

# 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 (“**GPN**”) consists of the following documents:

- these Terms of Service, as may be amended from time to time;
- the Service Schedule, as 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 GPN may issue from time to time;
- any special conditions that GPN may notify to you from time to time; and
- all documents relating to security provided to GPN.

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 GPN. During the term of the Agreement, GPN 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](http://www.mastercard.co.uk) and [www.visa.co.uk](http://www.visa.co.uk)). You must make sure that you have read those Card Scheme Rules that are available on the Card Scheme’s website. Your submission of a transaction to GPN shall be deemed to signify your acceptance of the Agreement.

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, GPN may end the Agreement, and if GPN has reason to believe that there is any dispute as to who is entitled to any funds GPN holds, you authorise GPN to pay such funds into the account which GPN will maintain for you in its books and records until GPN 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) GPN 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 GPN 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 GPN and such third party. You may not resell the services of GPN or any third party providing services under the Agreement to any other party.

## 2. Changes to this Agreement

- 2.1 GPN may vary this Agreement as GPN considers necessary as a result of any change to or in order to ensure compliance with the Card Scheme Rules, applicable law and PCI DSS rules.
- 2.2 GPN may vary the rate or basis of the Service Charges if there is any change in the fees levied upon GPN by the Card Schemes or as a result of any change in the Card Scheme Rules. GPN may also vary the rate or basis of the Service Charges if there are any changes in other costs or fees levied upon GPN.
- 2.3 GPN 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 due a change in Card Scheme Rules.
- 2.4 GPN may make any other variations to this Agreement as GPN may from time to time require.
- 2.5 Except where clause [2.6](#) applies:
- GPN 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](#);
  - GPN 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, GPN 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 GPN suspects fraud, to prevent fraud or due to a change in Card Scheme Rules. If GPN 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.
  - GPN 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 GPN 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 GPN pursuant to clause [20.3](#); and
    - if you do not notify GPN 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 GPN 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:
- GPN 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 give GPN written notice that you do not accept such change and wish to terminate this Agreement at any time before such change comes into effect; and
  - if you do not notify GPN 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 GPN 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 GPN providing you, either in accordance with clause [20.3](#) or by inclusion in a message on your invoice or in one of GPN'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.com/en-gb](http://www.globalpaymentsinc.com/en-gb)).
- 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 GPN to make.



### 3. Other Terms Explained

Listed below are the defined terms used within these *Terms of Service*.

- **“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, American Express or any card association or organisation applicable hereunder (for example, JCB, 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, American Express and any other Card Scheme or organisation covered by the Agreement as amended from time to time.
- **“Corporate Cards”** means cards issued to employees for business expenditures such as office equipment and supplies or services.
- **“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 GPN) in which we aim to credit your Nominated Bank Account. Crediting Timescales, however, cannot and are not guaranteed.
- **“Data Protection Laws”** means the General Data Protection Regulation (EU) 2016/679 and any implementing legislation in the UK.
- **“Data Security Incident”** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.
- **“Device”** means the Mobile Pay chip and PIN card reader supplied to you by GPN or approved by GPN, if applicable.
- **“Direct Debit Instruction”** means an instruction to your financial institution in a form acceptable to GPN authorising GPN to debit your account.
- **“Disputes”** (also known as Chargebacks) 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 GPN may debit to you. Further details of the circumstances in which a Dispute may arise and related procedures can be found within the Merchant Operating Instructions. If you issue any credit to a cardholder to avoid a Dispute arising then GPN may treat such credit as a Dispute.
- **“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.
- **“Mobile Pay Transaction”** means a card transaction between you and a cardholder using the Mobile POS Solution, if applicable.
- **“International Transfer”** means a transfer to a country outside the European Economic Area (EEA) (as it is made up from time to time) of Personal Data which is undergoing processing or which is intended to be processed after transfer.
- **“Merchant Operating Instructions”** means the guide issued by GPN, 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 GPN or approved by GPN for the acceptance of Mobile Pay 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 GPN has approved for the purposes of receiving credits or debits from GPN. Unless we have agreed otherwise, all debits and credits will, subject to any of GPN’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.
- **“Personal Data”** means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
- **“Regulated Card”** means a card-based payment instrument as defined in Article 2(20) of Regulation (EU) 2015/751 of the European Parliament and of the Council of 29th April 2015 on interchange fees for card-based payment transactions, excluding where the instrument is issued by an issuer located outside of the EEA and commercial cards as defined in Article 2(6) of Regulation (EU) 2015/751.
- **“Service Charges”** means all charges of any type payable by you to GPN 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 GPN 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.
- **“Sub-Processor”** means any third party appointed by GPN to process Personal Data.

## 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 GPN 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 Dispute. 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 Regulated Cards (excluding Corporate Cards) and UnionPay cards, where it is strictly not allowed). If you choose to surcharge for accepting non-Regulated 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 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.
- 4.9 You must not accept transactions or present transaction data for processing which are not undertaken directly between you and the cardholder.
- 4.10 You must not process transactions on behalf of a third party, whether another person or business.
- 4.11 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.
- 4.12 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.
- 4.13 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.
- 4.14 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.
- 4.15 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.

4.16 You warrant, undertake and represent to GPN:

- 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;
- 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;
- that you will comply fully with all laws, rules and regulations applicable to your business;
- 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;
- that any signature on the sales slip is genuine and authorised by cardholder and not forged or unauthorised;
- 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;
- that none of the sales transactions submitted hereunder represent CNP Transactions, unless you are specifically authorised in writing by GPN for such transaction;
- 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
- 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.

4.17 Where you reserve an amount of money on a card to make sure that there are sufficient funds for a future transaction (for example, if a cardholder stays in a hotel room), you must agree the exact amount to be taken with the cardholder before you reserve any funds.

## **CNP Transactions**

- 4.18 You may accept CNP Transactions only if authorised in the Service Schedule or as provided separately in writing.
- 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 GPN does not guarantee that any CNP Transaction will be honoured or that GPN will not exercise its Dispute or other rights of reduction or set-off under the Agreement in relation to such a transaction.

## **Internet Transactions**

- 4.21 If GPN 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 GPN.
- 4.23 The Card Schemes may mandate from time to time that certain merchants/business sectors must use Mastercard Identity Check/Visa Secure/American Express SafeKey or any other security protocol and you must implement these protocols if GPN advises you to do so in the timescales requested.
- 4.24 All e-commerce transactions that have been authenticated using American Express Securekey, Mastercard Identity Check or Visa Secure must have the 3DS cryptogram in the correct place within the transaction message. This is the measure that Mastercard and Visa use to identify whether a transaction has been Mastercard Identity Check/Visa Secure/American Express SafeKey authenticated or not.



