



GLOBAL PAYMENTS CARD PROCESSING AGREEMENT

TERMS OF SERVICE

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1 THE CARD PROCESSING AGREEMENT

- 1.1 The Card Processing Agreement (the “**Agreement**”) between the party named in the *Service Schedule* (“**you**” or “**Merchant**”) and GPUK LLP trading as Global Payments (“**GP**”) consists of the following documents:
- these *Terms of Service*, as may be amended from time to time;
 - the *Service Schedule*, as may have been or may be amended from time to time;
 - the *Merchant Operating Instructions*, as may be amended from time to time;
 - any replacement or supplementary guides, addenda, notices or approvals that GP may issue from time to time;
 - any special conditions that GP may notify to you from time to time; and
 - all documents relating to security provided to GP.

To the extent of a conflict between the provisions of the foregoing documents, the order of precedence shall be the same as the order in which the documents appear in the foregoing list.

Unless specifically stated otherwise in the Agreement or the context requires otherwise, the terms “**we**”, “**us**”, “**our**”, “**ours**” or “**ourselves**” when used in the Agreement means GP. During the term of the Agreement, GP will be the sole and exclusive provider of card processing services to the Merchant.

- 1.2 You agree to follow the *Merchant Operating Instructions*, directions, and other notices concerning the Agreement and to be bound by the Card Scheme Rules, as any of the above referenced documents may be modified and amended from time to time. Certain Card Scheme Rules are available on the applicable Card Scheme’s website (www.mastercard.co.uk and www.visaeurope.com). You must make sure that you have read those Card Scheme Rules that are available on the Card Scheme’s website.
- 1.3 You have contracted with us as principal and not as agent for any person.
- 1.4 If the Merchant consists of more than one legal person (for example, a partnership), each legal person has joint and several liability under the Agreement. If you are a partnership and the partnership ends, GP may end the Agreement, and if GP has reason to believe that there is any dispute as to who is entitled to any funds GP holds, you authorise GP to pay such funds into the account which GP will maintain for you in its books and records until GP is satisfied that the dispute has been resolved or we receive a court order to pay out such funds, at which point (being that day if it is a business day (meaning Monday to Friday, excluding public holidays) or, if such day is not a business day, the following business day) GP will pay such funds to the partners who are entitled to such funds as confirmed by you or in accordance with such court order.
- 1.5 You acknowledge that some of the services to be provided by GP hereunder may be provided by third parties. You agree that except for your right to use such services in connection with the Agreement, you acquire no right, title or interest in any such services. You further agree that you have no contractual relationship with any third party providing services under the Agreement and that you are not a third party beneficiary of any agreement between GP and such third party. You may not resell the services of GP or any third party providing services under the Agreement to any other party.

2 CHANGES TO THIS AGREEMENT

- 2.1 GP may vary this Agreement as GP considers necessary as a result of any change to or in order to ensure compliance with the Card Scheme Rules, applicable law, PCI DSS and the UK Cards Association rules.
- 2.2 GP may vary the rate or basis of the Service Charges if there is any change in the fees levied upon GP by the Card Schemes or as a result of any change in the Card Scheme Rules.
- 2.3 GP may vary your Floor Limits for reasons including but not limited to the following:
- to try to prevent fraud; or
 - as a result of any Card Scheme initiative or change in Card Scheme Rules.
- 2.4 GP may make any other variations to this Agreement as GP may from time to time require.
- 2.5 Except where clause 2.6 applies:
- GP will provide you with as much notification as is reasonably practicable of any variation to this Agreement pursuant to clause 2.1 or 2.2;
 - GP will usually notify you at least one (1) month prior to any variation of your Floor Limits pursuant to clause 2.3. In exceptional circumstances, however, GP may give you less notice than this or may vary Floor Limits without letting you know beforehand. Exceptional circumstances may include but are not limited to matters where GP suspects fraud or to prevent fraud. If GP does change Floor Limits without letting you know beforehand, we will contact you as soon as practicable and in any event within one (1) month of the effective date of the change.
 - GP will notify you of any change proposed pursuant to clause 2.4 at least one (1) month prior to the date on which such change is due to take effect and:
 - you may, before such change comes into effect, give GP written notice that you do not accept such change, in which case you will be deemed to have terminated this Agreement without charge on the date such notice is deemed to have been received by GP pursuant to clause 20.3; and
 - if you do not notify GP as set out above you will be deemed to have accepted the change and it will take effect automatically in accordance with the notice provided by GP and you will not have any right to terminate this Agreement as a result of such change.
- 2.6 If you are a Micro Enterprise or a Small Charity:
- GP will notify you of any change proposed pursuant to clauses 2.1, 2.2 and 2.4 at least two (2) months prior to the date on which such change is due to take effect;
 - you may, before such change comes into effect, give GP written notice that you do not accept such change, in which case you will be deemed to have terminated this Agreement without charge on the date such notice is deemed to have been received by GP pursuant to clause 20.3; and
 - if you do not notify GP as set out above you will be deemed to have accepted the change and it will take effect automatically in accordance with the notice provided by GP and you will not have any right to terminate this Agreement as a result of such change.
- 2.7 Notification for the purpose of clause 2.5 or clause 2.6 may be given by GP providing you, either in accordance with clause 20.3 or by inclusion in a message on your invoice or in one of GP's regular publications, with a notice describing the amendments to the

Agreement or an entirely new Agreement (which may be included with the notice or may be made available via our website at www.globalpaymentsinc.co.uk).

2.8 Clauses 2.1 to 2.5 do not apply to any variation to this Agreement or any of the charges payable under it which this Agreement expressly or impliedly permits GP to make.

3 OTHER TERMS EXPLAINED

Listed below are the defined terms used within this document.

- **“Account Access Device”** means any device or token which a cardholder can use to charge a transaction to the cardholder’s account, including without limitation wristbands and smartphones.
- **“Card Not Present (CNP) Transaction”** means any transaction where the card (or Account Access Device) and cardholder are not physically present with you at the time of the transaction, for example, transactions conducted by post, telephone or over the internet.
- **“Card Present (CP) Transaction”** means any transaction where the card (or Account Access Device as applicable) and cardholder are physically present with you at the time of the transaction and where you can evidence the presence of the card (or Account Access Devices) tendered either by chip read, card swipe through an electronic terminal, Contactless tap or by imprint of the card using a Fallback paper voucher. In the case of Contactless payments this could mean the presence of the Contactless card or other Contactless Account Access Device.
- **“Card Schemes”** means MasterCard, Visa, or any card association or organisation applicable hereunder (for example, Discover Global Network and UnionPay), including without limitation any parent, affiliate, subsidiary, or successor, of any of them.
- **“Card Scheme Rules”** means the operating regulations and rules of MasterCard, Visa and any other Card Scheme or organisation covered by the Agreement as amended from time to time.
- **“Chargeback”** means a transaction which a card issuer refuses to settle or, having settled, seeks reimbursement of (usually because the transaction has been successfully disputed by the cardholder, has not been properly authorised or there is a processing irregularity) and which GP may debit to you. Further details of the circumstances in which a Chargeback may arise and related procedures can be found within the *Merchant Operating Instructions*. If you issue any credit to a cardholder to avoid a Chargeback arising then GP may treat such credit as a Chargeback.
- **“Crediting Timescales”** means the number of business days (meaning Monday to Friday excluding public holidays) after transaction data was submitted electronically (or a Fallback paper voucher is received by GP) in which we aim to credit your Nominated Bank Account. Crediting Timescales, however, cannot and are not guaranteed.
- **“Device”** means the GLOBAL MPOS chip and PIN card reader supplied to you by GP or approved by GP, if applicable.
- **“Direct Debit Instruction”** means an instruction to your financial institution in a form acceptable to GP authorising GP to debit your account.
- **“Fallback”** means the process as set out in the *Merchant Operating Instructions* to be followed if you experience a terminal failure, telephone line fault or disruption to your power supply and have to use Fallback paper vouchers.
- **“Floor Limit”** means the value of individual transactions above which authorisation is required as set out in the *Service Schedule* for the type of transaction in question.
- **“GLOBAL MPOS Transaction”** means a card transaction between you and a cardholder using the Mobile POS Solution, if applicable.

- **“Merchant Operating Instructions”** means the guide issued by GP, which provides the operating instructions and procedures for using this service as the same may be amended from time to time in accordance with this Agreement.
- **“Micro Enterprise”** means that you:
 - employ fewer than 10 persons; and
 - have an annual turnover and/or annual balance sheet total of €2,000,000 or less.
- **“Minimum Adjustment Fee”** means the adjusting amount that will appear on your monthly invoice if your Service Charges do not achieve the Minimum Service Charge as set out in the *Service Schedule*.
- **“Mobile POS Solution”** means the equipment supplied by GP or approved by GP for the acceptance of GLOBAL MPOS Transactions. For the avoidance of doubt, this includes the Device and any related equipment or Software, for example, PIN pads, card readers, payment apps and web portals. Reference to terminals or Rented Terminals in this Agreement should be replaced by Mobile POS Solution if it is being read in relation to accepting transactions via the Mobile POS Solution.
- **“Nominated Bank Account”** means one or more accounts held in your name at financial institutions that you have nominated and GP have approved for the purposes of receiving credits or debits from GP. Unless we have agreed otherwise, all debits and credits will, subject to any of GP’s other rights under this Agreement (including without limitation to withhold or set-off such amounts or pay such amounts into a Reserve Account), go to the same Nominated Bank Account.
- **“PCI DSS”** means the universal Payment Card Industry Data Security Standard, as amended from time to time.
- **“Service Charges”** means all charges of any type payable by you to GP as set out in the *Service Schedule*.
- **“Service Schedule”** means (whichever of) the *Service Schedule* (if you signed on or after 1 July 1999) or the commercial terms (**“Commercial Terms”**) (if you signed before 1 July 1999) you have signed most recently, which may have been amended by GP from time to time in accordance with the Agreement.
- **“Small Charity”** means a charity or a not-for-profit organisation in each case with an annual income of less than £1,000,000.
- **“The UK Cards Association”** means the United Kingdom trade association for payments and for those institutions that deliver payment services to customers.

4 ACCEPTANCE OF CARDS

- 4.1 The card types you may accept are set out in the *Service Schedule*.
- 4.2 For each transaction that you process you must follow all the relevant steps and procedures described in the Agreement, including without limitation those contained in the *Merchant Operating Instructions*, notices and guides and the Card Scheme Rules.

ALL TRANSACTIONS

- 4.3 If you have been authorised to undertake any specific type of transaction, you are automatically authorised to provide refunds of such transactions. You should refund transactions to the card used for the original transaction.
- 4.4 If properly tendered, you must accept all cards whose logos you display and as detailed in the *Service Schedule* for all of the goods and services you supply.

- 4.5 You must evidence the presence of the card tendered, except for CNP Transactions, either by chip read, card swipe through an electronic terminal, Contactless tap or by imprint of the card using a Fallback paper voucher.
- 4.6 You must obtain authorisation of all transactions above the relevant Floor Limit or as GP otherwise requires in the Agreement. Authorisation can only confirm the availability of credit limit or funds and that the card in question has not been reported as lost or stolen at the time of the transaction. Obtaining an authorisation **does not** guarantee payment or that such transactions cannot be the subject of a Chargeback. If an authorisation is not granted, you must **not** continue to process the transaction. You must not spread the value of the sale over more than one card or split the sale into smaller amounts in order to bring a transaction below the Floor Limit.
- 4.7 A different price from the cash price may be charged for transactions by credit and debit cards (on all card types, with the exception of UnionPay cards, where it is strictly not allowed). If you choose to surcharge for accepting cards, then you must not charge surcharges that exceed the costs borne by you for accepting those cards as a method of payment. If you intend to surcharge, then any pricing differential must be clear to cardholders before payment is made and you must display prominently at the point of sale both the intention to surcharge and the surcharge amount or basis of its calculation so that the cardholder is aware of this information before choosing a method of payment.
- 4.8 You must not impose any minimum or maximum transaction values for the use of cards.
- 4.9 You must not accept transactions relating to goods or services which fall outside the description of your business as stated in the *Service Schedule* without our prior written agreement.
- 4.10 You must not accept transactions or present transaction data for processing which are not undertaken directly between you and the cardholder.
- 4.11 You must not process transactions on behalf of a third party, whether another person or business.
- 4.12 You must not accept any type of transaction without our specific prior written agreement either as shown in the *Service Schedule* or as provided separately.
- 4.13 You must only undertake transactions using point of sale equipment (for example, terminals, Fallback imprinters) located within the United Kingdom, Channel Islands or the Isle of Man.
- 4.14 You must ensure that cardholders are aware that you as the Merchant are responsible for the submission of the transaction and the supply of any goods or services provided.
- 4.15 If you have suspicions of the genuineness of a transaction, you must request additional supporting information, sufficient to address your concerns. If this information is not forthcoming or is considered unsatisfactory, you should not proceed with the transaction.
- 4.16 You must clearly inform the cardholder of your identity and how they may contact you. You must provide sufficient contact information to the cardholder, i.e. registered name, trading name(s), trading address, postal address, contact telephone number(s) and web address.
- 4.17 You warrant, undertake and represent to GP: (a) that each sales transaction delivered

hereunder will represent a bona fide sale to a cardholder by you for the amount shown on the sales slip as the total sale and constitutes the binding obligation of the cardholder, free from any claim, demand, defence, set-off or other adverse claim whatsoever; (b) that each sales slip or other evidence of indebtedness will describe the goods and services you supply which have been or will be sold and delivered to the cardholder or delivered in accordance with their instructions as required by the Card Scheme Rules; (c) that you will comply fully with all laws, rules and regulations applicable to your business; (d) that you will fulfil completely all of your obligations to the cardholder in respect of the goods and services provided by you and will resolve any customer dispute or complaint directly with the cardholder; (e) that any signature on the sales slip is genuine and authorised by cardholder and not forged or unauthorised; (f) that the sales transaction shall have been consummated and the sales slip prepared in full compliance with the Agreement, the provisions of the *Merchant Operating Instructions* and the Card Scheme Rules, as amended from time to time; (g) that none of the sales transactions submitted hereunder represent CNP Transactions, unless you are specifically authorised in writing by GP for such transaction; (h) that, without limiting the generality of the foregoing, each sales transaction submitted hereunder and the handling, retention, and storage of information related thereto, will comply with this Agreement, the *Merchant Operating Instructions*, any notices or bulletins notified to you, and Card Scheme Rules related to information security, including without limitation PCI DSS, MasterCard's Site Data Protection Program and Visa's Account Information Security Programme (all as amended from time to time), and (i) that all of the information contained in the Agreement (including without limitation the *Service Schedule*) is true and correct. In the event that any of the foregoing is breached or we have a good faith basis to believe that any of the foregoing has been breached, the affected sales slips or other indebtedness may be refused, or prior acceptance revoked and charged back to you.

