

## Terms of Service

version 23.2

### 1. Interpretation, definitions and documents

- 1.1. The Terms of Service form an integral part of the Agreement concluded between Sitoo and the Merchant regarding access and use of the Service, and provision of Professional Services provided by Sitoo to the Merchant.

- 1.2. Capitalized terms used in the Terms of Service, but not defined below, are defined in Section 3.1 of the Merchant Agreement document or elsewhere in the Agreement. In addition, the following terms have the following meanings;

**"Add-on Fee"** means the monthly fee the Merchant shall pay to Sitoo in respect of Add-ons;

**"Administrator Support"** means the first, second and third line support to the Merchant's defined system administrators as set out in Section 9 and the SLA. The fee for Administrator Support is included in the Platform Fee, unless otherwise agreed in writing;

**"Client License Fee"** means the monthly fee the Merchant shall pay to Sitoo based on the number of POS Client Licenses subscriptions in force;

**"Feedback"** means the Merchant's and User's reports of defects in the Service or suggestions of any improvements, changes or modifications;

**"Hardware Support"** means the Store Support in respect of Hardware as set out in Section 9;

**"Hardware Support Fee"** means the monthly fee the Merchant shall pay to Sitoo in respect of Hardware Support, in case Hardware is not purchased through Sitoo;

**"Initial Term"** has the meaning ascribed to that term in Section 17.1;

**"Merchant Data"** means all electronic data or information submitted or recorded by the Merchant related to the Service;

**"Non-Sitoo Applications"** means applications, integrations and products developed and/or provided by entities or individuals other than Sitoo and that interoperates with the Service;

**"Platform, Client and Capabilities Description"** means the descriptions of the Service's capabilities;

**"Platform Fee"** means the monthly fee the Merchant shall pay to Sitoo for the Unified Commerce Platform (i.e. irrespective of the number of POS Client Licenses in force), which inter alia includes the Merchant's system administrators access and use of the backoffice and administrative tools;

**"POS Client License"** means the license in respect of in-store point of sales and/or check-out's (POS) application accessing the Service, ordered as store packages and/or individual licenses;

**"Professional Services Fee"** means the fee the Merchant shall pay to Sitoo in respect of Professional Services carried out by Sitoo. The fee is, unless expressly prescribed otherwise in the Price List or applicable SoW, based on spent hours of work;

**"Renewal Term"** has the meaning ascribed to that term in Section 17.1;

**"Security Information"** has the meaning ascribed to that term in Section 4.5;

**"Sitoo Fees"** means the collective term for the Platform Fee, Client License Fee, Add-on Fee, Support Fee, and Professional Services Fee, as well as any other fee, that the Merchant shall pay to Sitoo under the Agreement;

**"Sitoo POS and Unified Commerce Platform"** means the Service;

**"Store Support"** means the first, second and third line support to the Merchant's store associates as set out in Section 9 and the SLA, which is provided subject to a Store Support Fee;

**"Store Support Fee"** means the monthly fee the Merchant shall pay to Sitoo in respect of first, second and third line Store Support, unless otherwise agreed in writing;

**"Support"** means the collective term for the Administrator Support, Store Support and Hardware Support;

**"Support Fee"** means the collective term for fees in respect of Support;

**"Taxes"** means taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added (VAT), goods and services, harmonized, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction;

**"User"** means the Merchant's employees who are authorized to access and use the Service; and

**"Working Day"** means any day other than a Saturday, Sunday or public holiday in Sweden.

### 2. Grant

- 2.1. Sitoo grants the Merchant a limited, non-exclusive, non-transferable and non-assignable right to access and use the Service in respect of the Merchant's own business.
- 2.2. The Service is cloud based, provided as software as a service (SaaS) and includes standard capabilities. Additional features are provided as Add-on subject to Add-on Fee. The capabilities and features are set out in the Platform, Client and Capabilities Description.
- 2.3. The Merchant may, from time to time, choose to order specific Add-ons for the Service. Subject to request and the timely payment of the Add-on Fees, the Merchant receives a right to access and use the Add-ons in accordance with the Agreement.
- 2.4. If the Merchant receives free access or a trial or evaluation subscription to an Add-on, the Merchant may use such Add-on for the period granted by Sitoo. Trial subscriptions are permitted solely for the Merchant's use to determine whether to purchase paid subscriptions. If the Merchant does not subsequently enter into a paid subscription term, the right to access and use the Add-on will terminate at the end of the trial period. Sitoo has the right to terminate a trial subscription at any time for any reason. Notwithstanding anything to the contrary in the Agreement, Sitoo shall have

no warranty, indemnity, Support, or other obligations with respect to trial subscriptions.

