

MERCHANT ESTABLISHMENT AGREEMENT

THIS AGREEMENT is entered into on this ____ day of _____ 2017 (the “**Effective Date**”) between **FINJA (PRIVATE) LIMITED**, a company duly incorporated and registered under the laws of Pakistan, having its principal place of business at property No. 2/A, Zafar Ali Road, Lahore- Pakistan, (hereinafter referred to as “**FINJA**”) **AND** _____, a company incorporated and functioning under the laws of Pakistan and having its registered office at _____ (hereinafter referred to as the “**Merchant**”).

WHEREAS FINJA provides transaction processing services (hosted through the platform of member financial institutions (“FIs”) to its customers which include various individuals, merchants and other entities (the “**FINJA Services**”). FINJA intends to develop a network with online commercial establishments to enable customers to make online payment in relation to purchase of food items, goods or services through the FINJA Services. The Merchant has agreed to be part of the network of online commercial establishments of FINJA, enabling customers to undertake transactions through the FINJA Services in accordance with the terms and conditions hereinafter agreed.

NOW, in consideration of mutual convenience contained herein the parties agree as under:

1. FINJA SERVICES

- 1.1 Upon execution of this Agreement, FINJA hereby registers the Merchant on the FINJA Merchant Network (the “**Merchant Registration**”). Pursuant to the Merchant Registration, the Merchant agrees to permit FINJA’s customers along with customers of associated partners (hereinafter referred to as the “**FINJA Customer**”) to make payment of food items, goods or services purchased online on the Merchant’s website, mobile application or any other online software/platform through the FINJA Services.
- 1.2 In order to enable the Merchant to undertake online payment transactions, the Merchant shall be provided with a ‘Merchant Wallet Account’. The Merchant undertakes to use the Merchant Wallet Account strictly in compliance with the instructions and guidelines provided by FINJA from time to time and in accordance with special discounts and promotions agreed between FINJA and the Merchant, including but not limited to terms of use, mechanism of transaction processing with FINJA Customers, reporting requirements and/or any other condition, whether applicable under law or the operational policies of FINJA.
- 1.3 Within a period of fourteen (14) days from the execution of this Agreement, the Merchant shall share its Application Programming Interface (“API”) with FINJA in order to integrate the Merchant’s website, mobile application or any other online software/platform with the FINJA Services (the “**Integration**”). The Merchant shall its own cost, individually and jointly, perform testing of the Integration to verify its functionality, performance and reliability. Pursuant to the successful Integration, FINJA Customers shall have the option to make payments electronically from the FINJA Customer Wallet to the Merchant Wallet Account.

2. SOFTWARE USE

FINJA hereby grants a revocable, non-exclusive, non-transferable license to the Merchant to use FINJA’s software in the course of accepting payment through the FINJA Services (the “**Software**”). In the event that the Merchant does not comply with any terms of use or other requirements provided by FINJA from time to time, the Merchant shall be liable for any damage or loss incurred by the Merchant, FINJA or any third parties. Under no circumstances shall the Merchant alter, reproduce, adapt, distribute, display, publish, reverse engineer, translate, disassemble, decompile or otherwise attempt to create any source code that is derived from the Software. Upon expiration or termination of this Agreement, the Merchant shall immediately cease all use of any Software.

3. PAYMENT

- 3.1 For all successful online transactions undertaken between the Merchant and FINJA Customer i.e successful purchases made from the Merchant’s website, mobile application or any other online software/platform, the funds shall transferred into the Merchant Wallet Account upon confirmation of delivery of food items, goods or services purchased by the FINJA Customer.
- 3.2 For each transaction undertaken between the Merchant and FINJA Customer, FINJA reserves the right to charge the Merchant a transaction fee amounting to Rs. _____ (Pak Rupees _____ Only) (the “**Transaction Fee**”). Any revision, change or adjustment of the Transaction Fee shall be communicated to the Merchant from time to time and shall be binding on the Merchant. All payments made by FINJA under this Agreement shall be paid after deduction of any applicable taxes, Transaction Fee and/or Chargeback.

4. DISCOUNTS

It is hereby agreed between the parties that any discount or promotional offers introduced by FINJA and/or the Merchant shall at all times be available for the FINJA Customers to be availed at the time of making payment through the FINJA Services. The present discount or promotional offers introduced by FINJA and the Merchant are further detailed at Annexure A of this Agreement. The Merchant hereby agrees not to remove, amend or alter any discount or promotional offers relating to the FINJA Customers, without prior written approval or consent of FINJA.