CNP TRANSACTIONS

- 4.18 You may accept CNP Transactions only if authorised in the *Service Schedule* or as provided separately in writing. If you are authorised to accept Discover Global Network or UnionPay cards, you are not authorised to accept them for any CNP Transactions regardless of your authority to accept CNP Transactions on any other card types.
- 4.19 These *Terms of Service* and the *Merchant Operating Instructions* contain guidelines for processing CNP Transactions, but undertaking such transactions will be solely at your commercial risk, regardless of whether or not any request for authorisation or other enquiries have been made to us or if an authorisation has been received. You must only sell goods and services as set forth in the *Service Schedule*, which must be consistent with other documentation supplied by you to cardholders (for example, brochures, advertising).
- 4.20 GP does not guarantee that any CNP Transaction will be honoured or that GP will not exercise its Chargeback or other rights of reduction or set-off under the Agreement in relation to such a transaction.

INTERNET TRANSACTIONS

- 4.21 If GP has given you its prior written agreement specifically for undertaking internet transactions either as shown in the *Service Schedule* or provided for in writing separately, you may accept internet transactions. As internet transactions are types of

CNP Transactions, clauses 4.18 to 4.20 will also apply to internet transactions.

- 4.22 All internet transactions must be authorised and all authorisations and transactions must have the appropriate Electronic Commerce Indicator ("**ECI**") flags. Failure to do so could result in fines being levied by Card Schemes for which you will be liable and you agree to pay or reimburse GP.
- 4.23 The Card Schemes may mandate from time to time that certain merchants/business sectors must use MasterCard SecureCode/Verified by Visa or any other security protocol and you must implement these protocols if GP advises you to do so in the timescales requested.
- 4.24 All internet transactions that have been authenticated using MasterCard SecureCode or Verified by Visa must have the Universal Cardholder Authentication Field (UCAF) flag for MasterCard SecureCode and the Cardholder Authentication Verification Value (CAVV) for Verified by Visa within the transaction message. This is the measure that MasterCard and Visa use to identify whether a transaction has been SecureCode/Verified by Visa authenticated or not.
- 4.25 If you choose a Payment Service Provider ("**PSP**") to process card transactions on your behalf, GP must give its prior written approval and they must be accredited and registered by GP. After GP has done so, you must not use another PSP, terminate your arrangements with the approved PSP, or change the terms upon which you deal with the approved PSP without GP's prior written agreement.
- 4.26 You agree to pay any testing and accreditation costs incurred by GP in connection with approving your PSP's solutions.
- 4.27 You authorise your PSP to pass to GP, and authorise GP to obtain from your PSP, such information as GP may require in order to provide authorisation for transactions and process payments.
- 4.28 You acknowledge that, at all times, your PSP is acting as your agent and you are responsible for all acts and omissions of your PSP. You agree to indemnify GP against any losses, Card Scheme fines or charges, damages or liability that GP does or will suffer as a result of acting on your PSP's instructions. You remain fully responsible for paying any fees charged by your PSP and under no circumstances will GP collect these for the PSP or remit them to the PSP before making payment to you.
- 4.29 You must maintain your website to ensure you do not advertise or accept orders for goods or services on your website that you are not able to supply. Furthermore, the information referred to in clause 4.16 must always be available and correct. If you are unable to supply goods or services ordered, you must offer an immediate refund. GP may, at its sole discretion, generate such refunds itself if you do not do so within a reasonable time.
- 4.30 You must securely retain evidence of the cardholder's authority to debit the amount of the payment made over the internet in case there is any dispute with the transaction.
- 4.31 You, or any PSP acting on your behalf, must implement such security measures as GP or the Card Schemes require, and you will be liable for any scheme charges, penalties or fines incurred by GP or you due to any failure by you or by any PSP acting on your behalf to implement any such measures.

- 4.32 On your website, you must display your consumer data privacy policy, security capabilities, and policy for transmission of payment card details, and the address of your permanent establishment.

CURRENCY TRANSACTIONS

- 4.33 If GP has given you its prior written agreement specifically for undertaking currency transactions (either as shown in the *Service Schedule* or as provided for separately), you may accept payment in those currencies.
- 4.34 You must only undertake currency transactions within the United Kingdom, the Channel Islands and the Isle of Man and only in a currency which GP has specifically agreed to in the *Service Schedule* or separately in writing.
- 4.35 You can choose to have your currency transactions credited directly to a nominated currency account or to your sterling account. You will need a foreign currency account at HSBC Bank for each currency you wish to receive credits in. MasterCard and Visa daily spot exchange rates for that day plus a variable margin will apply for all conversions. Details of the conversion charge and any subsequent changes will be notified if applicable and changes to GP's variable margin will be subject to clauses 2.5 and 2.6 (where applicable). Transaction amounts will be converted on the day the transaction is processed. Charges will be converted on the date of calculation (usually the last business day of the month). If you request, GP will provide you with further details of the applicable exchange rate.

5 YOUR OBLIGATIONS TO SUPPLY

- 5.1 You must be licensed, registered or otherwise legally entitled to supply all goods and services you accept payment for by card in all jurisdictions in which you supply them.
- 5.2 You must supply the goods and services which have been paid for by a card in accordance with all applicable laws and the terms of your agreement with the cardholder. You must accept and process all transactions lawfully and in good faith.
- 5.3 You must not advertise or attempt to sell any product that is illegal either in the UK or in the cardholder's country of residence or the jurisdiction of where the goods are being shipped to if this is different.

6 EQUIPMENT AND MATERIALS

- 6.1 You must keep securely in your possession all equipment and materials supplied by GP and maintain them in good condition. This includes Fallback paper vouchers, terminals and imprinters.
- 6.2 You must display prominently at your premises the latest promotional material supplied by GP including without limitation the logo for each type of card that you are permitted to accept. You must remove any such promotional material upon termination of the Agreement or earlier upon GP's request. You must submit to GP all your promotional or sales material which refers to GP or any card type for GP's prior approval. Without limiting the foregoing:
- nothing in this Agreement will operate to transfer to you or, save as otherwise expressly

provided, to grant to you any licence or other right to use any of GP's intellectual property rights, save that you may use GP's intellectual property rights in such promotional and sales material solely to the extent necessary to exercise your rights and perform your obligations under this Agreement;

- GP authorises you to use such of GP's trademarks and/or names as GP may from time to time specify for the purposes only of exercising your rights and performing your obligations under this Agreement; and
- you will ensure that each reference to and use of any of such trade marks and names by you is in a manner from time to time approved by GP and is accompanied by an acknowledgement in a form approved by GP that the same is a trade mark or name of GP.

- 6.3 If you use any terminals in relation to transactions, they must either be supplied by GP or approved by GP. For the avoidance of doubt, “**terminals**” shall be held to include any related equipment, for example PIN pads and Contactless readers. All equipment provided by GP is compliant with PCI DSS as of the date of this Agreement. This will help your business achieve PCI DSS compliance.
- 6.4 If GP has rented any terminals (each a “**Rented Terminal**”) to you pursuant to a Terminal Rental Agreement, the terms and procedures for the installation and maintenance of such terminals and applicable fees are set out in such agreement. You should read the Terminal Rental Agreement carefully as this is a separate legal agreement subject to its own terms on which we intend to rely. However, if the supply of Rented Terminals is not governed by a Terminal Rental Agreement between you and GP, then clauses 6.5 through 6.14 shall apply in respect of the Rented Terminals. You also agree to follow any instructions contained in the *Merchant Operating Instructions* relating to terminals.
- 6.5 The Rented Terminals will continue to be owned by GP and you must keep them in your possession and under your control at all times. If the Rented Terminals are returned to GP but the Agreement has not been terminated in accordance with its terms, the Minimum Adjustment Fee will continue to be charged until such time as the Agreement terminates. You must not sell, assign, mortgage, charge, sublet or otherwise dispose of any Rented Terminal or any interest in it or attempt to do so. Furthermore you must not do or cause to be done anything whereby GP's rights as owner may be prejudicially affected.
- 6.6 You must ensure that each Rented Terminal is installed within one (1) month of delivery. If you do not install each Rented Terminal within one (1) month, you may be subject to a non-installation charge of £150. If you wish to upgrade your Rented Terminal to a different model, a set-up and administration fee may apply. GP will provide details of the applicable charge on request.
- 6.7 You must inspect each Rented Terminal after it has been received and again after it is installed. Unless you give GP written notice within seventy-two (72) hours of receipt or installation, as applicable, specifying any defects in the Rented Terminal, it shall be presumed that they are in good condition, except for latent defects not apparent on inspection or upon installation and testing. If a Device is received for GLOBAL MPOS Transactions, these inspections are also subject to clauses 6.25 and 6.27.
- 6.8 If GP has agreed in writing to install your Rented Terminal and is unable to gain access to your premises to install the Rented Terminal at a pre-arranged time, you will, without

prejudice to any other remedy, reimburse GP for the cost of the aborted installation.

- 6.9 You must allow GP's employees or contractors access to your premises at all reasonable times for any purpose connected with the installation, inspection, removal, upgrade or maintenance of a Rented Terminal. However, by granting this right of access, we do not have an obligation to do so.
- 6.10 You will be responsible for all loss or damage to a Rented Terminal other than loss or damage arising as a result of our default. You shall advise us immediately if a Rented Terminal is lost, destroyed, stolen or rendered inoperative. You will insure the Rented Terminals accordingly on an all risks basis to their full replacement value as notified by GP and will provide us promptly with evidence of cover on request.
- 6.11 If GP has agreed in writing to install your Rented Terminal, you must ensure that all staff are available for training on the day of installation. Thereafter, you must make sure that all staff are adequately trained in the operation of the Rented Terminals (regardless of whether or not the same was installed by GP).
- 6.12 We reserve the right to change the configuration of the Rented Terminal, for example, to add additional functionality or update software, at any time. You must co-operate with us in relation to any such change. You are obliged to cooperate with any Rented Terminal replacement or upgrade programmes if your Rented Terminal becomes obsolete or no longer complies with Card Scheme Rules, which will be notified to you by GP.
- 6.13 GP shall not be liable to you for any loss resulting from any breakdown of or fault in any Rented Terminal. GP shall have no liability in respect of any representation, warranty, condition or statement in relation to any Rented Terminal or other terminal or otherwise, unless it is expressly set out in the Agreement. All warranties, conditions or liabilities implied by law or otherwise in respect of defects in Rented Terminal, including without limitation warranties as to quality or fitness for purpose of any terminal or for damage or loss (but save for death or personal injury caused by our negligence or default) resulting from such defects, or from any work done in connection with them are hereby excluded.
- 6.14 You will promptly notify GP of the malfunction or failure of any Rented Terminal or any other incident resulting in the loss of use of or need for repair or maintenance or any Rented Terminal (and no later than twenty (20) days of the time when you discover or ought to have discovered such defect), whereupon GP will make the necessary arrangements to obtain required maintenance in respect of such Rented Terminal. You are responsible for shipping costs. You must not attempt to carry out any maintenance on the Rented Terminals without instructions to do so from us. You shall cooperate with GP in its attempt to diagnose any problem with a Rented Terminal. In the event your Rented Terminal requires additional Software, you are obliged to cooperate and participate in a dial in download procedure. With respect to any item of equipment rented to you by GP, you will not be liable for normal wear and tear, provided, however, that you will be liable to GP in the event that any rented item of equipment is lost, destroyed, stolen or rendered inoperative. GP may make a charge at its standard rates, applicable from time to time, for repair or replacement of Rented Terminals if you have damaged them, and you must bear all associated costs if GP instructs you to return a Rented Terminal. Failure to return a Rented Terminal as instructed will result in a charge equal to the full replacement value of the Rented Terminal. You will indemnify GP against any loss which GP does or will incur or suffer and which arises out of damage to or destruction of any item of equipment provided hereunder for any cause whatsoever. You also agree to hold harmless and indemnify GP for any costs, expenses, and judgments GP does or will incur or suffer,

including without limitation reasonable legal fees, as a result of your use of the equipment provided hereunder.

- 6.15 Clauses 6.16 to 6.22 (inclusive) shall apply to all terminals used by you in connection with the Agreement (whether or not rented to you from GP).
- 6.16 If your business uses a switchboard, you must provide GP with a contact name and phone number for the switchboard maintenance company in the event of any problem relating to the operation of the terminal through the switchboard. The terminal must not share a telephone line with an alarm or payphone or a line on which you have call divert or call waiting services.
- 6.17 Terminals must be configured to reflect the cards you are authorised to accept and their respective Floor Limits. Any Rented Terminals will be configured by GP. If agreed in writing, your terminal can be configured to accept card types that you hold a direct agreement with the card issuer to process, for example, American Express, Discover Global Network and JCB. GP will agree with you the card types the terminal can accept and the relevant charge payable per transaction. The terms on which (i) these card transactions are processed and (ii) you are credited will be dealt with in your card processing agreement with each issuer of such cards. For the avoidance of doubt, although GP will pass the transaction details on to the relevant card issuer (for example, American Express, Discover Global Network and JCB), GP will not credit your bank account with the value of the transaction. The card issuer will credit you by whatever method you have agreed. GP will not be liable in any way for any loss, costs or expenses incurred by you or any third party in connection with or arising from the undertaking, processing or transmission of such transaction details, except that GP will pass on the transaction details to the relevant card issuer within the timescales set out in clause 9.1. If GP becomes aware that GP has failed to do this, GP will immediately re-transmit the transaction details and, if you request, will make immediate efforts to trace the transaction and notify you of the outcome.
- 6.18 You must indemnify GP against all costs, damages and expenses which GP does or will incur or suffer and which arises from the corruption of, or any damage to, a card or data of any kind and for any inaccuracy or defect in a terminal or data arising as a direct or indirect result of any breach of your obligations under the Agreement.
- 6.19 If you do not use Rented Terminals, you must ensure that your card acceptance systems (including without limitation any part provided by a third party) operate in accordance with the 'Global Payments Technical Specifications' document, which will be issued to you, if appropriate, or any amended or reissued versions of this which shall also be issued to you from time to time. This outlines the protocols which GP supports from time to time.