- 2.5. The grant in Section 2.1 includes any future releases, updates and version which Sitoo makes available. New features may however be provided as Add-ons. Sitoo does not make any warranties as regard a specific number of new releases, updates or new versions.
- 2.6. The Merchant may use anything delivered as part of Professional Services in support of authorized access and use of the Service. However, Sitoo retains all right, title and interest in and to any such work product, code or deliverables and any derivative, enhancement or modification created by Sitoo associates.

### 3. Sitoo's undertakings

- 3.1. Sitoo shall make the Service available to the Merchant, within a reasonable period of time after Sitoo's acceptance of the relevant Order, provided that the Merchant has provided Sitoo with the necessary connectivity to the Merchant's environment, ensuring successful onboarding of the Service.
- 3.2. Sitoo undertakes to maintain and operate the Service and to make available to the Merchant any new releases and versions of the Service as set out in Section 2.5.
- 3.3. Sitoo undertakes to fulfil its obligations under the Agreement with reasonable care and in a professional manner.
- 3.4. Sitoo shall take commercially reasonable efforts to comply with relevant laws and regulations applicable to the Service. Sitoo is however not responsible for any reporting to authorities, or requirements in respect of bookkeeping, AML/KYC or payment regulatory requirements that may apply to the Merchant's business.

### 4. The Merchant's obligations

- 4.1. The Merchant undertakes to access and use the Service only in accordance with the terms of the Agreement and Sitoo's instructions from time to time. The Merchant shall co-operate with Sitoo and provide necessary information and ensure that appropriate resources are allocated, which are required for Sitoo to provide the Service, and Professional Services to the Merchant. The Merchant acknowledges that Sitoo's performance under the Agreement is dependent on the Merchant's timely and effective performance of the Merchant's responsibilities and other timely decisions and approvals.
- 4.2. To the extent necessary for the provision of the Service, and Professional Services, the Merchant undertakes to provide access to its systems, third party systems, personnel and equipment.
- 4.3. Unless otherwise agreed in writing, the Merchant is solely responsible for the integration and configuration of the Service with its other systems. The Merchant shall ensure that the Service is operated in a suitable environment and in a proper manner. The Merchant is aware that Sitoo continuously will update and develop the Service as set out in Section 3.2. The Merchant acknowledges that it will have to update and use the latest version of the software for the proper provision of the Service.
- 4.4. The Merchant is solely responsible for its business operations and to comply with any and all applicable laws and regulations when using the Service including but not limited those concerning cash management, AML/KYC, reporting to the relevant tax authority and any other

authorities. It is the responsibility of the Merchant to inquire and ensure that its access and use of the Service fulfils applicable legal and authority requirements, and Sitoo makes no other undertakings than set out in Section 3.4.

- 4.5. The Merchant undertakes to keep all usernames, passwords, API keys and other account data ("**Security Information**") in a secure and satisfying manner to prevent unauthorized access.
- 4.6. The Merchant is responsible for its access and use of the Service and shall promptly inform Sitoo of any unauthorized use of or access to the Security Information. The Merchant is responsible for any unauthorised access and/or use of the Service unless the Merchant can prove that it has not; (i) provided third party access to the Service without Sitoo's prior approval; (ii) handled the Security Information negligently; or (iii) omitted to report suspected unauthorised access to the Security Information.
- 4.7. Should the Merchant suspect or discover any malfunction in the Service, the Merchant undertakes to inform Sitoo without undue delay. The Merchant shall take any and all measures necessary to prevent and/or minimise any damage or loss due to a discovered or suspected malfunction.
- 4.8. The Merchant shall not; (i) make the Service available to anyone other than Users; (ii) sell, resell, rent or lease the Service; (iii) use the Service to store or transmit infringing, libellous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights; (iv) use the Service to store or transmit malicious code; (v) interfere with or disrupt the integrity or performance of the Service or third-party data contained therein; or (vi) attempt to gain unauthorized access to the Service or their related systems or networks.

### 5. Access to the Service and defects

- 5.1. Unless otherwise is stated in the Service Level Agreement, the Service is generally available twenty-four (24) hours a day, except due to an exempting circumstance pursuant to Section 19 (Force majeure).
- 5.2. In the event of defects, errors or interruptions in the Service, the Merchant acknowledges and agrees that this will be solely and exclusively regulated by the Service Level Agreement. The measures provided by Sitoo under this Section 5.2 and the Service Level Agreement are exhaustive with respect to Sitoo's responsibility for defects, operational disturbances or similar and the Merchant's right to compensation and other remedies for operational disturbances, lack of accessibility, defects or interruptions in the Service.

