

XBO Pay – Merchant Terms of Use

Last Updated:

1. Introduction and Your Acceptance of the Terms of Use

These Terms of Use ("**Terms**") constitute a legally binding agreement between you ("**Merchant**" or "**you**") and "XBO" company CLICKJOINT B.V., a company incorporated under the laws of Curacao with registered address at Zuikertuintjeweg Z/N (Zulkertuin Tower) Curacao ("**Company**," "**we**," "**us**," or "**our**") governing your use of our 'crypto payment solution services', including products, services, and any other related features, technologies, or functionalities ("**Services**") accessible through our website, mobile applications, API, or any other means as specified by the Company ("**Platform**"). By accessing or using the Services, you affirm that you have read, comprehended, and accepted these Terms, our Privacy Policy, and any additional terms and conditions that may apply.

You should periodically visit these Terms to review the current terms that apply to your use of the Services. Your continued use of the Services after any changes will constitute your acceptance of the modified Terms. We reserve the right, at our sole discretion and without notice, to discontinue providing the Services or any part thereof.

If you have any questions about this Terms, or in the event of any service difficulties or interruptions, please contact us via our website at: <https://www.xbo.com/en/support>.

2. Definitions

For the purpose of these Terms, the following capitalized terms shall have the meaning ascribed to them hereunder:

- 2.1. "**Account**" means the uniquely assigned account that is created for each Merchant when it completes an applicable application procedure at the Platform, as determined by the Company in its sole discretion, and is approved by the Company.
- 2.2. "**Applicable Law**" means any law, statute, rule, regulation, order, circular, decree, directive, judgment, decision or other similar mandate of any applicable central, national, federal, state or local governmental authority applicable to these Terms, to the Merchant, to the Company its Services, and your use of the Services.
- 2.3. "**Custody**" or "**Custodian**" means providing services to safeguard private cryptographic keys on behalf of the Merchant, for the purpose of holding, storing, and transferring Digital Assets.
- 2.4. "**Digital Asset**" means any fungible or non-fungible cryptographic token or any other crypto asset, which may be transferred or stored electronically using distributed ledger technology or similar technology.
- 2.5. "**Exchange**" means the Platform for exchange between Digital Asset and Fiat or between Digital Asset and other Digital Asset that is operated by a third party in accordance with these Terms.
- 2.6. "**Exchange Rate**" means a rate at which one Digital Asset will be exchanged for another Digital Asset or Fiat.

- 2.7. "**Fiat**" means traditional currencies, commonly recognized by governments as legal tender. The list of Fiat whose turnover, deposits, trade and withdrawals are allowed by a third party on the Platform is published on the Platform.
- 2.8. "**Fixed Rate**" means the exchange rate determined by the Company and the Merchant as the conversion rate, regardless of the actual conversion rate of that specific Digital Asset.
- 2.9. "**Insertion Order**" or "**IO**" means a mutually agreed document which incorporates these Terms by reference and contains specific instructions regarding the Services provided herein.
- 2.10. "**Intellectual Property**" means any patents, trademarks, copyrights, design rights (whether registrable or not), logos, copyright, trade, business and domain names, moral rights, reputations, know-how, trade secrets, code, designs, rights in databases, rights in computer software and any other similar rights or obligations whether registrable or not (and including all applications and renewals or extensions of such rights) in any country.
- 2.11. "**Know-Your-Client (KYC)**" means the procedure of verifying the User's identity and assessing the risk posed by his activity and use of Company's and its affiliates' Services. As part of the procedure, it is required to submit to Company or its affiliates information relating the User which is required to be obtained under Applicable Law including, his full name, home address, email address, bank statements, tax returns, audited financials, digital wallet address and any additional information required by the Company.
- 2.12. "**Market Rate**" means the actual market rate during Exchange using Services of Company.
- 2.13. "**Restricted Territories**" means (1) jurisdiction which is subject to sanctions or asset freeze sanctions or any embargoes or trade restrictions administered by the United Nations Security Council, US Department of Treasury's Office of Foreign Assets Control, U.S. Department of Commerce's Bureau of Industry and Security, United Kingdom HM Treasury's Office of Financial Sanctions Implementation, the jurisdiction in which the Merchant and the Customers are incorporated and located, or the European Union, including the following jurisdictions: Iran, Sudan, Cuba, North Korea, Myanmar, Syria, Lebanon, the Crimea, Donetsk, Luhansk, Kherson, Zaporizhia regions of Ukraine, Russia, Belarus, Venezuela; (ii) any jurisdiction in which the provision or the Services are prohibited or restricted by any applicable laws or regulations, or any jurisdiction which will be specified in by the Company from time to time in its sole discretion; (2) any jurisdiction which may be classified as 'restricted' by Company, from time to time, at its sole discretion; (3) any jurisdiction which prohibits the use of the Services or receipt of the Services or any such similar activity.
- 2.14. "**Restricted Persons**" means any of the following: (1) a citizen of, natural or legal person, company, partnership, trust, corporation, entity having habitual residence, location or the seat of incorporation or operation or organization, in any Restricted Territories; (2) a person who is target of blocking or denying sanctions or asset freeze sanctions or any embargoes or trade restrictions administered by any applicable state, authority or international body, including without limitation the United Nations Security Council, US Department of Treasury's Office of Foreign Assets Control, U.S. Department of Commerce's Bureau of Industry and Security, United Kingdom HM Treasury's Office of Financial Sanctions Implementation, the jurisdiction in which the Merchant and the Customers are incorporated and located, or the European Union; (3) a person who has access or is related to digital asset wallet which is target of blocking or denying sanctions or asset freeze sanctions in any jurisdiction under any applicable law or regulation