Additionally, you must install specific terminal functionality or cooperate with any upgrade programmes, which will be notified to you by GP, for reasons of fraud prevention, terminal compliance with Card Scheme Rules or otherwise.

- 6.20 The successful transaction submission or polling of a terminal is your responsibility. If your transactions are not submitted/polled from your terminal in a timely manner within three (3) business days (two (2) business days for Visa Electron) of the date of transaction, you will be liable for any costs incurred, such as costs associated with Chargebacks, relating to late presentation or for loss of interest. If a successful end of day report is not received, you must contact GP immediately.
- 6.21 If you use a Rented Terminal or third-party terminal (excluding Mobile POS Solutions) to

process card transactions, you agree to maintain in working order an imprinter in case of terminal failure, telephone line fault or disruption to your power supply. You may purchase an imprinter from GP for such Fallback purposes. If you do not obtain your own imprinter, you will be unable to accept card payments if your terminal fails to operate. You may only use Fallback paper vouchers in the event of terminal failure.

- 6.22 GP will not be liable in any way for any loss, costs or expenses incurred by you or any third party in connection with outgoing calls made by your terminal including without limitation any calls for:
- maintenance;
 - downloads to upgrade software/functionality;
 - taking transactions/making authorisations;
 - app downloads, in relations to the Mobile POS Solution, if applicable; and
 - accessing Mobile POS Solution websites and portals, if applicable.

Note: Card Scheme updates can take up to two (2) hours to complete using a non-geographic number (such as 0870 or 0871) to GP's terminal supplier(s).

- 6.23 You acknowledge that any equipment provided under the Agreement or any Terminal Rental Agreement is embedded with proprietary technology ("**Software**"). You shall not obtain title, copyrights or any other proprietary right to any Software. At all times, GP or its suppliers retain all rights to such Software, including but not limited to updates, enhancements and additions. You shall not disclose such Software to any party, convey, copy, license, sublicense, modify, translate, reverse engineer, decompile, disassemble, tamper with, or create any derivative work based on such Software. Your use of such Software shall be limited to that use which is necessary to exercise your rights and perform your obligations under this Agreement. GP's suppliers are intended third party beneficiaries of the Agreement to the extent of any terms herein pertaining to such suppliers' ownership rights and such suppliers have the right to rely on and directly enforce such terms against you.

MOBILE POS SOLUTIONS

- 6.24 **Chip And PIN Card Reader.** To use the Mobile POS Solution, you must use the Device. The Device can be purchased by you directly from GP during the application process or from an authorised reseller.
- 6.25 **Limited Warranty.** If the Device ceases to function due to hardware, other than due to customer damage (for example, tampering, breaching security, malicious damage, misuse, missing parts, unauthorised attempt to repair or modify the product), as determined in the sole discretion of GP, within the first twelve (12) months after the delivery of the Device, GP will replace the unit at no cost to you. If the Device ceases to function due to hardware after the first twelve (12) months after the delivery, you must purchase a replacement device in order to continue using the Mobile POS Solution. You must give written notice of the defect to GP within twenty (20) days of the time when you discover the defect.

If the Device ceases to function due to Software, other than due to customer damage, as determined in the sole discretion of GP, within the first ninety (90) days from the date on which the Device on which the Software is installed is delivered to you, GP will replace the unit at no cost to you. If the Device ceases to function due to Software after the first ninety (90) days from the date on which the Device on which the Software is installed is delivered to you, you must purchase a replacement Device in order to continue using the Mobile

POS Solution. You must give written notice of the defect to GP within twenty (20) days of the time when you discover the defect.

Any Device submitted under this limited warranty that is determined, in the sole discretion of GP, to have been damaged by you, shall be subject to a customer damage charge (which shall also cover the cost of the replacement Device) per such Device as detailed in the *Service Schedule*.

Any Device submitted under this limited warranty that is determined, in the sole discretion of GP, to have no faults shall be subject to a no-fault-found charge (which shall also cover the cost of the replacement Device) as detailed in the *Service Schedule*.

GP shall not be liable for a breach of the warranties contained in this clause 6.25 related to the Device unless (i) GP receives written notice of the defect prior to the expiry of the applicable warranty period and (ii) after receiving the notice, the Device is returned pursuant to GP's instructions (including without limitation the timelines set forth in such instructions) and GP is given a reasonable opportunity to examine the Device.

Any Device (excluding the Software) or Software, which is repaired or replaced under this clause 6.25 shall be under warranty for the unexpired portion of the full warranty period applicable to that Device (excluding the Software) or Software (as the case may be).

- 6.26 **Loss, Damage Or Theft.** Any claim for any loss or theft of or damage to the Device prior to delivery or a missing Device must be reported to GP in writing following the instructions on our GLOBAL MPOS website at www.globalmpos.co.uk within five (5) days of (i) receipt of the Device or (ii) in the case of a Device not received, the date of expected receipt. GP shall not be liable in respect of any claim notified to it after such time.
- 6.27 **Dead On Arrival.** Any Device that is received in a non-operational state must be reported to GP following the instructions on our GLOBAL MPOS website at www.globalmpos.co.uk within thirty (30) days of the original delivery date of such Device.
- 6.28 **Cancellation.** If you elect to terminate the Mobile POS Solution for any reason, no refund of the purchase price of the Device shall be provided.
- 6.29 **Third Party Fees And Charges.** You may also be required to pay fees and charges to other parties in connection with your use of the Mobile POS Solution, for example, charges for use of your mobile device in connection with use of the Mobile POS Solution and fees for SMS transmissions and other data charges. It is your responsibility to understand and pay for all such charges.
- 6.30 **Equipment Support.** From time to time at your request, we may provide assistance to you to facilitate the exchange of inoperable equipment. We may charge shipping or other fees for such service. You are responsible for any repair or equipment replacement costs for the equipment being serviced. You acknowledge that mobile devices (for example, mobile phones, tablets) that are jail broken (for iOS devices) or rooted (for Android devices) are not compatible with the Mobile POS Solution that GP provides hereunder, and you agree to use no such mobile device in connection with the Mobile POS Solution.
- 6.31 **Disposal Of Equipment.** Upon the termination of this Agreement or in circumstances where you upgrade or exchange the equipment, you shall arrange at your own expense to have the equipment returned to GP at the address below or to a third party specified by GP for safe destruction or disposal as required by Directive 2002/96/EC and applicable

national law. This clause applies to all equipment provided by GP to you which becomes waste as a result of the termination of this Agreement or the purchase or hire of new equipment from GP. If you resell the equipment to a third party, you will ensure that this clause in its entirety is included in the contractual arrangements governing the sale to that third party. You agree to indemnify and keep indemnified and hold harmless GP from and against all costs and expenses which GP does or will incur or suffer, as a result of a direct or indirect breach or negligent performance or failure in performance by you of your obligations in this clause. For the purposes of returning the equipment to GP in accordance with this clause, please use the following address:

Global Payments, c/o Secure Retail, Walker Road, Bardon Hill, Coalville, Leicestershire, England LE67 1TU.

7 CHARGEBACKS, RETRIEVAL REQUESTS AND SUSPICIOUS TRANSACTIONS

- 7.1 If (a) a cardholder disputes a transaction, (b) GP receives a retrieval request or a returned transaction from the card issuer, (c) GP believes a transaction to be suspicious, questionable, not genuine or otherwise unacceptable, (d) GP reasonably believes that any of the warranties and representations set forth in clause 4.17 are untrue (e) a card issuer seeks reimbursement for a settled transaction or (f) GP otherwise reasonably believes it will be liable to future Chargebacks in respect of you, then GP will immediately be entitled to:
- debit your Nominated Bank Account and/or exercise its set-off rights pursuant to clause 8.6;
 - withhold amounts from payments otherwise due hereunder and pay such amounts into the account which GP holds in respect of you in its books and records in accordance with clauses 1.4, 11.6 or 19;
 - otherwise recover from you by any other means the amount paid by GP to you in respect of the relevant transaction.

For the avoidance of doubt, this means that GP may, in such circumstances, pay any amount otherwise due to you into a Reserve Account (as described in clause 19). GP reserves the right to generate a refund on your behalf to any cardholder for any reason without your authorisation. You acknowledge that you are solely responsible for promptly providing GP with any available information in respect of any of the above circumstances or to re-present a Chargeback and that, regardless of any information you provide or do not provide GP in connection with a Chargeback, or of any other reason, you shall be solely responsible for the liability related to any Chargebacks. If any such amount is uncollectible through withholding from any payments due hereunder, paying such amount into any account which GP holds in respect of you in its books and records or through charging your account(s), you shall, upon demand by GP, pay GP the full amount of the Chargeback. GP reserves the right to make an administrative charge in respect of the processing of any Chargeback or retrieval request hereunder and you agree to pay such charges.

- 7.2 The rights of GP under this clause will not be affected by any arrangement entered into between you and the cardholder.

8 SERVICE CHARGES

- 8.1 In consideration of the services to be provided by GP under the Agreement, you must pay GP the Service Charges on demand. GP may change the Service Charges pursuant to clause 2. All such charges and all other payments to be made by you under the Agreement are, unless otherwise stated, exclusive of VAT and any other relevant taxes. All payments to GP under the Agreement must be made in sterling.
- 8.2 GP shall be entitled to debit your Nominated Bank Account(s) or debit any account which GP maintains for you in its books and records for the items listed below. If amounts are shown on the invoices sent to you under clause 10 below, those invoices will constitute demands made by GP for the payment of those amounts:
- set-up charges and fees;
 - the agreed Service Charges for all transactions processed by you;
 - any terminal rental together with any other sums payable by you under your Terminal Rental Agreement or clause 6 of this Agreement;
 - any charges for tally rolls or other stationery (including without limitation manual imprinters) ordered from GP;
 - the amount of all refunds made by you (or GP on your behalf) to cardholders;
 - agreed polling charges;
 - any overpayments made by GP;
 - any sums charged back to you under the Agreement or due pursuant to clause 7 (including without limitation administration fees in connection therewith);
 - all sums GP is authorised to debit from your account under clause 11;
 - charges, penalties, fines, fees, costs or expenses and interest thereon as provided in clause 8.3 or otherwise in accordance with this Agreement;
 - any sums for failure to comply with Card Scheme Rules;
 - accruals in anticipation of expected penalties;
 - any applicable PCI DSS or other non-compliance charges;
 - any sum payable under clause 13.3, 13.4 or 14.4;
 - any amounts to be held in a Reserve Account (as described in clause 19);
 - account management fees;
 - VAT and other relevant taxes;
 - charges for urgent courier deliveries;
 - engineer charges; and
 - all other sums payable by you under the Agreement.

If any type of overpayment to you or other error occurs, you hereby authorise GP to debit or credit your Nominated Bank Account accordingly. If your Nominated Bank Account does not contain sufficient funds, you agree to remit the amount owed directly to GP within three (3) days of demand. You agree not to, directly or indirectly, prevent, block or otherwise preclude any debit by GP or your financial institution to your Nominated Bank Account which is permitted hereunder.

- 8.3 You agree to hold harmless and indemnify GP for any fines, penalties, fees, charges, costs or expenses which are or will be imposed on GP by any Card Scheme or any other third party as a result of:
- you breaching the Agreement in any way, or
 - the volume of Chargebacks which arise in respect of transactions accepted by you, or
 - the failure by you or your PSP or any other supplier used by you to implement systems or procedures designed to reduce fraud or to protect cardholder data, or
 - non-compliance with Card Scheme Rules, or

- you experiencing a data breach, or
- any other action or omission of yours.

GP reserves the right to charge an administration fee dependent on the circumstances in addition to any reimbursements and you hereby agree to pay such amount.

- 8.4 If in GP's or any Card Scheme's opinion or in accordance with the Card Scheme Rules, you receive a disproportionate level of Chargebacks, GP reserves the right to make an administrative charge in respect of the additional work this entails, and you agree to (a) pay such charge and (b) comply with any instructions received from GP. Charges may vary depending on the circumstance (for example, Card Scheme, number of Chargebacks) and details are available on request.
- 8.5 Without prejudice to any other right GP may have, if you fail to pay any amount under the Agreement when due, you must pay interest on the overdue amount at a rate of 2% per month from the due date for payment until payment is received and may also be charged a late payment fee of £40 per overdue payment.
- 8.6 GP may set-off or combine any liability that you may have to GP against any liability which GP has to you, whether such liability is present or future, liquidated or unliquidated, under this Agreement or any other contract or other cause of action and irrespective of the currency of its denomination. The rights stated herein are in addition to any other rights GP may have under applicable law.

9 CREDITS AND DEBITS TO YOUR BANK ACCOUNT

- 9.1 Subject to clauses 6.17, 7.1, 8.6, 11.6 and 19 GP will (unless otherwise provided in the Agreement) credit your Nominated Bank Account with the value of all transactions presented by you provided:
- the transaction data is in the form that GP specifies;
 - you are permitted to accept such transactions under the Agreement; and
 - you have complied with all of the other terms of the Agreement, the *Merchant Operating Instructions*, any notices or newsletters, and the Card Scheme Rules.

You acknowledge that availability of any such funds shall be subject to the procedures of the financial institution at which your Nominated Bank Account is held.

GP will submit details of transactions presented by you in accordance with this Agreement and the *Merchant Operating Instructions* to the relevant card issuer (via the relevant Card Scheme) to request payment on the day on which GP receives your payment order. For this purpose, the date GP receives your payment order will be:

- if you use a Rented Terminal or process GLOBAL MPOS Transactions via a Mobile POS Solution, the date on which the host system releases your stored transactions for processing as set out in the *Merchant Operating Instructions*;
- if you or your PSP submit your transaction details directly to GP by file transfer, the date on which the file is submitted; and
- if you use Fallback paper vouchers and post them to GP, allowing for postage, it will typically take a further business day from the date of receipt for the payment order to be input.

If GP receives your electronic payment order on a day which is not a business day, or after 6:00 a.m. on a business day, then your payment order will typically be treated as being received on the following business day. For Fallback paper vouchers, where these

are delivered to our Leicester office after 3:30 p.m., then your payment order will be treated as being delivered on the following business day.

Amounts received by GP from card issuers by way of settlement of transactions submitted by you will be held to your account in the books and records of GP on the same business day as the settlement funds are received by GP.

Payment will be made to your Nominated Bank Account in accordance with the Crediting Timescales as set out in the *Service Schedule*.

You instruct GP to pay such amounts from the account which GP holds in respect of you in its books and records as follows:

- firstly, in payment of amounts due to GP in accordance with this Agreement or as set out in invoices which GP has sent to you in accordance with this Agreement which are not paid (or scheduled to be paid) by Direct Debit Instruction;
- secondly, in payment of amounts to be paid into your Reserve Account maintained in accordance with clause 19 of this Agreement;
- thirdly, amounts placed into an account which GP holds in respect of you in its books and records in accordance with clauses 1.4, 7.1 or 11.6; and
- the balance to be paid into your Nominated Bank Account maintained in accordance with clause 9.2 and the *Service Schedule* agreed between you and GP.

Payments into your Nominated Bank Account will be made Monday to Friday excluding public holidays but timing of payment is dependent on the card issuer.

- 9.2 You must at all times have in place the Nominated Bank Account. We shall be entitled to debit from your Nominated Bank Account any sums payable by you to GP and you will maintain with your financial institution a Direct Debit Instruction in respect of each Nominated Bank Account to effect all such debits, even after the Agreement has ended for any reason. You confirm to your financial institution that it may act on any instructions that GP may give your financial institution to so debit the account.
- 9.3 Except as set forth in clause 4.35, you must give GP at least one (1) month's notice if you intend to change your Nominated Bank Account or any substitute account. Any account change is subject to GP's approval. If you change your Nominated Bank Account to another financial institution, GP will require you to authorise the new financial institution by way of a Direct Debit Instruction to make payments due to GP under the Agreement. If clause 4.35 is applicable, you must receive GP's prior written consent prior to making any changes to the foreign currency Nominated Bank Account in accordance with that clause.
- 9.4 It is your responsibility to reconcile entries on your Nominated Bank Account(s) and to notify GP of any differences/errors without any undue delay but in any event within three (3) months (unless you are a Micro Enterprise or a Small Charity, in which case you have thirteen (13) months) of the date of the transaction. In no event will GP be liable for any failure to make a payment transaction which is not reported in writing to GP within three (3) months (unless you are a Micro Enterprise or a Small Charity, in which case you have thirteen (13) months) of such failure, unless we have failed to make available to you the invoice detailing such transaction in accordance with this Agreement. You expressly waive any such claim that is not brought within the time periods stated herein.
- 9.5 If you are a Micro Enterprise or a Small Charity and we incorrectly process or fail to process a payment request or refund to the cardholder's financial institution we will immediately

retransmit the payment request or refund, provided that the card details that you gave to us that were required to process the transaction were correct and you notify us without undue delay on becoming aware of the error, and in any event within thirteen (13) months of the date the cardholder authorised the transaction to be made.

If we can show that we correctly transmitted the payment request or refund to the cardholder's financial institution within the relevant timescale, you will not be entitled to the retransmission of the payment request or refund.

10 INFORMATION FROM GLOBAL PAYMENTS

GP will make available to you invoices showing the amount of charges and other sums due to be paid by you to GP under the Agreement including without limitation any VAT and any other relevant taxes. Such invoices will be provided in accordance with GP's then current practices regarding delivery of invoices, but GP will provide such invoices at least once a month in electronic or, for a charge set out in the Service Charges or available on request, paper format.

If requested by you during the term of the Agreement, GP will make available to you the information specified in Part 4 of The Payment Services Regulations 2009 and the terms of the Agreement (documents as specified in clause 1.1).

11 INFORMATION FROM YOU

- 11.1 You must provide GP with details of all transactions in the form and by the methods described in the Agreement or as otherwise notified by GP. You must not present or allow anyone else to present to GP more than one set of transaction data for each transaction.
- 11.2 You must retain in a secure place legible copies of all transaction vouchers, terminal tally rolls, invoices, merchant copy receipts or equivalent documentation. All documents must be kept for at least five (5) years from the date of the delivery of goods or completion of the service provided (or for such longer period of time as may be required by the Card Scheme Rules, by law, or by GP as specifically requested in writing in individual cases) and you must provide GP with copies on request. After seven (7) months you may transfer all this information to processed/scanned images if you prefer, subject to GP's prior written approval. The processed/scanned images must then be securely stored for the remainder of the five (5) year period (or for such longer period as described above). If the information is held in electronic format, it will need to comply with any Card Scheme security requirement, including but not limited to the PCI DSS requirements.
- 11.3 If requested, you must provide GP with evidence acceptable to us of any transaction including (without limit) the documents listed in clause 11.2 and any other evidence of the cardholder's authority to debit its account with the amount of the transaction which GP requests.
- 11.4 You must provide GP with such financial statements, business plans, audited accounts, management accounts, sales and purchase invoices, and other information concerning Merchant, its owners, principals, partners, proprietors or its affiliates that GP may from time to time request in order to assess your financial position. From time to time, GP

may contact you to undertake a review of your card processing facility and the risk associated with that facility, including without limitation your compliance with the terms of this Agreement, applicable law and Card Scheme Rules. You must cooperate with GP, its employees or contractors in that review. GP, or its duly authorised representatives, may examine your books and records, including without limitation records of all transactions hereunder and proof that you are in compliance with the Agreement, the *Merchant Operating Instructions*, and the Card Scheme Rules. You agree that GP may seek injunctive relief with respect to your failure to furnish financial or other information upon request.

- 11.5 You must notify GP of any change in your circumstances which may affect your condition or status or ability to perform your obligations under the Agreement including, but not limited to, any change of name, business name, trading address, head office address, phone number, email address, bank account, change in products/services sold and any projection or forecast you have provided to GP. You must also notify GP if you cease to be a member of any trade association or affinity group. You agree to provide GP with two (2) months prior written notice of your intent to (a) transfer or sell any substantial part (ten percent (10%) or more) of your total ownership interest or assets or to liquidate; (b) change the basic nature of your business; (c) convert all or part of your business to anything other than CP Transactions (unless authorised in the *Service Schedule* or otherwise by GP in writing) or; (d) accept advance payments or deposits. Upon the occurrence of any such event, the terms of the Agreement may be modified to address issues arising there from. A set-up and administration fee may apply to any amendments to your Agreement due to a change in legal entity. GP will provide details of the applicable charge on request.
- 11.6 You must provide such reasonable assistance as GP may require for the assessment of breaches of this Agreement, credit risk, insolvency or the prevention and detection of money laundering or any other fraudulent or criminal activity. GP may suspend the processing of, or withhold payment of such amount(s) and pay them into any account which GP holds in respect of you, in its books and records or a Reserve Account established for you in accordance with clause 19, or, in the event GP has already credited your Nominated Bank Account, GP will be entitled to debit your Nominated Bank Account for an amount equivalent to the value of any transaction pending completion of our investigation, for instance, if GP has reasonable suspicion of a breach of the Agreement or money laundering or any other fraudulent or criminal activity. GP may retain such amount(s) until GP has concluded its investigations or until GP is reasonably satisfied that the transaction or transactions in question are no longer subject to Chargeback rights whichever is longer. You agree GP's fraud investigators may attend and have access to your trading premises and business records without prior notification.
- 11.7 You must assist GP with any financial or reconciliation query by providing such transaction details and other documentation or evidence as GP requires.
- 11.8 You must notify GP if you change the way you undertake or process transactions including (without limit) acceptance at point of sale, authorisation method and method of submission to GP.
- 11.9 If you join a trade association or affinity group for which GP offers preferential terms, you must notify GP and, if relevant, provide a valid membership number in order to benefit from such terms.

- 11.10 If you are obliged to provide information under this Agreement to GP, in the absence of any specific time period, you will provide it promptly.

12 CHANGES TO CARD INDUSTRY REGULATIONS

- 12.1 The UK Cards Association, the Payment Card Industry Security Standards Council or the Card Schemes may stipulate changes to GP or card industry operating regulations which apply to GP or all card processors in the UK such as, for example, changes to the PCI DSS, point of sale procedures, terminal functionality or fraud prevention measures. In such circumstances GP will be entitled to vary the Agreement in accordance with clause 2. The Card Scheme Rules and the UK Cards Association rules may be changed immediately.
- 12.2 You must adhere to any changes to your processing and trading practices GP requests due to compliance programmes introduced by Card Schemes and the UK Cards Association's changes.
- 12.3 You must fully participate with any investigation required relating to any processing issues you may have, whether identified by GP, yourself or other parties, and resolve the issues that are within your responsibility within the requested timeframe. GP reserves the right to charge an administration fee in addition to any fine imposed and passed to you. Details of these variable charges will be notified if applicable.

13 SECURITY OF CARD DATA

- 13.1 You must ensure that any card data permitted to be stored or processed by yourself or a third party provider on your behalf is held securely and in accordance with the Card Scheme Rules and the *Merchant Operating Instructions* related to cardholder and transaction information security, including without limitation, PCI DSS, MasterCard's Site Data Protection Program and Visa's Account Information Security Programme. Without limiting the generality of the foregoing, you agree that you will use information obtained from a cardholder in connection with a card transaction solely for the purpose of processing a transaction with that cardholder or attempting to re-present a Chargeback with respect to such transaction. For clarity, you are responsible for the security of card data managed by you or your third party provider.
- 13.2 You must achieve and maintain your PCI DSS compliance, and where you do not we may apply a non-compliance charge. We will advise you when this applies to you. If you fail to renew your PCI DSS compliance on an annual basis or provide quarterly scans as required, to affirm your continued compliance, we will apply the non-compliance charge without any further notice to you.
- 13.3 Should you choose not to use our Global Fortress service (subject to clause 23) to achieve and maintain PCI DSS compliance, we will apply a monthly administrative fee for achieving PCI DSS Compliance using the services of another Qualified Security Assessor (QSA) or if you complete a Self Assessment Questionnaire (SAQ). This covers the cost of the work GP will have to undertake to comply with Card Scheme Rules. The administrative fee will be charged per merchant ID and will be advised if applicable. Current rates are available at www.globalfortress.co.uk. Subject to clause 2.6 (if applicable), we may vary this charge from time to time under clause 2. This will be collected monthly in arrears, by addition to your invoice under your Card Processing Agreement.

- 13.4 If it is identified or suspected that a data compromise can be traced back to your business, you may be required to appoint a third party forensic investigator to ensure and evidence that you take sufficient steps to remediate the cause of any breach. In the event that a third party you are using experiences a security breach, any costs or fines will be your responsibility and payable by you as outlined in clause 8. You may subsequently be requested to evidence achievement of the appropriate level of PCI DSS compliance. In such circumstances you will be responsible for bearing the direct and indirect costs relating to any investigation and any subsequent charges relating to achieving the appropriate level of PCI DSS compliance. GP will provide written confirmation and a breakdown of specific costs incurred where this is applicable.
- 13.5 Storage of the following information is prohibited after authorisation of the transaction:
- Card Verification Value (CVV) and Card Validation Code (CVC) contained in the card's magnetic stripe;
 - CVV2/CVC2; the three digit number printed on the back of the card in or next to the signature panel;
 - iCVV/Chip CVC contained in the magnetic stripe image in a chip application;
 - Full Track data; i.e. the data held on the magnetic stripe or the chip; and
 - PIN Verification Value (PVV); PIN offset contained in the magnetic stripe or the chip.
- 13.6 Unless GP has given prior written agreement, you must not disclose to any third party and must, at all times, keep secure from unauthorised access or disclosure any information relating to:
- a cardholder or his or her transactions; or
 - our business, the *Merchant Operating Instructions*, any Card Scheme, the Card Scheme Rules, the UK Cards Association, or the Agreement;
- unless such disclosure is required by law or the relevant information is public knowledge (other than as a result of breach by you of this clause).
- 13.7 You must not compile or use any lists of cardholders or card numbers or other information referred to in this clause 13, or any documents comprising the Agreement other than for the proper performance of your obligations or exercise of your rights under the Agreement.
- 13.8 You also agree to cooperate at your sole expense with any request for an audit or investigation by GP, a Card Scheme, or a network organisation in connection with cardholder and transaction information security.

14 AGREEMENT TERM AND ENDING THE AGREEMENT

- 14.1 You may, without giving any reason, end the Agreement with immediate effect at any time during the first fourteen (14) days after signing the Agreement by written notice to GP provided you have not yet accepted any card transactions.
- 14.2 Thereafter, the Agreement will continue for the fixed term (if any) shown on your *Service Schedule*. If there is no fixed term, the Agreement will continue for an initial term of one (1) year. After the fixed or initial term, the Agreement shall be automatically extended for successive one (1) year terms on the same terms and conditions expressed herein, or as may be amended. Following the fixed or initial term, you may give written notice of not less than one (1) month to terminate this Agreement.
- 14.3 In the event that either party materially breaches the terms and conditions hereof, the non-breaching party may, at its option, give written notice to the breaching party of its intention

to terminate the Agreement unless such breach is remedied within one (1) month of such notice. Failure to remedy such a breach shall make the Agreement terminable, at the non-breaching party's option, at the end of such one (1) month period unless notification is withdrawn.

- 14.4 Notwithstanding anything to the contrary set forth herein, in the event you terminate the Agreement in accordance with clause 14.2 or if GP ends the Agreement in accordance with clause 14.3 or 14.6, if either occurs within the first twelve (12) months of the Agreement, then you shall pay GP £150 in respect of our reasonable administrative costs. Such amount shall be in addition to any other remedies available to GP.
- 14.5 Notwithstanding the foregoing, GP may terminate the Agreement or any portion thereof upon one (1) month's written notice to Merchant unless you are a Micro Enterprise or a Small Charity in which case GP may terminate the Agreement or any portion thereof upon two (2) months written notice to you.
- 14.6 In addition, GP will also be entitled to suspend the provision of card processing services to you under the Agreement with immediate effect by notice to you if:
- you are a partnership and the partnership ends;
 - you change your bank account other than in accordance with clause 9;
 - you (or anyone guaranteeing your obligations under this Agreement) are an individual and you die (in which case notice will be sent to your personal representatives);
 - you use a PSP/Internet PSP (IPSP) to process card transactions on your behalf and your agreement with such provider terminates or GP considers that the terms are unacceptable or the PSP/IPSP has become insolvent or any step has been taken for its liquidation, bankruptcy, receivership, administration, dissolution or other similar event or the PSP/IPSP fails to comply with any Card Scheme Rules, the *Merchant Operating Instructions* or any of our other requirements;
 - any PSP/IPSP you use or have used is found not to be compliant with PCI DSS or any future programme that comes into force;
 - you fail to follow any of the Card Scheme Rules, GP requirements, or the *Merchant Operating Instructions*, or you are not compliant with PCI DSS or any future programme that comes into force;
 - control of you or your business changes (or that of any guarantor of yours);
 - there is any significant change in the nature of your business (or that of any guarantor of yours);
 - upon a material change in your average ticket or volume;
 - there is an unauthorised conversion of all or any part of your activity to anything other than CP Transactions or in the event GP reasonably deems itself insecure in continuing the Agreement;
 - you have not submitted any transactions for processing for six (6) consecutive months and you have not notified GP that your business is seasonal;
 - you refuse to accept certain cards repeatedly that you display logos for and without reason;
 - you receive repeated complaints from Card Scheme members or partners and fail to resolve such issues properly;
 - you delay the response to a Chargeback request for fulfilment and retrieval deliberately and without proper reason;
 - GP knows, believes or suspects that you are not licensed, registered or otherwise legally entitled to supply goods or services for which you accept payment by card in any jurisdiction you supply them;
 - upon any misrepresentation by you or on your behalf;
 - anything happens in relation to you (or any guarantor of yours) which leads GP to the

opinion that:

- it could damage GP's reputation or that of any Card Scheme;
- it may or does give rise to fraud or suspicion of fraud or other criminal activity; or
- it could experience losses;
- in GP's opinion your ability or willingness to comply with the terms of the Agreement is at risk including without limitation any change in the level or scope of your business activities or your financial condition;
- any other merchant who is associated or affiliated with you or with any of your owners, principals, partners, proprietors, officers, shareholders, or managing agents is terminated by GP for any reason;
- upon commencement of bankruptcy or insolvency proceedings by or against you or any guarantor has a receiver, administrator or liquidator appointed or enter into arrangement or composition with creditors; or
- termination is requested or required by a Card Scheme.

In the above, references to “**you**” include one or more of you if you are a partnership.

- 14.7 The ending of the Agreement will not affect any actual or contingent liabilities or claims of any party which accrue before the Agreement ends including, but not limited to, any liability on your part in respect of Chargebacks or any other amounts due hereunder (even if such Chargebacks or amounts come in after termination). You must pay GP all amounts owed by you under the Agreement and an acceptable Nominated Bank Account with a financial institution must remain available for debiting such amounts for at least thirteen (13) months after the last transaction was processed and an appropriate Direct Debit Instruction must remain in place for that period.
- 14.8 If the Agreement ends, you must promptly return to GP all equipment and materials supplied by GP at your expense. Failure to do so will result in a charge for that equipment or materials. If GP has rented any terminal(s) to you pursuant to a Terminal Rental Agreement, the term of the rental period may differ to the term on this Agreement. Unless we agree otherwise, the terms of the Terminal Rental Agreement will be binding and you will be liable to fulfil your legal contractual obligations therein. You should refer to the Terminal Rental Agreement for further guidance.
- 14.9 Clauses 4.17, 4.20, 7, 8.2, 8.3 to 8.6, 9.2, 9.3, 11, 13, 14.7 to 14.9 (inclusive), 15, 16, 18, 19 and 20 of these *Terms of Service* will continue to apply following the ending of the Agreement for whatever reason.
- 14.10 Should you wish to exit your agreement to accept a certain card type you must give one (1) month's written notice of termination of that card type. The functionality for this will typically be removed from the point of sale. For Rented Terminals or if you use Global Iris, we will remove the card type. If you do not use Rented Terminals or use a PSP, you will need to arrange removal of the card type with them directly. The logo for that card type must be removed from any display detailing the cards you accept. Termination of this card type alone shall have no effect on the Agreement. Should we wish to remove acceptance of any card type, we may do so upon two (2) months' notice.

15 OUR LIABILITY

- 15.1 GP shall not be liable nor be deemed to have breached this Agreement for failure to perform its obligations hereunder if such failure is due (directly or indirectly) to any abnormal and unforeseeable circumstances beyond its reasonable control if the

consequences would have been unavoidable despite all commercially reasonable endeavours. Such causes or conditions shall include, but shall not be limited to, industrial disputes, the failure of any system, software or telecommunication link, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, shortages of labour or materials, freight embargoes, unusually severe weather, electrical power failures, communication failures, unavoidable delays, the errors or failures of third party systems, or other similar causes beyond such party's control. GP shall not be liable for any breach of this Agreement if the breach is due to its obligations under the provisions of the laws of England or Wales or the European Community.

- 15.2 The liability of GP for any loss arising out of or relating in any way to the Agreement (other than any loss to which clause 23.5.7 (if applicable) applies), including but not limited to damages arising out of any malfunction of the equipment or the failure of the equipment to operate, the unavailability or malfunction of the services, or property damage, shall, in the aggregate, be limited to actual and direct damages in an amount not to exceed three (3) month's average charge paid by you hereunder (exclusive of interchange fees, assessments, PCI DSS charges and any other fees or costs that are imposed by a Card Scheme or a third party in connection with your payment processing) for services during the previous twelve (12) months or such lesser number of months as shall have elapsed subsequent to the effective date of this Agreement. This shall be the extent of GP's liability arising out of or relating in any way to the Agreement, including without limitation alleged acts of negligence, breach of contract, or otherwise and regardless of the form in which any legal or equitable action may be brought against GP, whether contract, tort, or otherwise, and the foregoing shall constitute your exclusive remedy. Under no circumstances shall GP be liable for any special, consequential or indirect loss, loss of business, goodwill or loss of profit whether direct or indirect, lost interest, or for punitive or exemplary damages arising out of or relating in any way to the Agreement, including but not limited to, damages arising out of placement of a Merchant's name on any terminated merchant list for any reason, even if GP has been advised of the possibility of such damages.
- 15.3 Notwithstanding anything to the contrary in this Agreement, GP does not exclude or limit liability in respect of injury to or death of any person caused by their negligence nor in respect of their fraud nor for any matter for which it is not permitted by law to exclude or limit, or to attempt to exclude or limit, its liability.
- 15.4 Subject to clause 15.3, all warranties, conditions and other terms implied by law (whether by statute, common law or otherwise) are excluded from this Agreement.

16 INDEMNITY

- 16.1 You agree to satisfy directly with the cardholder any claim or complaint arising in connection with the card sale, regardless of whether such claim or complaint is brought by the cardholder, GP, or another party. You agree to indemnify and hold GP harmless from and against any and all losses, costs, expenses (including but not limited to legal fees), liabilities, claims or counterclaims, damages, and disputes which are or will be suffered or incurred by GP and which arise out of or relating to:
- your breach of the Agreement;
 - any claim brought against GP by a cardholder or card issuer as a result of your actions or omissions including, but not limited to, any misrepresentation by you or breach of any obligation or duty that you owe to a cardholder; or

- any investigations into transactions which are shown to involve fraudulent or criminal activity on your behalf or a breach of the Agreement by you, together with any reasonable action GP may take as a result of or during the course of such investigations.

16.2 If a claim is brought against GP by a cardholder or card issuer, you must assist GP in the handling of the claim and GP will be entitled to settle or otherwise deal with it at its sole discretion.

17 ASSIGNMENT

17.1 The Agreement is personal to you, and you are not entitled without GP's prior written consent to:

- assign or transfer or permit the exercise by any person of any of your rights under it, or
- transfer or subcontract any of your obligations under it.

Any attempt by you to assign your rights or to delegate your obligations in violation of this paragraph shall be void.

17.2 If GP permits any assignment, transfer, exercise by a third party, or subcontracting, you will remain fully liable for the acts and omissions of your assignee, transferee, permitted third party or subcontractor as if their acts and omissions were your own.

17.3 You agree that GP may transfer any of its rights and obligations under this Agreement without notice to you. GP may transfer any of its obligations under this Agreement only to someone whom it reasonably considers capable of performing them and who has appropriate regulatory licences or authorisations, and provided that the transferee agrees that it will perform such obligations. You acknowledge that the transferable rights of GP hereunder shall include, but shall not be limited to, the authority and right to debit your account(s) as described herein. GP may delegate or subcontract the performance of any of its obligations to any person.

18 YOUR INFORMATION



In this clause, for sole traders, partnerships and other un-incorporated customers “**you**” means the individuals who own the business and for corporate customers “**you**” means both the company and (if applicable), the directors, officers, shareholders and other parties responsible for the operation of the business. Unless otherwise stated below, in this clause 18 “**we**”, “**us**” and “**our**” refer to one or more of GP, Global Payments U.K. Ltd and Group Companies; “**Group Companies**” refers to companies within the Global Payments group, including without limitation subsidiaries, associated and affiliated companies.

This clause explains how GP will use information about you and your business once you have applied for any of our products and services and how that information will be processed by Group Companies, Credit Reference Agencies and certain other third parties in relation to your application.

18.1 **Confidentiality** – Confidential personal and business information that GP holds about you will not be disclosed to anyone other than if:

- we are legally required to disclose;
- we have a public duty to disclose;

- our interests require disclosure;
- it is reasonably necessary to disclose to a parent, affiliate, or subsidiary of GP;
- the disclosure is made with your consent; or
- as set out in the terms below.

18.2 **Credit Reference Agencies (CRA)** – By signing the Personal Data Authority and agreeing to the terms in this Agreement you authorise GP to order and conduct a credit reference search on Merchant, or any owner, officer, shareholder, partner, proprietor, managing agent or guarantor of Merchant in connection with your application, and to order and conduct subsequent credit reference searches in connection with updating, renewing or continuing the Agreement. Clause 18.3 contains additional details about use, onward data sharing and exports (the cross-border transfer of personal information) by the CRAs themselves. **You hereby represent and warrant that you are duly authorised by all such persons and entities to consent to the credit reference searches, use, sharing and export of personal information and promotions and marketing by GP, Group Companies and CRAs, all as detailed in this clause 18, on their behalf and your own behalf, and that you will provide those persons with a copy of this clause 18.** You hereby authorise your financial institution to release any relevant financial information concerning you or your accounts to GP.

The CRAs will record details of your application and place a search footprint on your credit file which will form part of your credit history, whether or not your application proceeds. This may be seen by other organisations. If you make several applications for credit within a short period of time, this may affect your ability to obtain credit.

If you make a joint application, an 'association' linking your financial records with those of your fellow applicant(s) will be created by the CRAs. The credit history of your 'associates' may be taken into consideration in any future application for credit. The 'association' will continue to link your credit histories unless and until you successfully file a 'notice of disassociation' with the CRAs.

GP may share with CRAs the information you provide and the information it obtains from the Electoral Register and other public sources in order to prevent crime, comply with legal and regulatory obligations and to verify your identity and suitability for an account. CRAs may create a record of the name and address of your business and the other persons described above. GP may use details of your credit history, together with those of your 'associates', as relevant, to assess your ability to meet your commitments hereunder. If you are a director, we will seek confirmation from CRAs that the residential address you provide matches the restricted register of directors' usual addresses at Companies House.

GP may share with CRAs the details of how you manage any card processing services. If GP makes demands for repayment following any default by you and you fail to repay the sum due in full or make (and adhere to) acceptable proposals for repayment within twenty eight (28) days, then in the absence of any genuine dispute about the amount owed, GP may register the default with CRAs. This may affect your ability to obtain further credit.

This information about CRAs is condensed. GP will identify the CRA it uses on your written request. Go to 'Contact Us' at <http://www.globalpaymentsinc.co.uk> or telephone us for details of the contact to whom you should direct your written request. You can contact the UK's CRAs directly to obtain a copy of your information from them for a small fee. Information held may differ so you may wish to contact them all:

- **CallCredit** – log on to www.callcredit.co.uk and go to the Contact Us page
- **Equifax plc** - log on to www.equifax.co.uk and go to the FAQ page to ask a question
- **Experian** - log on to www.experian.co.uk and go to the Contact Us page.

18.3 **Data Sharing By Us For Crime Prevention And Debt Recovery; Data Sharing And Exports By CRAs And Fraud Prevention Agencies** - To prevent crime, verify your identity, assess your ability to meet your obligations, recover debt and to meet GP's (or its Group Companies') legal and regulatory obligations, GP may exchange information with financial institutions, CRAs, fraud prevention agencies, law enforcement agencies (who may access and use this information), debt recovery agencies, the Card Schemes and other organisations. The CRAs may in turn share your information with their members such as customers obtaining card payments and lenders. These entities and their members, as relevant, would use your information for their own purposes, including without limitation in relation to their own credit reference and fraud prevention searches, to prevent crime, verify your identity, recover debt and to meet their legal and regulatory obligations and process your applications. In particular, your information may be exported by CRAs and fraud prevention agencies to their members and other organisations in countries or territories outside the European Economic Area (EEA) whose data privacy law is not as protective as that in the UK (including, for example, the United States).

In particular, if you provide false or inaccurate information or fraud is suspected or identified, details will be passed to fraud prevention agencies. If GP terminates or suspends service under this Agreement under clause 14.6, GP may pass details of the reason it is terminating or suspending service under the Agreement together with details of your business including without limitation the names and addresses of the principal proprietors or directors, to fraud prevention databases operated by Card Schemes. The types of reason which may be notified to Card Schemes include, but are not limited to, circumstances such as insolvency, breach of the Agreement or excessive levels of fraudulent transactions or Chargebacks. If we have terminated your UnionPay acceptance under clause 14.6, we will inform UnionPay in writing that we have terminated our agreement with you to process UnionPay transactions. UnionPay will then add you to their "**Negative File**" a list of all merchants who are suspended from UnionPay card payment acceptance. Any merchant who is placed on the Negative File will not be allowed to enter into a new UnionPay agreement for two (2) years after termination. Should you enter into a new UnionPay agreement within this time period a warning will be issued by UnionPay to your new card processor and UnionPay will be entitled to terminate the processing of any transactions that you submit during this two (2) year suspension period. By signing the *Service Schedule* or accepting your first UnionPay transaction you confirm that you have not had UnionPay card acceptance terminated by any card processor within the last two (2) years.

All such persons described in this clause 18.3 may access and use your information for other purposes not set out above, provided you give specific permission, or, in very limited circumstances, as required by law or as permitted by Data Protection Laws. They may also use it to prevent fraud and money laundering, for example, when:

- checking details on applications for credit and credit related or other facilities;
- managing credit and credit related accounts or facilities;
- recovering debt;
- checking details on proposals and claims for all types of insurance; or
- checking details of job applicants and employees.

