

Paycheck | PlusTM

Your payroll. Our passion.

General Terms of Business

Paycheck Plus

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1. DEFINITIONS AND INTERPRETATION

1.1 **Definitions:-** In these Terms, the following terms shall have the following meanings:-

'Accounts Pack' means the information pack provided by Paycheck Plus to the Client in conjunction with these Terms and the DPA, setting out the start date(s) for the Services and key contact details for Paycheck Plus and the Client.

'Additional Charges' means any fees and charges payable by the Client to Paycheck Plus for Additional Services.

'Additional Services' additional services provided by Paycheck Plus to the Client, which are outside the scope of the Services and including but not limited to re-runs, bonus runs, additional employees or other services as may be agreed between the Parties from time to time.

'Agreed Sub-Contractors' has the meaning given to that term in Clause 11 of these Terms.

'Affiliate', in relation to any Party, means either a *subsidiary* or *holding company* of that Party or a *subsidiary* of any entity which is a *holding company* of that Party, in each case from time to time and, for this purpose, *subsidiary* and *holding company* shall have the meaning ascribed to such terms at Sections 7 and 8 of the Companies Act, 2014.

'Business Day' means a day other than a Saturday, Sunday or public holiday in Ireland or the United Kingdom when banks are open for business

'Business Purpose' has the meaning ascribed to such term in the DPA.

'Client' means [REDACTED], (Company Registration Number [REDACTED]), being the client to which the Services are being provided by Paycheck Plus pursuant to the Terms and the DPA.

'Client Data' has the meaning ascribed to such term in the DPA.

'Controller' has the meaning ascribed to such term in the DPA.

'Data Protection Legislation' has the meaning ascribed to such term in the DPA.

'DPA' means the data processing agreement entered into between Paycheck Plus and the Client.

'Data Subject' has the meaning ascribed to such term in the DPA.

'Effective Date' means the first day of the Term, being the date of signature by the Client of these Terms as specified on these Terms or, in the event that the Terms are undated, the date on which the Service Fee is first received by Paycheck Plus or in the event that the Services have commenced prior to the execution of these Terms, the date of the commencement of the Services.

'Employees' means employees of the Client who sign up directly to use the Paycheck Plus System to access payroll services.

'Initial Term' has the meaning ascribed to such term at Clause 3.1 of these Terms.

'Key Client Representatives' has the meaning given to that term in Clause 4.1.

'Material Breach' means substantial (non-trivial) failure of performance under these Terms which is significant enough to give the aggrieved Party the right to sue for breach of contract.

'Paycheck Plus' is the trading name of Paycheck Plus Payroll Services Ireland Limited (Company Registration Number 478113).

'Paycheck Plus System' means any information technology system or systems owned or operated by Paycheck Plus.

'PCP Engage System' means the software platform provided by third party service provider, Payzaar Limited to facilitate the secure transmission of data between the Client and Paycheck Plus and which contains, inter alia, a calendar and timelines for the provision of the Services.

'Personal Data' has the meaning given to that term in Data Protection Legislation.

'Proposal' means the proposal document provided by Paycheck Plus to the Client setting out the details of the Service Fee.

'Related Person' means the Client's employees, officers, representatives (including, the Key Client Representative(s)), advisers or subcontractors involved in or affected by the provision or receipt of the Services, including, for avoidance of doubt, any person whose salary is processed by Paycheck Plus as part of the Services and **'Related Persons'** shall be construed accordingly.

'Service Change' means a change or addition to the Services and which will be governed by Clause 2.12 of these Terms.

'Service Fee' means the fees and charges payable by the Client to Paycheck Plus in respect of the Services as specified in the Proposal and as may be subsequently revised or amended by agreement between the Parties.

'Services' mean the core services provided to the Client by Paycheck Plus as specified in the Proposal, which relate to the Processing (as defined in the DPA) of Client Data by Paycheck Plus for the Business Purpose.

'Sub-Contractor' has the meaning given to such term in Clause 11.1 of these Terms.

'Term' has the meaning applied to such term in Clause 3.2 of these Terms.

'Terms' means these general terms and conditions entered into between Paycheck Plus and the Client for the provision of the Services by Paycheck Plus to the Client and incorporating the Proposal and the Accounts Pack.

1.2 **Interpretation:-** The following rules of interpretation shall apply to these Terms:-

1.2.1 Clause, Schedule and paragraph headings are included for convenience only and shall not affect the interpretation of these Terms.

1.2.2 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors in title and permitted assigns and a reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.2.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular and a reference to one gender shall include a reference to the other genders.

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

time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision.

- 1.2.5 Any words following the terms *including, include, in particular or for example* or any similar phrase shall be construed as illustrative and shall not limit the generality of the related general words.
- 1.2.6 Any obligation on a Party not to do something includes an obligation not to allow that thing to be done.
- 1.2.7 No rule of construction will apply to interpretation of any term or condition of these Terms to the disadvantage of one Party on the basis that it proposed or drafted same.
- 1.2.8 The Client hereby irrevocably agrees that either signing these Terms or the DPA or instructing Paycheck Plus to provide the Services or making any payment of the Service Fee constitutes acceptance by the Client that these Terms in their entirety, including, without limitation, the obligation of the Client to pay the Service Fee, shall apply to the provision of the Services to the Client by Paycheck Plus throughout the Term and that the Client is bound by these Terms in their entirety and, by doing any of the foregoing, the Client irrevocably waives any entitlement (present or future) to claim that these Terms (or any part of them) do not apply to the provision of the Services by Paycheck Plus.
- 1.2.9 If the Client has engaged the Supplier to provide Services, but does not sign and return these Terms within 14 days of the receipt of same and continues to use the Services thereafter, the Client shall be deemed to have accepted these Terms by continuing to use or receive the Services.
- 1.2.10 If any ambiguity or question of intent or interpretation should arise in connection with any provision of these Terms, it shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favouring or disfavours any Party by virtue of the authorship of any of the provisions of these Terms.