3. Use of the Service

3.1. Eligibility

By accessing, using or interacting with our Platform, you represent and warrant that (i) you are at least 18 years of age and of the legal majority in your country of residence, legally capable of entering into a binding contract, and you are not aware of any legal, regulatory, commercial, contractual or other restriction which prevent you from using the Platform in accordance with these Terms; (ii) as an individual, legal person, or other organization, you have full legal capacity and sufficient authorizations to enter into these Terms; (iii) you have not been previously suspended or removed from using the Platform; (iv) your use of the Platform will not violate any and all laws and regulations applicable to you or to the Platform, including, but not limited to, regulations on financial crime, anti-money laundering, anti-corruption, anti-fraud, counter-terrorist financing, sanctions regulations (for example, the US, United Kingdom, Curacao or European Union sanction lists), and tax laws.

3.2. Registration and the Account

In order to access and use our Platform, you will be required to complete a registration procedure, which will form part of these Terms, including required documentation and any other information we may request you to verify your compliance with these Terms. By registering to the Platform, you hereby represent and warrant that:

- 3.3. You will provide accurate, true, current and complete and up-to-date information regarding your identity including personal details as required to complete your registration, such as: full legal name, address, email address, bank account, digital wallet or other required information, as determined by Company at its sole discretion. You are solely responsible for maintaining and promptly updating any and all information you provided in your registration procedure, as needed. In case the yours information is incorrect or misleading, we will not be liable for any failure to fulfil any obligations that it may otherwise have pursuant to these Terms.
- 3.4. Company reserves the right to verify your details, at any time and perform background checks on you by request from you to provide Company with further documentation, at its sole discretion, including through the use of specific third party companies, who perform the investigations on Company's behalf. Such background checks may include, but are not limited to, conducting any KYC, screening, and investigation into your identity and registration details. Company is under no obligation to advise you that such investigation is taking place.
- 3.5. You agree and acknowledge that we have the right to terminate any Account at any time and for any reason. You further agree and understand that we have the right to take any and all necessary and appropriate actions pursuant to these Terms and Applicable Laws.

4. The Service and License

- 4.1. The Company facilitates cryptocurrency payments, allowing the Merchant's customers ("**Customers**") to use Digital Assets, as determined by your preferences, as a method of payment for the goods or services you offer.

- 4.2. As part of our services, the Company will, on your behalf, accept cryptocurrency payments from your Customers for the products or services you provide in a dedicated digital wallet ("**Digital Wallet**"). Upon your request, we can convert the received cryptocurrency into fiat currency. The resulting funds will be transferred to an account specified by you in accordance with the Account creation procedure.
- 4.3. By using our Services, you acknowledge and understand that the Company is providing you with Exchange and Custody services. You authorize the Company to act on your behalf and warrants to take any necessary or desirable actions to ensure Company's compliance with Applicable Laws.
- 4.4. Payment by the Customer is considered equivalent to a direct crypto transfer to the Merchant by the Customer, subject to a fee as detailed herein.

