Company certain APIs and Services.
- (B) This Agreement sets out the terms upon which the Bank agrees to make available to the Company such APIs.

## 1. DEFINITIONS AND INTERPRETATION

1.1 The following terms shall have the following meanings:-

" <b>ABC and ATEF Procedures</b> "	means internal procedures adequate to ensure that each party complies with Anti-Corruption Laws and Anti-Tax Evasion Laws;
" <b>Access Credentials</b> "	has the meaning given in Clause 6.4;
" <b>Access Keys and Security Requirements</b> "	means the access key and security requirements as set out in the applicable Order Form;
" <b>Agreement</b> "	means this agreement including the applicable Order Forms and API Schedules attached to this agreement, as may be amended or varied from time to time;
" <b>Agreement Personal Data</b> "	means Personal Data which is to be processed under this Agreement, including but not limited to any Personal Data contained within the Confidential Information and API Data;
" <b>Anti-Corruption Laws</b> "	means the United Kingdom's Bribery Act 2010 or any other applicable anti-bribery or anti-corruption law;
" <b>Anti-Tax Evasion Laws</b> "	means sections 45 or 46 of the Criminal Finances Act 2017 or any other applicable anti-facilitation of tax evasion law or regulation;
" <b>API</b> "	means, in respect of a Bank product, function, process or application, software or code that allows external systems to communicate in accordance with strictly defined parameters with relevant components of the Bank's systems which relate to that product, function, process or application (excluding Open APIs), for which the Bank has granted the Company express authorisation to use in connection with the Company Application, as specified in the applicable API Schedule and " <b>APIs</b> " shall be construed accordingly;
" <b>API Data</b> "	means any information, data, or materials provided by the Bank through the APIs, accessed or otherwise used by the Company on the Company Application as part of the Company's use of the Bank APIs, where applicable;

<b>"API Items"</b>	means:- <ul style="list-style-type: none"> <li>(a) the APIs;</li> <li>(b) the API Materials; and</li> <li>(c) the API Data;</li> </ul>
<b>"API Licence"</b>	has the meaning given in Clause 4.3;
<b>"API Materials"</b>	means all information made available by the Bank in respect of and/or through an API, including:- <ul style="list-style-type: none"> <li>(a) API descriptions;</li> <li>(b) all technical documentation and operations information relating to an API;</li> <li>(c) all details of the parameters for calls and responses from and to a particular API;</li> <li>(d) all security materials;</li> <li>(e) all user guides, test scripts and any other documentation provided by the Bank to facilitate use of the API;</li> <li>(f) all developer comments and forum content relating to the relevant API; and</li> <li>(g) any other software code or information made available by the Bank in relation to an API, whether through the Bank of APIs Portal or otherwise, as amended by the Bank from time to time;</li> </ul>
<b>"API Schedule"</b>	means a schedule to this Agreement incorporated into an Order Form, which details the specific API and Services to be provided by the Bank to the Company and the specific terms of API Licence, including the Purpose, Permitted Use, Restrictions on Use and any other relevant provisions in respect of that specific API and/or Services (the term API Schedules shall be construed accordingly);
<b>"Approved Locations"</b>	means where Bank Group Confidential Information and Agreement Personal Data will be kept and/or processed by the Company, as specified in the applicable Order Form;
<b>"Bank Claim"</b>	has the meaning given in Clause 17.1;
<b>"Bank Customers"</b>	means individual customers of the Bank Group, who will use the Company Application in relation to the services provided by the Company and/or the Permitted Users;
<b>"Bank Group"</b>	means NatWest Group plc and each of its subsidiaries or subsidiary undertakings (as defined in the Companies Act 2006) from time to time; In this Agreement, companies within the Bank Group are called " <b>members</b> " of the Bank Group;
<b>"Bank of APIs Portal"</b>	means all APIs and API Materials available through the NatWest "Bank of APIs" portal which can be accessed at <a href="http://www.bankofapis.com">www.bankofapis.com</a> ;

<b>"Bank's Privacy Policy"</b>	means NatWest Group Privacy Policy, which can be found at <a href="https://personal.natwest.com/personal/privacy-policy.html">https://personal.natwest.com/personal/privacy-policy.html</a> ;
<b>"Business Day"</b>	means a day other than a Saturday, Sunday or public holiday in England or Scotland;
<b>"Claim"</b>	means, as applicable, a Company Claim or a Bank Claim;
<b>"Commencement Date"</b>	means the date the parties enter into the Order Form;
<b>"Company Application"</b>	means the Company's software application, application programming interface or website that is developed by the Company, or on the Company's behalf, to interact with the APIs and API Materials;
<b>"Company Claim"</b>	has the meaning given in Clause 17.2;
<b>"Company Materials"</b>	means all goods, records, reports, documents, papers, data derived from the Company's use of the Services, other materials and deliverables (whether in documentary, electronic or other form) but in all cases, excluding any Intellectual Property Rights of the Bank;
<b>"Confidential Information"</b>	<p>means information that is designated as 'confidential' or which by its nature is clearly confidential. Confidential information includes, in relation to either party, any information concerning the technology, technical processes, business processes, procedures, Personal Data, business affairs, financial affairs and finance of that party, its customers, employees, suppliers and any third party to which that party owes a duty of confidentiality. The Bank's security procedures and the confidential information of Permitted Users are also included within the definition of Confidential Information. Confidential Information may take the form of:-</p> <ul style="list-style-type: none"> <li>(a) documents, technical specifications, unpublished patent specifications, data, drawings, plans, processes, photographs, databases, computer software in disk, cassette, tape or electronic form and data storage or memory in, and items of, computer hardware;</li> <li>(b) oral descriptions, demonstrations or observations; and</li> <li>(c) information which is in transit to/from, supplied to, stored by, processed or marked for destruction by the Company. To avoid doubt, confidential information includes any information which either party has classified as 'confidential' or 'secret';</li> </ul>
<b>"Controller"</b>	has the meaning given in the Data Protection Legislation;
<b>"Data Protection Impact Assessment"</b>	has the meaning given in the Data Protection Legislation;
<b>"Data Protection Legislation"</b>	<p>means:-</p> <ul style="list-style-type: none"> <li>(a) all applicable data protection and privacy legislation in force from time to time in the UK including but not limited to: (i) the UK GDPR (as defined in section 3(10) of the Data Protection Act 2018) ("<b>UK GDPR</b>"); (ii) the Data Protection Act 2018; (iii) the Privacy and Electronic</li> </ul>

Communications Directive 2002/58/EC, as amended; and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications); and

- (a) any code of practice or guidance published by the UK Information Commissioner's Office (or equivalent regulatory body) from time to time;

<b>"Data Security Breach"</b>	has the meaning given in Clause 15.2;
<b>"Data Subject"</b>	has the meaning given in the Data Protection Legislation;
<b>"Data Transfer Agreement"</b>	means the standard contractual clauses for the transfer of Personal Data to third countries approved by the European Commission pursuant to Implementing Decision (2021/914/EU), as amended by the terms of the international data transfer addendum issued by the Information Commissioner's Office under s.119A(1) of the Data Protection Act 2018 or such other agreement for the transfer of Personal Data outside the UK as the Bank may approve;
<b>"Dispute"</b>	means any dispute, difference or question of interpretation arising out of or in connection with this Agreement, (including any dispute regarding pre-contractual negotiations, the existence, validity or termination of this Agreement or the consequences of non-existence or invalidity of this Agreement) whether contractual or non-contractual;
<b>"Fees"</b>	means the fees payable by the Company to the Bank as set out in the relevant Order Form;
<b>"Force Majeure Event"</b>	means any cause affecting the performance by a party (or a member of the Bank Group where the Bank is obliged to procure that member do or refrain from doing something) of its obligations under this Agreement arising from acts, events or omissions beyond its reasonable control, including acts of God, riots, war, acts of terrorism, storm or earthquake, but excluding, any failure by the Company to pay the Fees, or any other delay or any difficulties which the Company may have with its financing;
<b>"General Modification"</b>	means any Modification which is not a Material Modification;
<b>"Intellectual Property Rights"</b>	means any of these rights, namely:- <ul style="list-style-type: none"><li>(a) patents, trade marks, rights in designs, get-up, trade, business or domain names, copyrights including rights in computer software and databases (including database rights) and topography rights (in each case whether registered or not and, where these rights can be registered, any applications to register or rights to apply for registration of any of them), and where applicable any goodwill therein;</li><li>(b) rights in inventions, know-how, trade secrets and other confidential information; and</li></ul>

