



## **AGREEMENT**

- A. This document is an electronic record in terms of the Information Technology Act, 2000 (“IT Act”) and the rules made thereunder (as applicable) and the amended provisions pertaining to electronic records, as contained under various statutes, and as amended by the IT Act, from time to time. This electronic record is generated by a computer system and does not require any physical or digital signatures.
- B. This document is a legally binding agreement between YOU/USER (*as defined below*) and Paxcom India Private Limited, a company incorporated under the laws of India and engaged in the business of providing cloud-based services for e-commerce process management (hereinafter referred to as “US” or “PAXCOM”) (“Agreement”). PAXCOM and the USER are hereinafter individually referred to as “Party” and collectively as the “Parties”.

## **DISCLAIMERS**

The USER has created an account on the website of PAXCOM ([www.paxcom.ai/](http://www.paxcom.ai/)) (“USER Account”) for availing the Services (*as defined below*). The USER shall assume all responsibility and risk with respect to the use of the Services provided by PAXCOM. The USER agrees that the Services are provided on “as is” and “as available” basis without any warranties, representations or conditions of any kind, either express or implied, with regard to information accessed from or via its website ([www.paxcom.ai/](http://www.paxcom.ai/)), including but not limited to warranties concerning the availability, accuracy, completeness or usefulness of content or information, uninterrupted access, and any warranties of title, non-infringement, merchantability or fitness for a particular purpose. The use of Services is at the USER’s sole risk and the USER shall assume full responsibility for any costs associated with the use of PAXCOM’s website. PAXCOM will not be liable for any damages of any kind related to the use of its Services.

**SERVICES OFFERED BY PAXCOM ARE LICENSED, NOT SOLD. USE OF THE SERVICES IS SUBJECT TO LICENSE RESTRICTIONS. KINDLY CAREFULLY READ THIS AGREEMENT BEFORE USING THE SERVICES. USE OF THE SERVICES INDICATES COMPLETE AND UNCONDITIONAL ACCEPTANCE OF THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT. ANY ADDITIONAL OR DIFFERENT PURCHASE ORDER TERMS AND CONDITIONS SHALL NOT APPLY. IF YOU DO NOT AGREE TO ANY OR ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, PLEASE DO NOT ACCESS OR USE THE SERVICES PROVIDED BY US. BY CLICKING ON THE ‘I ACCEPT’ BUTTON AT THE BOTTOM OF THIS**



**PAGE, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND EXPRESSLY ACCEPTED THE TERMS AND CONDITIONS OF THIS AGREEMENT AND SUBJECT TO THE TERMS OF THIS AGREEMENT, AGREE TO BE BOUND BY ANY AMENDMENTS, UPDATES AND MODIFICATIONS TO THE TERMS AND CONDITIONS OF THIS AGREEMENT AND THE OTHER POLICIES OF PAXCOM AS MAYBE AMENDED, UPDATED, AND MODIFIED FROM TIME TO TIME.**

## **I. DEFINITIONS**

- I.1 **"Agreement"** shall mean this Agreement, as amended from time to time;
- I.2 **"Effective Date"** shall mean the date on which the USER clicks on the 'I Accept' button;
- I.3 **"IT Act"** shall have the meaning ascribed to such term in Paragraph A of this Agreement;
- I.4 **"PAXCOM"** or **"US"** shall have the meaning ascribed to such term in Paragraph B of this Agreement;
- I.5 **"Party"** or **"Parties"** shall have the meaning ascribed to such term in Paragraph B of this Agreement;
- I.6 **"PAXCOM Intellectual Property"** shall have the meaning ascribed to such term in Clause 1.1 of this Agreement;
- I.7 **"RTGS"** shall have the meaning ascribed to such term in Clause 5.1 of this Agreement;
- I.8 **"Services"** shall mean the cloud-based services for e-commerce process management and services provided by Paxcom, as more particularly described in the Scope of Work as may be mutually agreed between the Parties;
- I.9 **"Scope of Work"** shall mean the commercial and other ancillary terms in relation to the Services to be provided to each USER, as may be mutually agreed between such USER and PAXCOM;
- I.10 **"Term"** shall have the meaning ascribed to such term in Clause 15.1 of this Agreement;
- I.11 **"User Account"** shall have the meaning ascribed to such term the Disclaimers of this Agreement; and



- I.12 “**You**” or “**User**” shall mean an entity/individual (whether by itself/himself or through a representative) who is desirous of availing the Services.