Customer Journey

- 4.5. When making a purchase from the Merchant, the Customer will receive real-time information, including the transaction value, Digital Assets type, the required quantity for completing the purchase, and may be required to review notices, accept the relevant terms and conditions and provide consents required by the Company in its sole discretion. The available Digital Assets type and exchange rates will be determined by you, with prior approval from the Company and subject to the Digital Assets supported by the Company's Platform. You can choose between a Fixed Rate and Market Rate. Based on your chosen exchange rate method, the customer will have full autonomy to decide whether to proceed with the conversion transaction.
- 4.6. Once the Customer agrees to the payment terms and completes the purchase through the Company's services, the Company may provide the Merchant with transaction status updates, which may include, but are not limited to, 'Pending,' 'Completed,' 'Out of time', or 'Failed'.

General

- 4.7. These Terms shall prevail over any other terms and agreements between you and us, unless specifically agreed by you and us in writing otherwise.
- 4.8. Upon Company's approval of a Merchant's request to open an Account, the Company hereby grants the Merchant a limited, personal, non-sublicensable, non-transferable, non-exclusive, revocable right and permission, subject to the Company's further binding guidance in writing and in accordance with these Terms, to: (i) Implement the API or any other means as specified by the Company on its platform; (ii) Use the services as a crypto payment solution on its platform; (iii) Display Company's Intellectual Property rights on its platform solely for the purpose of utilizing the Company's service, subject to Company's approval.
- 4.9. These Terms do not grant the Merchant exclusive rights, privileges, or licenses to use the Services. The Merchant acknowledges and agrees that the Company has the right to enter into contracts with other Merchants in relation to the subject matter stated herein.
- 4.10. The Merchant acknowledges that the Company reserves the right to add or remove any tools or functionality from the Services or from an at any time, at its sole and absolute discretion.

- 4.11. The Merchant agrees to use Company's Intellectual Property Rights approved by the Company only under the restrictions and prior approval of the Company. Upon termination or expiration of these Terms, or upon notice from the Company, the Merchant shall immediately cease using the Services and remove all Company's Intellectual Property Rights from its platform.
- 4.12. Any language, whether on or off the Platform, including in our Terms, that may imply that the Company provides payment services is purely figure of speech and pertains exclusively to transactions involving Digital Assets as part of goods or service purchases. As previously mentioned, the Company is not engaged in any transactions between the Merchant and the Customer that are considered as payment processing. The only services offered within the scope of the Company's Services, apart from using the Digital Asset Wallet Service and the Exchange service, involve the provision of transaction information and process monitoring.
- 4.13. Company is not liable for nor able to provide any refund for any reason if required by the Customer. It is the sole Merchant's responsibility to provide with any refund related to the Customer's transaction by transferring the Digital Assets back to the Customer.
- 4.14. The Service may appear embedded on a different platform of a third party. Company is not liable for any content on the third party platform and is not responsible for any supply of goods or service made part of the purchase by the Merchant.
- 4.15. Company has the exclusive authority to determine which Digital Assets are listed on the Platform and may add or remove some of them from the Platform in its sole discretion at any time and without any prior notice.
- 4.16. Transfer and receipt of Fiat from and to any side mentioned in the agreement will be made through bank transfers, IBAN, credit card or an external payment processor (according to Company's sole discretion).
- 4.17. The transaction values for Fiat and Digital Assets are indicated on the Platform. The Company reserves the right, at its sole discretion, to modify various aspects, including rates and gas fees, for any reason. This may include, but is not limited to, legal, regulatory, or business considerations, or changes in Merchant's verification standards or AML/CTF risk assessments.
- 4.18. Company has the right to modify or terminate, in its discretion, any of the Services, prohibit the use of some of its Services in certain jurisdictions and prohibit some Merchant's use of or any Customer's access to part of any of the Company's Services, including without limitation in accordance with the periodically updated lists of the Restricted Territories and the Restricted Persons.
- 4.19. When using the Platform, you acknowledge that transactions made in assistance of the Platform are subject to fees as detailed on the Platform. You represent and warrant that you shall pay Company any applicable fees in accordance with these Terms and any other relevant document.
- 4.20. You understand and acknowledge that Digital Asset transactions are irreversible, and we are not responsible for any loss or error in the execution of such transactions.