- 4.25 If you choose a Payment Service Provider ("PSP") to process card transactions on your behalf, GPN must give its prior written approval and they must be accredited and registered by GPN. After GPN 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 GPN's prior written agreement.
- 4.26 You agree to pay any testing and accreditation costs incurred by GPN in connection with approving your PSP's solutions.
- 4.27 You authorise your PSP to pass to GPN, and authorise GPN to obtain from your PSP, such information as GPN 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 fully indemnify GPN against any losses, Card Scheme fines or charges, damages or liability that GPN 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 GPN 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 4.15 must always be available and correct. If you are unable to supply goods or services ordered, you must offer an immediate refund. GPN 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 GPN or the Card Schemes require, and you will be liable for any scheme charges, penalties or fines incurred by GPN 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 GPN 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 GPN 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 separate account for each currency you wish to receive currency credits in. Service Charges and Disputes for all currency transactions will be debited in sterling to a sterling account. 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 GPN'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, GPN 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 GPN 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 GPN 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 GPN's request. You must submit to GPN all your promotional or sales material which refers to GPN or any card type for GPN'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 GPN's intellectual property rights, save that you may use GPN'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;
  - GPN authorises you to use such of GPN's trademarks and/or names as GPN 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 GPN and is accompanied by an acknowledgement in a form approved by GPN that the same is a trade mark or name of GPN.
- 6.3 If you use any terminals in relation to transactions, they must either be supplied by GPN or approved by GPN. 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 GPN is compliant with PCI DSS as of the date of this Agreement. This will help your business achieve PCI DSS compliance.
- 6.4 If GPN 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 GPN, 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 GPN and you must keep them in your possession and under your control at all times. If the Rented Terminals are returned to GPN 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 GPN'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. GPN 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 GPN 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 Mobile Pay Transactions, these inspections are also subject to clauses 6.27 and 6.29.
- 6.8 If GPN 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 GPN for the cost of the aborted installation.
- 6.9 You must allow GPN'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 GPN and will provide us promptly with evidence of cover on request.
- 6.11 If GPN 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 GPN).
- 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 GPN.
- 6.13 GPN shall not be liable to you for any loss resulting from any breakdown of or fault in any Rented Terminal. GPN 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 GPN 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 GPN will make the necessary arrangements to obtain required maintenance in respect of such Rented Terminal. You must not attempt to carry out any maintenance on the Rented Terminals without instructions to do so from us. You shall cooperate with GPN 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 GPN, you will be liable to GPN in the event that any rented item of equipment is lost, destroyed, stolen or rendered inoperative. GPN 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 of refurbishing them back to good order at the end of the agreement for the Rented Terminal. You must also bear all costs associated with the collection of a Rented Terminal including but not limited to where the agreement for the Rented Terminal is terminated or where you wish to upgrade to a different model. Where GPN is unable to collect a Rented Terminal, a charge equal to the full replacement value of the Rented Terminal will apply. GPN will provide details of the applicable charges on request. You will fully indemnify GPN against any loss which GPN 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 fully indemnify GPN for any costs, expenses, and judgments GPN 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 6.24 (inclusive) shall apply to all terminals used by you in connection with the Agreement (whether or not rented to you from GPN).
- 6.16 If your business uses a switchboard, you must provide GPN 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 GPN. 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 and Discover Global Network. GPN 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 GPN will pass the transaction details on to the relevant card issuer (for example, American Express and Discover Global Network), GPN will not credit your bank account with the value of the transaction. The card issuer will credit you by whatever method you have agreed. GPN 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 GPN will pass on the transaction details to the relevant card issuer within the timescales set out in clause 9.1. If GPN becomes aware that GPN has failed to do this, GPN 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 fully indemnify GPN against all costs, damages and expenses which GPN 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 GPN supports from time to time.
- You must ensure that your card acceptance systems meet the latest Card Payments Industry standards that will be issued to you by the third party providing these systems.
  - Additionally, you must install specific terminal functionality or cooperate with any upgrade programmes, which will be notified to you by GPN, for reasons of fraud prevention, terminal compliance with Card Scheme Rules or otherwise.
- 6.20 The successful transaction submission of a terminal is your responsibility. If your transactions are not submitted 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 Disputes, relating to late presentation or for loss of interest. If you use a Rented Terminal, you are responsible for carrying out an end of day banking/reconciliation transaction procedure at the end of each day you trade or by 2:00 a.m., whichever is the earlier. If a successful end of day report is not received, you must contact GPN 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 GPN 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 GPN 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 relation 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 GPN's terminal supplier(s).
- 6.23 GPN will only maintain terminals on our authorisation system that are actively being used. Where you use a Rented Terminal or third-party terminal you should only request it to be added to our authorisation system at the time it will be used. When a terminal is no longer in use, you must contact us to remove it from our authorisation system. If a terminal is inactive for more than eighteen (18) months (no authorisation request having been received during this period), it will be deleted from our authorisation system as part of our regular data purges.
- 6.24 You must ensure that you are aware of the location of all terminals within your possession and periodically inspect devices to look for tampering or substitution. In addition you must ensure that all staff are trained to be aware of suspicious behaviour and to report tampering or substitution of terminals.
- 6.25 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, GPN 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. GPN'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

- 6.26 **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 GPN during the application process or from an authorised reseller.
- 6.27 **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 GPN, within the first twelve (12) months after the delivery of the Device, GPN 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 GPN 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 GPN, within the first ninety (90) days from the date on which the Device on which the Software is installed is delivered to you, GPN 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 GPN 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 GPN, 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 GPN, 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.

GPN shall not be liable for a breach of the warranties contained in this clause [6.27](#) related to the Device unless (i) GPN 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 GPN's instructions (including without limitation the timelines set forth in such instructions) and GPN is given a reasonable opportunity to examine the Device.

Any Device (excluding the Software) or Software, which is repaired or replaced under this clause [6.27](#) 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).

- 6.28 **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 GPN in writing following the instructions on our Mobile Pay website at [www.globalimpos.co.uk](http://www.globalimpos.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. GPN shall not be liable in respect of any claim notified to it after such time.
- 6.29 **Dead On Arrival.** Any Device that is received in a non-operational state must be reported to GPN within thirty (30) days of the original delivery date of such Device.
- 6.30 **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.
- 6.31 **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.
- 6.32 **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 GPN provides hereunder, and you agree to use no such mobile device in connection with the Mobile POS Solution.