### 6. Orders

- 6.1. The Merchant may during the Term place Orders in respect of POS Client Licenses, Add-ons, and Hardware.
- 6.2. In addition to Section 6.1, any Order submitted after the Effective Date shall include the following details; (i) name of the Merchant (or Approved Affiliate); (ii) geographical region where the relevant stores are located; (iii) Effective Date of the Agreement; (iv) date of submission of the Order; (v) requested start date for additional subscriptions, if any; and (vi) any other details relevant to the Order.
- 6.3. Upon receipt of an Order from the Merchant, Sitoo shall provide the Merchant with an acceptance or denial within a reasonable period of the receipt.

- 6.4. Unless otherwise expressly agreed between the Parties; (i) access and use is purchased as subscriptions; and (ii) subscriptions will commence on the start date specified in the applicable Order, with a duration that follows the Term.

## 7. Professional Services

- 7.1. Sitoo shall upon request by the Merchant provide Professional Services relating to the Service. The Merchant shall in such case submit a Statement of Work inquiry to Sitoo.
- 7.2. If the Merchant submits a Statement of Work for Professional Services, such purchase order shall not be binding upon Sitoo until accepted by Sitoo. Unless otherwise agreed, Sitoo shall respond to each order submitted by the Merchant within five (5) Working Days following receipt.
- 7.3. The scope of Professional Services shall be set forth in the Statement of Work executed by the Parties, describing the work to be performed and any applicable milestones, dependencies and other technical specifications or related information. Unless Professional Services are provided on a fixed-fee basis, the Merchant shall pay Sitoo at the hourly rates set out in the Price List. The Merchant shall reimburse Sitoo for reasonable cost for materials, travel costs, accommodation and daily allowances, attributable to Sitoo's performance of Professional Services.
- 7.4. In addition to Section 7.3, any SoW submitted after the Effective Date shall include the following details; (i) name of the Merchant (or Approved Affiliate); (ii) geographical region where the relevant stores are located and/or services shall be performed; (iii) Effective Date of the Agreement; (iv) date of submission of the SoW; (v) requested start date for the ordered services; and (vi) any other details relevant to the purchase of Professional Services.
- 7.5. Sitoo accepts responsibility for the conduct and performance of its employees and any other assisting persons when performing Professional Services.

## 8. Amendments, changes and limitations

- 8.1. Sitoo may make changes of the Service at any time and for any reason. Sitoo will strive not to make any changes of the Service as set out in the Platform, Client and Capabilities Description, which Sitoo considers may be of disadvantage to its customers. Sitoo may however, from time to time, be required to adjust the Service due to changes in law or in regulation, by decisions from regulatory authorities, as a result of requirements from third party software providers or other similar reasons, irrespective of such adjustments are detrimental to its customers. The Merchant acknowledges that Sitoo may discontinue the maintenance of, or remove Add-ons if Sitoo, in its discretion, has reasonable and/or commercial grounds therefor.
- 8.2. If Sitoo opts to impose limitations on the Service for the Merchant, such as but not limited to storage space, application programming interface calls, Sitoo shall use commercially reasonable efforts to provide at least three (3) months' written Notice of such limitations to the Merchant.
- 8.3. Sitoo may during the Term make changes to the Terms of Service, the Service Level Agreement, and the general terms and conditions which apply to the Merchant's purchase of Hardware through Sitoo.
- 8.4. Sitoo undertakes to inform the Merchant of any material changes imposed under Sections 8.1-8.3, which are of disadvantage to the Merchant, at least thirty (30) days before such changes enter into force. If the Merchant does

not agree to such changes, the Merchant is entitled to terminate the Agreement by giving Sitoo Notice within the thirty (30) days period following Sitoo's Notice. By not providing Notice within such time period, the Merchant is deemed to have accepted said changes.

- 8.5. Sitoo's rights of amendments and changes under Section 8.3 does not apply to this Section 8 or Sections 2 (Grant), 10 (Invoicing and payment of Sitoo Fees), 15 (Warranty), 16 (Breach and liability), and 17 (Term and termination).
- 8.6. Sitoo reserves the right to replace the Service with other similar software that is at least as good or better than the Service. Any costs for such replacement shall be borne by Sitoo.

## 9. Support

Unless otherwise agreed in the Merchant Agreement document, Sitoo shall provide Support to the Merchant and Users of the Service, as set out in the Service Level Agreement and otherwise as necessary at agreed terms and costs.

