



**STANDARD TERMS AND CONDITIONS**

1. This document sets out the standard terms and conditions (“**Standard Terms**”) between Xeno Private Limited, a company incorporated under the Companies Act, 2013 with its registered office at W-155 Greater Kailash Part-1, New Delhi (“**Xeno**”) and its customers (“**Merchants**”). These Standard Terms are supplemental to any commercial agreement entered into between Xeno and the Merchants and in case of any inconsistency between these Standard Terms and the terms of such commercial agreement, these Standard Terms shall prevail.

2. **Definitions and Interpretation**

2.1 Definitions

In these Standard Terms, the following terms shall have the following meanings:

“**Acceptable Use Guidelines**” shall have the meaning given to it in Section 4.8(d) below.

“**Applicable Law**” or “**Applicable Laws**” shall mean any relevant statute, law, regulation, ordinance, rule, judgment, rule of law, order, decree, clearance, approval, directive, policy, requirement, or other governmental restriction, or determination by, or any interpretation or administration of any of the foregoing by, any statutory or regulatory authority whether in effect as of the date of these Standard Terms or thereafter.

“**Campaign Platform**” shall mean the tool used to send any type of communications to customers.

“**Confidential Information**” shall have the meaning given to it in Section 8.1 below.

“**Cure Period**” has the meaning given to it in Section 11.4(c) below.

“**Customer/ End User Data**” shall mean the data in relation to the consumers who are part of a loyalty program.

“**Damage**” shall have the meaning given to it in Section 4.4 below.

“**Default Notice**” has the meaning given it in Section 11.4(c) below.

“**Disclosing Party**” shall refer to such Party who in relation to the transaction contemplated herein issues, discloses the Confidential Information in the manner provided in Section 8 below.

“**End User**” shall mean all customers of the Merchant who become part of the loyalty program of the Merchant using the Services of Xeno.

“**Fees**” has the meaning given to it in Section 5.1 below.

“**Intellectual Property Rights**” has the meaning given to it in Section 7.2.1 below.

“**MRP**” shall have the meaning given to it in Section 4.5 below.



“**Parties**” shall mean Xeno and the Merchant collectively and “**Party**” shall mean each of them individually.

“**Password**” shall mean any access key comprising of alpha-numeric or special characters generated by Xeno for the use and access of Merchant in the manner provided in Section 7.3.2 below.

“**Receiving Party**” shall refer to such Party who in relation to the transaction contemplated herein receives Confidential Information in the manner provided in Section 8 below.

“**Security Deposit**” has the meaning given to it in Section 6.1 below.

“**Services**” has the meaning given to it in Section 3 below.

“**Subscription Plan**” shall mean the plan for subscription to Services by a particular Merchant.

“**Subscription Period**” shall mean the time period for which the Merchant has access to Services.

“**Term**” has the meaning given to it in Section 11.1 below.

“**Website**” shall mean <https://app.xeno.in/>.

“**Xeno Kit**” has the meaning given to it in Section 3 below.

“**Xeno Offers Program**” has the meaning given to it in Section 3.2 below.

“**Xeno Programs**” shall mean all software and/ or mobile applications in relation to the Xeno Kit including, without limitation, any Intellectual Property Rights and any improvements, modifications, enhancements or refinements thereto.

“**Xeno Program Package**” has the meaning given to it in Section 7.2.1 below.

## 2.2 Interpretation

Unless the context of in these Standard Terms otherwise requires:

- (a) words using the singular or plural number also include the plural or singular number respectively;
- (b) words of any gender are deemed to include the other gender;
- (c) the term “Section” or “Schedule” refers to the specified Section or Schedule of this Standard Terms;
- (d) reference to any legislation or law or to any provision thereof shall include references to any such law as it may, after the date hereof, from time to time, be amended,



supplemented or re-enacted, and any reference to statutory provision shall include any subordinate legislation made from time to time under that provision;

- (e) reference to the word “include” shall be construed without limitation.