2. THE SERVICES & SERVICE FEES

- 2.1 The Parties have agreed that Paycheck Plus shall provide the Services to the Client for the Term in consideration of payment of the Service Fee by the Client to Paycheck Plus and otherwise on the terms and subject to the conditions of this Clause 2 of the Terms and the Proposal.
- 2.2 Other than to the extent expressly stated in the Proposal, the Service Fee is payable to Paycheck Plus by the Client in full without set-off, counterclaim, deduction or withholding (except any deduction or withholding required by law).
- 2.3 Each instalment of the Service Fee is payable by direct debit quarterly in advance.
- 2.4 In respect of any Additional Charges, payment will be automatically deducted by direct debit fourteen (14) days after the date of issue of the relevant invoice.
- 2.5 The Service Fee and any Additional Charges are stated exclusive of VAT, which is payable by the Client to Paycheck Plus at the applicable rate at the date of issue of each relevant invoice.
- 2.6 On 1st of January next following expiry of the Initial Term and on each subsequent 1st January during the Term,

Paycheck Plus shall automatically increase the Service Fee by the prevailing Retail Price Index at the time of such increase, as published by the Office for National Statistics, or an amount equivalent to five per cent (5%) of the Service Fee, whichever the higher. The term Service Fee shall be deemed to incorporate each Annual Service Fee Increase with effect from the date of such increase.

- 2.7 If the Client fails to comply with the terms of payment under these Terms in respect of any invoiced Service Fee or Additional Charges for more than seven (7) calendar days after receipt of a written demand for payment, Paycheck Plus reserves the right to suspend or withhold the provision of all Services to the Client with effect from the end of such seven (7) calendar day period, without incurring any liability to the Client under these Terms or otherwise howsoever.
- 2.8 Without prejudice to the entitlement of Paycheck Plus under Clause 2.6 above, in the event of the Client failing to pay any part of the Service Fee or Additional Charges which has become due and payable, for the avoidance of doubt, the Client shall remain liable to Paycheck Plus for all amounts of the Service Fee or Additional Charges due and payable under these Terms (whether already incurred or continuing payments) until such time as all outstanding amounts of the Service Fee or Additional Charges have been discharged in full by the Client.
- 2.9 For avoidance of doubt and without prejudice to any entitlement of Paycheck Plus to terminate these Terms for non-payment of the Service Fee or Additional Charges under Clause 9 of these Terms (Termination), if, at any time during the Term, there is a dispute relating to an invoiced amount, the Client shall in no circumstances be entitled to withhold or delay payment of any amount of such invoice which is not the subject of such dispute and normal credit terms shall apply in respect of any such undisputed amount.
- 2.10 The Client agrees to reimburse Paycheck Plus on demand for any and all costs and expenses, including reasonable legal costs, incurred by Paycheck Plus in connection with the collection of any such outstanding amounts of the Service Fee or Additional Charges.
- 2.11 If the Client fails to pay any amount (including any part of the Service Fee) due to Paycheck Plus under these Terms by the due date for such payment, then the Client shall pay interest on the overdue amount at the rate of four per cent (4%) per cent per annum above the base rate from time to time of Allied Irish Bank (AIB). Such interest shall accrue on a daily basis from the due date of such payment until the date of actual payment of the entire overdue amount, whether such date is before or after judgment and the interest shall be payable by the Client simultaneously with such overdue amount.
- 2.12 If a Service Change is requested by either Party during the Term, this Clause 2.12 shall apply. For avoidance of doubt, the provisions of this Clause 2.12 are separate to and without prejudice to the provisions of Clause 2.6 above (Annual Service Fee Increase).
- 2.12.1 The request for a Service Change shall be made in writing to the other Party (a 'Service Change Notice') and:-

- (a) if the Service Change is requested by Paycheck Plus (including a proposed Service Change of the type referenced at Clause 7.5 of these Terms) and, in the opinion of Paycheck Plus, it will not result in either (i) Paycheck Plus being unable to perform the Services within the agreed timelines or (ii) an increase in the Service Fee, it shall form part of the Services with effect from the date stated in the Service Change Notice and the Client shall not be entitled to object to such Service Change;
- (b) if the Service Change Notice is served by Paycheck Plus (including a proposed Service Change of the type referenced at Clause 7.5 of these Terms) and such proposed Service Change would result in an increase to the cost to Paycheck Plus of providing the Services, then Clause 2.12.2 below shall apply;
- (c) if the Service Change Notice is served by the Client and, in the opinion of Paycheck Plus, such proposed Service Change would result in (i) Paycheck Plus being unable to perform the Services in the agreed manner or within the agreed timelines or (ii) an increase in the Service Fee or (iii) Paycheck Plus not being in compliance with any applicable legal or regulatory requirement, then Clause 2.12.2 below shall apply.