- 4.21. If the payment or any part thereof to you is made with Digital Asset, you must provide the Company in writing, with your Digital Wallet address which would be compatible with the applicable Digital Asset. The Company or any of its affiliated entities accept no responsibility or liability whatsoever in the event you provide them with an incorrect or an incompatible Digital Wallet address. Further, the Company or any of its affiliated entities will not be able to reverse or recover any payment or delivery of Digital Assets and will have no liability whatsoever for any such digital assets sent to an incorrect or an incompatible Digital Wallet address provided by you.
- 4.22. You agree, acknowledge, and warrant that you will include, as part of your Terms and Conditions, a disclosure notice to the Customers as part of their use of the Services outlined herein. This notice should explicitly state that your platform is utilizing our Services, along with any other terms and obligations provided by the Company to you periodically.

5. Use of Company's Services

- 5.1. You represent and warrant that you understand that there are considerable risks involved in the activities performed on the Company's Services, including, without limitation, risks relating to the fluctuations in the prices of Digital Assets, liquidity, operational, regulatory and technical risks. You shall carefully consider and exercise clear judgment to evaluate your financial situation and the aforesaid risks to make any decision on using the Services. You shall be responsible for all losses arising therefrom.
- 5.2. When using Company Services, you agree to comply with and act in accordance with all Applicable Laws in all applicable jurisdictions, including without limitation in relation to anti-money laundering (AML), countering the financing of terrorism, know-your-customer (KYC) and know-your-transaction (KYT), export control and trade sanctions, digital assets, digital asset services providers, financial services, investment advisers, financial instruments or products, banking, securities, payments, the applicable tax laws as well as any other Digital Asset-related or other regulation.
- 5.3. There may be additional services accessible through the Platform, which are provided by third parties or complement the Platform's offerings. By accepting these Terms, you acknowledge and agree that the Services may contain links to third-party websites, services, or resources, and may display or make available third-party content, data, information, or materials. When accessing third-party services through the Platform, it is your responsibility to ensure compliance with their respective terms and conditions, even if they are accessible through the Platform. We are not responsible for the content, functionality, accuracy, legality, appropriateness, or any other aspect of third-party services. The presence of a link on our Platform does not imply our endorsement or any affiliation with the operators of those third-party services.
- 5.4. Furthermore, you acknowledge and agree that we shall not be held directly or indirectly liable for any damages or losses, whether alleged or actual, arising from the use of or reliance on third-party services. These services may be subject to disruptions beyond our control and are not under our responsibility. Any claims related to third-party services should be directed to the relevant third parties. The terms and conditions governing third-party services are those of the respective third parties. By using third-party services, you agree to engage with the relevant third party and accept their terms, as well as any other terms they make available on their platform.
6. You may close your Account and terminate your use of the Services at any time. As part of the account

closing procedure, you will be required to submit an account closing request to the Platform. Any remaining funds in the Digital Wallet that have not been transferred prior to the Account closure date will be sent to the bank account or digital wallet specified in your account closure request. Please note that the Company reserves the right to decline an Account closure if it reasonably believes, at its sole discretion, that the closure is an attempt to evade legal or regulatory obligations.

7. Fees and Exchange Rates

- 7.1. The Company is entitled to a commission for each transaction conducted through the Services, as outlined in an applicable IO between the Company and you ("**Fees**").
- 7.2. Within the applicable IO, exchange rates between cryptocurrency and fiat currency will be determined - either a Fixed Rate or a Market Rate. It's important to note that the exchange rate does not constitute a Fee for the Company.
- 7.3. The Company reserves the exclusive right, subject to advance notice, to modify the exchange rate as outlined in the applicable IO (fixed or market) without any mandatory compensation or limitations.

8. Privacy and Data Protection

- 8.1. **User Data Collection.** In the course of providing our Services, we may collect and process certain personal and non-personal data from Customers, including but not limited to names, contact information, payment details, and transaction history. By using our services, you consent to the collection and processing of this data in accordance with our Privacy Policy and any applicable Data Processing Agreement (DPA).
- 8.2. **Use of Data.** Customer data is primarily collected for the purpose of facilitating crypto payments and transactions in accordance with our Privacy Policy and DPA. We may also use this data for internal purposes such as analytics, improving our services, and complying with legal and regulatory requirements.
- 8.3. **Data Sharing.** We may share Customer data with trusted third parties, including payment processors, financial institutions, and service providers, but only to the extent necessary to fulfill the Services requested by Customers. We do not sell or rent Customer data to third parties for marketing purposes.
- 8.4. **International Data Transfer.** Customer data may be transferred and processed in countries outside of your jurisdiction, where data protection laws may differ. Any international data transfer shall be governed by applicable DPA and applicable laws.
- 8.5. By using our payment solution services, you acknowledge that you have read, understood, and agreed to the terms of our Privacy Policy and the processing of your data as described herein. It is your responsibility to review our Privacy Policy for any updates or changes.
- 8.6. We reserve the right to update our Privacy Policy to reflect changes in our data practices. Users will be notified of significant updates, and continued use of our services after such updates constitutes acceptance of the revised policy.

9. Proprietary Rights

- 8.1. The Services constitute valuable Intellectual Property and are protected worldwide under intellectual property laws and treaties. you hereby acknowledge and agree that Company is and shall remain the exclusive owners of all Intellectual Property in and to the Services and these may not be copied, reproduced, altered, modified, changed, broadcasted, distributed, transmitted, disseminated,

syndicated, or offered for sale or rental in any manner, at any time, unless to the extent permitted in accordance with these Terms, or as otherwise authorized and consented to in writing by Company, as applicable.

- 8.2. You entitled to use the Intellectual Property within the scope of permitted private use provided by legal provisions under these Terms.
- 8.3. Accessing or participating in the Services does not grant any express or implied right to any of Company's Intellectual Property.
- 8.4. You shall not contest or assist others to contest Company's Intellectual Property rights or interests in and to its respective Intellectual Property rights and all applications, registrations or other legally recognized interests therein, or any element, derivation, adaptation, variation or name thereof.
- 8.5. You will be liable for any damage, costs or expenses that arise out of misuse of Company's Intellectual Property rights.
- 8.6. You may choose to submit comments or feedback about the Services, including suggestions for improvement ("**Feedback**"). When you provide Feedback, you acknowledge that it is freely given and without any obligation on the part of the Company. We are free to use and disclose the Feedback without any additional compensation to you, and it may be shared with others on a non-confidential basis. This provision does not grant you any intellectual property rights or licenses, and your use of the Services does not imply the right to combine them with other information or products, except as expressly stated herein.

9. Representations and Warranties

- 9.1. By using the Services, you represent and warrant that:
- 9.2. You have the legal authority to enter into and be bound by this agreement on behalf of your business entity. If you are an individual, you are of legal age and have the capacity to enter into this agreement.
- 9.3. You will comply with all Applicable Laws, regulations, and industry standards related to your and your Customer's use of our crypto payment solution, including but not limited to any anti-money laundering (AML), screening and know your customer (KYC) requirements.
- 9.4. You and your customers are not considered Restricted Persons or residents of Restricted Territories. Furthermore, neither you nor your customers use the Services to evade or violate provisions of Applicable Laws in any jurisdiction, including, but not limited to, cryptocurrency payment regulations, anti-money laundering laws, and financial regulations.
- 9.5. You have the necessary authorization and rights to conduct transactions using our Services, including any necessary approvals or licenses required in all applicable jurisdictions or industry.
- 9.6. All information provided to us during the registration process and throughout your use of our Services is accurate, complete, and up to date. You will promptly update any changes to this information.

9.7. You will take appropriate security measures to protect any personal and any sensitive or confidential information of your Customers.

9.8. You will not engage in any prohibited activities, including but not limited to illegal, fraudulent, or deceptive practices, as outlined in our terms and any applicable laws or regulations.

9.9. You affirm that you are the rightful owner of any funds or Digital Assets transacted through, received from any Customer in any wallet on the Platform, or held in Custody by us via our Services. Additionally, you assert that you have full legal authority to manage and execute transactions involving these funds or digital assets as necessary without any limitations, and without any need to obtain any consent or authorization from any person or entity.

9.10. Your use of our crypto payment solution will not infringe upon the intellectual property rights, privacy rights, or any other rights of any third parties.