### **3. Services**

3.1 The services provided by Xeno shall be as per the commercial understanding between the Parties and may include the following (collectively, “**Services**”):

- (a) provision of tablet, software and charger (“**Xeno Kit**”);
- (b) provision of access to the Website and Xeno programs on the Website;
- (c) provision of the Campaign Platform to send messages to End Users;
- (d) provision of technical support for the Xeno Kit;
- (e) provision of customer service support for use of the Website.

3.2 The Merchant hereby agrees and acknowledges that Xeno may, from time to time, offer and administer a program currently referred to as the “**Xeno Offers Program**”. Pursuant to such Xeno Offers Program, End Users that are sufficiently active using the Xeno Programs can achieve various levels of status. Xeno shall have sole discretion in determining the activity required to obtain each of the status levels within the Xeno Offers Program from time to time. End Users that have achieved any such level of status may be entitled to receive discounts on points and/ or other benefits across the entire Xeno network, including without limitation at each of the Merchant locations. The Merchant hereby agrees to honour all such discounts and recognize such status, except to the extent the Merchant has opted out of participation in the Xeno Offers Program by written notice.

### **4. Conditions for use of Services**

4.1 The Merchant shall use the Services solely for its internal business purposes or in the manner agreed between the Parties; and

4.2 The Merchant shall not:

- (a) sell, rent, lease, license or sublicense, assign, distribute, or transfer the Services;
- (b) act in any manner which may result in the contravention of Xeno’s Intellectual Property Rights as specified in Section 7.2.1 below;
- (c) copy any tangible versions of the Xeno Programs or any imbedded software of the Xeno Kit; or
- (d) remove from any of the Xeno Programs any language or designation indicating the confidential nature thereof or the proprietary rights of Xeno.

- (e) not export, re-export or permit any third party to export or re-export, directly or indirectly, the Services where such export or re-export is prohibited by Applicable Law without appropriate licenses and clearances.
- 4.3 Xeno shall repair or replace damaged tablets forming part of the Xeno Kit due to normal wear and tear or any hardware/ software malfunction in the Xeno Kit at no cost to the Merchant who is in good standing. For the sake of clarity, a merchant in good standing shall mean having no outstanding balance due to Xeno, but may be defined by other criteria as specified by Xeno from time-to-time.
  - 4.4 The Merchant shall, during the subsistence of this Standard Terms, handle/ use and maintain the Xeno Kit with reasonable care. The Merchant shall be held liable for any damage to the Xeno Kit which is not caused due to the normal wear and tear (“**Damage**”).
  - 4.5 For any replacement of Xeno Kit pursuant to the Damage, the Merchant shall be liable to pay a replacement charge, which shall be equal to the maximum retail price (“**MRP**”) of such damaged Xeno Kit.
  - 4.6 Xeno retains the right, in its sole discretion but without any obligation on the part of Xeno to monitor or evaluate any communications, to approve, modify or refuse any Xeno-related communications or proposed communications or messages to the End Users.
  - 4.7 By signing up for Xeno the merchant agrees to receive marketing and transactional communications from Xeno via email, SMS and other channels.
  - 4.8 In the event of a reward dispute or mistake between a Merchant and End User, Xeno may in its sole discretion and without liability of any kind unilaterally make adjustments to End User’s reward points (it being understood that Xeno shall not be (i) obligated to make any such adjustment or otherwise get involved with or provide any assistance towards resolving any such dispute, or (ii) be liable to any party for any damages, expenses or liabilities arising out of any such dispute).
  - 4.9 The following terms in addition to all other terms and conditions as set out herein shall govern the Merchant's use of the Campaign Platform:
    - (a) The Merchant shall not violate the Acceptable Use Guidelines, as provided in Section 4.8(d) below, as they may be in effect from time to time, which is part of these Standard Terms. In the event of any such violation, Xeno, in addition to any other rights or remedies that Xeno may have hereunder or otherwise, may suspend or terminate these Standard Terms.
    - (b) In the event the Merchant subscription to the Campaign Platform allows unlimited use of the Campaign Platform, to the extent that Xeno, in its sole discretion, determines that Merchant is abusing the Campaign Platform, violating any law or regulation, any other e-mail regulation or otherwise abusing or misusing the Campaign Platform in any way, Xeno shall, in addition to any other remedies available to Xeno in this Standard Terms

and/or under Applicable Laws, be entitled to unilaterally adjust Merchant's allowed use of the product.