2.12.2 If the circumstances at Clause 2.12.1(b) or (c) apply, the Parties shall, as soon as practicable following service of a Service Change Notice, consider and discuss in good faith the proposed Service Change and the impact on the Services and Service Fee and:

- (a) if the outcome of the above is that the Service Change is accepted, then any agreed changes or additions to the Services and any agreed increase in the Service Fee shall be documented in writing (an '**Agreed Service Change**') and these Terms and the Proposal shall be deemed amended to reflect such Agreed Service Change with effect from the date specified on the Agreed Service Change but otherwise the Agreed Service Change shall be subject to these Terms;
- (b) if the outcome of the above is that either Party refuses to accept the Service Change, then (i) either the Party who submitted the Service Change Notice may opt to withdraw such notice or (ii) Paycheck Plus may opt to terminate these Terms in accordance with Clause 9.1.2 of these Terms (Termination).

2.12.3 For avoidance of doubt, these Terms shall not be interpreted in any manner which requires Paycheck Plus to continue to provide the Services in circumstances where such provision would, in the opinion of Paycheck Plus, be reasonably likely to result in non-compliance by Paycheck Plus with an applicable legal or regulatory obligation or which would result in an increase in the cost to Paycheck Plus of providing the Services without an attendant increase in the Service Fee.

3. TERM

3.1 Unless terminated in accordance with Clause 9 of these Terms, these Terms shall continue for an initial term of twelve (12) months commencing on the Effective Date (the '**Initial Term**').

3.2 Upon expiry of the Initial Term, these Terms shall be deemed to automatically renew for a further twelve (12) month period (an '**Extension**'), unless terminated by either Party under and in accordance with Clause 9 (Termination) and the same shall apply at the end of each such Extension until these Terms is terminated under and in accordance with Clause 9 (Termination) (the '**Initial Term**' and all **Extensions** combined constituting the '**Term**').

4. KEY CLIENT REPRESENTATIVES

4.1 **Key Client Representatives.** The Client is responsible for providing specified authorised representatives for the duration of the Term (the '**Key Client Representatives**') and the following shall apply in respect of the Key Client Representatives:-

4.1.1 the names and contact details of the Key Client Representative(s) shall be furnished in writing to Paycheck Plus within the Accounts Pack and once completed by the Client will thereafter be available within the PCP Engage System. Paycheck Plus shall be notified in writing as soon as practicable when any person is no longer a Key Client Representative and also of the name(s) and contact detail(s) of any additional or replacement Key Client Representative(s);

4.1.2 at all times during the Term (unless and until written confirmation that a person is to be no longer regarded as a Key Client Representative has been received from the Client), each notified Key Client Representative will have authority to engage and deal with Paycheck Plus and make decisions on behalf of the Client in respect of the Services and written notification of the appointment of any Key Client Representative to Paycheck Plus shall be deemed to be sufficient confirmation of same to Paycheck Plus without any necessity for Paycheck Plus to seek any further verification;

4.1.3 the Key Client Representative(s) shall be authorised by the Client to manage and control all of the Client's resources to the extent required for and for the purpose of enabling the performance of these Terms during the Term;

4.1.4 the Key Client Representative(s) shall be responsible for ensuring that each decision specific to the Client in respect of these Terms is reached within the agreed timescale.

4.1.5 the names and contact details of the Paycheck Plus main point(s) of contact in respect of the delivery by Paycheck Plus of the Services will be made available to the Client on the PCP Engage System.

5. PRINCIPAL CLIENT RIGHTS AND RESPONSIBILITIES

5.1 The Client undertakes to comply with the provisions of Clause 4 above in respect of the Key Client Representative(s) at all times during the Term.

5.2 The Client acknowledges and agrees that Paycheck Plus, in its delivery of the Services, is relying on the timely performance by the Client of its obligations under these Terms. Where there is any act, omission, error or delay on the part of the Client in the performance of its obligations under these Terms, and such act, omission, error or delay impacts on the ability of Paycheck Plus to

deliver the Services on time or in agreed manner, Paycheck Plus shall not be liable for any resulting delay or failure on its part to perform the Services in accordance with the terms of these Terms. The following shall also apply in this regard:-

- 5.2.1 to enable Paycheck Plus to perform the Services, the Client undertakes to provide Paycheck Plus with all required Client Data, being complete and accurate, in one submission in advance of each agreed payment cut-off date as included in the annual calendar on the PCP Engage-System.
- 5.2.2 work undertaken by Paycheck Plus as a result of additional or incomplete submissions of Client Data by the Client, or as a result of submissions of Client Data received by Paycheck Plus from the Client after the agreed cut-off dates and times will constitute additional Services and Additional Charges will apply;
- 5.2.3 without prejudice to Clause 5.2.2 above, the Client undertakes to reimburse Paycheck Plus for all costs and expenses incurred by Paycheck Plus as a result of submission by the Client of incomplete or inaccurate Client Data to Paycheck Plus and the Indemnity in Clause 18 (Indemnity) of the DPA shall apply; and
- 5.2.4 the Client undertakes to Paycheck Plus that it shall ensure that sufficient funds in collectible form are available in its bank account at all relevant times during the Term to finance the entire payroll processed by Paycheck Plus as part of the Services and the Client acknowledges and agrees that Paycheck Plus has no responsibility whatsoever to the Client or to any Related Person or to any other person to provide funds or to ensure the availability of funds to pay any amount which is payable by the Client to any person (including, without limitation, in respect of the processed payroll).
- 5.2.5 the Client undertakes to furnish to Paycheck Plus, as soon as practicable following any request for same, any Client Data which may be required by Paycheck Plus to enable it to provide the Services and perform its obligations under these Terms; and
- 5.2.6 the Client shall provide all Client Data required for provision of the Services in a timely manner and shall be responsible for ensuring that it is accurate in all material respects.
- 5.2.7 The Client shall, as Controller, remain responsible all times for the Employees and shall ensure at all times that it acts in a fully transparent manner with and in respect of all Data Subjects whose Personal Data is being processed by it pursuant to these Terms in accordance with Data Protection Legislation. In particular, the Client shall ensure that it has a valid legal basis for the processing of all Client Data (to the extent that it either constitutes or contains Personal Data) under Data Protection Legislation and shall comply at all times with the provisions of Data Protection Legislation and the DPA.
- 5.2.8 The Client shall examine all Client Data (including, for avoidance of doubt, payroll data) which has been processed by Paycheck Plus as part of the Services in the format in which such processed Client Data is delivered or sent to the Client by Paycheck Plus for this purpose with reasonable care and diligence for errors, omissions