	(c) any other intellectual property rights which may exist at any time in any part of the world;
<b>"Insolvency Event"</b>	means a situation where one of the parties either (a) ceases trading, becomes insolvent, has a liquidator, receiver or administrative receiver appointed or passes a resolution for winding up or is the subject of any similar procedure or (b) takes any action in connection with its creditors to the detriment of the Bank;
<b>"Law"</b>	means any applicable statute, subordinate legislation, rules, by-law, mandatory code, regulation, order or applicable judgment of a relevant court of law;
<b>"Mandatory Change"</b>	has the meaning given in Clause 28.1;
<b>"Material Modification"</b>	means any Modification that significantly and substantially alters the functionality offered through an API or the means of integration with that API or any change that the Bank is required to make pursuant to applicable Law, the requirements of any Regulator or in order to perform the obligations under the documents or in relation to any security issues;
<b>"Modifications"</b>	means any modification, replacement or upgrade of the functionality, content or properties of the APIs, including the API Materials;
<b>"MSR"</b>	means the Bank Group's minimum security requirements for the protection of Confidential Information and Personal Data, as notified to the Company from time to time, the current version of which is given at Schedule 2;
<b>"Open API(s)"</b>	means an experimental API or any other API that the Bank classifies as 'open';
<b>"Open API Materials"</b>	means any API Materials relating to an Open API;
<b>"Order Form"</b>	means an order form between the Bank and the Company setting out which APIs are being ordered by the Company and provided by Bank;
<b>"Overdue Fees"</b>	means Fees that (a) remain unpaid thirty (30) days after the due date for payment; and (b) are not disputed by the Company in accordance with the provisions of this Agreement;
<b>"Permitted Use"</b>	means the specific use for which the Company and its Permitted Users, as applicable, are permitted to use the API as specified in the applicable API Schedule and/or Order Form;
<b>"Permitted User"</b>	means any entity identified as a "Permitted User" in the applicable API Schedule and/or Order Form and <b>"Permitted Users"</b> shall be construed accordingly;
<b>"Personal Data"</b>	has the meaning given in the Data Protection Legislation;
<b>"Personal Data Breach"</b>	has the meaning given in the Data Protection Legislation;
<b>"Prior Consultation"</b>	has the meaning given in the Data Protection Legislation;

<b>"Privacy Policy"</b>	has the meaning given in Clause 2.1.1;
<b>"Processor"</b>	has the meaning given in the Data Protection Legislation;
<b>"Processing"</b>	has the meaning given in the Data Protection Legislation, and <b>"processes"</b> and <b>"processed"</b> shall be construed accordingly;
<b>"Purpose"</b>	means the purpose for which the Company and its Permitted User, as applicable, are permitted to use the API as specified in the applicable API Schedule and Order Form;
<b>"Regulator"</b>	means any regulator or regulatory body (including the Prudential Regulation Authority, the Financial Conduct Authority, the Information Commissioner's Office and the Bank of England or their successors or equivalent authorities outside of the UK) to which the Company, the Bank or a member of the Bank Group is subject from time to time or whose consent, approval or authority is required so that that the Company, the Bank or a member of the Bank Group can lawfully carry on its business and including any resolution authority (as defined in Article 2 of the Bank Recovery and Resolution Directive 2014/59/EU) of the Bank or a member of the Bank Group and, in each case, other persons appointed by them;
<b>"Restricted Transfer"</b>	means any transfer of Agreement Personal Data which is undergoing Processing or which is intended to be processed after transfer, to a country or territory to which such transfer is prohibited or subject to any requirement to take additional steps to adequately protect the Agreement Personal Data for the transfer to be lawful under the Data Protection Legislation;
<b>"Restrictions on Use"</b>	means the restrictions on use with which the Company and its Permitted Users, as applicable, are required to comply in respect of their use of the Services and the relevant API, as specified in the applicable API Schedule and Order Form;
<b>"Security Requirements"</b>	means the requirements regarding the security of Personal Data, as set out in the Data Protection Legislation (including the measures set out in Article 32(1) of the UK GDPR (taking due account of the matters described in Article 32(2) of the UK GDPR));
<b>"Service Credits"</b>	where applicable, means any reduction in the Fees set out in the relevant API Schedule for failure to meet certain Service Levels;
<b>"Service Levels"</b>	means the required timescales, levels and standards of service (if any) as set out in the relevant API Schedule;
<b>"Services"</b>	means the provision of the specific API and the API Items to the Company as described in the relevant Schedule API and set out in the applicable Order Form;
<b>"Staff"</b>	means those persons from time to time employed or engaged by the Company or any subcontractor or any personal service company, umbrella company or employment business (including agency workers) which contracts with the Company or a subcontractor, from time to time;

<b>"Substantial Disposal"</b>	means a sale or other disposal of the whole or a substantial part of the business or assets of the Company;
<b>"Successful API Call(s)"</b>	as defined in the applicable API Schedule;
<b>"Supervisory Authority"</b>	has the meaning given in the Data Protection Legislation;
<b>"System"</b>	means any systems which are used to store, process or transmit any Confidential Information or Personal Data whether held electronically, on paper or in any other form;
<b>"Term"</b>	has the meaning given in Clause 20;
<b>"Unauthorised Use"</b>	means any access to or use or disclosure of data, information or code stored in the APIs that is not expressly permitted by this Agreement, the applicable API Schedule, the applicable Order Form or as otherwise agreed between the parties;
<b>"VAT"</b>	means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature; and
<b>"Year"</b>	means a consecutive period of twelve (12) months commencing on the Commencement Date and each anniversary thereof.

## 2. APPLICABLE TERMS

2.1 In addition to this Agreement, the following terms and policies of the Bank may apply to any use of the APIs:-

2.1.1 NatWest Group Privacy Policy, which can be found at <https://personal.natwest.com/personal/privacy-policy.html> (the "**Privacy Policy**"); and

2.1.2 NatWest Group Cookies Policy, which can be found at <https://www.natwestgroup.com/hygiene/privacy---cookies.html>.

2.2 The Company acknowledges that the terms of this Agreement shall govern the provision of the Services and use of the API Items only, and shall not govern or impose additional terms in relation to:

2.2.1 Open APIs or associated materials made available by the Bank to the Company through the Bank of APIs or otherwise; and/or

2.2.2 sandbox, testing or non-production use of the APIs, which shall be subject to separate agreement between the Bank and the Company.

## 3. ORDER OF PRIORITY

3.1 If there is a conflict between the terms and conditions of this Agreement, the API Schedules, the Order Forms and any other document incorporated by reference into this Agreement, then such conflict will be resolved by giving precedence to such different parts of this Agreement in the following order:

3.1.1 first, the Order Form;

3.1.2 second, the API Schedules;

3.1.3 third, the terms and conditions of this Agreement; and

3.1.4 fourth, any other documents incorporated by reference.