- (c) Any information uploaded by the Merchant on the Campaign Platform for e-mail/ sms to customers shall be the Merchant's responsibility and Xeno shall not in any way be liable for any violation of any rule, regulation or guideline governing the dissemination of such information to the Customers.

- (d) Acceptable Use Guidelines:

The Merchants shall refrain from using the Campaign Platform to send anything offensive, to promote anything illegal, or to harass anyone. Without limitation to the foregoing, the Merchant is prohibited from:

- (i) sending e-mails (A) containing pornographic or other sexually explicit content; (B) offering to sell illegal goods or services; (C) that violate any Applicable Law or regulations; (D) that constitute spam;
- (ii) sharing or disclosing a Password to a third party;
- (iii) using the Campaign Platform to create a competing product;
- (iv) importing or incorporating any of information on the Campaign Platform into any lists, emails or uploads to Xeno servers: passwords, security credentials, or sensitive personal information of any kind;
- (v) sending any messages through the Campaign Platform that are not appropriate for its intended use;

In relation to use of the Campaign Platform for short message service ("SMS"), the Merchant is prohibited from sending/ transmitting:

- (vi) any virus and malicious code that might disrupt, disable, harm, erase memory of, or otherwise impede operations, or functions of any software, hardware, wireless device, computer or any network;
- (vii) any vulgar, obscene content, adverse, offensive/ derogatory reference to (i) corporations or brands; (ii) any personality, living or dead; (iii) communities, living or extinct; (iv) to any city, building, geographical feature, etc. that can be singularly/ uniquely identified in the world; (v) gender and (vi) physical/ racial attributes;
- (viii) any content, which is lascivious or appeals to the prurient interest or the effect whereof is such as to tend to deprave or corrupt any person;
- (ix) any content, the presentation, dissemination or disclosure whereof, infringes any intellectual property right or confidentiality obligation;

- (x) any content that is restricted/ prohibited under the existing or future orders/ rules/ guidelines by the Telecom Regulatory Authority of India (“**TRAI**”) in this respect.
- (e) Further, any SMS generated using the Campaign Platform must be sent exclusively to the registered customers of the Merchants only.
- (f) The Merchant shall strictly abide by the terms of the Acceptable Use Guidelines as mentioned in sub-section (d) above. Further, in the event of any fine and/ or penalty imposed by any governmental authority including TRAI as a result of any breach of Acceptable Use Guidelines or any Applicable Law, the Merchant shall be solely liable to bear the same and shall indemnify Xeno for any loss sustained by Xeno in this regard.

## **5. Fees**

- 5.1 The fee payable by the Merchant to Xeno for the Services (“**Fees**”) shall be as mutually agreed between the Merchant and Xeno.
- 5.2 Xeno reserves the right to amend/ revise the Fees payable for the Services at any time upon thirty (30) days’ prior notice to the Merchant; provided, however, that such amendment/ revision to the Fees shall not be applicable until the beginning of the next Subscription Period.
- 5.3 The Fees payable by the Merchant to Xeno shall be exclusive of any taxes other than withholding payable by Xeno on the Fees. In the event any such taxes are payable, the Fees shall be grossed up by the Merchant such that the amount received by Xeno shall be equivalent to the amount it would have received had no such taxes been paid.
- 5.4 Xeno shall invoice the Merchant for the Fees payable in accordance with the Subscription Plan. The Merchant shall pay the Fees immediately on receipt of such invoice.
- 5.5 In the event the Merchant fails to pay the Fees as aforesaid the Merchant shall be obliged to pay Xeno interest of 2% per day on the outstanding fees from the due date of payment until the actual date of payment. Such payment of interest shall be without prejudice to Xeno’s right to terminate the contractual relationship with the Merchant in accordance with these Standard Terms.

