

TEST AGREEMENT

This Agreement is between **System Pay Services Solutions Spain, S.L.** ("BVNK", "Layer1" "us", "we" or "our"), and you, on behalf of your organisation (as applicable) ("you(r)"). Please read this Agreement carefully before accessing and/or using the Sandbox Environment.

In consideration of the promises and obligations set out in this Agreement both of the parties hereby agree as follows:

1. Online Sign-Up and Commencement of the Agreement

- 1.1. You irrevocably agree to enter into this test agreement (the "Agreement") on the terms set out below either (a) by clicking 'I agree' or "Sign up" when creating a User Account for the Sandbox Environment, (b) by using the Sandbox Environment, or (c) by otherwise indicating your intention to be bound by the terms of this Agreement.
- 1.2. This Agreement commences on the Commencement Date and, will continue in full force and effect until it is terminated pursuant to its terms.

2. Access to the Sandbox Environment

- 2.1. Following the Commencement Date, we will provide you with access to the Sandbox Environment to conduct Testing. You acknowledge and agree that for the purpose of undertaking Testing you will have no connection to the Production Environment or any 'live' Services or BVNK payment systems and you will not be able to use any real funds in the Sandbox Environment.
- 2.2. You must notify us of any material planned changes to the technical specifications of the systems you use to access the Sandbox Environment, only to the extent that such changes may affect the manner in which you use the Sandbox Environment or conduct Testing, which may result in us requiring you to reconduct the Testing.
- 2.3. Please refer to the Help Centre and the applicable [Documentation](#) for further information on how to get started with and use the Sandbox Environment.

3. Your Obligations

- 3.1. You shall (and shall procure that your Personnel shall), in respect of your obligations and activities contemplated under this Agreement, at all times:
 - 3.1.1. act in good faith towards us;
 - 3.1.2. promptly provide all necessary and timely support, co-operation, information and materials that are reasonably requested by us or a Regulatory Authority;
 - 3.1.3. perform such obligations and activities with reasonable skill and care and in accordance with Good Industry Practice; and
 - 3.1.4. comply with our Policies and all Applicable Laws;

4. Authorised Users

- 4.1. You will nominate members of your Personnel who you authorise on your behalf:
 - 4.1.1. to act as your primary points of contact for all issues relating to this Agreement; and
 - 4.1.2. to administer and manage your use of and access to the Sandbox Environment(each an "Authorised User").
- 4.2. You may change your Authorised User(s) from time to time.
- 4.3. We are authorised to act upon any instructions given by any Authorised User without making further enquiries into the purpose for which the instructions were given, any circumstances related to the instructions and without checking or considering the validity of the instructions.
- 4.4. We may require Authorised Users to provide certain security credentials and/or to answer certain questions in order to validate such Authorised User and grant access to the User

Account and the Sandbox Environment, and you must ensure that all Authorised Users possess valid security credentials to access the Sandbox Environment.

- 4.5. We will have no responsibility or liability to you for any Loss incurred by you or any third parties as a result of fraudulent, illegal or unauthorised instructions given by any Authorised User via the Sandbox Environment.
- 4.6. You will ensure that all Authorised Users are aware of your obligations under this Agreement, and you will procure that each Authorised User complies with the terms of this Agreement, to the extent applicable to their activities in connection with it.