3.2 The parties acknowledge and agree that, notwithstanding the terms of any purchase order or other documents (even where such purchase order or other documents are expressed to apply to the provision of Services) the terms of this Agreement will apply to the provision of the Services.

#### **4. LICENCE TO USE API**

4.1 During the Term, the Company may request that the Bank makes available a particular API for a particular Purpose and, if the Bank consents to such request (in its sole discretion), the parties shall enter into an Order Form, incorporating the applicable API Schedule in accordance with Clause 4.2.

4.2 For each API to be licenced by the Bank to the Company, the parties shall complete an Order Form in the form set out in Appendix 1 to this Agreement which shall incorporate by reference the applicable API Schedule and shall include the details of the API to be licenced to the Company, the Purpose of use, the Permitted Use, applicable Restrictions on Use and any associated details of access and use applicable to the particular API.

4.3 In consideration of the Company performing its obligations and paying the Fees in accordance with this Agreement (and if no Fees are payable under the applicable API Schedule, in consideration of the sum of £1, the receipt and sufficiency of which the parties acknowledge and agree) and the terms of the relevant API Schedule, with effect from the Commencement Date, the Bank grants the Company a non-exclusive, revocable (in accordance with the terms of this Agreement), non-transferable and non-sub-licensable (except as expressly stated) licence to:-

4.3.1 integrate the applicable API into the Company Application;

4.3.2 use the applicable API Items; and

4.3.3 any other use rights granted under the applicable API Schedule,

in each case, solely for the Purpose and the Permitted Use, and subject to the restrictions on use set out in Clause 6 of this Agreement, the Restrictions on Use and such other terms as may be agreed between the parties in the Order Form and set out in the API Schedule (the "**API Licence**"). The Company shall not use the API Items contrary to the terms of the API Licence, or otherwise in a way that is not expressly permitted by this Agreement.

4.4 Where applicable to an API, the Bank shall make available to the Company the relevant API Materials, as amended and varied from time to time. The Company shall comply with the terms set out in the API Materials in connection with the integration and use of the API. The Company shall keep all user IDs, passwords and other access codes and credentials pertaining to, or used to access, the API confidential and secure from all Unauthorised Use.

4.5 Nothing in this Agreement is intended to or shall grant the Company any right to access or use any IT systems, applications or data of the Bank (nor any Intellectual Property Rights subsisting in the same) other than the API Items.

#### **5. THE SERVICES**

5.1 The Bank shall provide the Services to the Company in accordance with:-

5.1.1 the Service Levels (if any) set out in the relevant API Schedule; and

5.1.2 the terms and conditions of this Agreement and the applicable Order Form.

5.2 The Bank will advise the Company promptly on becoming aware that it is unable to make available the Services to the Company in accordance with this Agreement. In such circumstances, the Bank shall use reasonable endeavours to remedy its failure to provide the Services in accordance with this Agreement, provided that the Bank shall not be responsible for failing to provide the Services to the extent it is prevented from doing so by: (i) a Force Majeure Event; or (ii) the acts or omissions of the Company, the Permitted User or any third party other than members of the Bank Group and their respective subcontractors.



- 5.3 Where it is stated in the relevant API Schedule that Service Credits shall be payable for failure to meet Service Levels, the Bank shall credit the Company Service Credits in accordance with that API Schedule. Payment of any Service Credits shall be the sole and exclusive remedy available to the Company in respect of a failure to meet the Service Levels.
- 5.4 Nothing in this Agreement obliges the Company to receive or use any of the Services to the exclusion of any similar services.
- 5.5 As part of the Services, the Bank acknowledges that it will be responsible for authentication of the Bank Customers as part of its internal approval process. The Company acknowledges and agrees that the Company and the Permitted User are responsible for undertaking their own due diligence in respect of their engagement or on boarding of their customers and shall not rely on the Bank's due diligence or on boarding where the customer is also a Bank Customer.
- 5.6 The Company shall provide the Bank with:-
- 5.6.1 all necessary cooperation the Bank may reasonably require in relation to this Agreement and the performance of the Services; and
  - 5.6.2 access to such information or systems as may be reasonably necessary in order to receive the Services and to ensure the API is functioning correctly in relation to the Company Application; and
  - 5.6.3 prompt notice where it considers that there is any error or defect in the API, setting out in reasonable detail the nature of such error or defect.
- 5.7 Each Party confirms that it maintains ABC and ATEF Procedures.

## 6. USE OF THE APIS AND API MATERIALS

- 6.1 Promptly following the Commencement Date, the parties shall work together in order to ensure that the Services can be provided as soon as possible in accordance with the requirements of each of the parties. In order to do so they will agree in the applicable Order Form:-
- 6.1.1 acceptance criteria for successful integration between the API and the Company Application, and the acceptance testing processes required to test the same;
  - 6.1.2 the relevant timeframes and responsibilities of the parties in respect of any such acceptance testing; and
  - 6.1.3 the applicable Go-Live Date.
- 6.2 The parties agree to carry out their respective obligations in Clause 6.1 and this Agreement promptly in order to ensure that all acceptance testing (and any remediation necessary) is completed without undue or unnecessary delay. Where acceptance criteria or tests have not been set out in an Order Form, acceptance by the Company of the Services and API will be deemed to have occurred on the first Successful API Call.
- 6.3 On request from the Company, the Bank shall provide the Company with reasonable assistance and access to information or systems as is reasonably required for the Company to: (i) fully integrate the Company Application with the relevant API so that the Company can successfully receive the API Data via the relevant API; and (ii) if applicable, continue to make Successful API Calls to receive the API Data via the relevant API in accordance with the terms of this Agreement.
- 6.4 The Company agrees to store any access tokens, keys and secrets (together, "**Access Credentials**") issued to it by the Bank, for the Company to access the API securely and shall not allow the Access Credentials or tokens to be distributed in such a way that a customer or other third party could access them, including by not storing the Access Credentials or tokens in any application.

- 6.5 The Bank reserves the right to suspend or revoke the Company's Access Credentials if it reasonably believes there is a risk that such Access Credentials have been accessed by a third party. At the Bank's discretion, replacement Access Credentials may be issued following demonstration by the Company to the Bank's reasonable satisfaction that such Access Credentials will be stored securely in accordance with Clause 6.4 above.
- 6.6 The Company is entitled to suspend the connection between the Company Application and the relevant API if it reasonably believes that the relevant API, the Services or the connection between the relevant API and the Company Application poses a material security risk to, or will cause material performance issues for, the Company systems or networks. The Company will keep the Bank updated and will provide such information as is reasonably requested by the Bank in relation to such suspension. The Company will reconnect the relevant API and the Company Application once the risks or issues have been resolved to its reasonable satisfaction.
- 6.7 Except to the extent expressly permitted under this Agreement the Company shall not and shall procure that the Permitted Users shall not:-
- 6.7.1 store, distribute or transmit any material through the APIs, or use the API Data or Services in a way, that:-
- (a) is unlawful, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
  - (b) depicts sexually explicit images;
  - (c) promotes violence;
  - (d) is discriminatory based on race, gender, skin colour, religious belief, sexual orientation or disability; or
  - (e) is otherwise unlawful, illegal or causes damage or injury to any person or property;
- 6.7.2 except as may be permitted by any applicable Law which is incapable of exclusion by agreement between the parties:-
- (a) attempt to copy, duplicate, modify, translate, adapt, alter, create derivative works from, display, transmit, or distribute all or any portion of the API Items in any form or media or by any means; and
  - (b) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the API Items;
- 6.7.3 access all or any part of the API Items in order to build a product or service which competes with APIs. For the avoidance of doubt, this shall not prohibit the Company from independently developing its own APIs;
- 6.7.4 use the API Items (or any part of any of the foregoing) to provide services to any third party which are unrelated to, and/or not required for, the Purpose or in accordance with Permitted Use;
- 6.7.5 licence, sell, rent, lease, distribute, display, disclose, or otherwise exploit the API Items (or any part of any of the foregoing);
- 6.7.6 otherwise make the API Items (or any part of any of the foregoing) available to any third party except the Permitted Users;
- 6.7.7 attempt to connect to, provide access to, or use API Items (or any part of any of the foregoing) for any purpose not expressly authorised by this Agreement;