9.11. **Risk Disclosure**

9.12. There are significant risks associated with Digital Assets, and it is your sole responsibility to ensure that you fully comprehend these risks and evaluate their appropriateness for your situation. This risk disclosure outlines some, but not all, of the risks associated with holding, trading, and using Digital Assets in general, as well as our Services specifically. While this risk disclosure aims to provide you with a general overview of these risks, it cannot encompass every potential risk.

9.13. By accessing and using the Services, you acknowledge and represent that you are well aware of the risks related to digital assets. These risks may include, but are not limited to: (i) Uncertainty regarding the legal status of digital assets and commercial activities involving digital assets in various jurisdictions; (ii) Potential weaknesses and bugs that may exist in the underlying blockchain systems, smart contracts, and the Platform; (iii) Exploitation of the Platform by users for illegal purposes, such as money laundering and fraud; (iv) Irreversible nature of transactions on blockchain systems, where incorrect addresses may result in the loss of funds; (v) Liquidity and market risk, which could lead to significant drops in the value of digital assets and even their total loss; (vi) The volatile and unpredictable nature of digital asset prices, which can fluctuate dramatically; (vii) Any other risks associated with purchasing, using, or holding digital assets.

9.14. Digital asset prices and rates can experience substantial volatility, including both upward and downward movements, posing a significant risk. It is advisable to exercise caution when engaging in Digital Asset trading or holding.

9.15. The value of Digital Assets as well as the exchange rates are contingent on market participants' willingness to trade them for fiat currency or other Digital Assets. If this willingness diminishes, it may lead to a permanent and loss of value for your Digital Assets.

9.16. In some jurisdictions, Digital Assets are not recognized as legal tender. They lack backing by physical assets and do not carry government support or guarantees.

9.17. Legislative and regulatory changes can significantly impact the use, transfer, exchange, and value

of Digital Assets. These changes introduce uncertainty and can influence the Digital Asset ecosystem.

9.18. The treatment of Digital Assets during insolvency proceedings is uncertain and not guaranteed. Outcomes can vary, potentially including treatment as an unsecured creditor or a total loss of all digital assets held, including those in Custody wallets.

10. Disclaimer of Warranties

10.1. EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, WE PROVIDE THE SERVICES ON AN “AS IS” AND “AS AVAILABLE” BASIS, AND YOUR USE OF THE SERVICES IS AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE PROVIDE THE SERVICES WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT). WITHOUT LIMITING THE FOREGOING, WE DO NOT WARRANT THAT THE SERVICES (AND OUR WEBSITE): WILL OPERATE ERROR-FREE OR THAT DEFECTS OR ERRORS WILL BE CORRECTED; WILL MEET YOUR REQUIREMENTS OR WILL BE AVAILABLE, UNINTERRUPTED OR SECURE AT ANY PARTICULAR TIME OR LOCATION; ARE FREE FROM VIRUSES OR OTHER HARMFUL CONTENT. WE DO NOT ENDORSE, WARRANT, GUARANTEE OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE OFFERED OR ADVERTISED BY A THIRD PARTY THROUGH THE SERVICES OR THROUGH OUR WEBSITE, AND WE WILL NOT BE A PARTY TO NOR MONITOR ANY INTERACTIONS BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES.

11. Limitation of Liability

11.1. EXCEPT AS OTHERWISE SET FORTH IN THESE TERMS, IN NO EVENT WILL WE BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OR ANY LOSS, THEFT, DISAPPEARANCE, OR DAMAGES FOR LOST PROFITS, LOST REVENUES, LOST DATA OR OTHER INTANGIBLE LOSSES THAT RESULT FROM THE USE OF, INABILITY TO USE, OR UNAVAILABILITY OF THE SERVICES, REGARDLESS OF THE FORM OF ACTION AND WHETHER OR NOT WE KNEW THAT SUCH DAMAGE MAY HAVE BEEN INCURRED. FOR CUSTOMERS CONTRACTING WITH THE COMPANY, WHILE THIS LIMITATION OF LIABILITY DISCLAIMS LOST PROFITS AND OTHER INDIRECT DAMAGES, THE COMPANY DOES NOT OTHERWISE EXCLUDE ITS LIABILITY FOR ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

IN NO EVENT WILL WE BE LIABLE FOR ANY DAMAGE, LOSS OR INJURY RESULTING FROM HACKING, TAMPERING, VIRUS TRANSMISSION OR OTHER UNAUTHORIZED ACCESS OR USE OF THE SERVICES, YOUR ACCOUNT, OR ANY INFORMATION CONTAINED THEREIN.