## **6. Security Deposit**

- 6.1 Xeno may, against the issue of the Xeno Kit to the Merchant, collect an interest free refundable security deposit (“**Security Deposit**”).
- 6.2 Xeno shall, within 30 (thirty) days from the date of termination/ expiration/ cancellation of the arrangement under this Standard Terms refund the Security Deposit, if collected, in its entirety or subject to any deduction as contemplated in Section 11.5 below to the Merchant.

## **7. Protection of Intellectual Property**

- 7.1 End User Data



Xeno hereby agrees and undertakes that the End User data made available to Xeno by the Merchant or pursuant to these Standard Terms shall not be sold or revealed to any third party or any organization, save and except the following circumstances:

- (a) upon authorization by the Merchant at his own risk and liability;
- (b) in the manner set forth in the relevant portion of the Website, application or within any agreement between Parties;
- (c) in connection with providing various products or Services (either directly or through one or more third parties);
- (d) as may be required under any Applicable Law or court order; or
- (e) as otherwise set forth herein.

### 7.2 Ownership of Xeno programs

- 7.2.1 Xeno owns all right, title and interest (“**Intellectual Property Rights**”) in relation to the Xeno Programs and Xeno programs on the Website (collectively, “**Xeno Program Package**”);
- 7.2.2 The Merchant hereby agrees not to decipher, decompile, disassemble, reconstruct, translate, reverse engineer, or discover any of the programs in the Xeno Program Package, intellectual property or ideas, algorithms, file formats, programming, or interoperability interfaces underlying such Xeno Program Package.
- 7.2.3 Without limiting any of Xeno’s rights set forth in this Standard Terms, Xeno reserves the right, in its sole discretion but without any obligation on its part, to reject, remove, delete and/ or cancel any information or content displayed or posted on any tablet, the Website, any portion of the Xeno Program Package, and/ or within any print materials, including without limitation any information and/ or content that, in Xeno’s view, contains content or links which do not meet Xeno’s specifications or requirements. In addition, Xeno shall be entitled, in its sole discretion and without notice to the other Party, to redesign and/ or modify all or any portion of the Xeno Program Package (including without limitation any mobile application and/ or software) at any time.

### 7.3 Licence to Use

- 7.3.1 Xeno hereby grants to the Merchant a limited, non-transferable, non-exclusive, revocable license to access and use the Xeno Program Package for internal business purposes only during the term of these Standard Terms;
- 7.3.2 In relation to any Password provided to the Merchant by Xeno, it is hereby clarified and stated that the Merchant shall be solely responsible for keeping such Password secure and shall further be solely responsible for any use made of such Password;
- 7.3.3 The Website, and all source code, object code, software, copyrights and other intellectual property associated therewith, are and shall remain the sole and exclusive property of Xeno;



- 7.3.4 The Merchant shall not, under any circumstances, reveal the Password to any third party or allow any third party access to the Website.
- 7.3.5 Xeno reserves the right to terminate the license granted herein in the event of any digression from or breach of any terms and conditions as set forth in this Standard Terms.

## **8. Confidentiality**

### 8.1 Meaning of Confidential Information

Any information that a Receiving Party knows or has reason to know or believe (either because such information is marked or otherwise identified by the Disclosing Party orally or in writing as confidential or proprietary, has commercial value, or because it is not generally known in the relevant trade or industry) is “**Confidential Information**” of the Disclosing Party and shall remain the sole property of the Disclosing Party. Such Confidential Information includes but is not limited to data, information (including personally identifiable information), ideas, materials, specifications, procedures, schedules, software, technical processes and formulas, source code, product designs, sales, cost and other unpublished financial information, product and business plans, advertising revenues, usage rates, advertising relationships, projections, marketing data and other similar information provided by a Party.

### 8.2 Restrictions on disclosure of Confidential Information

The Receiving Party agrees that it will not disclose, use, modify, copy, reproduce or otherwise divulge such Confidential Information to any third party without the prior written approval of the Disclosing Party except that the Receiving Party shall have the right to disclose such Confidential Information to the extent required under Applicable laws or to the directors, officers or employees of the Receiving Party who have a need to know such Confidential Information in order to perform its obligations under these Standard Terms and to the extent such directors, officers or employees are subject to obligations of confidentiality and non-disclosure that are substantially similar to the obligations set forth in this Standard Terms.