## 10. Invoicing and payment of Sitoo Fees

- 10.1. The Merchant shall pay the Sitoo Fees specified in the Price List and applicable Order and/or Statement of Work for Professional Services.
- 10.2. Sitoo Fees start as follows; (i) Platform Fee, and Add-on Fee for Platform Add-ons, Client License Fee, Add-on Fee for POS Client License Add-ons, and Support Fee, as from the Effective Date or the start date set out in the applicable Order; and (ii) Professional Services Fee, on current account when the services have been carried out.
- 10.3. Any discount in relation to the Merchant's Initial Order is set out in the Initial Order or the Main Agreement document. Such discount, if any, is not applicable in relation to an Order placed by the Merchant after the Effective Date or a Renewal Term..
- 10.4. As of each 1 January during the Term (with the exception of such date occurring earlier than six [6] months from the Effective Date) the then-current prices in the Price List shall automatically be increased; (i) due to inflation in accordance with SCB's most recently published labour cost index for wage earners and salaried employees in the private sector (Sw. Arbetskostnadsindex för arbetare och tjänstemän inom privat sektor - AKI) compared to twelve (12) months earlier; and (ii) to reflect variations in the foreign exchange rate between the SEK currency and the Euro currency of more than five (5) percent since the Effective Date. Such price increases shall also be effective for all the Merchant's active subscriptions. Sitoo may further adjust Sitoo Fees as set out in Section 10.7 as well as due to proven increased costs related to the Service, under the latter giving three (3) months' written Notice to the Merchant. If the Merchant does not accept the adjusted fee due to Sitoo's increased costs, the Merchant may terminate the Agreement by giving Notice within the thirty (30) days period following Sitoo's Notice. If such termination is not made, the Merchant is deemed to have accepted the increased Sitoo Fees.
- 10.5. In addition to the Platform Fee, Client License Fee, Add-on Fee, and Support Fee, the Merchant shall pay Professional Services Fee to Sitoo for services rendered under Section 7. A minimum of 0,5 hour is invoiced per started working hour by each Sitoo staff engaged by the Merchant.
- 10.6. The Merchant shall pay the Sitoo Fees specified in all Orders or a SoW pursuant to the Agreement. Except as

otherwise specified in the Agreement; (i) fees are based on subscriptions and services purchased and not actual usage; (ii) subscriptions and payment obligations are non-cancellable and Sitoo Fees paid are non-refundable; and (iii) Platform Fee, Client License Fee, Add-on Fee, and Support Fee are based on monthly periods that begin on the subscription start date and each monthly anniversary, hence, fees for subscriptions added in the middle of a monthly period will be charged for prorated for the remainder of the monthly period and in full for the monthly periods remaining of the Term.

10.7. The Platform Fee, Client License Fee, Add-on Fee, and Support Fee during any Renewal Term shall be the same as that during the prior term (however subject to increase as set out in Section 10.4) unless Sitoo has given the Merchant written Notice of a pricing increase at least six (6) months before the end of the then current Term, in which case the pricing increase shall be effective for all the Merchant's active subscriptions upon renewal and thereafter, unless the Merchant gives Notice of non-renewal at least four (4) months before the end of the then current Term.

10.8. Irrespective of Section 10.2 and unless the Merchant is paying via credit card as set out in Section 10.9; (i) Merchant shall pay Sitoo Fees in respect of subscriptions three (3) months in advance. Professional Services Fee will be invoiced when occurred; (ii) each invoice being sent no later than thirty (30) days before the start of the next three-month period; and (iii) all payments under the Agreement shall be made within thirty (30) days of the date of the applicable invoice, however, the Merchant shall not be obligated to pay earlier than the last Working Day before the start of the next three-month period. Irrespective of the foregoing, Sitoo reserves the right to defer invoicing until the next invoicing period, if the total amount due by the Merchant is less than 100 EUR.

10.9. Irrespective of Section 10.2 and if the Parties have agreed that the Merchant will be paying via credit card, the Merchant shall pay Sitoo Fees in respect of subscriptions one (1) month in advance. Professional Services Fee will be charged when occurred. By providing credit card information, the Merchant authorizes Sitoo to automatically charge the Merchant's credit card during the Term for all Sitoo Fees due as of that date (if any). The Merchant acknowledges and agrees that the amount billed and charged may vary depending on the Merchant's active subscriptions and services rendered during the applicable billing period and the prior period. The Merchant acknowledges that for certain credit cards, the issuer of the card may charge a transaction fee or other charges. If a payment is not successfully settled due to expiration of a credit card, insufficient funds, or otherwise, the Merchant remains responsible for any amounts not remitted to Sitoo and Sitoo may, in its sole discretion, either (i) invoice the Merchant directly for the deficient amount, (ii) continue billing the credit card once it has been updated by the Merchant (if applicable) or (iii) terminate the Agreement as set out in Section 16.2. At any time, the Merchant may change its credit card information by Notice to Sitoo.