**6.33 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 GPN at the address below or to a third party specified by GPN for safe destruction or disposal as required by Directive 2002/96/EC and applicable national law. This clause applies to all equipment provided by GPN to you which becomes waste as a result of the termination of this Agreement or the purchase or hire of new equipment from GPN. 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 fully indemnify and keep indemnified and hold harmless GPN from and against all costs and expenses which GPN 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 GPN in accordance with this clause, please use the following address:

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

## 7. Disputes, Retrieval Requests and Suspicious Transactions

**7.1** If (a) a cardholder disputes a transaction, (b) GPN receives a retrieval request or a returned transaction from the card issuer, (c) GPN believes a transaction to be suspicious, questionable, not genuine or otherwise unacceptable, (d) GPN reasonably believes that any of the warranties and representations set forth in clause [4.16](#) are untrue (e) a card issuer seeks reimbursement for a settled transaction or (f) GPN otherwise reasonably believes it will be liable to future Disputes in respect of you, then GPN 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 GPN 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 GPN to you in respect of the relevant transaction.

For the avoidance of doubt, this means that GPN may, in such circumstances, pay any amount otherwise due to you into a Reserve Account (as described in clause [19](#)). GPN 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 GPN with any available information in respect of any of the above circumstances or to re-present a Dispute and that, regardless of any information you provide or do not provide GPN in connection with a Dispute, or of any other reason, you shall be solely responsible for the liability related to any Disputes. If any such amount is uncollectible through withholding from any payments due hereunder, paying such amount into any account which GPN holds in respect of you in its books and records or through charging your account(s), you shall, upon demand by GPN, pay GPN the full amount of the Dispute. GPN reserves the right to make an administrative charge in respect of the processing of any Dispute or retrieval request hereunder and you agree to pay such charges.

**7.2** The rights of GPN 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 GPN under the Agreement, you must pay GPN the Service Charges on demand. GPN 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 GPN under the Agreement must be made in sterling.
- 8.2 GPN shall be entitled to debit your Nominated Bank Account(s) or debit any account which GPN 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 GPN 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;
  - the amount of all refunds made by you (or GPN on your behalf) to cardholders;
  - any overpayments made by GPN;
  - any sums debited to you under the Agreement or due pursuant to clause [7](#) (including without limitation administration fees in connection therewith);
  - all sums GPN 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;
  - administration 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 GPN to debit or credit your Nominated Bank Account accordingly. If your Nominated Bank Account does not contain sufficient funds or GPN is unable to debit it for any reason, GPN will place any credits due to you on automatic reserve until outstanding amounts have been paid. If outstanding amounts cannot be recouped via this method, then you agree to remit the amount owed directly to GPN within three (3) days of demand. You agree not to, directly or indirectly, prevent, block or otherwise preclude any debit by GPN or your financial institution to your Nominated Bank Account which is permitted hereunder.

- 8.3 You agree to hold harmless and fully indemnify GPN for any fines, penalties, fees, charges, costs or expenses which are or will be imposed on GPN by any Card Scheme or any other third party as a result of:
- you breaching the Agreement in any way, or
  - the volume of Disputes that 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
  - you submitting transactions that result in a message format error, or
  - any other action or omission of yours.
- GPN 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 GPN's or any Card Scheme's opinion or in accordance with the Card Scheme Rules, you receive a disproportionate level of Disputes, GPN reserves the right to make an administrative charge in respect of the additional work this entails, and you agree to
- pay such charge and
  - comply with any instructions received from GPN. Charges may vary depending on the circumstance (for example, Card Scheme, number of Disputes) and details are available on request.
- 8.5 Without prejudice to any other right GPN 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 GPN may set-off or combine any liability that you may have to GPN against any liability which GPN 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 GPN 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](#) GPN 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 GPN 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.
- GPN 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 GPN receives your payment order.
- 9.2 For this purpose, the date GPN receives your payment order will be:
- if you use a Rented Terminal or process Mobile Pay 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 GPN by file transfer, the date on which the file is submitted successfully; and
  - if you use Fallback paper vouchers and post them to GPN, allowing for postage, it will typically take a further business day from the date of receipt for the payment order to be input.

If GPN receives your electronic payment order on a day which is not a business day, or after 4:00 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 GPN from card issuers by way of settlement of transactions submitted by you will be held to your account in the books and records of GPN on the same business day as the settlement funds are received by GPN.

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

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

- firstly, in payment of amounts due to GPN in accordance with this Agreement or as set out in invoices which GPN has sent to you in accordance with this Agreement which are not paid (or scheduled to be paid) by Direct Debit Instruction in accordance with clause [8.2](#) of this Agreement;
- secondly, where you are credited in a non-sterling currency and your refunds are greater than sales, we will hold your funds, until such a time as the funds available exceed the accrued refunds, at which point we will release the funds to you, net of refunds;
- thirdly, in payment of amounts to be paid into your Reserve Account maintained in accordance with clause [19](#);
- fourthly, amounts placed into an account which GPN 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 settlement Service Schedule agreed between you and GPN.

Payments into your Nominated Bank Account will be made Monday to Friday excluding public holidays but timing of payment is dependent on your financial institution. Please note any Payments relating to JCB transactions are made net of any fees already deducted by us.

- 9.3 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 GPN 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 GPN may give your financial institution to so debit the account.
- 9.4 Except as set forth in clause [4.35](#), you must give GPN at least one (1) months' notice if you intend to change your Nominated Bank Account or any substitute account. Any account change is subject to GPN's approval. If you change your Nominated Bank Account to another financial institution, GPN will require you to authorise the new financial institution by way of a Direct Debit Instruction to make payments due to GPN under the Agreement. If clause [4.35](#) is applicable, you must receive GPN's prior written consent prior to making any changes to the foreign currency Nominated Bank Account in accordance with that clause.
- 9.5 It is your responsibility to reconcile entries on your Nominated Bank Account(s) and to notify GPN 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 GPN be liable for any failure to make a payment transaction which is not reported in writing to GPN 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.
- 9.6 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

GPN will make available to you invoices showing the amount of charges and other sums due to be paid by you to GPN under the Agreement including without limitation any VAT and any other relevant taxes. Such invoices will be provided in accordance with GPN's then current practices regarding delivery of invoices, but GPN 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, GPN 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 GPN with details of all transactions in the form and by the methods described in the Agreement or as otherwise notified by GPN. You must not present or allow anyone else to present to GPN 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 GPN as specifically requested in writing in individual cases) and you must provide GPN with copies on request. After seven (7) months you may transfer all this information to processed/scanned images if you prefer, subject to GPN'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 GPN 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 GPN requests.
- 11.4 You must provide GPN 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 GPN may from time to time request in order to assess your financial position. From time to time, GPN 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 GPN, its employees or contractors in that review. GPN, 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 GPN may seek injunctive relief with respect to your failure to furnish financial or other information upon request.
- 11.5 You must notify GPN 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 GPN. You must also notify GPN if you cease to be a member of any trade association or affinity group, at which point we reserve the right to withdraw any preferential terms that were being applied whilst you were a member. You agree to provide GPN with two (2) months prior written notice of your intent to
- transfer or sell any substantial part (ten percent (10%) or more) of your total ownership interest or assets or to liquidate;
  - change the basic nature of your business;
  - convert all or part of your business to anything other than CP Transactions (unless authorised in the Service Schedule or otherwise by GPN 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. GPN will provide details of the applicable charge on request.