5. Security and System Integrity

- 5.1. Each party agrees to take reasonable steps, in accordance with Good Industry Practice, to prevent any unauthorised access to IT Systems used by it in connection with Testing.
- 5.2. Access to the Sandbox Environment is granted exclusively for the purposes of Testing and, without limiting your other obligations under this Agreement, you shall not do (or permit any person to do) anything that is likely to adversely interfere with our business, systems or operations.
- 5.3. You must maintain the security of the IT Systems you use to connect to the Sandbox Environment.
- 5.4. You will not (and will procure that your Personnel will not):
 - 5.4.1. knowingly or recklessly transmit any data, or send or upload any material, that contains viruses, Trojan horses, worms, time-bombs, keystroke loggers, spyware, adware, malware, ransomware or any other harmful programs or similar computer code designed to adversely affect the operation of any of our computer software, hardware, or IT networks or other systems; or
 - 5.4.2. carry out Performance Testing when using the Sandbox Environment.
- 5.5. You agree that all messages and instructions provided to us with regards to Testing will be provided via email to integrations@bvnk.com or integrations@layer1.com (as applicable).
- 5.6. You must ensure that all security credentials used to validate your access to the Sandbox Environment are valid and kept secure at all times. We may replace or update such authentication details at any time. Such authentication details may expire automatically from time to time, and it is your responsibility to renew such details to ensure your continued access to the Sandbox Environment. Failure to renew or update such authentication details may prevent you accessing the Sandbox Environment and conducting Testing.
- 5.7. You are responsible for monitoring the access to and the actions taken within the Sandbox Environment, including by your Personnel, (and you will notify us as soon as possible after becoming aware of the same if the Sandbox Environment is compromised).

6. Service Changes and Interruptions

- 6.1. You acknowledge and agree that:
 - 6.1.1. the Sandbox Environment is provided to you on an "as is", "where is" basis;
 - 6.1.2. we may make enhancements, modifications, updates or conduct maintenance to the Sandbox Environment at any time, which may disrupt your use, including where required to comply with Applicable Law or any direction from a Regulatory Authority, or to rectify errors, improve security or change the scope of Testing; and
 - 6.1.3. we make no warranties, representations or guarantees in respect of the performance or availability of the Sandbox Environment (including as to whether it will be error-free).

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6.2. You must promptly comply with all reasonable requests from us in relation to the maintenance and operation of the Sandbox Environment.

7. IPR

7.1. This Agreement will not affect the ownership of each party's IPR pre-existing prior to the Commencement Date.

7.2. Nothing in this Agreement is intended to transfer or (except as expressly set out in this clause 7) grant any rights to you in any IPR subsisting in our systems and infrastructure, our Software and/or any Documentation. We or our licensors retain all right, title and interest in and to such systems and infrastructure, Software and Documentation.

7.3. Any IPR developed under or in connection with this Agreement will be owned by us. You acknowledge and agree that any such IPR will vest in us on and from its creation.

7.4. We retain all right, title and interest in and to any reports, including data or other materials, created through or as a result of the Testing (including self-certification documents and quality assurance reports).

7.5. We grant you a non-exclusive, non-transferable, royalty free licence for the term of this Agreement to use any of our IPR that we make available to you under this Agreement solely for the purposes of and to the extent necessary in enabling you to undertake Testing in accordance with this Agreement and otherwise comply with your obligations under this Agreement.

7.6. The licence granted under clause 7.5 is non-sub- licensable, unless you have received prior written consent from us.

7.7. You will retain the IPR in your data and any other materials you provide to us under or in connection with this Agreement (if any). You grant us a royalty-free, non- exclusive licence for the term of this Agreement (including the right to sub-licence to our Group and sub- contractors on the same terms) to use the IPR in your data and other materials solely for the purposes of and to the extent necessary in enabling us to perform our obligations and exercise our rights under this Agreement and to comply with all Applicable Laws.

7.8. Except as expressly permitted under this Agreement (or to the extent allowed by any Applicable Law which is incapable of exclusion by agreement between the parties), you must not, without our prior written consent:

7.8.1. use or attempt to use (or assist any third party in so using or attempting to use) any of our IPR for (a) any purpose other than the specific purposes granted under clause 7.5 or (b) the benefit of any person other than you in connection with this Agreement (and in each case "use" includes to modify, amend, alter, store, copy, duplicate, replicate, steal, create derivative works from, disclose, distribute, remove, reverse engineer, reverse compile, disassemble or reduce to human perceivable form, delete enhance or otherwise use all or part of any of our IPR); or

7.8.2. delete or remove any proprietary notice(s) contained within or relating to any Deliverables.