10.10. Sitoo shall send invoices to the Merchant's address set out Section 1 of the Merchant Agreement document. The Merchant may by Notice specify that invoices are to be sent to one or more other addresses. Irrespective of the foregoing, the Merchant is ultimately responsible for outstanding invoices under the Agreement. The Merchant shall reimburse Sitoo for the work and additional cost

involved in sending more than one (1) invoice and/or invoices to several addresses as set out in the Price List.

10.11. In the event of late payment, Sitoo may issue one or several payment reminders to the Merchant, each of which is subject to a reminder fee. Any amounts not paid timely shall also accrue interest as from the date when due. Any late payments will be subject to a service charge equal to five (5) percent per month of the amount due. Interest is payable in addition to other remedies under the Agreement, as well in respect of any reimbursable costs and fees according to law. If the Merchant has been delinquent in its payments, Sitoo may condition future provision of the Service or Professional Services on prepayment or payment terms shorter than those specified under Sections 10.8 or 10.9.

10.12. If any amount owing by the Merchant under the Agreement is thirty (30) or more days overdue, Sitoo may submit the claim for external debt collection. Sitoo may also, without limiting Sitoo's other rights and remedies, accelerate the Merchant's unpaid Sitoo Fee obligations so that all such obligations become immediately due and payable, and suspend provision of the Service to the Merchant until such amounts are paid in full. Sitoo will however give the Merchant at least ten (10) Working Days prior Notice that its account is overdue, before suspending the Service.

## 11. Taxes

11.1. Sitoo Fees do not include any Taxes. The Merchant is responsible for paying all Taxes associated with its purchases pursuant to the Agreement.

11.2. If Sitoo has the legal obligation to pay or collect Taxes for which the Merchant is responsible under Section 11.1, the appropriate amount shall be invoiced to and paid by the Merchant. For clarity, Sitoo is solely responsible for taxes assessable against Sitoo based on its income, property and employees.

## 12. Information, marketing and Feedback

12.1. The Parties shall inform each other about any relevant activities and changes, occurred or foreseen.

12.2. Neither Party shall by way of statement, act or omission, discredit or reflect adversely upon the reputation or the quality of the other Party or the products or services provided by the other Party.

12.3. Irrespective of Section 22, Sitoo may in connection with its marketing disclose that the Merchant is a customer of Sitoo. This is however subject to the Merchant's prior approval.

12.4. At the request of Sitoo, the Merchant agrees to the issuance of a joint press release on a mutually agreed date. Each Party will have the right to approve the press release in advance, but such approval shall not be unreasonably delayed or withheld. The Merchant also agrees to participate in other reasonable marketing activities that promote the benefits of the Service to other potential customers and to the use of the Merchant's name and logo on Sitoo's web site and in promotional materials.

12.5. If the Merchant provides Sitoo with Feedback, Sitoo shall have the right to use and exploit such Feedback including, without limitation, the incorporation of such Feedback into software products and/or services, including, without limitation, the Service, without any further obligation to the Merchant.



### 13. Intellectual property rights

- 13.1. Sitoo is the owner and/or holder of rights to all products and services, and related materials, software, source code, instructions, documentation and tools, and all other related information and know-how of the Service, including copyright and other intellectual property rights related to the Service and constituent products.
- 13.2. Sitoo retains all intellectual property rights (including without limitation all patent rights, copyrights, trademark rights, trade secret rights and other intellectual property rights) in and to the Service, and Professional Services as well as to all related materials and documents. All rights not expressly granted in the Agreement are reserved by Sitoo. No additional licenses or other rights are granted by implication or otherwise.
- 13.3. The Merchant shall not (and shall not authorize or promote any third party to); (i) modify, translate, reverse engineer, decompile, disassemble, or create derivative works based on the Service; (ii) circumvent any User limits or other timing, use or functionality restrictions built into the Service; (iii) remove any proprietary notices, labels, or marks from the Service; (iv) frame or mirror any content forming part of the Service; or (v) access the Service in order to (a) build a competitive product or service, or (b) copy any ideas, features, functions or graphics.
- 13.4. The Merchant shall without delay inform Sitoo of any infringement or suspected infringement of intellectual property rights under the Agreement. Sitoo is however not obliged to defend such rights. If Sitoo chooses to defend its rights, the Merchant shall to a reasonable extent assist Sitoo.