or discrepancies and shall notify Paycheck Plus immediately of any such errors, omissions or discrepancies. Once the Client has either (i) confirmed its approval of the accuracy and completeness of any such processed Client Data in the format sent or delivered to it by Paycheck Plus (by the agreed cut-off date where applicable) or (ii) even where it has not communicated such approval, it has not notified any such errors, omissions or discrepancies to Paycheck Plus (by the agreed cut-off date where applicable), Paycheck Plus shall have no liability or responsibility to the Client or to any Related Person in respect of any loss or liability incurred by the Client or by any Related Person or in respect of any errors, omissions, discrepancies or other issues which may arise thereafter as a result of non-communication by the Client to Paycheck Plus of any such error, omission or discrepancy.

- 5.3 The Client shall be solely responsible for ensuring its own compliance with all legal and regulatory obligations imposed on the Client, including, without limitation, under all applicable Data Protection Legislation, employment and tax law, and which are relevant to the subject-matter of these Terms, including the Services. Paycheck Plus shall have no responsibility or liability to any person, including, without limitation, the Client or any Related Person in respect of the Client, with regard to any non-compliance by the Client with its own legal and regulatory obligations (including, without limitation and for avoidance of doubt, where such non-compliance results, directly or indirectly, from Paycheck Plus following a direction of the Client) and regardless of Paycheck Plus's state of knowledge regarding same.
- 5.4 The Client shall ensure that all software and information and communication (ICT) systems owned and utilised by the Client and which are relevant to or support provision of the Services are adequately licensed, maintained and supported and shall maintain appropriate data security, business continuity and disaster recovery processes and procedures to the extent relevant to provision of the Services.
- 5.5 The Client may not in any way alter or interfere with the technical or operational functionality or programming of the PCP Engage System. The Client will be responsible for the format, presentation and compatibility of all Client Data inputted into the PCP Engage System and for ensuring that such Client Data is compatible with the PCP Engage System. The Client acknowledges that all proprietary rights in the PCP Engage System are and will remain the property of Payzaar and that the Client shall have no rights in or to the PCP Engage System, other than the right to use it for the purposes set out in these Terms and in particular to avail of the Services.
- 5.6 The Client and all Related Persons shall, in all engagement and correspondence with Paycheck Plus (and its officers, agents, employees and contractors) treat all such persons in a respectful and professional manner and shall not in any circumstances communicate or act in a disrespectful, hostile or aggressive manner to Paycheck Plus and/or any office, agent, employee or contractor of Paycheck Plus.

5.6.1 The Client shall not do (nor shall it permit or procure any Related Person to do) anything, by act or omission, which does or is reasonably likely to damage or harm the reputation of Paycheck Plus or which does or is reasonably likely to bring Paycheck Plus into disrepute.

5.6.2 The Client shall at all times during the Term comply with its obligations under these Terms and the DPA.

6. NON-SOLICITATION

6.1 In order to protect the legitimate business interests of Paycheck Plus:-

6.1.1 The Client shall not, at any time during the Term and for a period of six (6) months following termination of these Terms (howsoever caused), without the prior written consent of Paycheck Plus, either, directly or indirectly, employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of Paycheck Plus in the provision of the Services, whether or not such person would commit a breach of his/her contract of employment/services by reason of taking up such employment/engagement with the Client.

6.1.2 Any consent of Paycheck Plus under Clause 6.1.1 above shall be conditional upon the Client paying a fee to Paycheck Plus equivalent to fifty per cent (50%) of the current annual remuneration payable by Paycheck Plus to such employee or, in the case of a consultant or subcontractor, fifty per cent (50%) of the current annual fees payable by Paycheck Plus to such consultant or subcontractor OR €30,000, whichever is the higher.

7. PRINCIPAL PAYCHECK PLUS RIGHTS AND RESPONSIBILITIES

7.1 Paycheck Plus shall be responsible for its provision of the Services and for its performance of its obligations in the manner and to the extent set out in these Terms.

7.2 Paycheck Plus confirms that it has the necessary experience, expertise and resources to enable it to provide the Services in a professional manner.

7.3 Paycheck Plus shall use reasonable skill and care in the performance of the Services and shall comply with all applicable legal obligations imposed on Paycheck Plus in respect of its provision of the Services. Paycheck Plus shall be entitled to refuse to accept any request or direction of the Client where such acceptance would, in the opinion of Paycheck Plus, be likely to result in non-compliance by Paycheck Plus with any legal or regulatory requirement imposed on Paycheck Plus.