- 6.7.8 use the APIs, API Data or Services:-
  - (a) to make any Personal Data or Bank Group Confidential Information publicly available on the Company Application or otherwise; and
  - (b) in any way which may infringe the Intellectual Property Rights of a third party;
- 6.7.9 create permanent copies of the API Items except to the extent permitted by this Agreement;
- 6.7.10 make derivative works of, or commercially distribute or otherwise exploit the API Items, or use any of the API Items in a manner that inaccurately suggests an association between Bank and Company or its licensors, without the prior written consent of the Bank; or
- 6.7.11 otherwise use or exploit the API Items in any way for any purpose except as specifically permitted by, and at all times in accordance with, this Agreement.

6.8 Where the Company is permitted in accordance with the applicable Order Form and API Schedule to allow a third party (including, where applicable the Permitted Users) to benefit from the APIs and/or API Data, the Company shall ensure that all such use:-

- 6.8.1 does not exceed the scope of the API Licence granted to the Company;
- 6.8.2 is controlled by the Company; and
- 6.8.3 is otherwise subject to and in accordance with the terms of this Agreement and the relevant API Schedule.

6.9 The Company shall comply with the relevant Access Keys and Security Requirements at all times and the Company shall immediately notify the Bank in writing if it becomes aware of any circumstance in which it is, or may be in the future, non-compliant with the Access Keys and Security Requirements.

6.10 The Company shall take all reasonable steps to prevent any Unauthorised Use and/or fraud, and shall promptly and in any event within twenty-four (24) hours of becoming aware of such Unauthorised Use or fraud, notify the Bank if it becomes aware of any fraud or Unauthorised Use.

## **7. APPOINTMENT OF PERMITTED USERS**

7.1 The Company may not appoint a Permitted User, without obtaining the Bank's prior written consent which consent may be withheld or delayed by the Bank in its sole discretion and shall be subject to the provisions of this Clause 7 of this Agreement. The Bank's prior written consent will be formalised by entering into a new Order Form which shall record the terms of the appointment of the new Permitted User (including the specific terms of the API Licence and Restrictions on Use) and shall be signed electronically by the parties ("**Additional API Order**"). For the avoidance of doubt, each Additional API Order will be subject to all the terms of this Agreement.

7.2 The Company shall:

- 7.2.1 give the Bank reasonable notice of any proposed appointment of a Permitted User, which notice shall specify the identity and financial standing of the proposed Permitted User; and
- 7.2.2 provide (or shall procure that the Permitted User provides) all information reasonably requested by the Bank as part of its due diligence process prior to the approval of the relevant Permitted User.

## **8. INTELLECTUAL PROPERTY RIGHTS**

8.1 All Intellectual Property Rights in and to:-

- 8.1.1 the API and the API Materials will be the property of the Bank from creation; and

8.1.2 the Company Application and the Company Materials will be the property of the Company from creation.

8.2 Except as expressly provided for in this Agreement:-

8.2.1 neither party shall receive any right, title or interest in or to any Intellectual Property Rights owned by the other party prior to the Commencement Date, or developed by the other party during the Term independently from this Agreement;

8.2.2 the Company will not obtain rights in the API or API Materials; and

8.2.3 the Bank will not obtain any rights in the Company Application or the Company Materials.

8.3 The Company acknowledges that the API Items may contain third party Intellectual Property Rights and the Bank shall notify the Company of any additional terms applicable to such third party Intellectual Property Rights, where applicable.

8.4 The Bank shall ensure that use of such API Items by the Company in accordance with this Agreement does not infringe the rights of any third party or this Agreement. In the event of any such infringement, the Bank shall at its option:-

8.4.1 modify or replace the infringing API Item (or component thereof) so as to avoid infringement;

8.4.2 procure for the Company and the Permitted User(s) the right to continue using the API Item(s); or

8.4.3 terminate the Company's permission to use the infringing API Item(s),

and in each case, the Company shall securely destroy or erase any copies made of the affected API Item(s).

8.5 The Company shall ensure that all Intellectual Property Rights notices contained in any API Items are reproduced in full.

8.6 When the Company Application has no further use for the API Items, the Company shall make no further use of and securely delete the same.

## **9. OBLIGATIONS AND WARRANTIES**

### **9.1 Mutual Warranties**

Each party warrants, represents and undertakes to the other party that it:-

9.1.1 has full power and authority and sufficient qualifications and resources to enter into and perform its obligations under this Agreement;

9.1.2 holds all rights and has obtained, and will maintain, all licences and consents required to perform its obligations or benefit from its rights, as applicable, including any authorisations and consents required by any Regulator; and

9.1.3 will perform its obligations under this Agreement in compliance with all applicable Laws.

### **9.2 Company Warranties**

In addition to any warranties set out in the applicable API Schedule, the Company further warrants, represents and undertakes to the Bank that it:-

- 9.2.1 shall procure and be solely responsible for procuring, operating and maintaining, at its own cost and expense, all connections and links from its systems, including the Company Application, to the APIs;
- 9.2.2 shall be solely responsible for any failures, errors or delays in the provision of any APIs arising from or relating to such connections or links from its systems, including the Company Application, to the APIs;
- 9.2.3 shall take all reasonable steps to ensure against the transmission of malicious content and similar items of a destructive nature between the APIs and the Company's systems; and
- 9.2.4 remains responsible for its own hardware and content and any data uploaded through the APIs.

### 9.3 Exclusion of Bank Warranties

In addition to any exclusions set out in the applicable API Schedule, the Company acknowledges and agrees that:-

- 9.3.1 the Bank does not guarantee that access by Staff or Permitted Users to the API Items will be continuously available for use or without defect;
- 9.3.2 the Bank does not guarantee that any part of the API is free of inaccuracies, errors, bugs, or interruptions, or is reliable, complete, or otherwise valid;
- 9.3.3 the Bank does not guarantee that the API Data, API Materials or any other information or data provided through the APIs is accurate or up to date;
- 9.3.4 use by Staff or Permitted Users of the APIs is at the Company's sole risk; and
- 9.3.5 by entering into this Agreement, the Bank does not endorse the Company's business, products or information in any way.

9.4 To the fullest extent permitted by Law, and unless expressly set out in this Agreement, the Bank provides the API Items on an 'as is' basis and all warranties and terms which would otherwise be implied by Law, custom or usage are excluded from this Agreement, including, any warranties in relation to:-

- 9.4.1 the API Items; and
- 9.4.2 any results to be obtained from using the API Items, including the accuracy and validity of any API Data or API Materials.

9.5 The Bank is not responsible for any losses that arise in connection with third parties unlawfully obtaining access to the Company Application in order to abuse the nature and intent of the APIs and the Company is responsible for any and all losses that arise in connection with any activity using the Company Application (whether authorised or not) other than to the extent such loss arises out of or in connection with a breach by the Bank of this Agreement.

## 10. FEES AND PAYMENT

10.1 Subject to Clause 10.2, the Company shall pay to the Bank the Fees in consideration of the licence of the APIs as detailed in the relevant Order Form and applicable API Schedule. The Fees and any additional charges payable under this Agreement are exclusive of VAT.

10.2 Payment of any sums due under this Agreement shall be made to the Bank within thirty (30) days of receipt of a valid invoice issued in accordance with this Agreement. The Bank will submit the invoices

in accordance with any payment terms set out in the applicable Order Form. If any payment to the Bank is delayed then:-

- 10.2.1 the Bank will notify the Company in writing, providing a copy of the relevant invoice; and
- 10.2.2 if the Company fails to pay the undisputed invoice within ten (10) Business Days of receiving the Bank's written notice then the Bank will be entitled to charge default interest at a rate equal to three per cent (3%) per annum above the published National Westminster Bank base rate from time to time.

## 11. **MODIFICATIONS**

11.1 Subject to anything to the contrary in the API Schedules:

- 11.1.1 the Bank may at any time during the Term and in its sole discretion make Modifications to the APIs Items, in accordance with the terms of this Clause 11; and
- 11.1.2 if the Bank makes a Modification to an API Item that relates to an API, where it is able to do so in the circumstances, the Bank will provide reasonable advance notice of such Modification to the Company. The Company must update the Company Application to reflect the relevant Modification within the following time frames (unless otherwise agreed in writing), once the Bank provides notification:-
  - (a) within five (5) days for a Material Modification; and
  - (b) within ten (10) days for a General Modification.

## 12. **FEEDBACK AND INFORMATION**

- 12.1 As specified in the relevant Order Form, API Schedule or otherwise, upon the Bank's reasonable request, the Company shall provide information and feedback to the Bank in relation to its use of the Services, and the API Items, and will share any feedback which it has received from Permitted Users.
- 12.2 The Bank may, in its sole discretion, act on any suggestions the Company or the Permitted Users may make as part of the feedback obtained pursuant to Clause 12.1 or otherwise about any aspect of the API Items or the Services. The Company grants (and shall procure that the Permitted Users shall grant) the Bank a royalty-free perpetual non-exclusive, worldwide, fully and freely transferable and sub-licensable, irrevocable right and licence to use, store, copy, edit, modify, adapt, publish, reproduce, otherwise exploit, or display any of the Company's or the Permitted User's suggestions and feedback in any manner the Bank chooses, in any form, medium or technology, without restriction and without compensation of any kind to the Company or the Permitted Users, and the Company waives all moral rights in such content (or shall procure the waiver of the same from the Permitted Users, as applicable).

## 13. **CONFIDENTIALITY**

- 13.1 Except to the extent set out in this Clause 13, the Company and the Bank shall not disclose (without prior written consent) any Confidential Information received from the other party related to this Agreement.
- 13.2 Clause 13.1 does not prohibit disclosure of Confidential Information to:-
  - 13.2.1 the receiving party's own employees, agents and permitted subcontractors who need to know it;
  - 13.2.2 the receiving party's auditors, professional advisors, and, subject to Clause 13.4, any person having a legal or regulatory right to request and receive that information (including a Regulator);

13.2.3 in the case of the API Data only, the applicable Permitted User as identified in the relevant Order Form;

13.2.4 a person to whom an assignment has been permitted under Clause 30; or

13.2.5 report misconduct to a regulatory body.

13.3 Each party will ensure that any person mentioned in Clause 13.2 is made aware, prior to any disclosure of Confidential Information that it is confidential and that such person and the receiving party owe a duty to the owner of it to keep it confidential. The receiving party shall be responsible for procuring that such person complies with the duty of confidentiality imposed by this Agreement as if they were a party to it except where the receiving party has been compelled by Law to make the disclosure.

13.4 In the event that either party receives any request from or is required by Law, by any governmental or regulatory authority or by a court or other authority of competent jurisdiction to disclose Confidential Information or Personal Data of the other party (which shall include, in respect of the Bank, Confidential Information or Personal Data of the Bank Group and API Items), that party shall, to the extent it is legally permitted to do so, give the other party as much notice of such requested or required disclosure as is possible and provide the other party, at the other party's cost, with such assistance as the other party may request to attempt to prevent or limit such disclosure to the extent it is legally permitted to do so.

13.5 Neither party will make any announcement or disclosure about this Agreement without the prior written consent of the other party.

13.6 The obligations in this Clause 13 will remain in full force and effect following the termination or expiry of this Agreement.

## **14. DATA PROTECTION**

### **14.1 Data Protection Designations**

Save as otherwise set out in the Enriched Transactions API Schedule, the parties agree and acknowledge that for the purposes of the Data Protection Legislation:

14.1.1 the Bank will act as an independent Controller in respect of Processing Agreement Personal Data;

14.1.2 the Company will act as either:-

(a) a separate independent Controller in respect of Processing Agreement Personal Data, or

(b) a Processor in respect of Processing Agreement Personal Data, and

the Company's applicable designation will be specified in the Order Form (or in the applicable API Schedule). Where the Order Form (or API Schedule) is silent as to the Company's designation, the default position will be that the Company will act as a separate independent Controller in respect of Processing Agreement Personal Data.

### **14.2 Compliance with Data Protection Legislation**

14.2.1 The Bank and the Company shall at all times comply with their respective obligations under the Data Protection Legislation in respect of Processing Agreement Personal Data.

14.2.2 The Bank and the Company shall implement and maintain such technical and organisational measures as are required to enable the Agreement Personal Data to be processed in compliance with the Security Requirements.

- 14.2.3 Notwithstanding clause 14.2.1, the Company will:-
- (a) when acting as an independent Controller in respect of Processing Agreement Personal Data, comply with the Controller obligations set out in clause 14.3; or
  - (b) when acting as a Processor in respect of Processing Agreement Personal Data, comply with the Processor obligations set out in clause 14.4.
- 14.2.4 The Bank's Privacy Policy governs the Bank's use of Company Personal Data and information provided by the Company to the Bank. The Bank's Privacy Policy, and any amendments made to it, can be found at <https://personal.natwest.com/personal/privacy-policy.html>.

### **14.3 Controller Obligations**

The Bank and the Company will:

- 14.3.1 ensure that it provides fair processing notices (and/or, as applicable, obtain applicable consents) in accordance with the Data Protection Legislation, and that such notices are sufficient in scope to enable the parties to process the Agreement Personal Data pursuant to this Agreement;
- 14.3.2 assist the other party, within such reasonable timescales as may be specified by the requesting party, with conducting Data Protection Impact Assessments and, where applicable, with undertaking Prior Consultation in relation to Processing Agreement Personal Data; and
- 14.3.3 upon becoming aware of any actual or suspected Personal Data Breach, notify the other party without undue delay, and in any event within twenty-four (24) hours of becoming aware of the Personal Data Breach and both the Bank and the Company shall cooperate in resolving and/or addressing the Personal Data Breach. In particular:-
- (a) the notifying party shall provide a written description of the Personal Data Breach particulars;
  - (b) both parties shall work together, acting reasonably and in good faith, to assess the cause of the Personal Data Breach and to mitigate any adverse effects of any such breach on the parties' business and/or on the affected Data Subjects; and
  - (c) notwithstanding clause 14.2.1, both parties shall assess the need to report the Personal Data Breach to any supervisory authority and/or affected Data Subjects.