7.9. You will preserve the integrity of the IPR in the Deliverables so far as possible, and prevent any unauthorised access to, use, theft, loss, disclosure or manipulation or attempts to reverse engineer any Deliverables.

7.10. You will promptly notify us if you become aware, or reasonably suspect, that any Deliverables are lost, stolen, damaged or deleted or have become corrupted, or are subject to any actual or attempted reverse engineering or unauthorised intrusion, access or use.

7.11. You will indemnify and keep us indemnified for any Losses we suffer or incur as a result of your alleged or actual infringement of any third party IPR in connection with this Agreement.

7.12. Subject to any express provision to the contrary, all licences and other rights to IPR and the Deliverables granted under this Agreement will terminate on termination or expiry of this

Agreement, and each party will cease using IPR belonging to the other party or its licensors for which it has been granted a licence or other rights under this Agreement.

8. Charges

Access to the Sandbox Environment will be free of charge unless otherwise agreed between the parties in writing.

9. Confidentiality

9.1. Each party will treat the other party's Confidential Information as strictly confidential and will not copy, disclose, reproduce or use it, except if copy, disclosure, reproduction or use is:

9.1.1. required by Applicable Law, a Regulatory Authority, tax authority or stock exchange;

9.1.2. required for the purpose of any court, arbitration, tribunal or other proceedings connected with this Agreement;

9.1.3. to a party's Personnel, professional advisors or potential financiers, to the extent necessary to perform Testing, or otherwise to perform that party's obligations or exercise that party's rights under this Agreement and provided that the Personnel, professional advisors and potential financiers are subject to confidentiality obligations equivalent to those in this clause 9; or

9.1.4. subsequent to the Confidential Information becoming publicly available (other than because of a breach of this clause 9).

9.2. To the extent permitted by Applicable Law (or unless otherwise directed by a Regulatory Authority), each party must notify the other party in writing prior to disclosing the other party's Confidential Information to a third-party as permitted under clauses 9.1.1 or 9.1.2.

9.3. You will promptly notify us if there is a breach of these confidentiality obligations in this clause 9 in relation to our Confidential Information.

9.4. At the request of either party, the parties agree to promptly return any Confidential Information belonging to the other party (except for any Confidential Information which it is necessary for a party to keep in order to comply with Applicable Law).

10. Data Protection

10.1. For the purposes of this Agreement, the lowercase terms "controller", "personal data" and "process" shall have the meanings set out in the Data Protection Laws.

10.2. Each party shall comply with the Data Protection Laws when processing the other party's personal data.

10.3. You may refer to our [Privacy Policy](#) on how we will process your personal data in connection with this Agreement as a controller.

11. Subcontracting

11.1. You may not subcontract all or any part of the performance of your obligations under this Agreement.

12. Liability

12.1. Without prejudice to clause 12.2 and subject to clause 12.4, we shall only be liable to you for Loss arising from or in connection with this Agreement if the Loss is the result of our fraud or our material breach of this Agreement that is caused by our willful default. We are not liable for any other Loss to you or to any third party.

12.2. Neither party will be liable to the other under contract, tort (including negligence), misrepresentation, breach of statutory duty, restitution or otherwise, for any: (i) special, indirect or consequential losses, (ii) loss of profit, (iii) loss of business, (iv) loss of revenue, (v) loss of contract, (vi) loss of anticipated savings, (vii) loss of goodwill or reputation, (viii)

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loss of data, or (ix) compensation either party chooses in its discretion to pay.

- 12.3. Subject to clauses 12.1, 12.2, 12.4 and 12.5, each party's total aggregate liability to the other (whether in contract, tort, (including negligence), misrepresentation, breach of statutory duty, restitution or otherwise) in respect of all claims arising out of or in connection with the performance or contemplated performance of this Agreement is limited to the sum of £500.
- 12.4. The limits and exclusions of liability set out in this clause 12 and clause 17.2 will not apply in respect of any liability which cannot be lawfully excluded.
- 12.5. The limitations set out in clause 12.3 shall not apply in respect of the indemnity set out in clause 7.11, and any breach by you of clauses 5, 7, 9 or 10.
- 12.6. You shall remain responsible for all acts and omissions of your Personnel as if they were your own (to the extent that you would be liable to us under this Agreement for those acts and omissions).

13. Warranties

- 13.1. Each party warrants that it is duly constituted, organised and validly exists under the laws of the jurisdiction of its incorporation, and it has the legal right, power and authority to enter into, exercise its rights and perform its obligations under this Agreement.
- 13.2. You further warrant, represent and undertake throughout the term of this Agreement that:
 - 13.2.1. any information provided by you (or anyone acting on your behalf) is accurate, complete and up to date in all material aspects; and
 - 13.2.2. your performance of Testing and our receipt and use of your data and any other materials you provide to us under or in connection with this Agreement (as applicable) will not infringe any third party's IPR.
- 13.3. Except as expressly provided in this Agreement, neither party gives any representation or warranty to the other party, and each party hereby excludes, to the fullest extent permitted by law, all express and implied terms, conditions, representations and warranties concerning the subject matter of this Agreement and the performance of its obligations hereunder, including any representation, warranty, term or condition of fitness for purpose, merchantability or satisfactory quality.
- 13.4. All information and services are provided by us under this Agreement on an "as is" and "where is" basis. No warranty, representation or undertaking (whether express or implied) is given by us as to the accuracy, completeness, adequacy or fitness for purpose of any APIs, information, documents and/or materials provided by us to you in connection with this Agreement.

14. Dispute Resolution, Governing Law and Jurisdiction

- 14.1. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.
- 14.2. The parties hereby irrevocably submit to the exclusive jurisdiction of the English courts to resolve any dispute between them.

15. Suspension and Termination

- 15.1. We may immediately terminate this Agreement, deactivate your User Account(s), or suspend or terminate your access, or the access of any of your Authorised User(s) to the Sandbox Environment (in whole or in part), at any time, for any reason and with or without notice to you should we consider it necessary or appropriate to do so in our sole discretion.
- 15.2. You may terminate this Agreement immediately for any

reason upon giving written notice to us or by deactivating all your User Accounts.

- 15.3. We may automatically deactivate a User Account to the extent that it remains inactive for a period of 30 (thirty) days.
- 15.4. On termination of this Agreement for any reason:
 - 15.4.1. we will disable your access to the Sandbox Environment;
 - 15.4.2. all rights and obligations of the parties under this Agreement shall immediately cease to have effect save that termination of this Agreement shall not affect the coming into force or the continuance in force of any provision which is expressly or by implication intended to come into or continue to be in force on or after termination;
 - 15.4.3. any rights or liabilities of either party that have accrued or become due prior to the date of termination or expiry shall not be affected; and
 - 15.4.4. each party will return or destroy (at the other party's option) any Confidential Information of the other party in its possession or control, except for any such Confidential Information that a party needs to keep in order to comply with Applicable Law.

16. Announcements

Neither party shall make, or permit any person to make, any public announcement or disclosure concerning the existence, subject matter or terms of this Agreement, the wider transactions contemplated by it, or the relationship between the parties, without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed), except as required by Applicable Law, any Regulatory Authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

17. Entire Agreement

- 17.1. This Agreement constitutes the entire agreement between the parties in relation to its subject matter and supersedes any previous agreement between the parties with respect thereto.
- 17.2. You acknowledge and agree that in entering into this Agreement you have not relied on, and shall have no remedies in respect of, any statement, representation, warranty, assurance, covenant, indemnity, undertaking or commitment given or implied from anything said or written in any communication between you and us prior to the Commencement Date (whether made innocently or negligently) which is not expressly set out in this Agreement. You agree that you shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement. Nothing in this clause 17.2 limits or excludes any liability for fraud.

18. General

- 18.1. Neither party shall be responsible or liable for any failure or delay in the performance of any of its obligations under this Agreement for the duration of, and to the extent that this results from, any cause beyond its reasonable control. The affected party will promptly notify the other party if it is unable to perform its obligations under this Agreement because of a cause beyond its reasonable control.
- 18.2. Except where otherwise expressly provided, the rights and remedies contained in this Agreement are cumulative and not exclusive of rights and remedies provided by law.
- 18.3. We may change the terms and conditions of this Agreement (including the Policies) at any time. If we consider it necessary to do so we may inform you of the relevant changes by email (or another method of communication we deem appropriate).
- 18.4. Any notices sent by you to us shall be in writing and shall be sent to legal@bvnk.com, except that the service of any

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proceedings or other documents by you to us in any legal action, shall be sent by registered post or courier to BVNK's registered address, with a copy of all documentation being sent by email to the attention of 'BVNK Legal Team' at legal@bvnk.com.

- 18.5. We may assign or novate this Agreement and our rights and obligations under this Agreement. You may not assign or transfer your rights and obligations under this Agreement without our prior written consent (such consent not to be unreasonably withheld).
- 18.6. A person who is not a party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of or enjoy any benefit under this Agreement.
- 18.7. No delay in exercising, or failure to exercise, any right, power or remedy in connection with this Agreement will be considered a waiver of that right, power or remedy. No single or partial exercise of a right will preclude any other exercise of that right.
- 18.8. If any provision of this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, that provision will apply with whatever deletion or modification is needed to make it legal, valid and enforceable.
- 18.9. This Agreement does not create a relationship of principal/agent, employee/employer, partnership, association or trust between the parties. The parties agree that their relationship is one of independent contractors.
- 18.10. Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect, which the parties agree shall include but not be limited to the clauses of this Agreement relating to: limitations of liability, indemnities, warranties, data protection, confidentiality, intellectual property rights, dispute resolution, governing law and this survival clause.

19. Principles of interpretation:

- 19.1. References to a person are references to any individual, body corporate, association, partnership, firm, trust, organisation, joint venture, government, local or municipal authority, governmental or supra-governmental agency or department, state or agency of state or any other entity.
- 19.2. References to a statute or statutory provision includes any subordinate legislation made under it and any modifications, amendments, extensions, consolidations, re-enactments and/or replacements from time to time.
- 19.3. References to the singular include the plural, and vice versa.
- 19.4. The words "include", "includes", "including", "in particular" or any similar words or expression are for illustration or emphasis only and are not intended to limit the meaning or generality of the related general words.
- 19.5. Any obligation on you to do, or refrain from doing, any act or thing shall be deemed to include an obligation on you to procure that your Personnel also do, or refrain from doing, such act or thing.
- 19.6. References to a "party" shall mean either you or us, and references to "parties" shall mean both you and us.

20. Definitions

- 20.1. The following definitions apply to this Agreement:

"**Agreement**" means this agreement as set out in clause 1.1;

"**API**" means application programming interface;

"**Applicable Law**" means any laws, regulations, regulatory constraints, obligations or rules in the United Kingdom, or any other relevant jurisdiction, which are applicable to this Agreement (including binding codes of conduct and binding statements of principle incorporated and contained in such rules from time to time), interpreted (where relevant) in accordance with any guidance, code of conduct or similar

document published by any Regulatory Authority;

"**Authorised User**" has the meaning given to it in clause 4.1;

"**Commencement Date**" means the date that you accept this Agreement in accordance with clause 1.1;

"**Confidential Information**" means the terms of this Agreement, and any information of a secret, confidential or competitively sensitive nature, obtained by one party relating to the other party or the other party's business, suppliers, clients, end users or customers (which does not include personal data) in discussions relating to, or the negotiation or performance of, this Agreement or any agreement connected with this Agreement;