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- 11.6 You must provide such reasonable assistance as GPN may require for the assessment of breaches of this Agreement, credit risk, insolvency or the prevention and detection of money laundering, if you are suspected of experiencing a data breach, or any other fraudulent or criminal activity. GPN may suspend the processing of, or withhold payment of such amount(s) and pay them into any account which GPN 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 GPN has already credited your Nominated Bank Account, GPN 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 GPN has reasonable suspicion of a breach of the Agreement or money laundering or any other fraudulent or criminal activity. GPN may retain such amount(s) until GPN has concluded its investigations or until GPN is reasonably satisfied that the transaction or transactions in question are no longer subject to Dispute rights whichever is longer. You agree GPN's fraud investigators may attend and have access to your trading premises and business records without prior notification.
- 11.7 You must assist GPN with any financial or reconciliation query by providing such transaction details and other documentation or evidence as GPN requires.
- 11.8 You must notify GPN 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 GPN.
- 11.9 If you join a trade association or affinity group for which GPN offers preferential terms, you must notify GPN and, if relevant, provide a valid membership number in order to benefit from such terms.
- 11.10 You must advise GPN immediately if you suspect or become aware that you, or a third party that you utilise, have experienced a data breach and will comply with all actions we require of you to remedy the same.
- 11.11 Upon request you must provide evidence that you have validated your PCI DSS compliance.
- 11.12 If you are obliged to provide information under this Agreement to GPN, in the absence of any specific time period, you will provide it promptly.

## 12. Changes to Card Industry Regulations

- 12.1 The Payment Card Industry Security Standards Council, the Card Schemes, the Financial Conduct Authority and the Payment Systems Regulator may stipulate changes to GPN or card industry operating regulations which apply to GPN 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 GPN will be entitled to vary the Agreement in accordance with clause 2. The Card Scheme Rules may be changed immediately.
- 12.2 You must adhere to any changes to your processing and trading practices GPN requests due to compliance programmes introduced by Card Schemes changes.
- 12.3 You must fully participate with any investigation required relating to any processing issues you may have, whether identified by GPN, yourself or other parties, and resolve the issues that are within your responsibility within the requested timeframe. GPN 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 Dispute 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 GPN 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](http://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 Payment Card Industry Forensic Investigator (PFI) 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. GPN will provide written confirmation and a breakdown of specific costs incurred where this is applicable.
- 13.5 You must ensure that all systems utilised for payment processing have all appropriate software patches to protect against the exploitation and compromise of cardholder data by malicious individuals and malicious software.
- 13.6 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 or four digit number printed on the back of the card in or next to the signature panel;
  - CVV/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;
  - Cardholder Authentication Verification Value; and
  - PIN Verification Value (PVV); PIN offset contained in the magnetic stripe or the chip.
- 13.7 Unless GPN 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, 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).
- 13.8 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.
- 13.9 You also agree to cooperate at your sole expense with any request for an audit or investigation by GPN, 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 GPN 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 GPN ends the Agreement in accordance with clause [14.3](#) or [14.6](#), if either occurs within the first six (6) months of the Agreement, then you shall pay GPN £150 in respect of our reasonable administrative costs. Such amount shall be in addition to any other remedies available to GPN.
- 14.5 Notwithstanding the foregoing, GPN may terminate the Agreement or any portion thereof upon one (1) months' written notice to Merchant unless you are a Micro Enterprise or a Small Charity in which case GPN may terminate the Agreement or any portion thereof upon two (2) months' written notice to you.
- 14.6 In addition, GPN 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 to process card transactions on your behalf and your agreement with such provider terminates or GPN considers that the terms are unacceptable or the PSP has become insolvent or any step has been taken for its liquidation, bankruptcy, receivership, administration, dissolution or other similar event or the PSP fails to comply with any Card Scheme Rules, the Merchant Operating Instructions or any of our other requirements;
  - any PSP 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, GPN requirements, or the Merchant Operating Instructions, or you are not compliant with PCI DSS or any future programme that comes into force;
  - you fail to disclose any former non-compliance or data breaches;
  - 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 GPN 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 GPN 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 Dispute request for fulfilment and retrieval deliberately and without proper reason;

- GPN 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 GPN to the opinion that:
- it could damage GPN'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 GPN'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 GPN 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 Disputes or any other amounts due hereunder (even if such Disputes or amounts come in after termination). You must pay GPN 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, GPN will arrange collection of all equipment and materials supplied by GPN at your expense. Where GPN is unable to collect the equipment and materials, a charge equal to the full replacement value of that equipment or materials will apply. If GPN 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 4.16, 4.20, 7, 8.2, 8.3 to 8.6, 9.3, 9.4, 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) months' 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 the Global Payments E-Commerce Platform, 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 GPN 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. GPN 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 GPN for any loss arising out of or relating in any way to the Agreement (other than any loss to which clause [23.5.6](#) (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 GPN'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 GPN, whether contract, tort, or otherwise, and the foregoing shall constitute your exclusive remedy. Under no circumstances shall GPN 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 GPN has been advised of the possibility of such damages.
- 15.3 Notwithstanding anything to the contrary in this Agreement, GPN 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, GPN, or another party. You agree to fully indemnify and hold GPN 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 GPN and which arise out of or relating to:
- your breach of the Agreement;
  - any claim brought against GPN 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 GPN may take as a result of or during the course of such investigations.
- 16.2 If a claim is brought against GPN by a cardholder or card issuer, you must assist GPN in the handling of the claim and GPN 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 GPN'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 GPN 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 GPN may transfer any of its rights and obligations under this Agreement without notice to you. GPN 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 GPN hereunder shall include, but shall not be limited to, the authority and right to debit your account(s) as described herein. GPN may delegate or subcontract the performance of any of its obligations to any person.