7.4 Paycheck Plus provides no warranty or representation to the Client or to any other person (including any Related Person) in relation to the accuracy or completeness of the information on any payslip processed by Paycheck Plus as, in providing the Services, Paycheck Plus is completely reliant on the accuracy and completeness of the Client Data provided by the Client to Paycheck Plus for this purpose and on the prior confirmation of the Client as to same in accordance with Clause 5.2.8 above.

7.5 Subject to Clause 2.12 above (Service Change), Paycheck Plus shall be entitled to unilaterally make any Service Change during the Term which, in the opinion of Paycheck Plus, is necessary to ensure that the Services

(and their provision by Paycheck Plus) comply with any applicable law or regulation imposed on Paycheck Plus. Paycheck Plus shall notify the Client in the event of any such necessary Service Change.

7.6 All property and equipment of Paycheck Plus used in provision of the Services shall at all times remain the property of Paycheck Plus.

7.7 Paycheck Plus shall have no responsibility or liability to the Client, to any Related Person or to any other person in respect of any delay, error, act or omission by a service provider or supplier to Paycheck Plus or to any other person (including in respect of software provision, support or delivery) or by any other third party which has any effect on provision of the Services.

7.8 Paycheck Plus provides no warranties or representations of any kind whatsoever in respect of the Services other than as expressly set out in these Terms and, save as prohibited by law, all other warranties and conditions and all representations, express or implied, are excluded.

8. LIMITATION OF LIABILITY

8.1 Nothing in these Terms shall limit or exclude either Party's liability for: (a) death or personal injury caused by its negligence; (b) fraud or fraudulent misrepresentation; and (c) any other liability which cannot be limited or excluded by applicable law.

8.2 The total liability of Paycheck Plus to the Client under these Terms (other than under Clause 8.1 above), whether in contract, tort (including negligence), for breach of statutory duty or otherwise, arising under or in connection with these Terms or the Services (whether under these Terms or the DPA), shall not exceed the total Charges paid or payable (excluding VAT and expenses) for the applicable Order by You to Us in the twelve (12) month period prior to the occurrence of the event which triggered the claim(s);

8.3 The Client hereby agrees to indemnify and hold harmless Paycheck Plus (and keep Paycheck Plus indemnified and held harmless) against and from any and all liabilities, losses, claims, costs, expenses and damages of any nature (including reasonable legal expenses) awarded against or incurred or paid or payable by Paycheck Plus as a result of or in connection with:

- (a) any negligent act or omission or wilful misconduct or breach of or non-compliance with an applicable legal or regulatory obligation by or on behalf of the Client or any failure on the part of the Client (or any Related Person) to perform or comply with its obligations under these Terms, including, without limitation, the obligations of the Client under Clauses 5.2 and 5.3 of these Terms;
- (b) any claim by any person relating to these Terms or the Services including any Employees other than to the extent that same arose due to negligence, fraud or fraudulent misrepresentation on the part of Paycheck Plus.

and this Clause 8.3 shall survive termination of these Terms.

8.4 Subject to Clause 8.1, Paycheck Plus shall not be liable to the Client or to any person claiming under the Client

(including any Employee, Related Person or any Affiliate of the Client or any Related Person in respect of any such Affiliate or any customer of the Client or any such Affiliate), whether in contract, tort (including negligence) for breach of statutory duty, or otherwise, arising under or in connection with these Terms or the Services for or in relation to:

8.4.1 any: (a) loss of profits; (b) loss of sales or business; (c) loss of agreements or contracts; (d) loss of anticipated savings; (e) loss of or damage to goodwill and (f) any other indirect or consequential loss; or

8.4.2 any Client Data (or the reliability and validity of such Client Data) provided either during the Term or prior to Paycheck Plus's engagement by the Client, pursuant to these Terms.

8.5 The provisions of Clauses 18 (Indemnity) and 19 (Limitation of Liability) of the DPA shall apply in respect of a breach of the DPA in addition to the provisions of this Clause 8.

8.6 Neither Party shall be entitled to recover in respect of the same loss more than once in relation to any claim under or in connection with these Terms or the Services or otherwise obtain reimbursement or restitution more than once in respect of any claim in respect of the same loss.

8.7 Nothing in these Terms shall or shall be deemed to relieve any Party of any common law duty to mitigate any loss or damage incurred by it.

9. TERMINATION AND CONSEQUENCES OF TERMINATION

9.1 These Terms may be terminated by either Party:-

9.1.1 by serving a minimum of sixty (60) calendar days' written notice on the other Party prior to expiry of the Initial Term, such notice period being deemed to commence on the day which is sixty (60) calendar days prior to the final day of the Initial Term (even if such notice was in fact served prior to that date) and to end on the final day of the Initial Term and such termination to take effect in all cases on the final day of the Initial Term (and not earlier). The foregoing shall apply equally in respect of each Extension such that either Party may terminate these Terms by serving at least sixty (60) calendar days' written notice on the other Party prior to expiry of such Extension, such termination to take effect on the final day of such Extension (and not earlier); or

9.1.2 in accordance with Clause 2.12.2(b) of these Terms (Service Change), in which case termination shall take effect on the date specified on the notice of termination; or

9.1.3 in accordance with Clause 10 of these Terms (Force Majeure) in which case termination shall take place with immediate effect upon service of notice of termination (unless the Parties mutually agree an alternative date).