5. VOID TRANSACTIONS & CHARGEBACK

- 5.1 The following transactions shall be deemed void (“**Void Transaction**”):
 - (a) A transaction that appears to be or there is reason to believe that the transaction has been processed due to any error, negligence, misconduct, fraud or illegality by the FINJA Customer, the Merchant, its employees or someone acting on behalf of the Merchant.
 - (b) Transactions not in compliance with any of the terms of this Agreement or your usage of the FINJA Services.
 - (c) Transactions processed without prior authorisation or approval, where such authorisation or approval is mandatory under the terms of this Agreement, is required by FINJA or the concerned bank and has been intimated to the Merchant or otherwise required under law.
 - (d) The transaction is for any reason disputed or reversed by the network, the Software, a FINJA Customer or the member FIs.
- 5.2 The Merchant shall be solely responsible in the event of a Void Transaction. The Merchant acknowledges that a Void Transaction shall at any time be reversed or charged back to the Merchant Wallet Account by FINJA (at its sole discretion) (the “**Chargeback**”).
- 5.3 The Merchant further acknowledges that FINJA and/or the member FIs shall not be required for settlement and transfer of any funds from the Customers Wallet Account to the Merchant Wallet Account, in the event that a transaction is found to be an invalid or Void Transaction. Provided further, where a transaction is found to be an invalid or Void Transaction pursuant to transfer of funds from the concerned banks account into the Merchant Wallet Account, the Merchant shall be liable to ensure that such erroneously transferred funds are returned to FINJA and/or the member FIs.

6. REFUND

The Merchant shall (i) establish a fair policy for giving refunds and return of goods for sale transactions (ii) only give refund by means of a transaction voucher, a credit note issued by the Merchant or an exchange of goods and not in cash or cheque. The Merchant shall disclose the Merchant’s refund policy to the Customers at the time of transaction processing. (iii) At all times act in accordance with the Merchants’ own guidelines in processing refunds. In the event that the Merchant’s establishment is a website, the Merchant undertakes to ensure that its refund policy is clearly disclosed at its website.

7. AUDIT

In the event of any dispute involving a transaction and/or where FINJA suspects that a fraud is involved, the Merchant authorises FINJA or its agents to visit the premises of the Merchant during business hours to inspect, examine and make copies of the Merchant’s books of accounts, records and ledgers and/or require the Merchant to deliver to FINJA copies of the Merchant’s books of accounts, records and ledgers for inspection.

8. TRAINING

In order to facilitate the Merchant, FINJA shall provide initial training to the Merchant's employees responsible for processing transactions. Thereafter, the Merchant shall ensure that its employees are aware of all obligations under the agreement and transactions are processed in accordance with the Agreement.

9. REPRESENTATION OF THE MERCHANT

9.1 The Merchant hereby represents and warrants that:

- (a) The Merchant shall not breach this Agreement or any other agreement entered into with FINJA in connection with the FINJA Services;
- (b) The Merchant shall not violate any federal, state, or local laws, rules, or regulations applicable to the Merchant's business;
- (c) The Merchant shall provide FINJA with all information that is reasonably requested about the Merchant's business activities and the Merchant shall not provide FINJA with any false, inaccurate or misleading information;
- (d) The Merchant shall cooperate in all legal investigations or audits that may be required by FINJA;
- (e) The Merchant shall not integrate or use any of the FINJA Services without complying with FINJA's requirements;
- (f) The Merchant shall not utilize recurring billing functionality without properly obtaining FINJA Customer's consent to be billed in such a manner;
- (h) The Merchant shall not submit any transaction for processing through the FINJA Services, which does not represent a bona fide, permissible transaction as outlined in this Agreement or which inaccurately describes the product or services being sold or the charitable donations being made;
- (i) The Merchant shall not process transactions or receive payments on behalf of any other party or redirect payments to any other party; and
- (j) The Merchant shall clearly display product description against each product being sold at the Merchant's website, mobile application or any other online software/platform.

10. OWNERSHIP AND USE OF INFORMATION, DATA, AND INTELLECTUAL PROPERTY

All data, generated, collected and transmitted under this Agreement, whether collected by FINJA directly or through facilitation of the Merchant shall be treated as confidential information and shall remain under the sole and absolute ownership of FINJA. The Merchant shall not in any manner personally use or make available for use to a third party any data which is developed or collected from the FINJA Customer, otherwise in relation to the FINJA Services or in pursuance of this Agreement. The Merchant acknowledges that disclosure of any such information shall cause irreparable loss to the business of FINJA. Accordingly, in the instance of any such breach, FINJA shall be entitled to obtain injunctive orders from a competent court of law, without prejudice to any other remedy available under law. FINJA hereby grants to the Merchant a restricted, revocable, non-exclusive, non-transferable license to use FINJA's trademarks and FIs trademarks to identify and solely in relation to the FINJA Services. The Merchant agrees that it shall not at any time during or after this Agreement assert or claim any interest in or do anything that may adversely affect the validity of any trademark, trade name or product design, layout, label or any other intellectual property belonging to or licensed to FINJA.

11. SECURITY OBLIGATIONS

The Merchant acknowledges that in pursuance of this Agreement, the Merchant shall gain access to certain information, the security of which is imperative to maintain. Accordingly, the Merchant undertakes to (i) take all reasonable steps to protect the security of the electronic device or software through which the FINJA Services are being provided and (ii) not allow any third party, other than the employees of the Merchant to use the Merchant Wallet Account of the Merchant, including user name and password details. The Merchant further undertakes to comply with all reasonable instructions, as may be issued by FINJA from time to time regarding account access and security. In the event of any disclosure of such information due to any act, omission or negligence of the Merchant, FINJA shall not be liable to the Merchant for any losses or damages.