## 18. Data Protection

In this clause, for sole traders, partnerships and other un-incorporated customers "you" or "Merchant" means the individuals who own the business and for corporate customers "you" or "Merchant" 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 GPN, 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.

- 18.1 **Merchant Data Processing Notice** – The Merchant Data Processing Notice ("Notice") sets out how we collect and use your Personal Data, and any individuals who provide us with Personal Data in order to procure Card Processing Services ("Services").
- 18.2 **Data Sharing with Credit Reference Agencies (CRA), Fraud Prevention Agencies and Law Enforcement** – GPN may exchange information with CRAs, Fraud Prevention Agencies, Law Enforcement and Debt Recovery Agencies, the Card Schemes and other organisations, in accordance with the Notice.

GPN may share with CRAs the details of how you manage any card processing services. If GPN 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, GPN may register the default with CRAs. This may affect your ability to obtain further credit.

If GPN terminates or suspends service under this Agreement under clause 14.6, GPN 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 and other relevant organisations. 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 Disputes. 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.

18.3 **Confidentiality** - 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.

18.4 **Data Processing** – This provision sets out the obligations and rights of the parties with regard to processing of Personal Data to provide Services under this Agreement, as required by the Data Protection Laws. In particular, it sets out, in relation to the processing:

- Subject matter, nature and purpose – the processing of data in the course of providing card processing services, in order to permit the Merchant to take payment from customers for goods or services
- Duration – the term of this Agreement
- Type of personal data – transactional data required for the provision of the Services, including card number
- Categories of data subjects – customers of the Merchant who engage in payment card transactions.

You authorise GPN to process the Personal Data during the term of this Agreement. You warrant that you have all necessary rights to authorise GPN to process Personal Data in accordance with this Agreement and the Data Protection Laws, and that your instructions to GPN relating to processing of Personal Data will not put GPN in breach of Data Protection Laws, including with regard to transfer of Personal Data outside the UK or EEA.

If GPN considers that any of your instructions relating to processing of Personal Data may put GPN in breach of Data Protection Laws, GPN will be entitled not to carry out that processing and will not be in breach of this Agreement or otherwise liable to you as a result of its failure to carry out that processing.

GPN will process the Personal Data only on your documented instructions (including this Agreement), unless GPN or the relevant Sub-Processor is required to process Personal Data to comply with applicable laws, in which case GPN will notify you of such legal requirement prior to such processing unless such applicable laws prohibit notice on public interest grounds. Nothing in this clause will permit you to vary GPN's obligations under this Agreement.

GPN will ensure that any individual authorised to process Personal Data is subject to appropriate confidentiality obligations and comply with this clause [18.4](#).

GPN will delete or return to you all Personal Data after the end of the provision of Services relating to processing, and delete any remaining copies. GPN will be entitled to retain any Personal Data which it has to keep to comply with any applicable law or which it is required to retain for insurance, accounting, taxation or record keeping purposes.

You authorise GPN to engage any person as a Sub-Processor for the processing of Personal Data. We will inform you of any intended changes concerning the addition or replacement of Sub-Processors, thereby giving you the opportunity to object to such changes. If you object to such a change and GPN is not reasonably able to make such adjustments to remove the objection, you will be entitled to terminate this Agreement by giving not less than one (1) months' written notice to that effect to GPN.

If GPN appoints a Sub-Processor, GPN will put a written contract in place between GPN and the Sub-Processor that specifies the Sub-Processor's processing activities and imposes on the Sub-Processor substantially similar terms to those imposed on GPN in this clause [18](#). GPN will remain liable to you for performance of the Sub-Processor's obligations. If GPN makes any transfers of Personal Data outside the UK or EEA in relation to its provision of the Services, it will comply with the Data Protection Laws, and will execute such documents or take such actions as may be required to assist with such compliance.

GPN will implement appropriate technical and organisational measures to protect against a Data Security Incident, and notify you without undue delay after becoming aware of a Data Security Incident, and will provide reasonable assistance to you (at your cost) in:

- complying with your obligations under the Data Protection Laws relating to the security of processing Personal Data;
- responding to requests within the timescales required by the Data Protection Laws for exercising data subjects' rights under the Data Protection Laws, including by appropriate technical and organisational measures, insofar as this is possible;
- documenting any Data Security Incidents and reporting any Data Security Incidents to any supervisory authority and/or data subjects; and
- conducting privacy impact assessments of any processing operations and consulting with supervisory authorities, data subjects and their representatives accordingly.
- GPN will make available to you all information necessary to demonstrate compliance with the obligations set out in this clause [18.4](#).

## 19. Risk Management

- 19.1 At any time, GPN may establish an account in its books and records ("**Reserve Account**") to secure the performance of your obligations under the Agreement. The Reserve Account may be funded, at GPN's sole discretion, through any or all of the following in each case with such amount being as determined by GPN:
- direct payment by you, at GPN's request you will deposit funds with GPN which GPN will hold in the Reserve Account;
  - the proceeds of transactions submitted under this Agreement which are withheld by GPN for payment into the Reserve Account in accordance with this Agreement or at your instruction; or
  - the transfer by GPN 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 GPN to make payments from the Reserve Account to your Nominated Bank Account (subject to the Reserve Account maintaining such minimum balance as GPN 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 GPN may deduct from this Reserve Account any amount owed to GPN in accordance with the Agreement and may apply the same against any actual or contingent liabilities you may have to GPN as GPN elects. You agree that you have no legal or beneficial interest in any money in a Reserve Account. Without limiting GPN's rights any funds in the Reserve Account may be held until the later of:

- the expiration of any potentially applicable Dispute rights in respect of any transactions processed by GPN under the Agreement; and
  - 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 GPN for any purpose related to this Agreement (including without limitation in application against your liabilities to GPN or in calculating the balance in the Reserve Account). Such conversion will be at the then prevailing exchange rate which GPN will determine acting in good faith. Without limiting the generality of the foregoing, upon GPN'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 GPN in a Reserve Account in accordance with the terms of the Agreement. GPN 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 GPN in a Reserve Account.
- 19.2 GPN may, at any time, require you to provide guarantees for your obligations to GPN under the Agreement or to apply special terms or conditions in relation to your acceptance of transactions. GPN may, at any time, require you to provide security in such form as GPN 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. GPN may rely on any general guarantees or other security provided to GPN now or in the future. This security will not be released until GPN deems that your obligations have been fulfilled and GPN's exposure with regards to Disputes, fines or other sums that may be due to GPN 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 GPN in exercising any right under the Agreement shall be construed as a waiver or release of that right unless GPN expressly agrees otherwise in writing.
- 20.3 Except as otherwise provided in the Agreement, any notice to be given to GPN 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 GPN 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 GPN shall be effective upon actual receipt by GPN at Granite House, Granite Way, Syston, Leicester, LE7 1PL If you are a partnership, notice served on any partner will be validly served on all partners.