This information about fraud prevention agencies is condensed. GP will identify the fraud prevention agencies it uses on your written request. Go to 'Contact Us' at <http://www.globalpaymentsinc.co.uk> or telephone us for details of the contact to whom you should direct your written request. You can contact the UK's fraud prevention agencies directly to obtain a copy of your information from them for a small fee. Information held may differ so you may wish to contact them all.

18.4 Data Sharing By Us For Additional Purposes – GP and Group Companies may share between themselves relevant information about Merchant, Merchant’s owners, principals, partners, proprietors, officers, shareholders, managing agents and guarantors, its/their transactions and relationships with third parties, for credit assessment and management, customer service, compliance, audit, administrative purposes and Card Scheme compliance. This may include information provided by you, or someone acting on your behalf, or as is obtained from third party sources.

GP may exchange any information about Merchant, Merchant’s owners, principals, partners, proprietors, officers, shareholders, managing agents and guarantors (including but not limited to information obtained from CRAs described in clause 18.2 above) (referred to as “**Your Information**” below) with Group Companies and third parties such as law enforcement agencies, any Card Scheme or any of their members, other financial institutions, the UK Cards Association, and any other party deemed necessary by GP, subject to Data Protection Laws, including but not limited to any party providing a personal guarantee or security on your behalf. In particular, GP may share Your Information with American Express Payment Services Limited who may approach you with a view to entering into a contract with you for the acceptance of American Express branded payment cards and process your data for the purpose of enabling you to accept American Express branded payment cards. GP may also use and share Your Information with the organisation which referred or introduced you to us to enable that relationship to be administered and compliance with our and their commitments to be assessed by us and that organisation, and to enable that organisation to communicate with you with respect to alternative providers of equivalent services at the end of our relationship with them. You hereby authorise GP to disclose information concerning your activity to any Card Scheme, or any of their member financial institutions, the organisation that referred or introduced you to us (if any) or to any other party deemed necessary by GP, without any liability whatsoever to you (subject to clause 15).

Additionally, we may share Your Information with trusted third parties in relation to your obligations under clause 13.2. These third parties will typically be, but not exclusively, Qualified Security Assessor (QSA) companies, who will contact you directly by telephone, fax or email to discuss your PCI DSS compliance requirements and provide assistance in achieving compliance should it be needed.

Information may be processed for the purpose of complying with applicable laws and regulatory obligations, including, without limitation, anti-money laundering and anti-terrorism laws and regulations and fighting crime and terrorism. This may require the disclosure of information to a UK or other governmental or regulatory authority or to any other person deemed necessary by GP for these purposes and subject to Data Protection Laws.

Information may also be processed for our business processes including, for example, management analysis, audit, forecasts, business planning and transactions (including without limitation joint ventures and business sales), dealing with legal claims and maintaining good governance. We may anonymise your personal information and, provided you are not identified or identifiable, that data will not be subject to this notice or Data Protection Laws. We may use anonymised data for analysis of statistical trends, carrying out actuarial work, business planning, risk assessment and to analyse costs and charges.

part. In accordance with Data Protection Laws, any such disclosure would only be to actual purchasers of the business and not to prospective purchasers.

- 18.5 **Data Processing By Service Providers** - GP may use third party service providers to process your information in accordance with its instructions to provide services on its behalf, subject to appropriate measures to safeguard your information.
- 18.6 **Transfers Outside The EEA** – Your information may be processed by GP, its third party service providers and Group Companies in countries or territories outside the European Economic Area (EEA) whose data privacy law is not as protective as that in the UK (including, for example, the United States), subject to appropriate measures to safeguard your information.
- 18.7 **Information About Products And Services** – GP and Group Companies may use and share with each other, and with their selected third parties, relevant information about you, your transactions and your relationships with them (including without limitation the nature of your transactions) to give you information (including without limitation promotions) about its/their products and services by telephone, post, automated calls, e-mail, secure-message, text messaging and other electronic means, provided you opt-in to this. If you subsequently wish to stop receiving marketing from GP, please notify us at:
- Global Payments
51 De Montfort Street
Leicester
LE1 7BB
- 18.8 **Miscellaneous Data Provisions** - Under Data Protection Laws, individuals can make a written request for a copy of certain personal records GP holds about them. The current fee is £10.00. GP will deal with your request upon receipt of the fee.

GP may make and retain copies of passports, driving licences and other identification evidence that you provide, subject to Data Protection Laws.

To ensure that GP carries out your instructions accurately, to help GP to improve its services, in the interests of security, for compliance with legal and regulatory obligations and for staff training and quality control purposes GP may, subject to Data Protection Laws, monitor or record your telephone calls and other communications with GP. Any recordings remain GP's sole property.

GP will usually request your written consent before providing references. However, if GP receives a request from another financial services institution, for example, to verify your identity for money laundering prevention purposes, or from other organisations who are entitled to compel GP to provide personal information about you, GP may provide that information, without notice to or consent from you, subject to Data Protection Laws.

Since the documents constituting the Agreement contain certain information designed to help you reduce the risk of fraud you must keep them secure and not disclose them to the general public.

19 RISK MANAGEMENT

- 19.1 At any time, GP may establish an account in its books and records ("**Reserve Account**") to secure the performance of your obligations under the Agreement. You will be advised within a reasonable time of GP's exercise of this right. The Reserve Account may be funded, at GP's sole discretion, through any or all of the following in each case with such amount being as determined by GP: (a) direct payment by you, at GP's request you will deposit funds with GP which GP will hold in the Reserve Account; (b) the proceeds of transactions submitted under this Agreement which are withheld by GP for payment into the Reserve Account in accordance with this Agreement or at your instruction; or (c) the transfer by GP into the Reserve Account of funds withdrawn from any of the accounts referred to in clause 9 or accounts with any other financial institution. Any amounts so paid into your Reserve Account will be credited to the Reserve Account immediately and you authorise GP to make payments from the Reserve Account to your Nominated Bank Account (subject to the Reserve Account maintaining such minimum balance as GP may determine from time to time to meet your potential obligations as set out in this Agreement) and as otherwise set out in this Agreement.

You hereby agree that GP may deduct from this Reserve Account any amount owed to GP in accordance with the Agreement and may apply the same against any actual or contingent liabilities you may have to GP as GP elects. You agree that you have no legal or beneficial interest in any money in a Reserve Account. Without limiting GP's rights any funds in the Reserve Account may be held until the later of: (a) the expiration of any potentially applicable Chargeback rights in respect of any transactions processed by GP under the Agreement; and (b) the period necessary to secure the performance of your actual or contingent obligations under the Agreement, for which the holding period may extend beyond termination of the Agreement. No funds will be repayable to you unless payment of all of your liabilities under the Agreement is satisfied. If funds are held in a Reserve Account in a currency other than sterling, then the funds may be converted into sterling by GP for any purpose related to this Agreement (including without limitation in application against your liabilities to GP or in calculating the balance in the Reserve Account). Such conversion will be at the then prevailing exchange rate which GP will determine acting in good faith. Without limiting the generality of the foregoing, upon GP's request, you shall, upon termination of the Agreement, ensure that the sum of at least five percent (5%) of gross sales for the ninety (90) day period prior to termination is held by GP in a Reserve Account in accordance with the terms of the Agreement. GP may, at our discretion upon termination of the Agreement, require that more than five percent (5%) of gross sales for the ninety (90) day period prior to termination is held by GP in a Reserve Account.

- 19.2 GP may, at any time, require you to provide guarantees for your obligations to GP under the Agreement or to apply special terms or conditions in relation to your acceptance of transactions. GP may, at any time, require you to provide security in such form as GP may, at its discretion, determine (including without limitation the creation of a trust account, a Reserve Account, a charged account or any other security arrangement) and this may include providing for the replacement existing security. GP may rely on any general guarantees or other security provided to GP now or in the future. This security will not be released until GP deems that your obligations have been fulfilled and GP's exposure with regards to Chargebacks, fines or other sums that may be due to GP under the Agreement, has expired.

20 MISCELLANEOUS

- 20.1 Notwithstanding any other provisions of the Agreement, the introduction of the euro shall not discharge or excuse the performance of any of your obligations under the Agreement nor give you the right to end it.
- 20.2 No failure or delay by GP in exercising any right under the Agreement shall be construed as a waiver or release of that right unless GP expressly agrees otherwise in writing.
- 20.3 Except as otherwise provided in the Agreement, any notice to be given to GP by you under the Agreement shall be given in writing and shall be sent by hand, by overnight carrier, or by regular or certified mail. Except as otherwise provided in the Agreement, any notice to be given to you by GP under the Agreement shall be given in writing and shall be sent by hand, by facsimile, by e-mail, by overnight courier, or by regular or certified mail. Any notices sent to you shall be effective upon the earlier of (1) actual receipt or (2) noon on the second business day after being sent to the address provided by you in the *Service Schedule* or to any other physical address to which notices, invoices or other communications are sent to you hereunder. All notices sent to GP shall be effective upon actual receipt by GP at 51 De Montfort Street, Leicester, LE1 7BB. If you are a partnership, notice serviced on any partner will be validly served on all partners.

The parties hereto may change the name and address of the person to whom notices or other documents required under the Agreement must be sent at any time by giving written notice to the other party.

- 20.4 If GP does not deliver the standard of service you expect, or if you think GP has made a mistake, please let us know. You may contact GP's helpdesk at 0345 702 3344. Refer to the *Merchant Operating Instructions* for further details on GP's complaint process. GP will investigate the situation and, if necessary, set about putting matters right as quickly as possible. If appropriate GP will also take steps to prevent a recurrence. Please allow GP the first opportunity to answer your concerns and put matters right. However, you may be able to refer your complaint to the Financial Ombudsman Service (FOS) at South Quay Plaza, 183 Marsh Wall, London E14 9SR. Refer to the *Merchant Operating Instructions* for further details on how to contact the FOS and who can use their services.
- 20.5 The Agreement and any issues or dispute arising out of or in connection with it (whether such disputes are contractual or non-contractual in nature, such as claims in tort, for breach of statute or regulation or otherwise) shall be governed by and construed in accordance with the laws of England and Wales, shall be resolved on an individual basis without resort to any form of class action and not consolidated with the claims of any other parties, and shall be brought in the courts of England and Wales and the parties hereto expressly agree to the exclusive jurisdiction of such courts.

If GP defends or enforces any of its rights under the Agreement in any collection or legal action, you agree to reimburse GP for all costs and expenses, including without limitation reasonable legal fees, as a result of such collection or legal action. Without limiting the generality of the foregoing, you agree to reimburse GP for all costs and expenses, including without limitation reasonable legal fees, incurred by GP in enforcing or defending its rights under this clause 20.5, without regard to whether or not there has been an adjudication on the merits in any such action.

- 20.6 If any provision of the Agreement is or becomes illegal or invalid, that provision will be

deemed deleted from the Agreement and the remaining provisions shall continue in force. Paragraph headings are included for convenience only and are not to be used in interpreting the Agreement.

- 20.7 The Agreement and the documents referred to in it constitute the entire agreement between you and GP, and supersedes all prior memoranda or agreements relating thereto, whether oral or in writing. None of us has relied on any verbal or written information provided by the other unless it is set out or expressly referred to in those documents, except that we have relied and will continue to rely on all verbal and written information provided by you in relation to your business or status. Nothing in this clause will be interpreted or construed as limiting or excluding the liability of any person for fraud or fraudulent misrepresentation.
- 20.8 With the exception of clause 6.23, any person who is not a party to the Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement but this does not affect any right or remedy of any third party which exists or is available apart from that Act.
- 20.9 If you are a partnership, any act or omission of any partner will be deemed to be an act or omission of all partners.
- 20.10 This Agreement is in English and any communication or information which we send you will be in English.
- 20.11 You represent, warrant and agree that, as a condition of this Agreement, you will conduct your business in compliance with relevant anti-bribery and anti-corruption laws, including, but not limited to, the United Kingdom Bribery Act 2010 (collectively, the “**Anti-Corruption Laws**”). You further agree that any violation of an applicable Anti-Corruption Law is a material breach of this Agreement and, notwithstanding any other provision to the contrary and without prejudice to any other rights and remedies, may result in the immediate suspension of this Agreement pending its termination. Finally, you agree to promptly inform GP of any convictions against the Merchant or any of its principal, officer, or director, or shareholder under any Anti-Corruption Law.
- 20.12 The Agreement and any other documents related thereto may be executed electronically and shall take effect in the same manner as if executed by hand. For these purposes electronic signature may be by tick box, typing in of your name or any other electronic process which we use from time to time and indicate to you as required for execution by you. By completing such process you agree that this constitutes valid execution by you, that you will be bound to the terms of any Agreement so executed, that the Agreement is delivered in an electronic record capable of retention by you and us at the time of receipt and that you have the relevant facility to print and store the said Agreement.
- 20.13 Payment Services Regulations Applicability and Warranties.
- The parties agree that unless you are a Micro Enterprise or Small Charity:
- the provisions of Part 5 of the Payment Services Regulations (SI 2009/209) (the “**Regulations**”); and
 - all of regulations 54(1), 55(2), 60, 62, 63, 64, 67, 75, 76, 77 of Part 6 of the Regulations do not apply to the Agreement, and
 - a different time period applies for the purposes of regulation 59(1) of Part 6 of the Regulations.

If at any time you believe you are or will become a Micro Enterprise or a Small Charity you will notify GP immediately of that fact. Otherwise you warrant, represent and undertake to GP now and on each day on which the services are provided to you that you are not a Micro Enterprise or a Small Charity.

21 NON-QUALIFYING SURCHARGES/CROSS BORDER FEES/INTERNATIONAL SECURITY ASSESSMENTS

In addition to the Service Charges, GP may, at its sole discretion, pass on to you any non-qualifying surcharges, cross border fees, and international assessment charges imposed by the Card Schemes. GP reserves the right to charge a fee in addition to any reimbursements and you agree to pay such fee.

22 GLOBAL IRIS

In addition to the previous clauses in Agreement, the following clauses will apply if you use GP's Global Iris service.