### **14.4 Processor Obligations**

The Company will process the Agreement Personal Data during the Term of this Agreement solely for the purpose and to the extent described in the Order form, and will:-

- 14.4.1 process the Agreement Personal Data only on documented instructions, including this Agreement, from the Bank (unless the Company is required to process such data to comply with applicable Law to which the Company is subject, in which case the Company will notify the Bank of such legal requirement prior to such Processing unless the applicable Law prohibits such notification on public interest grounds);
- 14.4.2 ensure that any individuals authorised to process the Agreement Personal Data have committed themselves to confidentiality or are subject to confidentiality obligations equivalent to those set out in clause 13 or are under an appropriate statutory obligation of confidentiality;
- 14.4.3 comply with the MSR and any other security standards agreed between the parties pursuant to this Agreement;



- 14.4.4 notify the Bank without undue delay if it becomes aware of any reason that would prevent its compliance with the Data Protection Legislation or of any incident of non-compliance with Data Protection Legislation in connection with the Processing of Agreement Personal Data;
- 14.4.5 notify the Bank immediately if, in its reasonable opinion, any instruction received from the Bank infringes any Data Protection Legislation;
- 14.4.6 notify the Bank promptly after becoming aware of any actual or suspected Personal Data Breach and will provide the Bank with a written description of the Personal Data Breach particulars, including the nature of the Personal Data Breach, the categories and approximate number of Personal Data records and Data Subjects affected, and any proposed steps taken to address the breach;
- 14.4.7 acquire no rights or interest in the Agreement Personal Data;
- 14.4.8 promptly, and in any event within seventy-two (72) hours, notify the Bank of any request that it receives for exercising a Data Subject's rights under the Data Protection Legislation, or other communication, request for information or complaint that it receives from a Data Subject, data protection supervisory authority or other third party in connection with the Agreement Personal Data, and will not respond in any way to such a request, except on the instructions of the Bank;
- 14.4.9 assist the Bank in responding to any request(s) for exercising a Data Subject's rights under the Data Protection Legislation or any other communication, request for information or complaint that the Bank may receive from a Data Subject, data protection supervisory authority or other third party in connection with the Agreement Personal Data within such reasonable timescale as may be specified by the Bank;
- 14.4.10 assist the Bank, within such reasonable timescale as may be specified by the Bank, with conducting Data Protection Impact Assessments and undertaking Prior Consultation in relation to Processing Agreement Personal Data;
- 14.4.11 not make a Restricted Transfer without the prior written consent of the Bank. As a condition of the Bank giving its written consent to a Restricted Transfer, before making the transfer, the Company will complete a transfer risk assessment (or any other applicable analysis of the Restricted Transfer) and will demonstrate or implement (to the Bank's satisfaction) appropriate safeguards for that Restricted Transfer in accordance with Data Protection Legislation and will ensure that enforceable rights and effective legal remedies for Data Subjects are available. Such appropriate safeguards may include:
  - (a) that the country or territory to which the Restricted Transfer is to be made ensures an adequate level of protection for Processing of Personal Data pursuant to adequacy regulations made in accordance with Data Protection Legislation; or
  - (b) ensuring that the relevant recipient of the Personal Data enters into a Data Transfer Agreement with the Bank, completed with such information and incorporating such technical, organisational or other safeguards as the Bank may reasonably require.

If the appropriate safeguards demonstrated or implemented in accordance with this clause 14.4.11 are deemed at any time not to provide an adequate level of protection in relation to Agreement Personal Data, the Company will implement such alternative measures and execute all such documents as may be required by the Bank to ensure that the relevant Restricted Transfer and all resulting Processing is compliant with Data Protection Legislation;

- 14.4.12 at the option of the Bank, securely delete or return to the Bank all Agreement Personal Data promptly after Processing or at any time upon request, and securely delete any remaining copies of such data;

- 14.4.13 notwithstanding clause 7, the Company will not engage or use any sub-Processor without the prior written consent of the Bank. If the Company receives the Bank's consent and appoints a sub-Processor, prior to the sub-Processing taking place, the Company will ensure that it has a written contract in place with the sub-Processor that specifies the sub-Processor's Processing activities and imposes on the sub-Processor the same or equivalent terms as those imposed on the Company in this clause 14.4, and the Company will remain responsible and liable to the Bank for all acts and omissions of the sub-Processor as if they were its own; and
- 14.4.14 co-operate with and make available to the Bank all information reasonably necessary to demonstrate compliance with the terms of this clause 14.4 and allow for and contribute to any related audit or inspection conducted by the Bank or another auditor mandated by the Bank.

## 15. INFORMATION SECURITY

- 15.1 Each party will, and the Company will procure that its Permitted Users will, maintain an information security control environment which will ensure the confidentiality and security of the other party's Confidential Information, Personal Data and other data in its possession or under its control.
- 15.2 The Company will notify the Bank as soon as possible and in any event within twenty-four (24) hours of becoming aware of any potential or actual breach of any obligations or duties owed by the Company to the Bank relating to the confidentiality, integrity or availability of Confidential Information or Personal Data (a "**Data Security Breach**"), including where such Data Security Breach occurs within a Permitted User's systems or environment, in accordance with Schedule 1. The Company will provide all information in relation to such breach which the Bank requires to enable the Bank to meet its legal and regulatory obligations in relation to such breach and will implement any actions or remedial measures which the Bank reasonably considers necessary. Any Bank Group Confidential Information or Personal Data which is no longer required will be destroyed or erased by the Company such that it cannot be recovered as far as is technically possible. Failure by the Company to comply with this Clause will be a material breach of this Agreement.

## 16. LIABILITY

- 16.1 Neither party will be liable to the other party regarding this Agreement for any indirect, special or consequential loss or damages whether caused by breach of contract or tort (including negligence or breach of statutory duty) or arising in any other way.
- 16.2 The Bank will not be liable to the Company in respect of any loss or damage, whether caused by breach of contract or tort (including any negligence or breach of statutory duty) or arising in any other way in excess of a sum equal to the Fees paid or payable in the 12 months prior to the loss or damage arising under the applicable Order Form to which the relevant loss or damage relates.
- 16.3 The limits and exclusions of liability set out in Clauses 16.1 and 16.2 do not apply to either party's liability in respect of:-
- 16.3.1 any breach of Clause 13;
  - 16.3.2 any breach of Clause 14;
  - 16.3.3 the indemnities in Clause 17;
  - 16.3.4 death or personal injury caused by that party's negligence or that of its employees or agents;
  - 16.3.5 loss caused by fraud or fraudulent misrepresentation; or
  - 16.3.6 any loss which by Law cannot be excluded or limited.

16.4 Each party shall be fully liable for all acts and omissions of its employees, contractors, subcontractors and agents (and the Company shall be fully liable for all acts and omissions of its Permitted Users).

## 17. INDEMNITY

17.1 The Company shall indemnify the Bank and keep the Bank indemnified against all losses, costs, claims, demands, expenses and liabilities arising from or relating to:-

17.1.1 the Company's (or its Permitted Users') misuse or Unauthorised Use of any Intellectual Property Rights of the Bank, any member of the Bank Group or their respective licensors; and

17.1.2 any third party claim (including a claim by a Permitted User) against the Bank in connection with the Company Application,

in each case, a "**Bank Claim**".

17.2 The Bank shall indemnify the Company and keep it indemnified against all losses, damage, costs, claims, demands, expenses and liabilities arising from or relating to:-

17.2.1 any damages finally awarded by a court of competent jurisdiction or required to be paid under the terms of a settlement agreed to in writing by the Bank, as a direct result of a third party claim against the Company that the Company's use, possession, or receipt of the API and/or the API Materials in accordance with the terms of this Agreement infringes the Intellectual Property Rights of a third party other than to the extent such claim arises out of or in connection with a breach by the Company of this Agreement (a "**Company Claim**").

17.3 The foregoing indemnities in Clauses 17.1 and 17.2 shall apply provided that:-

17.3.1 the indemnified party shall notify the other party without undue delay in writing of any Claim brought against it;

17.3.2 the indemnifying party shall have the right to, at its own expense, conduct all negotiations and any litigation arising in connection with any Claim, and the indemnified party shall give the indemnifying party all reasonable assistance in such negotiations or litigation;

17.3.3 the indemnified party shall at the request of the indemnifying party afford to the indemnifying party all reasonable assistance for the purpose of contesting any Claim and shall be repaid all costs and expenses (including, but not limited to, reasonable legal costs and disbursements) incurred in doing so;

17.3.4 the indemnified party shall not make any admissions which may be prejudicial to the defence or settlement of the Claim; and

17.3.5 in respect of any Company Claim, the claim does not arise as a result of the API and/or API Materials being used by the Company for a purpose not specified in this Agreement, the Order Form or the applicable API Schedule.

## **18. RIGHTS OF ACCESS**

- 18.1 Each party shall provide to the other party such information and access to relevant staff as is reasonably required by the requesting party in connection with the provision of the Services under this Agreement.
- 18.2 Each party shall provide reasonable assistance to and co-operate with the other party or any Regulator and any other person exercising the rights of the other party under Clauses 13.4 and 18 in respect of all matters referred to in Clauses 13.4 and 18.
- 18.3 Any information or records provided by a party pursuant to this Clause 18 will be treated as Confidential Information except to the extent it relates to the business or affairs of the other party or its customers.

## **19. COMPLIANCE**

- 19.1 The Company will (and will procure that its Permitted Users will) access and use the Services and the API Items in accordance with all applicable Laws and will not do anything (and will procure that its Permitted Users do not do anything) which it knows, or ought to know, would cause the Bank to breach any applicable Laws.
- 19.2 The Company will (and will procure that its Permitted Users will) give the Bank all assistance that the Bank reasonably requires in order to comply with any request from the Bank Group's Regulators in relation to the API Items and the Company agrees to co-operate directly with the Regulators if requested by them.

## **20. TERM**

This Agreement will come into effect on the Commencement Date and will continue, subject to rights of early termination under this Agreement, for the period set out in the Order Form (the "**Term**"), following which the Agreement shall automatically terminate.

## **21. TERMINATION AND OTHER REMEDIES**

- 21.1 This Agreement and/or the Order Form (together with the applicable API Schedule) may be terminated by either party:-
- 21.1.1 at any time by giving a minimum of three (3) months prior written notice to the other party or, in respect of an Order Form, such termination notice period as may be specified in the relevant Order Form;
  - 21.1.2 with immediate effect, on giving written notice to the other party if the other party breaches Laws applicable to the performance of that party's obligations under this Agreement;
  - 21.1.3 to meet the requirements of a Regulator;
  - 21.1.4 in accordance with Clauses 23 or 24.2;
  - 21.1.5 if there is an Insolvency Event affecting the other party;
  - 21.1.6 immediately on written notice to the other party if that party materially breaches this Agreement, except that where such breach is capable of being remedied, this Agreement may only be terminated where the party in breach has failed to remedy the breach within thirty (30) days of receipt of written notice of the breach;
  - 21.1.7 immediately on written notice to the other party if that party loses (or is expected to lose) any authorisation, licence, and/or permission that it requires in connection with the performance of its obligations under this Agreement;

- 21.1.8 immediately on written notice to the other party if that party breached Clause 5.7 or 6.9 of this Agreement; or
- 21.1.9 in respect of an API Schedule, in accordance with any additional termination rights specified in the applicable API Schedule.
- 21.2 In respect of Fees, this Agreement or the applicable Order Form (together with the applicable API Schedule) may be suspended by the Bank (until receipt by the Bank of the Overdue Fees) or terminated immediately by the Bank if:-
- 21.2.1 there are any Overdue Fees and the Bank sends a written notice to the Company notifying it of such Overdue Fees, and requesting payment of such Overdue Fees;
- 21.2.2 the relevant Overdue Fees remain unpaid after expiration of fifteen (15) days from receipt by the Company of such notice;
- 21.2.3 following expiry of the notice referred to in Clause 21.2.2; the Bank sends a second written notice to the Company, notifying the Company that the relevant Overdue Fees remain outstanding and that the Bank intends to terminate this Agreement in accordance with this Clause 21.2.3, if the relevant Overdue Fees are not paid within a further 15 days of receipt of such second written notice by the Company; and
- 21.2.4 the relevant Overdue Fees remain unpaid after expiration of the second fifteen (15) day period referred to in Clause 21.2.3.
- 21.3 Where any termination right set out in this Clause 21 arises in relation to a particular Order Form, the party who has the right to terminate can at its discretion choose to terminate only the affected Order Form or the entire Agreement.
- 21.4 Termination by either party or expiry of an Order Form shall not affect any other rights or liabilities either party may have in this Agreement, and the terms of this Agreement and any other Order Form shall, subject to Clause 21.3, remain in full force and effect unless specifically terminated by either party in accordance with this Clause 21.
- 21.5 Any termination or expiry of this Agreement or an Order Form (however it occurs) will not affect any rights or liabilities of either party that may have accrued before termination or any provisions of this Agreement, the applicable Order Form or the relevant API Schedule that are expressly or by implication intended to come into or continue in force on or after such termination or expiry.

## **22. CONSEQUENCES OF TERMINATION**

- 22.1 On termination of this Agreement or any Order Form for whatever reason:-
- 22.1.1 each party will cease use of the other party's Confidential Information including, in respect of the Company, the API Items, and shall (at the other party's option) return, destroy or permanently erase all property and materials containing, reflecting, incorporating or based on the other party's Confidential Information, Intellectual Property Rights and Personal Data (including, in respect of the Company, the API Data and API Materials) in that party's possession or control (including copies);
- 22.1.2 each party will cease all use of any physical or logical access rights granted to it by the other party in relation to this Agreement;
- 22.1.3 all rights granted to the Company under any API Licence shall cease; and
- 22.1.4 the Company will ensure that any third party previously authorised by the Bank (including Permitted Users) will immediately cease to use the API Items.

23. **SUSPENSION**

23.1 Without prejudice to its rights under Clause 21, the Bank shall be entitled, without liability:-

23.1.1 to suspend access to the API or the provision of any or all APIs for the performance of routine or emergency maintenance and repair, provided that the Bank shall use reasonable endeavours to provide the Company with advance notice of any routine maintenance or repair which the Bank reasonably considers will or is reasonably likely to lead to suspension of, or restrictions in, the provision of the API; and

23.1.2 in the event that the Bank becomes aware of any actual or suspected fraud or financial crime, or Unauthorised Use, or where the Company is in breach of the Agreement, to take steps to investigate the issue and shall have the right to suspend (on such advance notice as is reasonable and possible in the circumstances, provided that the Bank shall not be obliged to notify the Company in accordance with this clause where doing so could reasonably compromise the security of the Bank or would be unlawful) the Company's access to, and use of, the API Items affected by such fraud or financial crime, or Unauthorised Use, or breach until such fraud or financial crime, or Unauthorised Use, or event giving rise to breach has been resolved and the Bank determines, in its sole discretion, that such fraud or financial crime, or Unauthorised Use, or event giving rise to breach shall not continue;

in each case, until such time as the relevant issue has been resolved to the Bank's reasonable satisfaction.

23.2 If the issues set out in clause 23.1.2 cannot be resolved within ninety (90) days of the date of suspension, the Bank may terminate this Agreement with immediate effect, on giving written notice to the Company.