### 14. Non-Sitoo Applications and other third-party products or services

- 14.1. Sitoo or third parties may from time to time make available to the Merchant third-party products or services, including but not limited to Non-Sitoo Applications and implementation, customization and other consulting services. Non-Sitoo Applications and other third-party products or services integratable with the Service are not included in the Service.
- 14.2. Non-Sitoo Applications may in some cases constitute Add-ons, in which case specific terms and conditions may be stipulated by the third party software supplier. If applicable, Sitoo will upon request make such additional terms and conditions available to the Merchant and by ordering Add-ons, the Merchant agrees to said terms and conditions and undertakes to comply with them. If the Merchant orders Add-ons developed and/or provided by a third party software supplier, the delivery, maintenance, liability and responsibility will be solely based on the suppliers' terms and conditions. Hence, Sitoo does not take any additional responsibility for any such functionality provided to the Merchant through Sitoo.
- 14.3. Any acquisition by the Merchant of Non-Sitoo Applications, and any exchange of data between the Merchant and third-party providers, is solely between the Merchant and such providers. Sitoo does not warrant or support Non-Sitoo Applications or services, except as expressly specified in writing.
- 14.4. If the Merchant or Users installs or enables Non-Sitoo Applications for use with the Service, the Merchant acknowledges that Sitoo may allow third party providers of those Non-Sitoo Applications to access Merchant Data as

required for the interoperation of such Non-Sitoo Applications with the Service. Unless otherwise set out in the Data Processing Agreement, Sitoo shall not be responsible for any disclosure, modification or deletion of any Merchant Data resulting from any such access by Non-Sitoo Application providers.

- 14.5. The Service contains features designed to interoperate with Non-Sitoo Applications and Hardware. To use such features, the Merchant may be required to obtain access to such Non-Sitoo Applications and/or Hardware from their respective providers. If the provider of any such Non-Sitoo Application ceases to make the Non-Sitoo Application available for interoperation with the Service or Add-ons features on reasonable terms, Sitoo may cease providing such features without entitling the Merchant to any refund, credit, or other compensation.
- 14.6. In addition to Non-Sitoo Applications, Sitoo may from time to time provide the Merchant with certain code in order to temporarily circumvent a specific issue and/or access to third-party tools, both of which Sitoo neither monitor nor have any support or control over. The Merchant acknowledge and agree that Sitoo may provide such code and/or access to such tools "as is" and "as available" without any warranties, representations or conditions of any kind and without any endorsement. Sitoo shall have no liability whatsoever arising from or relating to the Merchant's use of such code and/or optional third-party tools. Any use by the Merchant of such code and/or optional tools is entirely at the Merchant's own risk and discretion.

### 15. Warranty

- 15.1. Sitoo represents and warrants that Sitoo's performance under the Agreement; (i) will be carried out in a professional and timely manner; (ii) does not infringe any copyright, patent, trade secret, or other proprietary right held by any third party; (iii) in all material aspects will be in compliance with applicable laws and regulations; and (iv) it is entitled to enter into the Agreement.
- 15.2. Sitoo's warranty covers solely the Service in its original configuration, as set out in the Platform, Client and Capabilities Description. Any Non-Sitoo Application, configuration, modification, addition or integration to or of the Service, performed by the Merchant, shall be the sole responsibility of the Merchant.
- 15.3. Except for the limited warranty in Sections 15.1-15.2, the Service and all Professional Services are provided "as is" and "as available". Sitoo makes no other warranties, express or implied, statutory or otherwise, including but not limited to warranties of merchantability, title, fitness for a particular purpose. Sitoo does not warrant that the Merchant's use of the Service will be uninterrupted or error-free, nor does Sitoo warrant that it will review the Merchant Data for accuracy or that it will preserve or maintain the Merchant Data without loss or corruption.

### 16. Breach and liability

- 16.1. Should either Party (the "**Defaulting Party**") commit a breach of any of the provisions of the Agreement, then the other party (the "**Aggrieved Party**") shall give the Defaulting Party thirty (30) days written Notice or such longer period as may be reasonably required under the circumstances, to remedy the breach.
- 16.2. If the Defaulting Party fails to remedy the breach under Notice set out in Section 16.1, the Aggrieved Party shall be entitled to claim immediate payment and/or specific

performance by the Defaulting Party of all the Defaulting Party's obligations whether or not the due date for payment and/or performance shall have arrived, in either event without prejudice to the Aggrieved Party's rights to claim damages, recover such damages as it may have sustained. The foregoing is also without prejudice to such other rights as the Aggrieved Party may have at law.

- 16.3. Sitoo's total liability for direct damages per calendar year shall be limited to an amount of fifty (50) percent of the annual Sitoo Fees paid by the Merchant in the twelve (12) months period prior to the event that constitutes the breach. Except as for acts of willful misconduct or gross negligence, Sitoo shall in no event be liable for incidental, consequential, indirect, or special damages of any nature, including, without limitation, lost business profits.
- 16.4. In no event shall Sitoo be liable for any loss, death, or bodily injury that the Merchant or any User suffers, or the Merchant cause to any third party, in connection with the use of Hardware.
- 16.5. If Sitoo becomes aware that the Merchant uses the Service in breach of the Agreement, and Sitoo deems that this may cause material harm to Sitoo, its brand or goodwill, Sitoo may suspend the Merchant's access to the Service with immediate effect.
- 16.6. The remedies set forth in the Agreement shall be the Merchant's sole and exclusive remedy for any breach by Sitoo under the Agreement.
- 16.7. In addition to Sections 16.2-16.6, in the event the Merchant should commit a breach of the terms in Section 13 (Intellectual property rights) or Section 22 (Confidentiality and trade secrets) and should fail to discontinue and cure the consequences of such breach (if able to discontinue and/or cure) within thirty (30) days after receipt of Notice from Sitoo, Sitoo has the right to claim compensation for damages and/or terminate the Agreement with immediate effect.

## 17. Term and termination

- 17.1. The term of the Agreement shall commence as of the Effective Date and shall continue to be in effect for an initial term of thirty-six (36) months from the Go-Live Date (the "Initial Term"). Thereafter, the term of the Agreement shall be automatically renewed annually on the anniversary of the Go-Live Date for additional one (1) year renewal terms (any such subsequent renewal terms referred to in the Agreement as a "Renewal Term"), unless either Party gives written Notice of non-renewal to the other Party at least six (6) month prior to the end of the Initial Term or any Renewal Term. Collectively, the Initial Term and any subsequent Renewal Terms shall constitute the "Term".
- 17.2. Without prejudice to Section 16.7 or any other remedy a Party may have against the other for breach or non-performance of the Agreement, either Party shall have the right to terminate the Agreement by giving the other Party not less than thirty (30) days' written Notice if: (i) the other Party should commit or permit a breach or non-performance of material importance to the other Party and is unable to rectify such breach within the time period set out in the written Notice; or (ii) there is reason to assume that the other Party has become insolvent.

## 18. Consequences of termination

- 18.1. Upon termination of the Agreement or expiration of the Term, at any time and for any reason or no reason, all rights granted by Sitoo to the Merchant under the Agreement shall

automatically and promptly cease. At such event, all amounts payable by the Merchant to Sitoo shall become due and payable on the effective date of expiration or termination of the Agreement, even if longer terms had been provided or agreed previously.

- 18.2. Upon any termination for cause by the Merchant, Sitoo shall refund the Merchant any prepaid Sitoo Fees. Upon any termination for cause by Sitoo, the Merchant shall pay any unpaid Sitoo Fees covering the remainder of the Term. In no event shall any expiration or termination of the Agreement relieve the Merchant of the obligation to pay any Sitoo Fees payable to Sitoo for the period prior to the effective date of termination.
- 18.3. Sitoo shall not be liable to the Merchant or any third party for suspension or termination of the Merchant's subscriptions or the Merchant's access to and use of the Service, including any destruction of Merchant Data, if such suspension or termination is in accordance with the terms of the Agreement.
- 18.4. Sitoo does not provide an archiving service. Sitoo agrees only that it will not intentionally delete any Merchant Data from the Service prior to termination of the Agreement or expiration of the Term. Sitoo expressly disclaims all other obligations with respect to storage. Following termination of the Agreement or expiration of the Term, Sitoo will retain Merchant Data for ninety (90) days from such date beyond which, Sitoo will have no obligation to maintain or provide the Merchant access to such data. Thereafter, unless legally prohibited, Sitoo will permanently delete all Merchant Data in Sitoo's possession.
- 18.5. Upon the termination or expiration of the Agreement, Sitoo shall at the Merchant's request, provide necessary services to enable the Merchant to migrate the Services to a provider of a replacement service. Sitoo shall provide reasonable termination assistance services to the Merchant under the hourly rates for Professional Services set out in the Price List.