9.2 These Terms may be terminated unilaterally by Paycheck Plus at any time during the Term by serving written notice on the Client, such termination to take effect on the date

specified in such notice (which may be immediate), in the event that:-

9.2.1 there is a Material Breach by the Client of its obligations under these Terms or the DPA and (where capable of remedy) the Client fails to remedy such breach at the written request of Paycheck Plus within twenty (20) Business Days of notification by Paycheck Plus; or

9.2.2 the Client fails to pay any part of the Service Fee and/or any Additional Charges which has become due and payable to Paycheck Plus within the agreed credit terms or otherwise in accordance with these Terms;

9.2.3 the Client passes a resolution for its winding-up or an order is made by a court of competent jurisdiction for its winding-up or dissolution, or if an administrator is appointed, or documents are filed with the court for the appointment of an Examiner or notice of intention to appoint an Examiner is given by the Client or its directors or by a charge-holder, or the appointment of a receiver over, or the taking possession or sale by an encumbrancer of any of the assets of the Client, or if the Client makes an arrangement with its creditors generally or makes an application to a court of competent jurisdiction for protection from its creditors generally.

9.3 These Terms may be terminated unilaterally by the Client at any time during the Term by serving written notice on Paycheck Plus, such termination to take effect on the date specified in such notice (which may be immediate), in the event of a Material Breach by Paycheck Plus of its obligations under these Terms of a type which has caused material financial loss or significant reputational damage to the Client and if (where capable of remedy) Paycheck Plus fails to remedy such breach at the written request of the Client within twenty (20) Business Days of notification by the Client.

9.4 In the event of termination of these Terms at any time during the Term, the following shall apply:-

9.4.1 Paycheck Plus shall, as soon as practicable, submit its final invoice to the Client setting out the total outstanding amounts due to Paycheck Plus under these Terms as at the date of termination in accordance with the remainder of this Clause 9.4 and the Client shall, immediately upon receipt of such invoice, pay all outstanding amounts to Paycheck Plus;

9.4.2 on any termination of these Terms, the Client shall pay the entire amount of the Service Fee and any Additional Charges which are due and payable to Paycheck Plus under these Terms in respect of the period up to the date of termination (together, where applicable, with all accrued interest and penalties);

9.4.3 only where the termination is by Paycheck Plus for cause under Clause 9.2:-

(a) during the Initial Term, the entire unpaid portion of the Service Fee and any Additional Charges in respect of the period commencing on the termination date and ending on the last day of the Initial Term shall immediately become due and payable to Paycheck Plus by the Client (together, where applicable, with all related accrued interest and penalties);

- (b) during any Extension, the entire unpaid portion of the Service Fee and any Additional Charges in respect of the period commencing on the termination date and ending on the date which is sixty (60) calendar days following the Termination Date shall immediately become due and payable to Paycheck Plus by the Client (together, where applicable, with all related accrued interest and penalties);
- 9.4.4 on any termination of these Terms, Paycheck Plus shall have no further obligation to provide any Services or perform any other obligations under these Terms with effect from the date of termination PROVIDED THAT if, following service of notice of termination, the Client requests Paycheck Plus to undertake, as a transitional measure, for a period of up to three (3) months, any processing or administration relating to the Services and Paycheck Plus accepts such request, all such processing or administration shall be deemed to constitute additional Services and Additional Charges shall be payable by the Client to Paycheck Plus in advance in respect of such work, including, but not limited to, a charge for all costs relating to the processing of termination or year-end procedures and the Client irrevocably agrees that, without prejudice to termination of these Terms in respect of the Services, the Client's responsibilities and liability to Paycheck Plus under these Terms shall apply in respect of such work (and all applicable provisions of these Terms shall be deemed to have survived termination for the purpose of Paycheck Plus enforcing such provisions);
- 9.4.5 Paycheck Plus will be under no obligation to pay any amount whatsoever to the Client in connection with any termination of these Terms;
- 9.4.6 Clause 20 of the DPA (Termination) shall apply with regard to simultaneous termination of the DPA (and all licenses granted under the DPA) and with regard to the treatment of Client Data and Relevant Data (as such terms are defined in the DPA);
- 9.5 Termination or expiry of these Terms for any reason will not affect the rights or liabilities accrued by the Parties prior to termination or expiry, including the right to claim damages in respect of any breach of these Terms which existed on or before the date of termination or expiry.
- 9.6 The provisions listed in this Clause, together with any other provision of these Terms which, either expressly or by implication, is intended to enter into or continue in force on or after termination or expiry of these Terms shall survive termination or expiry of these Terms (however arising): Clause 2.11 (Interest), Clause 6 (Non-Solicitation), Clause 8 (Limitation of Liability), Clauses 9.4 to 9.6 (Consequences of Termination), Clause 10 (Force Majeure), Clause 12 (Confidentiality and Announcements), Clause 13 (Dispute Resolution), Clause 14.10 (Governing Law and Jurisdiction).
10. **FORCE MAJEURE**
- 10.1 For the purposes of these Terms, in respect of a Party, **Force Majeure Event** means an event or circumstance beyond the reasonable control of that Party (the 'Affected Party') including strikes, lock-outs or other

industrial action, failure of a utility service or transport network, plagues, epidemics/pandemics, infectious diseases, acts of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, non-performance by suppliers or sub-contractors, failure of an information technology system preventing or delaying transfer of payments, statutory filing, or the transfer of information to the Client, fire, flood, storm, extraordinarily severe weather conditions or other natural disaster.