### 8.3 Exceptions

The prohibitions contained in Section 8.2 above shall not apply to the following information:

- (a) already lawfully known to the Receiving Party prior to disclosure by the Disclosing Party;
- (b) independently developed by the Receiving Party without access to or use of the Disclosing Party’s Confidential Information;
- (c) disclosed in published materials;
- (d) generally known to the public; or
- (e) lawfully obtained from any third party.





In addition, a Party will not be considered to have breached its obligations under this Standard Terms to the extent Confidential Information is required to be disclosed by any governmental authority or under any Applicable Law, provided that, to the extent legally practicable, the Receiving Party advises the Disclosing Party prior to making such disclosure in order that the Disclosing Party may object to such disclosure, take action to ensure confidential treatment of the Confidential Information, or take such other action as it considers appropriate to protect the Confidential Information.

### **9. Representations and Warranties; Disclaimer**

9.1 Xeno hereby represents and warrants to the Merchant that:

- (a) it is duly authorised to enter into Standard Terms;
- (b) the Standard Terms do not violate the constitutional documents of Xeno or any other contract by which Xeno is bound;
- (c) there is no litigation against Xeno that could impact the Standard Terms;
- (d) Standard Terms do not violate any Applicable Law applicable to Xeno;

9.2 The Merchant hereby represents and warrants to Xeno that:

- (a) it is duly authorised to enter into Standard Terms;
- (b) the Standard Terms do not violate the constitutional documents of the Merchant or any other contract by which the Merchant is bound;
- (c) there is no litigation against the Merchant that could impact these Standard Terms;
- (d) Standard Terms do not violate any Applicable Law applicable to the Merchant;
- (e) it shall take proper care of the Xeno Kit and/ or all equipment provided by Xeno to the Merchant and maintain all such equipment in good working order;
- (f) it shall only use the Xeno Programs for lawful purposes and shall not violate any Applicable Law or the intellectual property rights of any third party; and
- (g) it shall not use any Xeno Program to send any e-mail or other communications which violate any applicable regulation, rule, industry protocol or Applicable Laws.
- (h) its use of the Campaign Platform shall be in compliance with all Applicable Laws and regulations.

9.3 Disclaimer of Xeno

Except as specifically provided in Section 9.1, Xeno expressly disclaims all warranties of any kind, express or implied, to the maximum extent permitted by Applicable Laws, including without limitation the implied warranties of quality, accuracy, merchantability, fitness for a particular purpose and non-infringement. In addition, Xeno does not make any representations or warranties as to any minimum level of uptime for the Xeno Program Package or the results that the Merchant may achieve on account using any Xeno Program or Service. To the maximum extent permitted by Applicable Law, the Merchant expressly agrees that the use of Xeno Program Package or Services and the internet is at the Merchant's sole risk. The Xeno Program Package and Services are provided on an "as is" and "as available" basis, and under no circumstances shall Xeno be liable to the Merchant or any other party on account of any downtime within the Website or application. The Merchant hereby acknowledges that the Merchant is solely responsible for obtaining and/ or providing internet service to all locations in which the Xeno Program Package is to operate and function.

It is further clarified that Xeno shall not be responsible for any data loss in the event of the Xeno Program Package running in offline mode.

## **10. Indemnity; limitation of liability**

- 10.1 The Merchant shall defend, indemnify, and hold Xeno and its affiliates and their respective directors, officers, employees, agents and representatives harmless from and against any third party suit, proceeding, assertion against any damages, judgments, liability, costs and expenses (including without limitation any reasonable attorneys' fees) incurred arising from Merchant's breach of these Standard Terms, Merchant's negligence or misconduct, any dispute the Merchant may have with any other party in connection with any Xeno program forming part of the Xeno Program Package, Merchant's unauthorized use or misuse of the Xeno Program Package or any unauthorized combination of any program in the Xeno Program Package with any hardware, software, products, data or other materials not specified or provided by Xeno.
- 10.2 Xeno shall indemnify and hold the Merchant and its affiliates and their respective directors, officers, employees, agents and representatives harmless from and against any third party suit, proceeding, assertion against any damages, judgments, liability, costs and expenses incurred arising from Xeno's breach of these Standard Terms to the extent of the amount of Fees payable by the Merchant to Xeno in terms hereof.