24. **FORCE MAJEURE**

24.1 Neither the Bank nor the Company will be liable for any delay in performing their obligations under this Agreement where such delay is directly caused by a Force Majeure Event provided that the party who has failed to perform:

24.1.1 promptly notifies the other party of the non-performance; and

24.1.2 at its own cost, uses reasonable efforts to promptly resume performance and mitigate the effects of the Force Majeure Event.

24.2 The performance of that party's obligations will be suspended during the period of the Force Majeure Event so far as it affects the obligations in question and that party will be granted an extension of time for performance equal to the period of the delay.

24.3 If the non-performance continues for more than five (5) weeks, the either party may terminate this Agreement on giving written notice to the other party.

25. **INSURANCE**

25.1 Each party shall maintain, at its own cost, insurance policies to cover liabilities which the party may have under this Agreement.

26. **GOVERNANCE**

26.1 The Company and the Bank will each nominate individuals with appropriate authority to act as its representative under this Agreement and specify these in an Order Form.

26.2 Unless otherwise agreed between the parties, the parties' representatives will be the first point of contact for any information requests under this Agreement.

## **27. NOTICES**

- 27.1 Any notice to be given to a party pursuant to the terms of this Agreement shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this Clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service or by commercial courier.
- 27.2 A notice shall be deemed to have been given: if delivered personally, when left at the address referred to in Clause 27.1; if sent by pre-paid first class post or other next working day delivery service, at 09.00 am on the second Business Day after posting; and if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed. However, should a notice be delivered on a day other than a Business Day, the notice shall be deemed to have been given at 09.00am on the next Business Day following the day of actual delivery.

## **28. VARIATION**

- 28.1 Subject to Clause 11, no variation of this Agreement shall be valid unless both parties have consented to such change and it is made in writing and signed by an authorised representative of each party. The Company will not unreasonably withhold or delay its consent to any change requested by the Bank which is a Mandatory Change. A "**Mandatory Change**" shall mean any change requested by the Bank which:-
- 28.1.1 is required for the purposes of meeting the requirements (from time to time) of a Regulator, or otherwise required to ensure that the Bank can continue with this Agreement without breaching its regulatory obligations; or
- 28.1.2 is required to comply with applicable Law.

## **29. ASSIGNMENT**

- 29.1 The Bank may assign or in any way transfer or dispose of all or any of its rights under or derived from this Agreement, or any part of them, to any member of the Bank Group.
- 29.2 The Company shall agree to any assignment or transfer (in whole or in part) of the Bank's obligations under or derived from this Agreement to any party listed at Clause 29.1 above; and/ or any novation (in whole or in part) of this Agreement to any party listed at Clause 29.1.

## **30. SUBCONTRACTING**

- 30.1 The Company shall not subcontract its obligations under this Agreement in whole or in part without the prior written consent of the Bank, which consent shall not be unreasonably withheld or delayed.

## **31. RELATIONSHIP OF THE PARTIES**

- 31.1 This Agreement does not create a partnership or joint venture between the parties to it and except as expressly provided in this Agreement neither party will enter into or have authority to enter into any engagement or make any representations or warranties on the other party's behalf, nor will they seek to otherwise bind or oblige the other party in any way.
- 31.2 Neither this Agreement nor the provision of the APIs or any of the Services is intended to create or imply any employment relationship between the Bank or any member of the Bank Group, and the Staff, during the Term of this Agreement.

## **32. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the parties and supersedes any prior agreement between them relating to its subject matter. However, this does not exclude any liability either party may have for any representations made fraudulently at any time.

**33. DISPUTES**

- 33.1 If a Dispute arises between the parties, it shall first be referred to the parties' appointed representatives who shall reasonably try to resolve the Dispute.
- 33.2 If those representatives cannot resolve the Dispute within ten (10) Business Days, the Dispute shall be escalated to people of suitable seniority.
- 33.3 If the Dispute still remains unresolved after a further ten (10) Business Days, the Dispute may be referred (a) if agreed, for expert determination, or (b) to the courts in terms of Clause 34 (Law and Jurisdiction).

**34. LAW AND JURISDICTION**

This Agreement and any Dispute shall be governed by English law and the English courts shall have exclusive authority to settle any Dispute.

**35. GENERAL PROVISIONS**

- 35.1 Any reference to a law or regulation shall include any replacement or amendment law or regulation, and any reference to a specific provision of a law or regulation shall be interpreted accordingly. Any use of the word 'including' will not be limited by the words that follow.
- 35.2 A party's delay or failure to exercise its rights under this Agreement will not waive the party's right to exercise that, or any other, right.
- 35.3 If any provision of this Agreement is unenforceable, then it shall be modified to the minimum extent necessary to make it enforceable. If it is not possible to modify the provision, then it will be deleted.



## **SCHEDULE 1**

### **TEMPLATE BREACH NOTIFICATION FORM**

Data Security Breach notifications in accordance with Clause 15.2 must be made electronically by telephoning the following number 0345 603 9322 (if prompted, select the option for the First Response team). The person reporting the breach must provide, in the English language, at least the following minimum details regarding the Data Security Breach:-

1. **NATURE OF THE BREACH**

A description of the breach, including the categories and approximate number of affected Data Subjects.

2. **LIKELY CONSEQUENCES**

A description of the likely consequences of the breach, e.g., risk of identity theft, media coverage, etc.

3. **MITIGATING MEASURES**

A description of the measures taken/to be taken to address the breach and mitigate its effects.

## SCHEUDLE 2

### MSR

The Company understands their accountabilities and responsibilities so they protect Bank Group information and assets in the same way that the Bank Group would. The Company will maintain physical and information security control environments which will ensure the confidentiality, integrity and availability of any Bank Group Confidential Information and Personal Data in the supply chain.

This includes but is not limited to:-

- **Classifying, labelling and handling information** – the Company protects Bank Group information by correctly labelling and handling it throughout its lifecycle.
- **Acceptable use** – the Company ensures their employees and contractors understand their security responsibilities to protect Bank Group information and act accordingly.
- **Security awareness and education** – the Company must promote and maintain a security aware culture where positive security behaviour is embedded. The Company must ensure their employees and contractors have the skills, knowledge and expertise to carry out their roles and responsibilities securely.
- **Identity and access management** – the Company shall establish and maintain methods to restrict access to Bank Group information and Bank Group assets. This includes:
  - identifying and authorising people before access is granted; and
  - ensuring people have the minimum access required to perform their role.
- **Reporting and managing security events** – the Company must report security events or concerns within twenty-four (24) hours, allowing quick and effective resolution, minimising the impact on Bank Group customers and the Bank Group.
- **Infrastructure and networks** – the Company protects Bank Group information that is stored, processed or transferred by their IT systems by configuring and managing the IT systems so they are secure and reliable. Including patch management and firewalls.
- **Detecting and responding to anomalies and events** – the Company detects and responds to anomalies and events in applications, IT installations and networks, to reduce the likelihood of these being exploited.
- **Malware protection** – the Company detects and responds to malware, to prevent the malware infecting the supply chain network and causing loss or corruption to Bank Group information.
- **Security testing** – the Company ensures the supply chain IT systems are security tested throughout their lifecycle, using a range of attack types. This is done to identify weaknesses in IT systems and to determine how IT systems will behave under attack conditions.
- **Cryptographic solutions** – the Company will use cryptographic solutions to protect the confidentiality and integrity of Bank Group Confidential and secret information in transit and storage.
- **Security in change management** – the Company ensures changes including emergency fixes are applied correctly so that they do not compromise the security of Bank Group information and assets.
- **System development lifecycle** – the Company applies sound security design principles including Security and Privacy by design from the outset when developing IT systems including applications, so that they are built to be secure and reliable.