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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 GPN does not deliver the standard of service you expect, or if you think GPN has made a mistake, please let us know. You may contact GPN's helpdesk at 0345 702 3344\*. Refer to the Merchant Operating Instructions for further details on GPN's complaint process. GPN will investigate the situation and, if necessary, set about putting matters right as quickly as possible. If appropriate GPN will also take steps to prevent a recurrence. Please allow GPN 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 Exchange Tower, Harbour Exchange Square, Isle of Dogs, 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 We will contact you by telephone, email or text message if we need to tell you about suspected or actual fraud, or a security threat.
- 20.6 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 GPN defends or enforces any of its rights under the Agreement in any collection or legal action, you agree to reimburse GPN 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 GPN for all costs and expenses, including without limitation reasonable legal fees, incurred by GPN 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.
- 20.7 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.
- 20.8 The Agreement and the documents referred to in it constitute the entire agreement between you and GPN, 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.
- 20.9 With the exception of clause 6.25, 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.
- 20.10 If you are a partnership, any act or omission of any partner will be deemed to be an act or omission of all partners.
- 20.11 This Agreement is in English and any communication or information which we send you will be in English.
- 20.12 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 GPN of any convictions against the Merchant or any of its principal, officer, or director, or shareholder under any Anti-Corruption Law.
- 20.13 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.

20.14 Payment Services Regulations Applicability and Warranties. The parties agree that unless you are a Micro Enterprise or Small Charity

- the provisions of Part 6 of the Payment Services Regulations (SI 2017/752) (the “**Regulations**”); and
- all of regulations 66(1), 67(3) or (4), 75, 77, 79, 80, 83, 91, 92, 94 of Part 7 of the Regulations do not apply to the Agreement, and
- a different time period applies for the purposes of regulation 74(1) of Part 7 of the Regulations.

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

\*Lines are open from 9am to 6pm, Monday to Friday, except public holidays. If you have a speech or hearing impairment, you can call us using the Relay Service by dialling 18001 followed by 0345 702 3344. Calls may be recorded. To help us continually improve on our service and in the interests of security, we may monitor and/or record your telephone calls with us. Any recordings remain our sole property.

## 21. Non-Qualifying Surcharges/Cross Border Fees/International Security Assessments

In addition to the Service Charges, GPN 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. GPN reserves the right to charge a fee in addition to any reimbursements and you agree to pay such fee.

## 22. Global Payments E-Commerce Platform

In addition to the previous clauses in Agreement, the following clauses will apply if you use GPN's E-Commerce Platform.

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.
- “**Communication Network**” means any telecommunications, wireless, radio, television, cable, satellite or terrestrial networks currently in existence or which may be developed in the future including without limitation the internet, intranets, extranets, mobile phones, handheld communication devices, interactive television or comparable electronic media services or platforms.
- “**Customer Instruction**” means any request or instruction through GPN's E-Commerce Platform.
- “**E-Commerce Platform**” means the ecommerce gateway services to be provided by GPN to you in accordance with this Agreement.
- “**Intellectual Property**” means patents, registered designs, trademarks, service marks, design rights and database rights (whether registerable or otherwise), applications for any of the foregoing, copyright (including copyright in source code, object code, procedures manuals and related documentation), know-how, trade or business names and other similar rights or obligations, whether registerable or not in any country (including the United Kingdom and Ireland) and all rights of a similar or corresponding character subsisting anywhere in the world.
- “**Merchant Data**” means all information collected by you from or concerning Payers and/or Payees over a Communication Network and includes personal data of the Payers and/or Payees.
- “**Payee**” means the person identified by you for the receipt of a payment using GPN's E-Commerce Platform.
- “**Payer**” means any person who attempts to make a purchase/payment to which the GPN's E-Commerce Platform apply from you. The term Payer includes cardholders in the context of credit/debit card transactions.
- “**Password**” and “**Username**” mean, respectively, the unique password and username which are issued by GPN to you in accordance with clause [22.6](#).



- **“Primary User”** means an Authorised User entrusted with the ability to appoint further Authorised Users.
- **“Shared Secret”** means a secret phrase used in conjunction with a hash function that GPN can use to authenticate any request from you. This Shared Secret is your responsibility and must never be disclosed to third parties.

**22.2 Obligations of the Merchant** – You assume full and sole responsibility for the following:

- Ensuring the Merchant Systems or sales application are capable of collecting order details of the Payer and the Payee;
- Ensuring the Merchant Systems or sales application are reasonably secure and contain appropriate legal terms and conditions of use and an appropriate and accurate privacy policy;
- Ensuring that all necessary regulatory or other consents or authorisations are in place prior to allowing GPN to provide GPN’s E-Commerce Platform to it lawfully and for it to take the GPN’s E-Commerce Platform lawfully. Without prejudice to the generality of the foregoing, you shall ensure that all necessary consents from the Payer and the Payee are obtained for the purpose of the Data Protection Laws;
- Any representations it makes to Payers or Payees concerning GPN’s E-Commerce Platform, including without limitation, any communications relating to the availability or non-availability of Payer funds;
- Storing and making back-ups of all Merchant Data; and
- Registering, administering, managing and removing user accounts you employ.

**22.3 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.

**22.4 Customer Instructions**

- 22.4.1** You must send a Customer Instruction using the appropriate password in accordance with GPN’s E-Commerce Platform customer guides and this Agreement or by any other method described in the Agreement or otherwise notified by GPN.
- 22.4.2** By using an appropriate password, you request and authorise GPN to process all Customer Instructions received by GPN even if to do so would contravene any other mandates given by you at any time concerning your accounts or affairs. GPN 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.
- 22.4.3** You are responsible for the accuracy and completeness of Customer Instructions and for ensuring that they will achieve your intended purpose. GPN is not liable for any loss or delay if the contents of a Customer Instruction are inaccurate or incomplete.
- 22.4.4** GPN may, at its absolute discretion and without liability, refuse to act on or delay acting on a Customer Instruction if GPN 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 GPN’s E-Commerce Platform in general.
- 22.4.5** In the event that GPN does not act on or delays acting on a Customer Instruction pursuant to clause 22.4.4 above, GPN shall notify you of this as soon as is reasonably possible.
- 22.4.6** 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 GPN’s E-Commerce Platform is online and may be accessible outside such hours.
- 22.4.7** GPN may appoint other parties to provide some or all of GPN’s E-Commerce Platform services under this Agreement. You agree that such parties shall have the benefit of any provisions of this Agreement that limit our liability.

**22.5 Installation and Acceptance Testing**

- 22.5.1** The parties shall agree a timetable for the installation, acceptance and launch of GPN’s E-Commerce Platform. Both parties shall use reasonable endeavours to perform their obligations under this Agreement in accordance with the timetable. However, the parties agree that time shall not be of the essence in this Agreement.
- 22.5.2** In order to utilise GPN’s E-Commerce Platform, you must, at your own cost, integrate your internet site and other systems in accordance with the reasonable technical instructions provided by GPN. GPN shall provide advice and assistance to you to ensure that your systems comply with the procedural and technical requirements of GPN.

22.5.3 You may access GPN's technical references, Application Programming Interfaces (APIs) and other software free of charge from <https://developer.globalpay.com/#/>. Because the programs are licensed free of charge, GPN provides the software 'as is' without any warranty of any kind, either expressed or implied, including, but not limited to, the implied warranties of satisfactory quality and fitness for a particular purpose. The entire risk as to the quality and performance of the software is with you. Should the software prove defective, you assume the cost of all necessary servicing, repair or correction.

22.5.4 Where any software is supplied and/or configured by GPN pursuant to this Agreement for use by you on your computer(s), GPN grants you a limited, personal, non-exclusive, non-transferable licence to install and use the software for use solely for the utilisation of GPN's E-Commerce Platform pursuant to this Agreement and for no other purpose whatsoever.

## 22.6 Username, Password, and Shared Secret

22.6.1 Upon acceptance by GPN, GPN shall issue you with a Username, Password and Shared Secret. It is your responsibility to keep your Username, Password and Shared Secret secure.

22.6.2 A Username, Password or Shared Secret may not be shared with any other party. Other users of your Username, Password or Shared Secret shall be bound by this Agreement as if they were you and you shall be responsible for their acts and omissions under the terms of this Agreement as though such acts and omissions had been carried out (in the case of acts) or omitted to be carried out (in the case of omissions) by you. You agree to immediately notify us of any unauthorised use of its Username, Password or Shared Secret or any other breach of security or breach of this Agreement of which you become aware.

**Note:** We will never ask you to disclose your username and/or password via any channel.

22.6.3 Any subsequent Authorised Users created by you shall be at your discretion, and you accept full responsibility for the security of those Authorised Users.

## 22.7 Support and Maintenance

22.7.1 In the event that you experience problems then you may contact us for support in relation to GPN's E-Commerce Platform. Customer Service Helpdesk lines are open from 8:30am to 6:15pm, Monday to Friday, including public holidays. At all other times, including Christmas Day, Boxing Day and New Year's Day, out of hours support can be contacted on 0203 026 9659.

22.7.2 From time to time it may be necessary for GPN to complete maintenance on its systems. If the maintenance is likely to result in unavailability of GPN's E-Commerce Platform then GPN will endeavour to advise you in advance.

## 22.8 Service Interruption

22.8.1 GPN may suspend GPN's E-Commerce Platform or any service provided to you on GPN's E-Commerce Platform without notice if GPN 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 GPN's E-Commerce Platform for emergency maintenance or other reasons.

22.8.2 GPN will use reasonable efforts to inform you without undue delay through GPN's E-Commerce Platform or our website(s) if any service under GPN's E-Commerce Platform is not available.

22.9 Enhancements and Upgrades – From time to time upgrades or enhancements may be introduced by GPN on a mandatory basis in which case GPN will advise you of the changes and you will implement the changes. GPN will not charge for any mandatory enhancements during the term of this Agreement. You may opt to use upgrades or enhancements that are not mandatory subject to GPN's then applicable standard pricing.

## 22.10 Security Provisions

22.10.1 You and all Authorised Users agree to comply with the terms of this Agreement and any other reasonable instructions or recommendations GPN may issue to you regarding GPN's E-Commerce Platform. You agree that it is your sole responsibility to set-up, maintain and regularly review security arrangements concerning access to, and use of GPN's E-Commerce Platform, 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 GPN's E-Commerce Platform.

22.10.2 You confirm that you have assessed the security features of GPN's E-Commerce Platform and have determined that they are adequate to protect each of the Authorised Users and your interests.

- 22.10.3 You agree to ensure that each of your Authorised Users complies with the terms of this Agreement and any security procedures mentioned in it.
- 22.10.4 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 GPN's staff;
  - avoid passwords which may be easy to guess such as passwords used in connection with third parties;
  - inform GPN 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.
- 22.10.5 Once they have logged on to GPN's E-Commerce Platform, the Authorised User must not leave at any time the internet terminal from which they have accessed GPN's E-Commerce Platform or let anyone else use the internet terminal until they have logged off GPN's E-Commerce Platform. You will be responsible for ensuring that each Authorised User has logged off GPN's E-Commerce Platform at the end of any session and has closed any browser.
- 22.10.6 You and your Authorised Users must not permit Authorised Users to access GPN's E-Commerce Platform 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 GPN's E-Commerce Platform pretending to be an Authorised User.
- 22.10.7 You must notify GPN immediately of the following:
- any unauthorised access to GPN's E-Commerce Platform 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.
- 22.10.8 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.
- 22.10.9 If you suspect any impropriety on the part of any Authorised User in connection with GPN's E-Commerce Platform or if 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 GPN's E-Commerce Platform.
- 22.10.10 If you suspect any impropriety on the part of the Primary User in connection with GPN's E-Commerce Platform or if the Primary User leaves your business, you must immediately take steps to replace such Primary User.
- 22.10.11 You agree that you are solely responsible for the performance and protection of any browser used in connection with GPN's E-Commerce Platform 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 GPN 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 GPN's E-Commerce Platform. From time to time GPN may publish details of any restrictions relating to certain browser versions used in conjunction with GPN's E-Commerce Platform by notifying you (pursuant to clause [20.3](#) or by inclusion in a message on your invoice or in one of GPN's regular publications).
- 22.11 Accuracy of Information – GPN will take reasonable care to ensure that any information provided to you by GPN's E-Commerce Platform 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 GPN receives from that third party. Due to the nature of the product and circumstances beyond GPN's control GPN does not warrant that the information provided through GPN's E-Commerce Platform is accurate or error free.

## 22.12 Acceptance of Cards

22.12.1 For each transaction that you process, you must follow all the relevant steps and procedures described in the Agreement (or contained in the GPN's E-Commerce Platform customer guides, notices, guides, or the Card Scheme Rules).