- 10.2 Provided the Affected Party has complied with Clause 10.3 below, it shall not be in breach of these Terms or otherwise liable for a failure or delay by such Affected Party in performing its obligations under these Terms insofar as such failure is due to a Force Majeure Event.
- 10.3 As soon as practicable following the occurrence of a Force Majeure Event, the Affected Party shall promptly notify the other Party of the Force Majeure Event, the date on which it started, its likely or potential duration and the impact of the Force Majeure Event on its ability to perform its obligations under these Terms. Both Parties shall use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the Services and on their respective obligations under these Terms. Where applicable, the Affected Party shall provide a timescale for rectification of issues or delays caused by the Force Majeure Event.
- 10.4 The Affected Party shall be entitled to a reasonable extension of time for performing the obligations affected by the Force Majeure Event provided that, if the Force Majeure Event prevents Paycheck Plus from providing the Services or prevents either Party from performing their respective obligations under these Terms for more than twenty (20) Business Days, either Party shall, without limiting its other rights or remedies, have the right to terminate these Terms immediately under Clause 9.1.3 above by serving written notice on the other Party and Clause 9 of these Terms (Termination) shall apply in this regard.
11. **SUB-CONTRACTORS**
- 11.1 The Client agrees and acknowledges that Paycheck Plus may appoint one or more agents or contractors (a '**Sub-Contractor**') to assist it in the provision of the Services. Details of the Sub-Contractors engaged by Paycheck Plus as at the date of these Terms are set out in the Schedule to these Terms (the "**Agreed Sub-Contractors**"). The Supplier shall inform the Client of any intended changes to the Agreed Sub-Contractors following the date of these Terms thereby giving the Client the opportunity to object to such changes. Any objection shall only be on the grounds of legislative requirements and be noted by Paycheck Plus who shall engage the client to resolve the objection. Should Paycheck Plus and the Client, each acting reasonably and having explored all reasonable options, be unable to resolve an objection to the appointment of any new Sub-Contractor(s), then the Client will be entitled, on 30 days notice, to terminate these Terms forthwith.

11.2 The Supplier will remain fully liable to the Client in respect of any failure by the Sub-Contractor to fulfil its obligations in respect of the Services.

12. CONFIDENTIALITY AND ANNOUNCEMENTS:

12.1 Confidentiality:

12.1.1 The term Confidential Information does not include any information that:

- (a) is or becomes generally available to the public (other than as a result of its disclosure by the receiving Party or by any employee, officer, representative, adviser or subcontractor in respect of the receiving Party in breach of this Clause 12.1);
- (b) was available to the receiving Party on a non-confidential basis before disclosure by the disclosing Party;
- (c) was, is, or becomes, available to the receiving Party on a non-confidential basis from a person who, to the receiving Party's knowledge, is not bound by a confidentiality agreement with the disclosing Party or otherwise prohibited from disclosing the information to the receiving Party;
- (d) the Parties have agreed in writing is not confidential or may be disclosed; or
- (e) is developed by or for the receiving Party independently of the information disclosed by the disclosing Party.

12.1.2 Each Party shall keep the other Party's Confidential Information confidential and shall not:

- (a) use any Confidential Information of the other Party except for the purpose of provision of the Services or performing the obligations of such Party under these Terms; or
- (b) disclose any Confidential Information of the other Party in whole or in part to any third party, except as expressly permitted by this Clause 12.1.

12.1.3 A Party may disclose the other Party's Confidential Information to such employees, officers, representative, advisors, agents or sub-contractors who need to know such information for the purpose of provision of the Services or performing the obligations of such Party under these Terms (the **Recipients**) provided that:

- (a) it informs such Recipients of the confidential nature of the Confidential Information before disclosure; and
- (b) at all times, it is responsible for the compliance of the Recipients with the confidentiality obligations set out in this Clause 12.1.

12.1.4 A Party may disclose Confidential Information to the extent required by law, by any governmental or other regulatory authority, or by a court or other authority of competent jurisdiction provided that, as far as it is legally permitted to do so, it gives the other Party as much notice of the disclosure as possible.

12.1.5 Paycheck Plus may wish to disclose that the Client is a client of Paycheck Plus for which purpose the Client agrees that Paycheck Plus shall be entitled to identify the Client in marketing presentations by name, utilise its business logo and indicate in general terms the type of services provided.

12.1.6 Each Party reserves all rights in its Confidential Information. No rights or obligations in respect of a Party's Confidential Information, other than those expressly stated in these Terms, are granted to the other Party, or are to be implied from these Terms.

12.1.7 The provisions of this Clause 12.1 shall continue to apply after termination or expiry of these Terms

13. DISPUTE RESOLUTION

13.1 If any dispute arises in connection with these Terms, the Parties (or directors or other senior representatives of the Parties (including Key Client Representative(s)) with authority to settle the dispute) shall, within fourteen (14) days of a written request from one Party to the other Party, meet in order to consult and, in good faith and recognising their mutual interests, attempt to achieve a mutually satisfactory resolution to the dispute.

13.2 If the dispute is not resolved at the meeting referred to at Clause 13.1, the Parties shall attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. The Parties shall submit the dispute to mediation by a person agreed by the Parties, or in default of agreement, the mediator shall be nominated by CEDR Ireland. To initiate the mediation, a Party must give notice in writing to the other Party requesting a mediation ('**ADR Notice**'). The mediation will start not later than thirty (30) days after the date of the ADR Notice.

13.3 Subject to Clause 13.4, no Party may commence any court proceedings in relation to any dispute arising out of these Terms until it has attempted to settle the dispute in accordance with this Clause 13 and, either the mediation has terminated or the other Party has failed to participate in the mediation, provided that the right to issue proceedings shall not be prejudiced by a delay.