IN NO EVENT WILL OUR LIABILITY FOR ANY DAMAGES ARISING IN CONNECTION WITH THE SERVICES OR THESE TERMS EXCEED THE FEES EARNED BY US IN CONNECTION WITH YOUR USE OF THE SERVICES DURING THE 6 MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM FOR LIABILITY. THE FOREGOING LIMITATIONS OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

12. Changes to These Terms

We reserve the right to change these Terms at any time at our sole discretion, without prior notice by posting the revised version of the Terms on Platform. The revised Terms will take effect immediately upon publication by Company with effect from the revision date noted at the heading of the Terms. If

a User does not agree to the revised Terms, such User should discontinue the use of our Services.

13. Indemnification

You agree to indemnify the Company, its affiliated and related entities, and any of its officers, directors, employees and agents from and against any claims, costs, losses, liabilities, damages, expenses and judgments of any and every kind (including, without limitation, costs, expenses, and reasonable attorneys' fees) arising out of, relating to, or incurred in connection with any claim, complaint, action, audit, investigation, inquiry, or other proceeding instituted by a person or entity that arises or relates to any actual or alleged breach of your representations, warranties, or obligations set forth in these Terms.

14. Termination

- 14.1. These Terms shall be in effect as of the date of Company's approval of Merchant's Account registrations application by writing and shall continue thereafter until terminated as provided herein.
- 14.2. The Merchant understands and agrees that in the event that Company determines in its sole and absolute discretion that the User or anyone under Merchant's control is engaged in any activity that violates these conditions, our Privacy Policy, or any Applicable Laws, Company shall have the right, in its sole and absolute discretion, to immediately terminate Merchant's account, at any time, without prior notification, without derogation from any legal or other rights available to Company against User under Applicable Law.
- 14.3. Any provisions hereof which expressly or by their nature are required to survive termination or expiration of these Terms in order to achieve their purpose shall so survive until it shall no longer be necessary for them to survive in order to achieve that purpose.

15. Miscellaneous

- 15.1. These Terms constitute the entire agreement between the User and Company with respect to the subject matter hereof, and these Terms supersede all prior written or oral understandings, writings and representations.
- 15.2. The Terms, the policies and agreements that are incorporated herein by reference, as amended, constitute the entire Terms between you and Company.
- 15.3. If any provision of these Terms is found by a court of competent jurisdiction to be held void or unenforceable to any extent, such provision shall be deemed excised and removed only to the extent to make the remaining provisions and these Terms enforceable.
- 15.4. Without giving effect to any choice of law or conflict of law rules or provisions, these Terms shall be governed by the laws of Curacao and the applicable court in Curacao shall have the exclusive jurisdiction with respect to any action arises from these Terms.
- 15.5. No waiver by us of any provision of these Terms shall be construed as a waiver of any preceding or succeeding breach of any condition of these Terms.
- 15.6. Company will not be liable for any delay or failure to perform as required by these Terms because of any cause or condition beyond Company's reasonable control.

16. Assignment of Rights

You may not transfer, assign, sub-license, or pledge in any manner whatsoever your Account or any of your rights or obligations under these Terms. Company may transfer, assign, sub-license, or pledge in any manner whatsoever any of its rights and obligations under these Terms to any subsidiary, affiliate, or successor thereof or to any third party whatsoever, without notifying you or receiving your consent.

17. Notification Procedures

Company may provide notifications, whether such notifications are required by law or are for marketing or other business-related purposes, to you via email notice, written or hard copy notice, or through conspicuous posting of such notice on the Services, as determined by Company in our sole discretion. Company reserves the right to determine the form and means of providing notifications to you, provided that you may opt out of certain means of notification as described in these Terms or Company's Privacy Policy.

18. Language

You acknowledge that these Terms, and all related documents, including Privacy Policy, have been prepared in English. If these Terms are translated into another language, the English language text shall in any event prevail.

19. Contact us

If you have any question, concern, or complaint with relation to these Terms, please feel free to address us at <https://www.xbo.com/en/support>