- 22.1 **Additional Terms Explained** – In addition to the terms used in the rest of this Agreement, the following terms will be used in this clause:
- **“Authorised User”** means any of your employees or others whom you authorise from time to time to issue Customer Instructions.
 - **“Customer Instruction”** means any request or instruction through Global Iris.
 - **“Primary User”** means an Authorised User entrusted with the ability to appoint further Authorised Users.
- 22.2 **Registration Procedure** – As part of the registration process you are required to nominate a Primary User. You understand that by doing this, the nominated Primary User will have full authority to request access or control rights to other Authorised Users.
- 22.3 **Customer Instructions**
- 22.3.1 You must send a Customer Instruction through Global Iris using the appropriate password in accordance with Global Iris customer guides and this Agreement or by any other method described in the Agreement or otherwise notified by GP.
- 22.3.2 By using an appropriate password, you request and authorise GP to process all Customer Instructions received by GP even if to do so would contravene any other mandates given by you at any time concerning your accounts or affairs. GP shall be under no obligation to check the authenticity of the origin of the Customer Instruction or the authority of the person or persons sending it.
- 22.3.3 You are responsible for the accuracy and completeness of Customer Instructions and for ensuring that they will achieve your intended purpose. GP is not liable for any loss or delay if the contents of a Customer Instruction are inaccurate or incomplete.
- 22.3.4 GP may, at its absolute discretion and without liability, refuse to act on or delay acting on a Customer Instruction if GP knows of or suspects a breach of security in respect of or in connection with the operation of one or more of your Authorised User accounts or Global Iris in general.

22.3.5 In the event that GP does not act on or delays acting on a Customer Instruction pursuant to clause 22.3.4 above, GP shall notify you of this as soon as is reasonably possible.

22.3.6 A transaction being carried out is not always simultaneous with a Customer Instruction being given. Some matters may take time to process and certain Customer Instructions may only be processed during normal business hours even though Global Iris is online and may be accessible outside such hours.

22.3.7 GP may appoint other parties to provide some or all of the Global Iris services under this Agreement. You agree that such parties shall have the benefit of any provisions of this Agreement that limit our liability.

22.4 **Service Interruption**

22.4.1 GP may suspend any service provided to you under Global Iris without notice if GP considers it necessary or advisable to do so, for example to protect you when there is a suspected breach of security or we need to suspend the Global Iris service for emergency maintenance or other reasons.

22.4.2 GP will use reasonable efforts to inform you without undue delay through Global Iris or our website(s) if any service under Global Iris is not available.

22.5 **Security Provisions**

22.5.1 You and all Authorised Users agree to comply with the terms of this Agreement and any other reasonable instructions or recommendations GP may issue to you regarding Global Iris. You agree that it is your sole responsibility to set-up, maintain and regularly review security arrangements concerning access to, and use of Global Iris, and information stored on your computing and communications systems, and in particular you and any of your Authorised Users' control of passwords and access to Global Iris.

22.5.2 You confirm that you have assessed the security features of Global Iris and have determined that they are adequate to protect each of the Authorised Users and your interests.

22.5.3 You agree to ensure that each of your Authorised Users complies with the terms of this Agreement and any security procedures mentioned in it.

22.5.4 You must ensure that your Authorised Users keep their password secure and secret at all times and take steps to prevent unauthorised use of their password provided to them. For example, they must:

- never write or otherwise record their password in a way that can be understood by someone else;
- never reveal their password to anyone else including without limitation GP's staff;
- avoid passwords which may be easy to guess such as passwords used in connection with third parties;
- inform GP immediately if they believe that a third party may have seen or have had access to their password;
- never record their password on any software which retains it automatically (for example, any computer screen prompts, or 'save password' feature or the like on their internet browser);

- ensure that they are not overlooked by anyone or monitored by closed circuit TV and must avoid allowing anyone to identify the keys they are pressing while logging on; and
- change their password on a regular basis and not alternate between passwords.

22.5.5 Once they have logged on to Global Iris, the Authorised User must not leave at any time the internet terminal from which they have accessed Global Iris or let anyone else use the internet terminal until they have logged off Global Iris. You will be responsible for ensuring that each Authorised User has logged off Global Iris at the end of any session and has closed any browser.

22.5.6 You and your Authorised Users must not permit Authorised Users to access Global Iris from any computer connected to a local area network (LAN) or any public internet access device or access point without first making sure that no-one else will be able to observe or copy their access or get access to Global Iris pretending to be an Authorised User.

22.5.7 You must notify GP immediately of the following:

- any unauthorised access to Global Iris or any unauthorised transaction or instruction which you or any of your Authorised Users know of or suspect, or
- if you suspect someone else knows the password of one or more of the Authorised Users. In the event of any such breach or suspected breach of security you must ensure that all your Authorised Users change their passwords immediately to one which they have not used before.

22.5.8 You hereby agree to comply immediately with all reasonable requests for assistance from us or the police in trying to recover any losses or identify actual or potential breaches of security. We may disclose information about you or your account to the police or other third parties if we think it will help prevent or recover losses.

22.5.9 If you suspect any impropriety on the part of any Authorised User in connection with Global Iris or the Global Iris service or an Authorised User leaves your business, you must ensure that the Primary User immediately takes all steps available to ensure that the Authorised User is unable to access the Global Iris service.

22.5.10 If you suspect any impropriety on the part of the Primary User in connection with Global Iris or the Global Iris service or the Primary User leaves your business, you must immediately take steps to replace such Primary User.

22.5.11 You agree that you are solely responsible for the performance and protection of any browser used in connection with Global Iris including without limitation the prompt adoption by you of all security patches and other security measures issued or recommended from time to time by the suppliers of such browsers, and we shall not be liable for any damage to or reduction in the performance of your computer system or any part thereof by the installation or use of any browser version required to use Global Iris. From time to time GP may publish details of any restrictions relating to certain browser versions used in conjunction with our Global Iris service by notifying you (pursuant to clause 20.3 or by inclusion in a message on your invoice or in one of GP's regular publications).

22.6 **Accuracy Of Information** – GP will take reasonable care to ensure that any information provided to you by Global Iris is an accurate reflection of the information contained in its computer systems or, if the information is provided by a third party, accurately reflects the information GP receives from that third party. Due to the nature of the product and circumstances beyond GP's control GP does not warrant that the information provided

through the Global Iris service is accurate or error free.

22.7 Acceptance Of Cards

22.7.1 For each transaction that you process, you must follow all the relevant steps and procedures described in the Agreement (or contained in the Global Iris customer guides, notices, guides, or the Card Scheme Rules).

22.7.2 Undertaking transactions will be solely at your own risk, regardless of one or more of the following:

- the amount of the transaction; or
- whether any requests for authorisation or other enquiries have been made to us.

The use of the authentication process for internet transactions in Global Iris reduces this risk. This is only available for use with MasterCard and Visa cards. If the cardholder's identity is successfully authenticated through MasterCard SecureCode or Verified by Visa using Global Iris, then a Chargeback will not occur solely because the cardholder denies undertaking a transaction. This also applies if authentication is attempted but cannot be completed because the cardholder for whatever reason does not participate in a MasterCard SecureCode or Verified by Visa transaction. If the cardholder's identity cannot be authenticated for any other reason, including without limitation failure of Global Iris or your own equipment for any reason, or any inputting error or omission by you or the cardholder, you will not have the above protection from Chargeback. Authentication and its effect on liability for relevant transactions is governed by and subject to MasterCard and Visa rules (as applicable), which change from time to time. Amongst other things, these rules exclude certain cards and transactions from the authentication service. This means that even though you have opted to use Global Iris, the service and the protection it offers will not apply to all transactions. For further information please refer to MasterCard and Visa websites. Note that in any event, a transaction may be charged back for other reasons.

22.7.3 You must not send us transaction details unless the card details were encrypted (128-bit minimum) when they were sent to you over the internet.

22.8 Equipment And Licence

22.8.1 GP grants you non-exclusive, non-transferable licence to use Global Iris. Except for the specific rights granted to you by this licence, you will acquire no rights whatsoever in relation to Global Iris.

22.8.2 Global Iris is accessed through the internet, which is a public system of which GP has no control. It is therefore your duty to make sure that any computer or device that you use to access Global Iris is free from and adequately protected against acquiring computer viruses and other destructive or disruptive components.

22.8.3 You are liable for any telephone charges and any charges made by your internet service provider as a result of the use by you of Global Iris.

22.9 **Service Charges** – In addition to the charges listed in clause 8.2 a monthly submission charge may be demanded in relation to Global Iris as set out in the *Service Schedule*.

22.10 **Miscellaneous** – Copyright in the pages, screens, information (other than information about your accounts and financial affairs) and all material in their arrangement included in

Global Iris is owned by Realex Payments and licensed to GP unless otherwise noted. You may imprint, copy, download, or temporarily store extracts from the material for your own information or when you use Global Iris. You may not alter or otherwise make any changes to any material that you print or download including, without limitation, removing any identifying marks or legends from such material. Any other use is prohibited unless you first request and obtain our written permission.

23 GLOBAL FORTRESS

In addition to the previous clauses in this Agreement, the following will apply if you use GP's Global Fortress service.

- 23.1 This clause sets out the terms for your Global Fortress service with GP. They apply specifically to Global Fortress and are without prejudice to any existing and future Card Processing Agreement, Terminal Rental Agreement and any other agreements, securities, guarantees and other written instruments between us, all of which remain in full force and effect.
- 23.2 Please read this clause 23 (clause 23, hereinafter referred to as the “**Global Fortress Agreement**”) (and the Terms of Use of SecurityMetrics™, which are provided at registration), carefully. Your attention is drawn in particular to the indemnity you provide under clause 23.5.2 and to the limitations and exclusions on our liability contained in clauses 23.5 and 23.6.2 (which apply in addition to those set out in clause 15 of the Agreement). For the avoidance of doubt, the defined term “**Agreement**” includes the Global Fortress Agreement.
- 23.3 **Additional Terms Explained** – In addition to the terms used in the rest of this Agreement, the following terms will be used in this clause:
- “**Fees and Charges**” means the monthly fees and charges referred to in clause 23.7.
 - “**Data Breach**” means any data breach, hack or other activity leading to the disclosure of customer card data.
 - “**Global Fortress**” is the product name for our PCI DSS compliance programme run in conjunction with SecurityMetrics™.
 - “**PCI DSS Compliance**” means full compliance with the PCI DSS.
 - “**Provider**” means SecurityMetrics™, the QSA supporting us with this product.
 - “**QSA**” means the Qualified Security Assessor, who is approved by the PCI Security Standards Council.
 - “**SAQ**” means a PCI DSS Self Assessment Questionnaire.
 - “**Services**” means the services provided to you by the Provider as part of Global Fortress.
 - “**Start Date**” means the date your agreement for Global Fortress starts, which will be the day you contact Global Fortress to sign up by telephone, email or any other media.
- 23.4 **Acceptance** – The offer of Global Fortress is subject to any acceptance criteria we have in place from time to time. We may review or introduce new criteria and your qualification under these. This may lead to our withdrawing Global Fortress from you. We will give you at least two (2) months' notice of withdrawal of Global Fortress in this situation. Please see also clauses 23.9.2 and 23.9.3.
- 23.5 **Global Fortress**
- 23.5.1 Global Fortress does not constitute a guarantee or warranty of PCI DSS Compliance.

There are a number of actions you will be required to take to achieve and maintain PCI DSS Compliance as will be advised by the Provider. PCI DSS is an active standard, reviewed at least annually, which may require you to take further actions to maintain your compliance.

- 23.5.2 Achieving PCI DSS Compliance using Global Fortress and the Provider or an alternative QSA does not guarantee you will not suffer a Data Breach. By their very nature the PCI DSS, which are publically and freely available, are minimum standards and therefore have limitations. If you are subject to any Data Breach, we will advise you of the actions you need to take when we are aware of the breach. All liabilities, fines and costs incurred as a result of any Data Breach will be your responsibility and you will indemnify us against any liabilities, fines and costs we do or will suffer or incur as a direct or indirect result.
- 23.5.3 If you accept Global Fortress' bespoke pricing (see clause 23.7.2), all benefits attributed to Global Fortress will be limited to the equivalent of five (5) merchant IDs.
- 23.5.4 You will ensure you remain PCI DSS Compliant by renewing your compliance every twelve (12) months. While the Provider typically will advise you of the actions you need to take and when, responsibility for compliance and monitoring the timelines associated with it always remains with you.
- 23.5.5 You will promptly notify us of any Data Breach and will comply with all actions we require of you to remedy the same.
- 23.5.6 In a timely manner, you will provide us or the Provider with such information relating to your security of customer data as we or the Provider require from time to time and with such access to your systems or facilities as we or the Provider may reasonably require in order to verify the same.
- 23.5.7 Subject to clause 15.3, in no circumstances will our liability to you under the Global Fortress Agreement or in respect of Global Fortress in any way, whether in contract or in tort (including without limitation negligence) or in any other manner arising exceed the aggregate of six (6) months Fees and Charges for the Global Fortress service only at the then current rate.

23.6 The Provider

- 23.6.1 Significant parts of Global Fortress are provided to you directly by the Provider. You will enter into an agreement with the Provider for its provision of Services to you under its Terms of Use referred to in clause 23.2. You must satisfy yourself with regards to those Terms of Use. We are not a party to that agreement.
- 23.6.2 In no circumstances will the Provider be entitled to make any representation or bind us in any way. We will not be liable for any statement or representation made by the Provider, for the provision or non-provision of the Services, for the accuracy or quality of advice given to you by the Provider or for any act or omission on their part.
- 23.6.3 We will share data with the Provider to ensure we provide a professional service to you. Unless you otherwise authorise directly, the Provider will not be able to use this data for any purpose other than for that which it is intended and will not share it with any other third parties without our prior express permission. We and the Provider may make direct contact with you in connection with Global Fortress through a variety of communication channels, including but not limited to letter, telephone, email and fax.