## II. **TERMS AND CONDITIONS**

### 1. **LICENSE**

- 1.1 PAXCOM hereby grants to the USER a worldwide, non-exclusive, and non-transferable license to use the Services for the commercial use of the USER, subject to the terms and conditions of this Agreement. The USER shall not have any right, title, license, or interest, express or implied in and to any object code, software, hardware, trademarks, service mark, trade name, formula, system, know-how, domain name, URL, copyright image, text, script, or other intellectual property right of PAXCOM (“**PAXCOM Intellectual Property**”). All PAXCOM Intellectual Property and all rights therein (other than rights expressly granted herein) and goodwill that pertains thereto belongs exclusively to PAXCOM.

- 1.2 The USER shall not, at any time whether during the Term or thereafter, directly, or indirectly, claim or attempt to claim any ownership in PAXCOM Intellectual Property anywhere in the world.

- 1.3 The USER shall not do (whether directly or indirectly) and shall ensure that its agents do not do any act, or use the Services in any manner which might prejudice the right or title of PAXCOM, to any proprietary interest/ PAXCOM Intellectual Property.

- 1.4 Nothing in this Agreement shall be deemed in any way to constitute a transfer or assignment of any PAXCOM Intellectual Property by PAXCOM to the USER.

### 2. **USING THE SERVICES**

- 2.1 The USER agrees that it will not use the services for any illegal purposes and in whatsoever manner misuse the Services provided by PAXCOM. The USER shall use the Services only as permitted by law and in accordance with this Agreement. PAXCOM may suspend or stop providing the Services to the USER in case of any non-compliance by the USER with this Agreement or if PAXCOM is investigating suspected misconduct by the USER.



2.2 The USER hereby agrees and acknowledges that PAXCOM shall, at all times, have the right to provide the Services to any third party, including competitors of the USER.

### **3. COPYRIGHT**

3.1 The Services are protected and governed by the Copyright Act, 1957, as well as other applicable intellectual property laws and treaties. The USER itself and with any third party will not, including but not limited to, reproduce, copy, modify, duplicate, sell, resell, rent, sub-license or trade the Services (or any part thereof) for any purpose.

### **4. PRIVACY PROTECTION**

4.1 PAXCOM respects the USER's privacy and assures that the information collected from the USER will be governed by the terms of PAXCOM's privacy policy (available at [●]) and will be used only to provide the Services mentioned herein, unless required to act otherwise under applicable statutory laws or by any government body or authority. Subject to the terms of the privacy policy of PAXCOM, such personal information shall not be made available to any third party. The USER hereby acknowledges that PAXCOM may publish frequent reports on industry trends using collaborated data of its USERS. The USER agrees and permits the use of USER's data for generic reports, to PAXCOM.

### **5. PAYMENTS AND REFUNDS**

5.1 Subject to the Scope of Work, all invoices shall be payable by the USER through Real Time Gross Settlement ("RTGS") or any other electronic mode of payment in favor of PAXCOM or cheque, within 30 (Thirty) days after receipt of an invoice from PAXCOM.

5.2 In consideration of the Services provided by PAXCOM pursuant to this Agreement, the USER shall pay to PAXCOM the charges as may be mutually agreed between the USER AND PAXCOM and/ or as provided under the Scope of Work.

5.3 The USER hereby undertakes that it shall bear and be solely responsible for the payment of all relevant taxes (if applicable) (including any applicable withholding taxes) payable in relation to the Services in accordance with the terms and conditions of this Agreement and PAXCOM shall have no liability in this regard.

5.4 There will be no refunds or credits for partial months of Services or for USER not using the Services during any period during which the USER Account is open/active. No



exceptions will be made.

## **6. USE OF TRADEMARK/TRADE NAME**

6.1 PAXCOM shall have the right to display the trademark/trade name of the USER on its website i.e. [www.paxcom.ai/](http://www.paxcom.ai/) or on any other website that PAXCOM may own or operate in future. The display of USER's trademark/trade name shall be limited for the purpose of recognizing the USER as a client of PAXCOM. No claim whatsoever for infringement of trademark or otherwise shall lie against PAXCOM for display of USER's trademark/trade name in terms of this Clause. The right to display the USER's trademark/trade name would be valid till the Term of this Agreement.

## **7. REPRESENTATION AND WARRANTIES**

7.1 Each Party hereby represents and warrants, to the extent applicable, that:

- (i) it is duly incorporated and validly existing under the laws of India;
- (ii) it has taken all action necessary to execute and deliver and to perform their obligations under this Agreement and will furnish satisfactory evidence of the same upon request;
- (iii) the execution, delivery, and performance of this Agreement in accordance with its terms shall not:
  - a) violate or conflict with its articles of association or memorandum of association or any other organizational / constitutional documents;
  - b) with or without giving of notice or the passage of time or both, conflict with, result in the breach or termination of, or constitute a default under, any agreement or arrangement to which it is a party or by which it or any of its properties or assets may be bound;
  - c) constitute a violation of any law, regulation, order, writ, judgment, injunction, or decree applicable to it or any of its properties or assets, or violate any license, permit, authorization, agreement, undertaking or other obligation to which it is bound; or



- d) there are no judicial or administrative actions, proceedings or investigations pending or, to the best of its knowledge after due inquiry, overtly threatened against it, which would have a material adverse effect on its capacity to perform its obligations under this Agreement and any other document to which it is a party.

7.2 The Client further represents and warrants that it has obtained all the statutory approvals/ permissions/ no objections for availing the Services.

## **8. LIMITED WARRANTY**

8.1 As a USER of the paid version of the Services, the USER shall be entitled to rectification of defects if the Services do not conform to the specifications as per this Agreement. However, the USER understands that certain rectifications can be beyond the control of PAXCOM and hence PAXCOM cannot be held responsible for any damages at the USER's end.

8.2 The Services are provided on "as is" and "as available" basis without warranty of any kind from PAXCOM.

8.3 The Services are aimed at increasing operational efficiency and assistance. The USER understands and agrees that the Services do not ensure an increase in the revenue of the USER.

8.4 The USER understands and agrees that it will be solely responsible in case of any damages or loss of data that may occur to the USER's computer or system or any other equipment which resulted from using the Services.

8.5 It is hereby agreed that PAXCOM shall not review, edit, censor or take responsibility for any information that the USER may create, transmit, post, store, distribute, display or present while using the Services.

8.6 In addition, the USER specifically acknowledges and agrees that no oral information or advice provided by PAXCOM, its officers, directors, employees, or agents will:

- (i) Constitute a legal or financial advice; or
- (ii) Create a warranty of any kind with respect to the Services, and the USER should not rely on any such information or advice.



8.7 PAXCOM assumes no responsibility with respect to the USER's use of the Services and shall not be liable for consequential, incidental, or special damages, including but not limited to loss of use, business interruptions, and loss of profits, lost revenue or punitive or exemplary damages, even if PAXCOM is aware of the possibility thereof. However, PAXCOM would assist in rectification of errors to the extent possible as and when requested by the USER.

## **9. LIMITATION OF LIABILITY**

9.1 PAXCOM is only fully liable in cases of intent and culpable negligence of PAXCOM itself, its representatives, or agents. This limitation of liability shall not limit any mandatory statutory liability or liability for personal injuries caused by negligence or by loss of data. It is hereby clarified that PAXCOM shall be responsible only for the expenditure which is necessary for normal data protection/ for the re-establishment of the data. The USER shall take all measures to prevent and mitigate damages.

9.2 The USER shall make backup copies of its files at reasonable intervals, but at least once in a week, in order to allow lost or disrupted data to be recovered with reasonable efforts only. Any failure by the USER to comply with these obligations shall be deemed to be contributory negligence of the USER and liability of PAXCOM shall reduce proportionately.

9.3 PAXCOM limits the liability for other damages (i.e. escaped profit, operating interrupt, loss of business information or other financial losses), if not caused by culpable negligence, to the purchase price of the Services. Notwithstanding anything to the contrary, PAXCOM shall not be liable for consequential, incidental, or special damages, including but not limited to loss of use, business interruptions, and loss of profits, lost revenue or punitive or exemplary damage.

## **10. MODIFYING THE SERVICE**

10.1. PAXCOM reserves the right, in its sole and absolute discretion, at any time to modify this Agreement and to impose new or additional terms or conditions on use of the Services. Such modifications and additional terms and conditions will be communicated to the USER by email and, if accepted, will be effective immediately and will be incorporated into this Agreement by way of an amendment to this Agreement and shall be considered as part and parcel of the same. In the event that the USER refuses to accept such



changes in accordance with Clause 15.2 of this Agreement, PAXCOM will have the right to terminate this Agreement forthwith and deactivate the USER Account. The USER agrees that PAXCOM shall not be liable to the USER or any third party for any modification or cessation of the Services. Any modifications made in the Agreement or additional terms and conditions on the use of Services shall be notified to the USER in advance and the User will have the right to accept or reject those at their convenience.

## **11. NON-SOLICITATION**

**11.1** The USER agrees that during the Term of this Agreement, and for 12 (Twelve) months thereafter, without the consent of PAXCOM, regardless of the reason for the termination, the USER shall not, directly or indirectly, hire, or attempt to hire, or solicit for employment, any employee or previous employee or independent contractor of PAXCOM, who were either full time or part time employees or independent contractors at any time during a period of 12 (Twelve) months preceding the date on which such an offer is made. The USER further warrants and agrees not to solicit affiliates and/or clients of PAXCOM during the aforesaid period.

## **12. INTELLECTUAL PROPERTY OF THE USER**

**12.1** The copyright for all materials produced by PAXCOM in performing the Services for the USER shall belong to the USER, subject to payment by the USER of all outstanding dues to PAXCOM, including all fees hereunder. Notwithstanding anything to the contrary, methodologies, framework, or techniques, used by PAXCOM in providing the Services that (a) were available with PAXCOM prior to delivery of the Services, or (b) are delivered by PAXCOM independently of providing the Services, shall be the property of PAXCOM.

## **13. FORCE MAJEURE**

**13.1** PAXCOM will not be liable for any non-performance, delay, error, data loss or other loss caused by any events or conditions that are beyond the reasonable control of PAXCOM.

## **14. GOVERNING LAW**

**14.1** This Agreement and the relationship between PAXCOM and the USER shall be governed by the applicable laws of India. PAXCOM and the USER agree to submit to the personal and exclusive jurisdiction of the applicable courts in [Haryana], India, to resolve any dispute or claim arising from this Agreement.





## 15. **TERM AND TERMINATION**

- 15.1. This Agreement shall be valid for 12 (Twelve) months from the Effective Date and shall continue to be in existence as long as the USER renders uninterrupted payment towards the Services offered by PAXCOM and/or does not share any information detrimental to the interest of PAXCOM and/or as long as the USER complies with the terms of this Agreement and/or is not terminated in accordance with the terms hereof (“**Term**”). Under circumstances contrary to the same, PAXCOM shall serve due notice to the USER seeking a remedial action by the USER within 5 (Five) days of such receipt. In the event wherein the USER fails to comply with such remedial measures under reply or fails to give a satisfactory response, PAXCOM shall reserve the right to terminate this Agreement or deactivate the USER Account.
- 15.2. Under circumstances wherein the USER does not abide by the modifications intended to be made by PAXCOM as mentioned in Clause 10 of this Agreement, the USER shall communicate the same vide a notice and under mutual terms either continue or terminate the Services under this Agreement.
- 15.3. The USER, subject to the complete payment of charges in advance to PAXCOM, may at any time bring into effect termination of the Services and shall be bound to communicate the same to PAXCOM within 30 (Thirty) days from the date of proposed discontinuation of services.
- 15.4. Upon termination of this Agreement by either Party, PAXCOM shall discontinue providing further Services to the USER and the USER shall immediately cease using the Services from the date of such termination.
- 15.5. The termination of this Agreement shall not relieve the Parties of any obligation or liability accrued up to the date of termination.

## 16. **SALVATORY CLAUSE**

- 16.1 If individual Clauses of this Agreement should prove to be ineffective, this does not affect the effectiveness of the remaining Clauses. The Parties shall without delay replace the ineffective Clauses by others which as closely as possible approximate to the intentions of the ineffective Clauses.



## **17. ENTIRE AGREEMENT**

- 17.1 This Agreement constitutes the entire agreement between PAXCOM and the USER and completely replaces any prior agreements between PAXCOM and the USER in relation to the Services. If any part of this Agreement is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the Parties, and the remaining portions shall remain in full force and effect.
- 17.2 The USER acknowledges that it has not been induced to enter into this Agreement in reliance upon, nor has it been given, any warranty, representation, statement, assurance, covenant, agreement, undertaking, indemnity, or commitment of any nature whatsoever other than as expressly set out in this Agreement and, to the extent it has been, it unconditionally and irrevocably waives any claims, rights, and remedies which it might otherwise have had in relation thereto.

## **18. WAIVER**

- 18.1 The failure of PAXCOM to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision.

## **19. NOTICES**

- 19.1 All notices, consents, approvals or other communication required to be given or served here under by either Party shall be in English and shall be deemed to be given or served if the same have been delivered to, left at, sent by air-mail, registered post, facsimile or by electronic mail by either Party to the other at the addresses as maybe shared and specified by the Parties in writing.
- 19.2 All notices given in accordance with Clause 19 shall be deemed to have been served as follows:
- (i) if delivered by hand, at the time of delivery.
  - (ii) if posted at the expiration of 5 (Five) days after the envelope containing the same was delivered into the custody of the postal authorities.
  - (iii) if sent by electronic mail, on the day when delivered by electronic mail to the proper electronic mail address; and



- (iv) if communicated by facsimile, on receipt of confirmation of successful transmission.

## **20. ASSIGNMENT**

- 20.1 The USER shall not be entitled to assign or transfer any of its rights or obligations under this Agreement. However, it is clarified that PAXCOM shall be entitled to assign any of its rights or obligations under this Agreement without obtaining any approval from the USER, and the same shall be binding on the USER.

## **21. RELATIONSHIP**

- 21.1. The Parties are independent contractors. Nothing in this Agreement shall be construed to create any partnership, joint venture, or similar relationship. Neither Party is authorized to bind the other Party to any obligations with third Parties.

**By clicking the 'I Agree' button, the USER acknowledges that the USER has read, understood, and accepted the terms and conditions of this Agreement.**