## 19. Force majeure

- 19.1. Except for each Party's obligations to pay money, the Parties shall be relieved from liability for a failure to perform any obligation under the Agreement during such period and to the extent that the due performance thereof by either of the Parties is prevented by reason of any circumstance beyond the control of a Party, such as war, warlike hostilities, mobilization or general military call-up, civil war, fire, flood, pandemic or other circumstances of similar importance.
- 19.2. The Party desiring to invoke an event of force majeure shall give immediate Notice to the other Party of the commencement and the cessation of such event, failing which the Party shall not be discharged from liability for any non-performance caused by such event of force majeure.
- 19.3. Both Parties shall make all reasonable efforts to prevent and reduce the effect of any non-performance of the Agreement caused by an event of force majeure.
- 19.4. If, due to force majeure, the Agreement cannot to a material extent be fulfilled by a Party for more than three (3) months, the other Party is entitled to immediately and without compensation terminate the Agreement by giving written Notice.

## 20. Personal data

- 20.1. The respective Party is responsible for its processing of personal data. Either Party shall ensure that personal data is collected, processed and transferred in accordance with applicable laws, including ensuring that the General Data Protection Regulation (EU 2016/679) and any local laws are applied and adhered to when carrying out its work under the Agreement.
- 20.2. When Sitoo processes personal data relating to the Merchant's and User's use of the Service, the Merchant is the data controller and Sitoo is the processor for such processing of personal data. The Data Processing Agreement, attached as an appendix to the Merchant Agreement document, further governs the processing of personal data.

## 21. Merchant Data

- 21.1. The Merchant grants Sitoo a limited license to access, process, transmit and use Merchant Data for providing the Service and complying with the Agreement.
- 21.2. Sitoo shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Merchant Data. Sitoo shall not; (i) disclose Merchant Data, except as compelled by law or as permitted by the Merchant; or (ii) access Merchant Data, except to provide the Service and to prevent or address service or technical problems, or at the Merchant's request in connection with Support matters.
- 21.3. Sitoo may use Merchant Data collected regarding use of the Service for creating anonymized, aggregated and otherwise non-personal data. Sitoo may use and make available such data for analyzing, improving, supporting and operating the Service. Sitoo shall ensure that such data cannot identify the Merchant and in no other way can be specifically associated to the Merchant. For the avoidance of doubt, Sitoo may not disclose data under this Section 21.3 for purposes that are detrimental to the interests of the Merchant.

## 22. Confidentiality and trade secrets

- 22.1. A Party shall not reveal such information provided by the other Party which is of such art that it may be considered a trade secret of that Party, nor use such confidential information other than for the purpose of fulfilling the duties according to the Agreement. For purposes of the Agreement, Sitoo's confidential information includes, but is not limited to, the contents of the Price List document and the Platform, Client and Capabilities Description document.
- 22.2. Either Party shall take all necessary precautions reasonably calculated to prevent an unauthorized disclosure or use of trade secrets by its employees, subagents, Affiliates or other intermediaries. A Party shall not without compelling reason reveal; (i) the content of the Agreement; or (ii) any information regarding negotiations or arbitration or mediation proceedings related to the Agreement.
- 22.3. The Parties may disclose information related to the Agreement; (i) if required by law, any governmental authority, or court order; (ii) as required by the rules of any stock exchange, provided that reasonable measures are used to preserve confidentiality; (iii) in connection with the requirements of a public offering or securities filing, provided reasonable measures are used to obtain confidential treatment for the proposed disclosure, to the extent such treatment is available; or (iv) in connection with the enforcement of the Agreement or any rights under the

Agreement, provided that reasonable measures are used to preserve confidentiality.

- 22.4. The Parties may also disclose information under the Agreement in confidence, provided that confidentiality undertakings and other efficient measures are used to preserve confidentiality; (i) to its auditors, accountants, legal counsel and other advisors; and (ii) in connection with potential investments or change of control of a Party or an Affiliate.
- 22.5. If a receiving Party is compelled by law to disclose confidential information of a disclosing Party, it shall provide the disclosing Party with prior Notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the disclosing Party's cost, if the disclosing Party wishes to contest the disclosure.
- 22.6. The confidentiality undertakings in the Agreement shall continue to be in force for a period of two (2) years after the termination or expiration.
- ## 23. Assignment
- The Merchant may not assign any of its rights or delegate any of its obligations under the Agreement, whether by operation of law or otherwise. Sitoo may wholly or partly assign or pledge its rights and obligations under the Agreement to an Affiliate by written Notice to the Merchant. Any attempted assignment in violation of this Section 23 shall be null and void.
- ## 24. Compliance with laws
- 24.1. Each Party shall comply with all applicable laws and regulations regarding the general conduct of business including without limitation all relevant anti-corruption and antibribery laws.
- 24.2. Sitoo shall be responsible for the procurement of material consents, licenses and authorisations prescribed under the laws for the time being in force for the distribution of the Service by Sitoo to the Merchant.

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