22.12.2 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 on GPN's E-Commerce Platform reduces this risk. This is only available for use with Mastercard and Visa cards. If the cardholder's identity is successfully authenticated through Mastercard Identity Check or Visa Secure using GPN's E-Commerce Platform, then a Dispute 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 Identity Check or Visa Secure transaction. If the cardholder's identity cannot be authenticated for any other reason, including without limitation failure of GPN's E-Commerce Platform 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 a Dispute. 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 GPN's E-Commerce Platform, 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 disputed for other reasons.

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

## 22.13 Intellectual Property

22.13.1 The Global Payments name and trademarks are included in the valuable Intellectual Property of GPN. All Intellectual Property with respect to GPN's E-Commerce Platform and the Global Payments name and trademarks, whether now existing or which may hereafter come into existence, where and solely to the extent that any rights thereto are not expressly granted to you herein are reserved to GPN. Any goodwill generated through your use of the Global Payments name and trademarks shall inure solely to the benefit of GPN.

22.13.2 Unless expressly provided in this Agreement, nothing in this Agreement shall be interpreted as granting to you a licence to use any of the Intellectual Property of GPN.

22.13.3 You will promptly notify us of any infringement or threatened infringement or of any challenges to validity or ownership of any Intellectual Property or other right of GPN of which you become aware and will provide reasonable assistance to GPN, at our expense, in connection therewith.

22.13.4 GPN may include at our discretion your company name, description and hyperlink on its website and other marketing material.

22.13.5 On signing this Agreement, you may, at your discretion display the GPN graphic and hyper-link provided to you by GPN on your website.

22.13.6 If you use the Hosted Payment Page or a similar service, the design of the secure page hosted on GPN's servers must be agreed in writing in advance with GPN.

## 22.14 Equipment and Licence

22.14.1 GPN grants you non-exclusive, non-transferable licence to use GPN's E-Commerce Platform. Except for the specific rights granted to you by this licence, you will acquire no rights whatsoever in relation to GPN's E-Commerce Platform.

22.14.2 GPN's E-Commerce Platform is accessed through the internet, which is a public system of which GPN has no control. It is therefore your duty to make sure that any computer or device that you use to access GPN's E-Commerce Platform is free from and adequately protected against acquiring computer viruses and other destructive or disruptive components.

- 22.14.3 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 GPN's E-Commerce Platform.
- 22.15 **Merchant Warranties** – You warrant to GPN that:
- you have all necessary licences, permits, authorisations, registrations, approvals, notifications and/or consents to enter into and perform all of its obligations under this Agreement and to grant the rights granted by it under this Agreement;
  - you have full capacity and authority to enter into and to perform this Agreement;
  - this Agreement has been executed by a duly authorised representative of the merchant;
  - once duly executed this Agreement shall constitute its legal, valid and binding obligations;
  - your proposed activities hereunder do not infringe any applicable law, any applicable codes of practice or guidance, and/or the rights of any third party, including any third party's Intellectual Property; and
  - the terms of this Agreement do not conflict with any contract entered into with any third party before the date of execution of this Agreement.
- 22.16 **Third Party Products or Services**
- 22.16.1 During the term of this Agreement, GPN may from time to time introduce you to third party products or services which may be of interest to you, such as services allowing you to process transactions with your customers using local and alternative payment methods. If GPN does this you agree that:
- any third party products or services are the responsibility of that third party;
  - GPN does not endorse or recommend the third party's products or services and you should check whether they are:
    - suitable for your needs
    - you may enter into a direct contractual relationship with the third party for the product or service subject to the third party's terms and conditions and you may be liable to pay fees directly to them;
    - GPN is not liable for the third party's products or services or for any delay in or non-performance of the Services which is caused by such the third party or their products or services
- 22.16.2 GPN may also from time to time use other organisations to help GPN provide all or part of GPN's E-Commerce Platform, including by subcontracting the provision of GPN's E-Commerce Platform to other organisations. Where GPN does this, GPN will take reasonable steps to ensure the suitability of those organisations.
- 22.17 **Service Charges** – In addition to the charges listed in clause 8.2 a monthly submission charge may be demanded in relation to GPN's E-Commerce Platform as set out in the Service Schedule.
- 22.18 **Miscellaneous** – Copyright in the pages, screens, information (other than information about your accounts and financial affairs) and all material in their arrangement included in GPN's E-Commerce Platform is owned by GPN unless otherwise noted. You may imprint, copy, download, or temporarily store extracts from the material for your own information or when you use GPN's E-Commerce Platform. 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.



## 23. Global Fortress

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

- 23.1 This clause sets out the terms for your Global Fortress service with GPN. 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 fully 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 at all times including the annual renewal of your compliance and maintaining passing vulnerability scans, if applicable. 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 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.
- 23.5.6 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](http://www.globalfortress.co.uk). We may vary this fee from time to time on at least one (1) months' notice. This will be collected 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 on request. 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 judgment) 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) months' 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

- 23.10.1 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.
- 23.10.2 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 GPN'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:

- "**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 GPN'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 GPN 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 GPN 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 GPN 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 GPN, 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 GPN) 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. GPN 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, GPN 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 GPN for submitting an International Card Transaction via HCP, GPN'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 GPN, as applicable, and such third party.

**24.3 HomeCurrencyPay Service Requirements**

You will comply with all reasonable instructions provided by GPN 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 GPN, 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 GPN 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 Dispute 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 GPN or a third party on GPN'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 GPN 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 GPN 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 GPN 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, GPN 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 GPN'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 **Disputes and Rejected Transactions:** If an International Card Transaction is disputed 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 Dispute 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) Dispute, and (iii) card transactions for which GPN 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) months' written notice of such intention to GPN and you shall cease to participate in HCP effective as of the date specified in such notice, unless you at any time notify GPN 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 GPN or you use the Global Payments E-Commerce Platform, 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's preferred supplier for card processing in the UK.

Global Payments is a trading name of GPUK LLP. GPUK LLP is authorised by the Financial Conduct Authority under the Payment Service Regulations 2017 (504290) for the provision of payment services and under the Consumer Credit Act (714439) for the undertaking of terminal rental agreements.

GPUK LLP is a limited liability partnership registered in England number OC337146. Registered Office: Granite House, Granite Way, Syston, Leicester, LE7 1PL. The members are Global Payments U.K. Limited and Global Payments U.K. 2 Limited. Service of any documents relating to the business will be effective if served at the Registered Office. Tel: 0345 702 3344, Email: customerservices@globalpay.com, Website: www.globalpaymentsinc.com/en-gb