## **11. Term; Termination**

### **11.1 Term**

These Standard Terms shall remain valid only for the Subscription Period unless such Subscription Period is renewed in accordance with Section 11.2 below ("**Term**").

### **11.2 Renewal of Subscription Period**

At the end of any Subscription Period, unless the Merchant selects a new Subscription Plan, the existing Subscription Period shall automatically renew on a month-to-month Subscription Plan at the then-current rates. Existing Fees will be charged to the payment method on file unless Xeno is otherwise notified of a cancellation in writing. Although Xeno may choose to send a reminder

email prior to charging the Merchant for a renewal Fee, Xeno is not responsible for notifying the Merchant of this automated renewal.

### 11.3 Cancellation of Subscription

Merchant enrolled in monthly or annual Subscription Plans shall provide at least 30 (thirty) days written cancellation notice. Except for the Security Deposit, if collected, no refund of any amount paid under Fee shall be made in the event of cancellation prior to the completion of the Subscription Period.

### 11.4 Termination

These Standard Terms shall terminate between Xeno and the Merchant as follows:

- (a) at the end of Term unless renewed in accordance with Section 11.2 above;
- (b) by mutual consent between the Parties;
- (c) if either Party defaults in the performance of their obligations under these Standard Terms:
  - (i) the non-defaulting Party gives the defaulting Party prior written notice (“**Default Notice**”) of its intention to terminate these Standard Terms;
  - (ii) on receipt of the Default Notice, the defaulting Party shall have 10 (ten) days from receipt of the Default Notice to remedy the default (“**Cure Period**”) to the satisfaction of the non-defaulting Party;
  - (iii) if the defaulting Party fails to cure the default to the satisfaction of the non-defaulting Party within the Cure Period, the Standard Terms shall terminate on further notice by the non-defaulting Party to the defaulting Party.

### 11.5 Consequences of Termination

Upon expiration or termination or cancellation of these Standard Terms in accordance with the terms of this Section 11:

- (a) *Return of Xeno Kit*
  - (i) all items in the Xeno Kit shall be returned by the Merchant to Xeno in specified return packaging provided by Xeno within 14 (fourteen) days of such termination/ cancellation. If any equipment of the Xeno Kit is found to be lost or damaged, the Merchant shall be liable to compensate for such damage or loss equivalent to the MRP of such equipment/ Xeno Kit lost or damaged and the same shall be deducted from the Security Deposit (if collected) or shall be payable on demand, by the Merchant to Xeno.

- (ii) All shipping charges for return of the Xeno Kit shall be borne by the Merchant. In the event of any damage caused to the Xeno Kit in the course of shipping, the Merchant shall be held liable to the extent of the MRP of such Xeno Kit, together with any other cost ascertained by Xeno and the same shall be deducted from the refundable Security Deposit (if collected) or shall be payable on demand, by Merchant to Xeno.
  - (iii) In the event of termination/ cancellation and at the time of return of the Xeno Kit, the Merchant may further be required to fill out an exit survey in order to complete any cancellation/ termination formalities. Xeno may refuse to accept the return of its equipment until the exit survey is completed. In the event of failure of the Merchant to complete such exit survey in timely manner, the Merchant may be charged a fee for missing equipment until the exit survey is completed. And such fee is liable to be deducted from the Security Deposit (if collected), upon such non-compliance or such fee for the missing equipment shall be payable on demand, by Merchant to Xeno.
- (b) The Merchant shall cease to have access to the Website and the Campaign Platform.
  - (c) The Merchant shall pay all outstanding Fees to Xeno upto and including the date of termination.

#### 11.6 Survival

Any provision of these Standard Terms which contemplates performance or observance subsequent to any termination or expiration of these Standard Terms shall survive any termination or expiration of the Standard Terms and continue in full force and effect.

### 12. **Miscellaneous**

#### 12.1 Notices

Except where explicitly provided otherwise herein, any notice required or permitted hereunder will be delivered to the contact person intimated by one Party to the other Party (with notice deemed given as indicated): (i) by personal delivery when delivered personally; (ii) by established overnight courier upon written verification of receipt; (iii) by facsimile transmission when receipt is confirmed orally; (iv) by certified or registered mail, return receipt requested, upon verification of receipt; or (v) by electronic delivery when receipt is confirmed orally.

#### 12.2 Assignment

The Merchant shall not, without the prior written consent of Xeno, assign the Services, in whole or in part, either voluntarily or by operation of law, and any attempt to do so will be a material default of these Standard Term and will be void; provided, however, that in the event of a sale of substantially all of Merchant's assets or equity to a third party or any merger of the Merchant's entity with or into a third party, these Standard Terms shall be deemed, without any further action on the part of any party, to automatically be assigned to and assumed by the acquirer in such transaction and as such, shall be binding on such acquirer. These Standard Term shall be binding

upon and shall inure to the benefit of the respective parties hereto, their respective successors in interest, legal representatives and heirs, if any.

### 12.3 No Third Party Beneficiaries

These Standard Terms is solely for the benefit of the Parties and their successors and permitted assigns, and does not confer any rights or remedies on any other person or entity.

### 12.4 Amendment and Waiver

12.4.1 These Standard Terms may be changed/ amended/ revised by Xeno upon posting an updated version of the Standard Terms on the Website and/ or within the applicable Xeno program forming part of the Xeno Program Package. Any such change shall become effective on the expiry of 10 (ten) working days after posting such updated version of the Standard Terms.

12.4.2 The failure of either Party to exercise or enforce any of its rights under these Standard Terms will not act as a waiver of subsequent breaches and the waiver of any breach will not act as a waiver of subsequent breaches.

### 12.5 Severability

Any provision of these Standard Terms, which is prohibited or unenforceable in any jurisdiction, shall, as to such jurisdiction, be ineffective to the extent of prohibition or unenforceability but shall not invalidate the remaining provisions of these Standard Terms or affect such provision in any other jurisdiction.

### 12.6 Force Majeure

Neither Party shall be liable to the other if such Party is prevented from performing any of its obligations under these Standard Terms (excluding Fee payment obligations) due to any cause beyond the Party's reasonable control including, without limitation, an act of God, fire, flood, explosion, terrorism, war, embargo, government regulation, civil or military authority, acts or omissions of carriers, transmitters, providers, or acts of vandals, or hackers. The time for that Party's performance will be extended for the period of the delay or failure to perform due to such occurrence, except that the Merchant shall not be excused from the payment of any sums of money owed by the Merchant to Xeno provided prior to the force majeure event.

### 12.7 Independent Contractor

These Standard Terms shall not be construed as creating or constituting a partnership, joint venture or principal-agent relationship between the Parties. Neither Party will have the power to bind the other or incur obligations on the other's behalf without the other Party's prior written consent.

### 12.8 Entire Agreement

These Standard Terms constitute the entire agreement between Xeno and the Merchant with respect to the subject matter hereof and all prior oral or written agreements, representations or statements with respect to such subject matter are superseded hereby.

12.9 Goal Gradient Loyalty Participation

Xeno may, at its sole discretion from time to time, elect to make point adjustments for first-time member visits (such as, by way of example, offering members the opportunity to earn extra points in connection with the first visit to a given Merchant location). These adjustments are intended to encourage greater follow-up participation to Merchant's program. This feature is automatically enabled with the onboarding of Merchant's loyalty program; provided, however, that Merchant may elect to opt out of this program by providing written notice to such effect to Xeno.

12.10 Dispute Resolution

In the event of any dispute under these Standard Terms or otherwise between the Parties, the Parties shall attempt in good faith to resolve their disputes informally and by mutual discussions.

12.11 Governing Law and Jurisdiction

- (a) These Standard Terms are governed by the laws of India.
- (b) Subject to Section 12.10, the Courts at Delhi shall have exclusive jurisdiction to decide any disputes between the Parties in relation to or arising out of these Standard Terms.