23.7 Fees And Charges

- 23.7.1 We will charge you a monthly fee for Global Fortress charged per merchant ID and this will be advised if applicable. Current rates are available at www.globalfortress.co.uk. We may vary this fee from time to time on at least one (1) month's notice. This will be collected monthly in arrears by addition to your invoice under your Card Processing Agreement. The remainder of the calendar month in which you sign up with Global Fortress will be free.
- 23.7.2 We will apply a fee for larger Global Fortress merchants, (i.e. those with six (6) or more merchant IDs), accepting bespoke pricing, charged annually in advance. These fees will be payable direct to the Provider, collected via a Direct Debit, bank transfer or Credit Card. These fees will be agreed between you and the Provider upon enrolment. Annual renewal fees will be collected by the Provider in agreement with you. If you choose to accept bespoke pricing, clause 23.7.1 above does not apply.
- 23.7.3 After we have provided you with a formal notification of the introduction of our monthly non-compliance charge, you will have two (2) months thereafter to achieve PCI DSS Compliance to avoid the charge. If you do not do this, we will apply a monthly non-compliance charge under clause 13.2. Current rates are available at www.globalfortress.co.uk. Subject to clause 2.6 (if applicable), we may vary this charge from time to time under clause 2. This will be collected, per merchant ID, monthly in arrears, by addition to your invoice under your Card Processing Agreement. This charge may be applied in addition to your normal monthly Global Fortress fee as detailed in clause 23.7.1.
- 23.7.4 Interest shall accrue on amounts due and unpaid under this agreement (both before and after judgement) at the relevant rate charged under the Card Processing Agreement (or, if there is no such rate, at 2% above the Bank of England Base Rate from time to time).
- 23.8 **Cooling Off Period** – You can cancel Global Fortress without penalty under the Global Fortress Agreement if you notify us to this effect within fourteen (14) days of the Start Date. Please note that you may incur non-compliance or other administrative charges or both (see clauses 13.2 and 13.3). This right only applies to the original Start Date and not on any renewal (see clause 23.9.1).

23.9 Term And Termination

- 23.9.1 The agreement for Global Fortress commences on the Start Date and will run for a period of twelve (12) months, renewed automatically for further periods of twelve (12) months unless otherwise terminated in accordance with these clauses.
- 23.9.2 In addition to our rights under clause 23.4, we can terminate your agreement with us for Global Fortress at any time immediately and without having to give notice if:
- We are entitled to terminate your Card Processing Agreement;
 - You do not pay us any Fee or Charge when it is due (and we may offer you a grace period to remedy this but we are not obliged to do so);
 - Any information you supply us with in your sign up for or participation in Global Fortress is misleading, inaccurate or incomplete in any material way;
 - You terminate your contract with the Provider;
 - The Provider terminates its contract with you.

If we terminate under this clause, as well as your liabilities arising prior to termination, you will pay us the Fees and Charges for the remainder of the period until the next anniversary

of the Start Date immediately upon demand.

- 23.9.3 We can terminate the Global Fortress Agreement immediately without having to give you prior notice if our arrangements with the Provider terminates. We will, however, notify you if we so terminate as soon as reasonably possible, and will give you prior notice if reasonably practicable.
- 23.9.4 We can, in addition to our rights under clauses 23.4, 23.9.2 and 23.9.3, terminate this agreement for Global Fortress on at least two (2) months' notice.
- 23.9.5 You can terminate this agreement for Global Fortress by giving us at least one (1) month notice but this must expire on the next anniversary of the Start Date. All Fees and Charges arising prior to the date of such notice taking effect must be paid when due.
- 23.9.6 Any termination of the agreement for Global Fortress will not affect liabilities arising prior to termination. Furthermore, the termination of the Global Fortress Agreement will not affect the provision of any Services by a Provider unless the terms and conditions of that Provider state otherwise.
- 23.9.7 Should you terminate the Global Fortress Agreement, for the avoidance of doubt, you are still required to achieve and maintain PCI DSS Compliance under the Card Processing Agreement. You may be charged other fees, as detailed in clauses 13.2 and 13.3.

General

- 23.9.1 This clause 23 represents the entire terms and conditions between us and you for your participation in the Global Fortress service and our liability for any representation or statement not expressly stated in them (other than any made fraudulently) is hereby excluded.
- 23.9.2 For the avoidance of doubt, nothing in this clause 23 shall in any way affect any of our rights or your liabilities, under the Card Processing Agreement.
- 23.10.3 If any clause, or part of a clause, is held to be invalid or unenforceable, that will not affect the remainder of the clauses (or the relevant clause).

24 HOMECURRENCYPAY

In addition to the previous clauses in this Agreement, the following clauses will apply to merchants that use GP's HomeCurrencyPay service (for purposes of this clause 24, the "Service").

- 24.1 **Additional Terms Explained** – In addition to the terms used in the rest of this document, the following terms will be used in this clause:
- **"Approved Currency"** means those foreign currencies for which the Service is available to Merchants in the United Kingdom, which may be amended from time to time by GP. The Approved Currencies are listed on our website at www.globalpaymentsinc.co.uk. The list can be found on the 'HomeCurrencyPay' page, under 'Products & Services'.
 - **"Dynamic Currency Conversion" or "DCC"** means the conversion of sterling, being the currency in which the Merchant's goods or services are priced, into the currency of the country in which the card is issued providing it is an Approved Currency, as agreed upon by the International Cardholder and Merchant, in accordance with the terms and

conditions contained herein.

- **"Foreign Charge"** means a charge or charges for the Merchant's goods or services in an Approved Currency under or pursuant to an International Card Transaction.
- **"HomeCurrencyPay"** or **"HCP"** is the name of GP's DCC service.
- **"International Cardholder"** means a cardholder whose card is denominated in an Approved Currency.
- **"International Card Transaction"** means a card transaction between the Merchant and an International Cardholder, excluding Non-HCP Card Transactions, as more specifically provided in this clause 24.
- **"Merchant Commission"** means the amount credited to the Merchant as an incentive for its participation in the Service, as set forth in and calculated pursuant to clause 24.4.
- **"Non-HCP Card Transaction"** means a card transaction to which HCP will not apply, including, without limitation, card transactions involving cards issued in currencies other than an Approved Currency, or which are from particular issuers which GP decides to exclude from HCP, card transactions in respect of which the International Cardholder elects not to use HCP, and such other card transactions excluded from HCP as determined by GP from time to time.
- **"Purchase Amount"** means the original sterling amount of the International Card Transaction, prior to currency conversion.

24.2 Description Of The HomeCurrencyPay Service

- 24.2.1 The provision of this Service authorises you to offer certain International Cardholders the choice to pay in sterling or the currency of the country in which the card is issued but receive payment from GP in sterling. The terms of this clause 24 apply specifically to transactions being processed through HCP during the term of this Agreement. You are not authorised to submit payment details through any other DCC provider without our prior written consent. Varying terms and conditions may apply if you use another DCC provider.
- 24.2.2 HCP will enable certain of your customers, who are International Cardholders, to present a card at your point-of-sale and to pay or be charged for a purchase in the Approved Currency in which the card is denominated, based upon a rate of exchange determined by GP, while you receive settlement of the Foreign Charge in sterling.
- 24.2.3 You acknowledge and agree that an International Card Transaction will be converted to the Approved Currency in which the card is denominated based upon an exchange rate in effect at the time for retail card transactions (as set by GP) and that the International Card Transaction, as converted, will be cleared through the applicable Card Scheme in the Approved Currency in which the card is denominated. HCP shall apply only to transactions on those cards issued by MasterCard and Visa that are debited to the cardholder in an Approved Currency. GP reserves the right to add, delete or suspend any currency to or from HCP, as the case may be, at any time with or without notice to you. Further, GP may terminate the Service for any reason upon at least two (2) months' notice and in addition, pending the termination, may suspend the Service with immediate effect by notice to you, if necessary.
- 24.2.4 Although you will not incur additional fees from GP for submitting an International Card Transaction via HCP, GP's customary processing fees will apply; the Card Schemes may assess additional fees for such International Card Transactions. Except for the Merchant Commission, you will not be entitled to any additional amounts in connection with an International Card Transaction. HCP transactions will not appear separately on your monthly invoice.

24.2.5 You acknowledge that some of the Service may be provided by third parties. You agree that you have no contractual relationship with any third party and that you are not a third party beneficiary of any agreement between GP, as applicable, and such third party.

24.3 HomeCurrencyPay Service Requirements

You will comply with all reasonable instructions provided by GP from time to time pertaining to your participation in HCP. In addition, you will comply with all Card Scheme requirements related to any DCC service. Without limiting the foregoing, you agree to comply with the following specific Service requirements.

24.3.1 **International Cardholder Opt-In:** You shall, based upon the instructions and specifications from time to time provided by GP, provide International Cardholders with the ability to 'opt-in', or consent to participate in the Service. You agree that you will, in connection with each International Card Transaction:

- inform the International Cardholder that the Service is optional and that they have the choice to pay in the local currency, if they prefer;
- disclose to the International Cardholder the transaction amount in both sterling and the cardholder's home currency and the applicable exchange rate;
- not impose any additional requirements on the International Cardholder to have the card transaction processed in the local currency;
- not use any language or procedures that may cause the International Cardholder to choose the Service by default; and
- not misrepresent, either explicitly or implicitly, that its HomeCurrencyPay Service is a service of a Card Scheme.

In the event that a particular International Cardholder elects not to opt-in, it is understood that such card transaction will not be an International Card Transaction, and GP will process that International Cardholder's card transaction in sterling. Without limiting the generality of anything in the Agreement, it is understood that any International Card Transaction for which you fail to provide an International Cardholder with the opt-in procedure as described herein may result in a Chargeback as described in clause 24.3.5.

Training for all staff at point of sale offering HCP is a Card Scheme requirement. Training is provided by GP or a third party on GP's behalf. You are responsible to ensure that appropriate staff are trained and the training is kept current, including without limitation training for any new staff employed after initial staff training.

24.3.2 **Compliance With Service Specifications And Instructions:** You agree to comply with all instructions and specifications applicable to the Service as provided by GP and the Card Schemes from time to time. Without limiting the generality of the foregoing, you shall follow the Service instructions, as may be amended by GP from time to time.

24.3.3 **Timely Presentment Of International Card Transactions:** You acknowledge that the timely presentment of International Card Transactions is necessary for participation in the Service. You agree that you shall present each International Card Transaction to GP within twenty four (24) hours of the completion of such International Card Transaction. In the event that you fail to present an International Card Transaction within the specified timeframe, GP may reduce the amount of any current or future Merchant Commission to the extent that the amount received from the applicable Card Scheme as settlement of such International Card Transaction is less than the Purchase Amount plus any mark-up or commission applied to such Purchase Amount pursuant to the Service.

24.3.4 **Refunds:** In the event that you issue a refund to an International Cardholder's account, reflecting either the partial or complete return or reimbursement of an International Card Transaction, such refund will, in GP's sole determination, be processed in sterling or the Approved Currency. In the event that such refund is processed in the Approved Currency, given the potential variances in exchange rates applied to the underlying International Card Transactions and the associated refund, the Merchant acknowledges that the final amount of the refund will likely differ from the original settlement amount received by you for the International Card Transaction in sterling. Notwithstanding anything herein to the contrary, you acknowledge that you will be responsible for the full amount of the refund.

24.3.5 **Chargebacks And Rejected Transactions:** If an International Card Transaction is charged back for any reason by the International Cardholder or the applicable card issuing institution, or a transaction is rejected as part of our validation process, the amount of the Chargeback or rejection will be the same as the original transaction amount received by you for the International Card Transaction in sterling.

24.4 **Merchant Commission And Crediting**

24.4.1 As an incentive for your participation in the Service, your account will be credited with an amount equal to a percentage of the Purchase Amount of the International Card Transactions submitted by you for processing under the Service. The agreed percentage amount will appear on your *Service Schedule* or any more recent communication from us. The total of Merchant Commission you will receive is calculated at the beginning of each month for the International Card Transactions you have submitted in the prior calendar month and credited to you on your monthly invoice in the subsequent month. Thus, by way of example, for International Card Transactions submitted in January, the total of Merchant Commission will be calculated at the beginning of February and be reflected on your February monthly invoice received at the beginning of March. Please note the Merchant Commission may appear as a debit amount if you are subject to adjustments made under clause 24.4.3 that exceed your credit payment.

24.4.2 International Card Transactions via HCP will be credited to your account with all Non-HCP Card Transactions as both transaction types are settled in sterling. For clarification, they will not be credited separately, or be subject to any additional crediting delays to your agreed Crediting Timescales, nor will they appear separately on your monthly invoice. If you have any queries on any of your International Card Transactions, please contact our helpdesk on 0345 702 3344.

24.4.3 If any Merchant Commission is credited in respect of the amount of the International Card Transactions submitted, and the amount of the International Card Transactions submitted is subsequently reduced by any one or more of (i) refund card transactions, (ii) Chargeback, and (iii) card transactions for which GP shall be entitled to reimbursement under the Agreement, such Merchant Commission may be adjusted accordingly. Such excess Merchant Commission may be deducted from any future payments made to you under the Agreement or debited from your account(s) in connection with the Agreement.

24.5 **Term Of The HomeCurrencyPay Service And Termination**

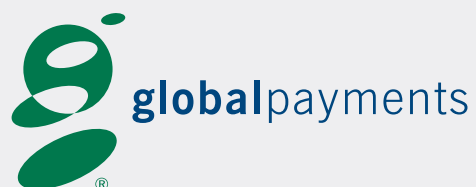
24.5.1 The term of the Service shall run concurrently with the term of the Agreement.

24.5.2 If at any time you wish to cease participating in HCP, you shall give at least one (1) month's written notice of such intention to GP and you shall cease to participate in HCP effective as of the date specified in such notice, unless you at any time notify GP prior to such date

that you wish to continue to participate in HCP, and provided further that the Agreement is still in full force and effect and not terminated in accordance with the terms therein. Upon termination of your participation in HCP, provided the Agreement is still in effect, you will receive the Merchant Commission for International Card Transactions up to the date of termination of your participation in the Service.

- 24.5.3 Cessation of your participation in HCP in accordance with the terms of this clause 24 does not affect the validity and effectiveness of the remainder of the Agreement.
- 24.5.4 You hereby acknowledge and agree that the Service shall terminate immediately upon termination of the Agreement such that, in such event, you may not receive the Merchant Commission for International Card Transactions processed during the month in which the Agreement is terminated. Thus, by way of example, if the Agreement is terminated on 31st March, you may not be paid the Merchant Commission for International Card Transactions for the month of March. Payment of the final Merchant Commission is subject to:
- your Nominated Bank Account remaining open as per clause 14.7; and
 - a minimum credit amount of £5.00 as a manual processing charge will apply once your card processing facility is closed and payment of a lesser amount is negated by these charges.
- 24.5.5 If only HCP has been terminated, the functionality for this will typically be removed from the point of sale. If the terminal is rented from GP or you use Global Iris, this will be done by us. If you rent from another terminal provider or use a PSP, you will need to arrange removal of the HCP software with them directly.

This booklet is a very important document. You must keep it secure and not divulge its contents to the general public.



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Global Payments is HSBC Bank Plc's preferred supplier for card processing in the UK.

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