"**Data Protection Laws**" means all applicable data protection laws (and in each case any re-enactment or amendment) in any jurisdiction where we operate (to the extent applicable to this Agreement), including the Regulation (EU) 2016/679 of the European Council of 27 April 2016, the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Spanish Data Protection Act (Organic Law 3/2018) and any other directly applicable local or national regulation (or directive) relating to privacy;

"**Deliverables**" means any services, Documentation, Software, the Sandbox Environment and any other information, process, material, system and asset made available or provided by us to you from time to time under or in connection with this Agreement, including all IPR therein;

"**Documentation**" means the 'Quickstart Guides' accessible at <https://docs.bvnk.com/docs/getting-started> or www.layer1.com (as applicable) that contain various information and documentation relating to BVNK, the Services and Testing, as well as any other documentation provided by us to you from time to time in connection with this Agreement and/or in connection with Testing;

"**Good Industry Practice**" means using practices and exercising that degree of skill and care which would reasonably be expected from a suitably skilled and experienced organisation performing the obligations or activities in question;

"**Group**" means, in relation to a company, that company, any subsidiary or holding company (as defined in section 1159 of the Companies Act 2006) from time to time of that company, and any subsidiary from time to time of a holding company of that company;

"**Help Centre**" means the BVNK and/or Layer1 help centre, as amended by us from time to time, which is available on the Website;

"**IPR**" means patents, utility models, rights to inventions, copyright and neighbouring and related 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, 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;

"**IT System**" means an information technology system (comprising hardware, software and/or network(s)) capable of connecting to or accessing the Sandbox Environment or any of BVNK's APIs;

"**Loss**" means loss, liability, damage, cost, claim or expense of any kind, and "**Losses**" shall be interpreted accordingly;

"**Performance Testing**" means the manual or automated testing activities carried out to determine the performance of specific components (like interfaces) or a system in terms of responsiveness and stability under a particular workload and includes soak, load or volume testing;

"**Personnel**" means, in respect of a party or a member of its Group, their directors, officers, employees, consultants,

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agents, contractors and such persons of their sub-contractors, or third-party service providers (as applicable to each party);

“**Policies**” means our policies available in the Help Centre and/or our Website from time to time, including our Privacy Policy, as such policies may be amended from time to time;

“**Privacy Policy**” means the BVNK Privacy Policy available on the BVNK Help Center;

“**Production Environment**” means the BVNK live production environment that allows BVNK’s customers’ IT Systems to connect to BVNK’s live core payments and crypto platform and access BVNK’s range of payment and other services;

“**Regulatory Authority**” means a regulatory authority with jurisdiction over one or both of the parties in relation to the performance of Testing or the parties’ other obligations and activities under this Agreement;

“**Sandbox Environment**” means any BVNK testing environment offered to you for the purposes of Testing that is made available to you under this Agreement and accessible at <https://app.sandbox.bvnk.com/login> or <https://signup.sandbox.bvnk.com/create-dev-account> (as applicable);

“**Services**” means BVNK’s core payment and crypto services, the BVNK API, BVNK’s ‘Layer 1’ product, and any other services that may be offered from time to time to BVNK’s customers and are available for Testing;

“**Software**” means computer software, object code and source code which is proprietary to BVNK or the BVNK Group or a third party (including any error corrections, updates, upgrades, modifications and enhancements thereto) which is provided to you or made available to you under this Agreement;

“**Testing**” means testing your software’s or IT System’s capability to connect to and access the Services in the Sandbox Environment, including via API connectivity, strictly for the purposes of testing, as well as your overall user experience while accessing the Sandbox Environment;

“**User Account**” means the user account that is required for Authorised Users’ authentication, authorisation and access to the Sandbox Environment; and

“**Website**” means <https://www.bvnk.com/> and/or <https://www.layer1.com>.