13.4 Nothing in this Clause 13 or these Terms shall prevent any Party from seeking a preliminary injunction or other judicial relief at any time if, in its judgement, such an action is necessary to prevent irreparable damage.

13.5 The Parties agree that in order to make the mediation process as effective as possible, they shall endeavour in good faith to resolve the disagreement through mediation, to abide by all procedural requirements established by the mediator, and to respond to requests by the mediator to appear before him and present arguments and evidence bearing upon and supporting the position of each Party with respect to the particular matter in dispute.

14. MISCELLANEOUS

14.1 Notices:

14.1.1 Any notice or other communication given to a Party under or in connection with these Terms shall be in writing and shall be:

- (a) delivered by hand or by registered post or other next working day delivery service at its registered office or its principal place of business or
 - (b) sent by email:
 - (i) in the case of the Client, to the email address of any Key Client Representative (as previously notified to Paycheck Plus);
 - (ii) in the case of Paycheck Plus, to bgrogan@paycheckplus.ie.
- 14.1.2 Any notice or communication shall be deemed to have been received:
- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
 - (b) if sent by registered post, at 9.00 am on the tenth Business Day after posting or at the time recorded by the addressee;
 - (c) if sent by email, at 9.00 am on the next Business Day after transmission.
- 14.2 **Assignment:** Except as otherwise expressly permitted under these Terms, the Client shall not be entitled to assign or transfer or purport to assign or transfer (in whole or in part) the benefit of these Terms to any third party without the prior written consent of Paycheck Plus. Paycheck Plus shall be permitted to assign or transfer the benefit of these Terms within its Group of Companies.
- 14.3 **No Partnership/Joint Venture/Agency:** Nothing in these Terms is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties, constitute either Party the agent of the other Party, nor authorise either Party to make or enter into any commitments for or on behalf of the other Party.
- 14.4 **Waiver:** No failure or delay by a Party to exercise any right or remedy provided under these Terms or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 14.5 **Rights and Remedies:** Except as expressly provided in these Terms, each Party's rights and remedies provided under these Terms are in addition to, and not exclusive of, any rights or remedies provided by law (including Data Protection Legislation).
- 14.6 **Severance:** If any provision or part-provision of these Terms is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause 14 shall not affect the validity and enforceability of the rest of these Terms. If any provision or part-provision of these Terms is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent

possible, achieves the intended commercial result of the original provision.

- 14.7 **Entire Agreement:** These Terms and the DPA constitute the entire agreement between the Parties in respect of its subject-matter and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each Party acknowledges that in entering into these Terms it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms.
- 14.8 **Counterparts:** Each of the Terms and the DPA may be executed in several counterparts or duplicates, each of which counterparts shall be deemed an original document but all of which taken together shall constitute one single agreement between the Parties. Each party agrees that it and each other party may execute these Terms by way of e-signature, and agrees that execution in such manner will be valid and binding on each of the parties hereto. No party executing these terms by way of e-signature shall seek to avoid its responsibilities under these Terms based on the fact that it signed these Terms using an e-signature as opposed to a hand-written signature on paper. Transmission of an executed counterpart of these Terms (or of the executed signature page of a counterpart of these Terms) by email (in PDF, JPEG or other agreed format) or any electronic document signing platform (including, but not limited to DocuSign) shall take effect as delivery of an executed counterpart of these Terms. If either method of delivery is adopted, without prejudice to the validity of these Terms thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.
- 14.9 **Variation:** Paycheck Plus reserves the right to amend or vary these Terms at any time upon provision of thirty (30) calendar days' written notice to the Client of such amendment or variation.
- 14.10 **Governing Law and Jurisdiction:** These Terms and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of Ireland. Each Party irrevocably agrees that, subject to Clause 13 (Dispute Resolution), the courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Terms or its subject matter or formation (including non-contractual disputes or claims).

15 ANTI MONEY LAUNDERING

- 15.1. The following details apply to due diligence checks including proof of identity required under this Agreement in accordance with UK law.

15.1.1. Each party when processing due diligence and proof of identity will comply with the Data Privacy provisions as set out in Clause 5.

15.2. The Customer:

15.2.1. will provide to Paycheck Plus on demand and prior to the provision of services all such evidence as Paycheck Plus may reasonably request in connection with its obligation to comply with the UK's Money Laundering Regulations 2019 (or as subsequently amended).

15.2.2. represents and warrants that all such information will be correct, up to date, complete, not misleading and supplied in a timely manner.

15.2.3. acknowledges Paycheck Plus's legal obligation to retain such information for inspection by supervisory authorities for 5 years after the business relationship ends, or such other period as determined by future changes to the Money Laundering Regulations.

15.2.4 AML checks will be subject to a €40 minimum fee.

SIGNED
FOR AND ON BEHALF OF
**PAYCHECK PLUS
PAYROLL SERVICES
IRELAND LIMITED t/a
PAYCHECK PLUS**

Authorised Signatory

Print Signatory Name:

Print Signatory Title:

Date:
_____ 20____

SIGNED
FOR AND ON BEHALF OF
**[INSERT CLIENT NAME
IN BLOCK CAPITALS]***

Authorised Signatory

**If Client is a corporate entity, insert the full company name (e.g., X Limited or, if company has a different trading name, X Limited, t/a Y).*

Print Signatory Name:

Print Signatory Title:

Date:
_____ 20____

SCHEDULE

AGREED SUB-CONTRACTORS

Payzaar Limited

Twilio Inc. (t/a Twilio Sendgrid)

This Schedule is required for the purposes of Clause 11 of these Terms. Please do not remove from Terms.