12. SUSPENSION

The Merchant acknowledges that the FINJA Services may be suspended from time to time, whether due to any factors including but not limited to routine maintenance, downtime, errors, glitches or other interruptions. Under no circumstances shall FINJA be liable for any duration for which the FINJA Services are unavailable due to such suspension.

13. APPOINTMENT AS AGENT

During the course of this Agreement, subject to agreeing to the terms and conditions of agent appointment provided at the website of FINJA i.e [http://www.finja.pk/]. The Merchant shall be appointed as an authorised agent of FINJA, upon receiving a written notice of approval and appointment from FINJA.

14. TAX

If the Merchant is a registered tax-payer, the Merchant shall be required to provide FINJA with the National Tax Number and Sales Tax Registration Number of the Merchant. The Merchant hereby undertakes to be liable for determining any and all taxes assessed, incurred, or required to be collected, paid, or withheld for any reason in connection or use of the FINJA Services, Software and/or other ancillary services (the "Taxes"). In addition, the Merchant shall be solely responsible for collecting, withholding, reporting and remitting correct Taxes to the appropriate tax/revenue authorities.

15. PUBLICITY

- 15.1 The Merchant agrees to display on the Merchant's website, mobile application or any other online software/platform all promotional and informative material provided by FINJA from time to time. The Merchant shall undertake its best efforts to promote the use of the FINJA Services but in all events such promotional efforts shall be not less than efforts undertaken to promote the use of any other modes of payment. In no circumstances shall the Merchant make any representation or take any action to discourage use of the FINJA Services by existing or prospective FINJA Customers.
- 15.2 FINJA shall be permitted to use the Merchant's logo and/or trademarks for promotional purposes during the Term of this Agreement (the "Merchant Logo"). However, in no event shall FINJA alter or modify the Merchant Logo in any way and shall at all time follow the guidelines (if any) provided by the Merchant in relation to the use of the Merchant Logo. Upon termination of the Agreement both Parties shall cease to use and/or display the other Parties logo and trademarks.

16. TERM AND TERMINATION

This Agreement shall commence on the Effective Date and shall continue until terminated as set forth herein (the "Term"). The Merchant shall be permitted to terminate this Agreement by giving thirty (30) days written notice to FINJA and FINJA shall be permitted to terminate this Agreement immediately, by giving written notice to the Merchant. Upon termination of the Agreement by either Party, the Merchant shall no longer have access to, and shall cease all use of the FINJA Services. Provided, any termination of this Agreement shall not relieve the Merchant of any obligations to pay any costs, charged, penalties or any other amounts owed, whether to FINJA, the FINJA Customer, the concerned bank, member FI or any third party.

17. INDEMNITY

The Merchant shall indemnify and hold FINJA harmless from any claims, demands, actions, suits or proceedings, liabilities, losses, costs, expenses, legal fee of damages claimed against FINJA by any FINJA Customer, third parties or Merchant's partners or authority on account of acts or omissions by the Merchant in connection with the sale of food items, goods or services

by the Merchant and the performance of this Agreement. The indemnity provided herein shall survive the termination/cancellation hereof in so far as it pertains to events, which transpired during the subsistence hereof.

18. SEVERABILITY

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable for any reason, the remaining provisions not so declared shall nevertheless continue in full force and effect, but shall be construed in a manner so as to effectuate the intent of this Agreement as a whole, notwithstanding such stricken provision or provisions.

19. WAIVER

No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented.

20. TRANSFER OF OWNERSHIP AND ASSIGNMENT

This Agreement shall bind and inure to the benefit of each party's permitted successors and assigns. The Merchant shall not assign this Agreement without the written consent of FINJA. FINJA may assign this Agreement in its sole discretion without the written consent of the Merchant. The Merchant shall immediately notify FINJA in the event of any sale, lease or change in management of the Merchant. In such an event the rights and authorisations granted under this Agreement shall only extend or be assigned subject to written approval of FINJA.

21. AMENDMENT

FINJA reserves the right to amend the terms of use of the FINJA Services at any time by posting revised terms and conditions on its website, which can be accessed by the Merchant at any time. Any revisions to the terms of use of the FINJA Services shall be effective immediately upon being made available on the FINJA website.

22. ENTIRE AGREEMENT

This Agreement sets forth the entire agreement and understanding of the Parties hereto in respect to the subject matter contained herein, and supersedes all prior agreements, promises, covenants, arrangements, communications, representations or warranties, whether oral or written, by any officer, partner, employee or representative of any party hereto.

IN WITNESS WHEREOF, THIS AGREEMENT has been entered into at the place and on the date aforementioned.

FINJA (PRIVATE) LIMITED

MERCHANT

Witnesses:

Witnesses:

