

Loyal to Fylde:
Terms and Conditions of Retailer Membership
Version 1.2 Updated: 28/09/18

The Retailer's attention is particularly drawn to the provisions of clause 9 (Limitation of liability).

1. Interpretation

1.1. The following definitions and rules of interpretation apply in this agreement:

"Application" means any software application developed by Loyal to Fylde which enables the End User or Retailer to securely access and use our Loyalty & Rewards Programme. This includes any software developed by any of our Third-Party Suppliers.

"Confidential Information" means all confidential information (however recorded or preserved) disclosed by a party or its Representatives (as defined below) to the other party and that party's Representatives whether before or after the date of this agreement, including but not limited to:

(a) the existence and terms of this agreement;
(b) any information that would be regarded as confidential by a reasonable business person relating to:

(i) the business, affairs, customers, clients, suppliers, or plans, intentions, or market opportunities of the disclosing party; and

(ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing party;

(c) any information developed by the parties in the course of carrying out this agreement; and

(d) any information obtained by Loyal to Fylde in the course of carrying out the Loyalty & Rewards Programme.

"Contract" means the contract between Loyal to Fylde and the Retailer for the supply of Loyalty Platform in accordance with these Conditions.

"Customer Loyalty & Rewards Programme" means a programme which End Users enter into on the basis of the Customer Agreement, and will be run by Loyal to Fylde as part of the Loyalty Platform.

"Data" means any data or information, in whatever form, including images, still and moving, and sound recordings, including (but not limited to) any Personal Data.

"End User" means customers of the Retailer who is a member of the Customer Loyalty & Rewards Programme

"End User Data" means any Personal Data or information provided by End Users directly to Loyal to Fylde or via the Retailer's Application using their browser access point.

"Equipment" means the Loaned Equipment provided as part of the Loyalty Platform which will be returned to Loyal to Fylde at the end of the Contract.

"Initial Joining Fee" means the initial fee payable under clause 6.1

"Intellectual Property Rights" means patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

"Loyal to Fylde" means Averso Ltd. (registered in England and Wales with company number

10094164) trading as Loyal to Fylde.

“Loyalty Platform” means the Equipment, Application and services supplied to the Retailer as required for them to reward Customers with Loyal to Fylde Points and Rewards.

“Loyalty Card” means a card issued to End Users who sign up to the Customer Loyalty & Rewards Programme.

“Membership Fees” means the Current Loyalty Platform Fee for the minimum term as per clause 6.

“Order” means the Retailer’s order for the Loyalty Platform

“Permitted Use” means internal business use (which shall not include the use of the End User Data by, or for the benefit of, any person other than the Retailer)

“Personal Data” has the meaning set out in section 1(1) of the Data Protection Act 1998 and relates only to personal data, or any part of such personal data, in respect of which the Retailer is the Data Controller and in relation to which Loyal to Fylde is providing Loyalty Platform under the Contract.

“Premises” means the Retailer’s registered business address where the Loyalty Platform will be operated from

“Privacy Policy” means Loyal to Fylde’s data protection and privacy policy:

<http://www.loyaltofylde.co.uk/card/#privacy>

“Retailer” means the person who purchases Loyalty Platform Membership from Loyal to Fylde.

“Retailer Data” means any Personal Data obtained from the Retailer which is not End User Data.

“Retailer Default” has the meaning set out in clause 5.2.

“Transaction” means a point of sale purchase made by an End User who collects Loyalty Points using their Loyalty Reward Card for that transaction at a Retailer.

“Transaction Data” means data relating to a Transaction which may include amount, type(s) of products purchased, location and time of sale.

“Term” means the minimum term of the Contract as set out in Clause 6.

1.2. A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

1.3. Any words following the terms including, include, in particular, for example, or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.4. A reference to writing or written includes fax and email.

2. Basis of Contract

2.1. The Order constitutes an offer by the Retailer to purchase Loyalty Platform in accordance with these Conditions.

2.2. The Order shall only be deemed to be accepted when Loyal to Fylde issues written acceptance of the Order at which point and on which date the Contract shall come into existence (“Commencement Date”).

2.3. Any samples, drawings, descriptive matter or advertising issued by Loyal to Fylde, and any descriptions or illustrations contained in Loyal to Fylde’s catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Loyalty Platform described in them. They shall not form part of the Contract or have any contractual force.

2.4. These Conditions apply to the Contract to the exclusion of any other terms that the Retailer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.5. The price of membership for the Loyalty Platform is as quoted in the email issued to you containing the link to payment prior to beginning your membership. We refer to this email as

“Schedule 1”.

2.6. Loyal to Fylde is the entire legal and beneficial owner and licensor of any Equipment provided to the Retailer during the supply of the Loyalty Platform including the software enabling such Equipment to operate.

2.7. The risk in the Loaned Equipment passes to the Retailer when the Loaned Equipment is delivered to the Premises and the Loaned Equipment shall be at the Retailer’s risk for the duration of their possession by the Retailer.

2.8. Title to the Loaned Equipment shall remain with Loyal to Fylde and shall not pass to the Retailer.

2.9. The Retailer may use the Loaned Equipment exclusively to allow the performance of the Loyalty Platform, but this right ceases immediately if any of the events listed in clause 10 occur.

2.10. The Retailer acknowledges that it holds the Loaned Equipment in its possession as bailee for Loyal to Fylde at all times.

3. Services and Restrictions

3.1. Subject to the Retailer not being in breach of its payment obligations and the other terms and conditions of this agreement, Loyal to Fylde hereby grants to the Retailer a non-exclusive, non-transferable right during the Term:

3.1.1. to permit the End Users to use their Loyalty Card in accordance with the terms of the Customer Agreement;

3.1.2. to utilise the Loyalty Platform through which the End User can obtain loyalty points or rewards or set up a new account into which such points and other benefits may be collected for the purposes set out in clause 3.1.1.

3.2. The Retailer shall not:

3.2.1. attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Loyalty Platform and/or Documentation (as applicable) in any form or media or by any means; or

3.2.1.2. attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Loyalty Platform;

3.2.2. access all or any part of the Loyalty Platform in order to build a product or service which competes with the Loyalty Platform;

3.2.3. license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Loyalty Platform and/or Deliverables available to any third party except the End Users, or

3.2.4. attempt to obtain, or assist third parties in obtaining, access to the Loyalty Platform and/or Deliverables.

3.3. The Retailer shall:

3.3.1. use all reasonable endeavours to prevent any unauthorised access to, or use of, the Loyalty Platform Management and/or the Deliverables and, in the event of any such unauthorised access or use, promptly notify Loyal to Fylde; and

3.3.2. comply with any further obligations set out in the Customer Agreement that govern use of the Loyalty Platform or the Software.

3.4. The rights provided under this Clause 3 are granted to the Retailer only, and shall not be considered granted to any subsidiary or holding company of the Retailer.

4. Supply of Loyalty Platform

- 4.1. Loyal to Fylde shall supply the Loyalty Platform to the Retailer at their Premises in all material respects.
- 4.2. Loyal to Fylde shall use all reasonable endeavours to meet their stated installation date, but any such dates shall be estimates only.
- 4.3. Loyal to Fylde warrants to the Retailer that the Loyalty Platform will be provided using reasonable care and skill.
- 4.4. This agreement, unless terminated earlier in accordance with clause 9, shall remain in force for the Term following the Commencement Date, after which time the agreement will renew on a 12-monthly basis until such time as the Retailer fails to pay the 12-monthly fee or the Retailer is in breach of any other term or condition of this agreement or the agreement is terminated in accordance with clause 10.

5. Retailer's responsibilities

- 5.1. The Retailer shall:
 - 5.1.1. ensure that the terms of the Order are complete and accurate;
 - 5.1.2. ensure that the End User is in possession of a valid Loyal to Fylde membership.
 - 5.1.3. co-operate with Loyal to Fylde in all matters relating to the Loyalty Platform;
 - 5.1.4. provide Loyal to Fylde, its employees, agents, consultants and subcontractors, with access to the Retailer's premises, office accommodation and other facilities as reasonably required by Loyal to Fylde;
 - 5.1.5. provide Loyal to Fylde with such information and materials as Loyal to Fylde may reasonably require in order to supply or install the Loyalty Platform, and ensure that such information is complete and accurate in all material respects;
 - 5.1.6. prepare the Retailer's premises for the supply of the Loyalty Platform;
 - 5.1.7. keep all materials, equipment, documents, Loaned Equipment and other property of Loyal to Fylde (Loyal to Fylde Materials) at the Retailer's premises in safe custody at its own risk, maintain the Loyal to Fylde Materials in good condition until returned to Loyal to Fylde, and not dispose of or use the Loyal to Fylde Materials other than in accordance with Loyal to Fylde's written instructions or authorisation;
 - 5.1.8. not remove, deface or obscure any identifying mark or packaging relating to the Loaned Equipment or any other Loyal to Fylde Materials;
 - 5.1.9. maintain the Loaned Equipment in satisfactory condition and in accordance with instructions from Loyal to Fylde from time to time;
 - 5.1.10. pay for the replacement of any Loaned Equipment which is lost; and
 - 5.1.11. ensure that its employees are trained to use the Loyalty Platform and Equipment and that only trained employees use the Loyalty Platform or operate the Equipment provided as part of the Loyalty Platform.
- 5.2. If Loyal to Fylde's performance of any of its obligations under the Contract is prevented or delayed by any act or omission of the Retailer or failures by the Retailer to perform any relevant obligation ("Retailer Default"):
 - 5.2.1. without limiting or affecting any other right or remedy available to it, Loyal to Fylde shall have the right to suspend performance of the Services until the Retailer remedies, and to rely on the Retailer to relieve it from the performance of any of its obligations in each case to the extent the Retailer prevents or delays Loyal to Fylde's performance of any of its obligations;
 - 5.2.2. Loyal to Fylde shall not be liable for any costs or losses sustained or incurred by the Retailer arising directly or indirectly from Loyal to Fylde's failure or delay to perform any of its obligations as set out in this clause 5.2; and
 - 5.2.3. the Retailer shall reimburse Loyal to Fylde on written demand for any costs or losses sustained or incurred by Loyal to Fylde arising directly or indirectly from the Retailer Default.

6. Charges and Payment

- 6.1. The Retailer shall pay to Loyal to Fylde the any joining fee associated with their Membership.
- 6.2. The Retailer shall pay the Membership Fee, in advance, on or before the first day of the joining/renewal date in question after the Commencement Date.
- 6.3. Membership Fees shall be payable by the Retailer to Loyal to Fylde by means of an online transaction which will auto-renew if not cancelled at least 1 month before end of term.
- 6.4. The Retailer shall pay the Loaned Equipment rental if Loaned Equipment is required.
- 6.5. All sums payable under this agreement are exclusive of VAT or any relevant local sales taxes, for which the Retailer shall be responsible.
- 6.6. If the Retailer fails to make any payment due to Loyal to Fylde under this agreement by the due date for payment, then, without limiting Loyal to Fylde's remedies under clauses 10 and 11, the Retailer understands that their membership will be terminated and should they wish to regain membership to the Programme they will need to pay the joining fee and their membership fee will reset back to the baseline cost.
- 6.7. The Retailer shall pay all sums due to Loyal to Fylde under this agreement without any set-off, deduction, counter-claim and/or withholding of monies.
- 6.8 We require one calendar month of notice from the data of due renewal if you intend to NOT renew your membership with us.
- 6.9 Loyal to Fylde reserve the right to amend the cost of membership or membership renewal and will give notice of any such changes prior to an end of term date.

7. Intellectual Property Rights

- 7.1. All Intellectual Property Rights in or arising out of or in connection with the Loyalty Platform (other than Intellectual Property Rights in any materials provided by the Retailer) shall be owned by Loyal to Fylde.
- 7.2. Loyal to Fylde grants to the Retailer, or shall procure the direct grant to the Retailer of, a licence during the term of the Contract to copy the Deliverables (excluding materials provided by the Retailer) for the purpose of receiving and using the Loyalty Platform and the Deliverables in its business.
- 7.3. The Retailer shall not sub-license, assign or otherwise transfer the rights granted in clause 7.2.
- 7.4. The Retailer grants Loyal to Fylde a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Retailer to Loyal to Fylde for the term of the Contract for the purpose of providing the Loyalty Platform to the Retailer.

8. Data Protection and Data Processing

- 8.1. The Retailer and Loyal to Fylde acknowledge that for the purposes of the Data Protection Legislation:
 - 8.1.1. the Retailer and Loyal to Fylde are the joint Data Controllers in respect of any Personal Data processed by each of them; and
 - 8.1.2. both Loyal to Fylde and the Retailer are Data Processors in respect of any Personal Data.
- 8.2. The Retailer acknowledges that in order to provide the Loyalty Platform, Loyal to Fylde will be provided with End User Data and will need to process this End User Data. The parties will obtain the necessary permissions from the End User required under Data Protection Legislation, so that the End User Data may be processed by both Loyal to Fylde and the Retailer.
- 8.3. Loyal to Fylde is the owner of any copyright and database rights in the End User Data and may freely use End User Data for such purposes as Loyal to Fylde sees fit (subject to the Privacy Policy). The Retailer shall be allowed to access limited End User Data and shall

be licenced to use the End User Data for the Permitted Use.

8.4. The Retailer may access the End User Data for:

8.4.1. assessing behaviours and spending profiles; and

8.4.2. issuing marketing messages to the Retailer's End User base (whether such campaign is managed by the Retailer or by Loyal to Fylde (the "Permitted Purposes"). The Retailer may not access or use the End User Data for any purposes other than the Permitted Purposes.

8.6. On termination of the Contract for any reason, the Retailer shall no longer have any right to use the End User Data and such rights granted under clause 8.3 and clause 8.4 shall cease.

8.7. Loyal to Fylde shall process the Personal Data:

8.7.1. in accordance with the terms of the Customer Agreement and the Privacy Policy;

8.7.2. for the following purposes:

8.7.2.1. to supply and manage the Loyalty Platform;

8.7.2.2. to manage and improve the Customer Loyalty & Rewards Programme;

8.7.2.3. to manage and improve the Loyal to Fylde Loyalty Platform and any applications Loyal to Fylde may develop in connection with the Loyalty Platform and/or the Customer Loyalty & Rewards Programme;

8.7.2.4. to help Loyal to Fylde to develop and improve our services, information technology systems, know-how;

8.7.2.5. to help Loyal to Fylde understand End User's habits as a customer and provide the End User with personalised offers and services;

8.7.2.6. to provide End Users with relevant marketing communications (including by email, post or online advertising), relating to our services, and those of our suppliers, partners and affiliates;

8.7.2.7. to contact End Users about the Customer Loyalty & Rewards Programme.

8.8. Loyal to Fylde shall take reasonable steps to ensure the reliability of all its employees who have access to the Personal Data.

8.9. Each party warrants to the other that it will process the Personal Data in compliance with all applicable Data Protection Legislation and all laws, enactments, regulations, orders, standards and other similar instruments.

8.10. Loyal to Fylde warrants that, having regard to the state of technological development and the cost of implementing any measures, it will:

8.10.1. take Appropriate Technical and Organisational Measures against the unauthorised or unlawful processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data to ensure a level of security appropriate to:

8.10.1.1. the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and

8.10.1.2. the nature of the data to be protected; and

8.10.1.3. take reasonable steps to ensure compliance with those measures.

8.11. Each party agrees to indemnify and keep indemnified and defend at its own expense the other party against all costs, claims, damages or expenses incurred by the other party or for which the other party may become liable due to any failure by the first party or its employees or agents to comply with any of its obligations under this clause 8.

8.12. The Retailer agrees to indemnify and keep indemnified and defend at its own expense Loyal to Fylde against all costs, claims, damages or expenses incurred by Loyal to Fylde or for which Loyal to Fylde may become liable to due to any breaches of the Retailer's obligations under this clause 8 which result from security breaches arising through the use of the Retailer's own equipment, the Retailer's Wi-Fi connection or computer systems.

8.13. Loyal to Fylde may authorise third party processors and subcontractors ("TPPs") to process and hold:

8.13.1. Personal Data; and/or

8.13.2. Transaction Data

- provided that the contract with such TPP complies with Data Protection Legislation.

8.14.2. provide the Transaction Data to a TPP (at the date of the Contract, this includes (but

is not limited to) Gain Loyalty Limited and any TPP which may be appointed in addition or substitution for Gain Loyalty Limited.

8.15. Loyal to Fylde will:

8.15.1. provide the Retailer with the Transaction Data, or a sub-set thereof;

8.15.2. only use the Transaction Data for the sole purpose of enabling it to administer the Customer Loyalty & Rewards Programme and to fulfil rewards to End Users in connection with the Customer Loyalty & Rewards Programme (the "Permitted Use");

8.15.3. retain the Transaction Data only as long as necessary for the Permitted Use and in any event no longer than 7 years from the date of the Transaction;

8.15.4. not share, transfer or disclose the Transaction Data to any third parties, or otherwise cause Transaction Data to be disclosed to any third parties (other than TPPs appointed under clause 8.12 above).

8.16. The Retailer agrees that in respect of any Transaction Data received from Loyal to Fylde, it will:

8.16.1. only use the Transaction Data for the sole purpose of enabling it to fulfil rewards to End Users in connection with the Customer Loyalty & Rewards Programme;

8.16.2. retain the Transaction Data only as long as necessary for the purposes set out in clause 8.15.1 and in any event no longer than 7 years from the date of the Transaction;

8.16.3. not share, transfer or disclose the Transaction Data to any third parties, or otherwise cause Transaction Data to be disclosed to any third parties.

9. Limitation of liability (the Retailer's attention is particularly drawn to this Clause).

9.1. Nothing in the Contract shall limit or exclude Loyal to Fylde's liability for:

9.1.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

9.1.2. fraud or fraudulent misrepresentation; or

9.1.3. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

9.2. Subject to clause 9.1, Loyal to Fylde shall not be liable to the Retailer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

9.2.1. loss of profits;

9.2.2. loss of sales or business;

9.2.3. loss of agreements or contracts;

9.2.4. loss of anticipated savings;

9.2.5. loss of use or corruption of software, data or information;

9.2.6. loss of or damage to goodwill; and

9.2.7. any indirect or consequential loss.

9.3. Subject to clause 9.1, Loyal to Fylde's total liability to the Retailer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract shall be limited to the total Charges paid under the Contract.

9.4. The terms implied by:

9.4.1. sections 3 to 5 of the Supply of Goods and Services Act 1982; and

9.4.2. sections 13 to 15 of the Sale of Goods Act 1979

are, to the fullest extent permitted by law, excluded from the Contract.

9.5. Loyal to Fylde does not warrant and makes no representations that: (a) the use of the Loyalty Platform will be uninterrupted or error free; or (b) that the Loyalty Platform, and/or the information obtained by the Retailer through the Loyalty Platform - will meet the Retailer's requirements.

9.6. Loyal to Fylde shall not be liable for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Retailer acknowledges that the Loyalty Platform may be subject to limitations, delays and other issues inherent in the use of such communications

facilities.

9.7. The Retailer acknowledges and accepts that Loyal to Fylde may enter into similar agreements to this Contract with third parties, and may independently develop, use, sell or licence documentation, products and/or services which are similar to those provided to the Retailer under this Contract.

9.8 Loyal to Fylde has no power to intervene with disputes over point allocation. This is an agreement between the Retailer and the End User.

9.9. This clause 9 shall survive termination of the Contract.

10. Termination

10.1. Without affecting any other right or remedy available to it, Loyal to Fylde may terminate the Contract with immediate effect by giving written notice to the Retailer if:

10.1.1. the Retailer fails to pay any amount due under the Contract on the due date for payment; or

10.1.2. there is a change of Control of the Retailer.

11. Consequences of Termination

11.1. On termination of the Contract;

11.1.2. all rights granted to the Retailer under this agreement shall cease;

11.1.3. the Retailer shall cease all activities authorised by this agreement; and

11.1.4. the Retailer shall return:

11.1.4.1. all of the Loyal to Fylde Materials and Loaned Equipment.

11.2. Loyal to Fylde shall be entitled to enter the Retailer's premises and take possession of all of the Loyal to Fylde Materials and Loaned Equipment. Until they have been returned, the Retailer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

11.3. In the event the Contract is terminated for any reason before the Term has ended, the Retailer shall pay the costs of returning the Loaned Equipment to Loyal to Fylde. The Retailer will not be liable for any refunds.

11.4. Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of Contract which existed at or before the date of termination or expiry.

11.5. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

12. Confidentiality.

12.1. The Retailer undertakes that it shall not at any time disclose to any person any Confidential Information except as permitted by clause 12.2.

12.2. The Retailer may disclose the other party's Confidential Information:

12.2.1. to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. The Retailer shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's Confidential Information comply with this clause 12; and

12.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

12.3. The Retailer shall not use the Confidential Information for any purpose other than to perform its obligations under the Contract.

13. General

13.1. Force majeure. Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

13.2. Assignment and other dealings.

13.2.1. Loyal to Fylde may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

13.2.2. The Retailer shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of Loyal to Fylde.

13.3. Entire agreement.

13.3.1. The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

13.3.2. Each party acknowledges that in entering into the Contract 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 the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

13.3.3. Nothing in this clause shall limit or exclude any liability for fraud.

13.4. Further Assurance. The Retailer shall, at its own expense, use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may be required for the purpose of giving full effect to this Contract.

13.5. Variation. Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

13.6. Waiver. A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

13.7. Severance. If any provision or part-provision of the Contract 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 shall not affect the validity and enforceability of the rest of the Contract.

13.9. Third party rights.

13.9.1. Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

13.9.2. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

13.10. No Partnership of Agency. Nothing in this Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

13.11. Governing law. The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.

13.12. Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall

have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

13.13. Language. These Conditions and the Contract are made only in the English language.

14. Online Orders

This clause 14 applies to Orders made via Loyal to Fylde's website only. You should print a copy of these Conditions or save them to your computer for future reference.

14.1. All payments are processed using ChargeBee and Stripe. Loyal to Fylde neither hold or have access to your payment details.

14.2. In respect of this clause 14, "Order" shall include any order made via Loyal to Fylde's website.

14.3. When placing an online Order, the Retailer must follow onscreen prompts. Each online order is an offer by the Retailer to purchase the Loyalty Platform membership subject to these Conditions.

14.4. Loyal to Fylde's order process allows the Retailer to check and amend any errors before submitting an Order to Loyal to Fylde. The Retailer must carefully check the Order before confirming it. The Retailer is responsible for ensuring that any Order is complete and accurate.

14.5. After the Retailer places an Order, Loyal to Fylde will send an email to acknowledge receipt of the Order, but this email does not constitute an acceptance of the Order.

Acceptance of the Retailer's Order will take place as described in clause 14.6.

14.6. Loyal to Fylde accepts an Order when it sends an email to the Retailer to accept it ("Order Confirmation"). When the Order Confirmation is sent by Loyal to Fylde, the Contract between the Retailer and Loyal to Fylde will come into existence on that date ("Commencement Date"). The Contract will relate only to the Loyalty Platform membership confirmed in the Order Confirmation.

14.7. If Loyal to Fylde cannot accept the Retailer's Order and are unable to supply the Loyalty Platform for any reason, Loyal to Fylde will inform the Retailer by email. Loyal to Fylde may require further information from the Retailer and/or make changes to the Retailer's Order subject to which Loyal to Fylde may accept an Order. If the Retailer does not provide the requested information or agree to the changes to the Retailer's Order, Loyal to Fylde will not process the Retailer's order. If the Retailer has already paid for the Loyalty Platform, Loyal to Fylde will refund the Retailer the full amount.

14.8. Cancellation and Refunds. You may cancel the Contract formed under this clause 14, and receive a refund, if you notify us as set out in clause 14.9 within 7 days of your receipt of the Order Confirmation. You cannot cancel the Contract once Loyal to Fylde has started to provide the Loyalty Platform by setting them up on our system and/or delivered any Loaned Equipment, even if the 7-day period is still running.

14.9. To cancel the Contract, you must contact us directly by email or phone.

14.10. If you cancel the Contract, the Retailer will not be entitled to any refunds.